

## CHAPTER SEVEN



# Labour and Employment Relations



## 7.1.1 CONTRACT OF EMPLOYMENT

A contract of employment is a binding agreement between two or more parties, whereby a person who can also be called an employee, whether orally or in writing, expressly or impliedly agrees to serve another called the employer for an agreed fee i.e. salary, wages or commission.

In Nigeria, the right to enter into a contract of employment is constitutionally guaranteed i.e. that no Nigerian citizen shall be held in slavery or servitude or perform forced or compulsory labour. This freedom and right is sacrosanct and non-negotiable. Again, like every other form of contract, the contract of employment is governed by the general principles of contract. It is in the formation of a contract of employment that the employee and the employer have the freedom to create for themselves terms of employment and conditions of work. According to Section 7 of the Labour Act, within a period not later than three months of giving employment to an employee, an employer must make provision for certain particulars as part of the terms and conditions agreed upon. These include:

- Place and date of commencement of the engagement
- The nature of employment
- Duration of the contract
- Method of termination of contract
- Wages and the period of payment
- Hours of work
- Holidays
- Holiday pay and sick pay.

### 7.1.2 DISMISSAL

Under the Nigerian Labour Law regime, an employer has the right to dismiss an employee who has committed a breach of any term or condition in his contract of employment. In such situations, the law holds the misconduct of such an employee as a repudiation of the contract and in such circumstances; the employee can be immediately disengaged from the employment without notice or any payment in lieu thereof. For the purpose of considering whether a particular act is sufficient ground for dismissal, such misconduct must be seen to be a gross violation of a major term in the contract of employment created.

### 7.1.3 UNFAIR LABOUR PRACTICES

There is no specific definition of the phrase “unfair labour practice,” neither has any statute been able to define the term. However, it

appears that any conduct that contradicts international standard best practices or any condition of the International Labour Organisation (ILO), has been constituted to mean an unfair labour practice.

In Nigeria, the National Industrial Court by the virtue of Section 254C (1) (f) has the exclusive authority of deciding disputes arising from labour-related matters. In deciding such disputes, the court interprets unfair labour practices and measures International standard best practices, by consulting a number of Conventions and Charters on Human Rights such as; The African Charter on Human and Peoples' Rights, the Universal Declaration of Human Rights, the International Labour Organisations and Protocols among many others, to decide matters that are considered unfair labour practices.

## **7.2 RELEVANT APPLICABLE LAWS**

### **7.2.1 THE LABOUR ACT**

The principal statute guiding employment-related issues in Nigeria is the Labour Act. The Act among many other things makes provision for matters that are related to wages, terms and conditions of contracts of employment, maternity protection, night work, underground work, etc. However, it is important to note that the Labour Act only protects some categories of workers and not all workers. The Law regards these categories of workers as workers who are not in a position to make a fair bargain with the employer.

The Act does not extend to the following categories of people:

- a. Persons exercising administrative, executive, technical or professional functions as public officers,
- b. Persons employed in a vessel or air craft to which laws of merchant shipping or civil aviation apply, or
- c. Persons to whom articles or materials are given to be made up or cleaned or required in their own premises.

### **7.2.2 THE NATIONAL MINIMUM WAGE ACT**

The National Minimum Wage Act of 2019 reviewed the minimum wage an employee in Nigeria can earn from Eighteen Thousand Naira (N18, 000) to Thirty Thousand Naira (N30, 000). Thus, employers (except those captured under the exceptions) are expected to comply strictly with provisions of the law on the new national minimum wage.

This applies to all kinds of work, with the exception of the following;

- i. An establishment in which workers are employed or paid on part-time and/or on a commission or piece-rate basis;

- ii. Workers in seasonal employment like agriculture; and
- iii. Persons employed on a vessel or aircraft to which the laws regulating merchant shipping or civil aviation apply.

### **7.2.3 PENSION REFORM ACT**

The Pension Reform Act was signed into Law on 1st July, 2014, and employers in the private sector who have more than 15 employees are expected to comply with the law. According to the provisions of the Act, employees and employers are expected to contribute a total of 8% and 10% of the agreed salary respectively.

### **7.2.4 FACTORIES ACT**

The Factories Act was enacted to protect the safety and health of Nigerian workers. The Act in its preamble provides for the following;

- a. To provide for factory workers and a wider spectrum of workers and other professionals exposed to occupational hazards, but for whom no adequate provision had been formerly made;
- b. To make adequate provision regarding the safety of workers to which the Act implies; and
- c. To impose penalties for any breach of its provision.
- d. Premises that are to be used as factories are expected to register with the Director of Factories at least six months before commencing the construction of such facility. Again, the Act requires that factories must always be clean, be considered safe and machinery must be fenced to avoid accidents.

### **7.2.5 EMPLOYEE COMPENSATION ACT**

The power to maintain this Act and its fund is granted to the Nigerian Social Insurance Trust Fund Management Board. The Act was enacted to protect employees in Nigeria who suffer occupational hazard while discharging their duties in their official capacity. One of the objectives of the Act is to rehabilitate and compensate workers who become disabled while in employment. Such an employee is expected to notify the employer within 14 days of sustaining the injury. The employer is also expected to give a detailed report of death or injury of an employee to the Board within 7 days of receiving the report from the employee. An employer is expected to make a minimum contribution of 1% of the monthly payroll of the employee into Employee Compensation Fund.