



IN THE HIGH COURT OF JUSTICE OF KADUNA STATE
IN THE ZARIA JUDICIAL DIVISION
HOLDEN AT ZARIA

for Service

SUIT NO. KDH/Z/253/2020

BETWEEN:

**ALHAJIBASHARI AMINU
(IYAN ZAZZAU).....PLAINTIFF**

AND

- 1. GOVERNOR OF KADUNA STATE**
- 2. BALARABE ABBAS LAWAL
(SECRETARY TO KADUNA STATE GOVERNMENT)**
- 3. THE ATTORNEY – GENERAL OF KADUNA STATE**
- 4. JAFARU SANI
(HON. COMMISSIONER FOR LOCAL GOVERNMENT
AND CHIEFTAINCY AFFAIRS, KADUNA STATE)**
- 5. ZAZZAU EMIRATE COUNCIL**
- 6. ALHAJI IBRAHIM MUHAMMAD AMINU
(WAZIRIN ZAZZAU)**
- 7. ALHJAI UMARU MUHAMMAD
(FAGACHIN ZAZZAU)**
- 8. ALHAJI MUHAMMAD ABBAS
(MAKAMA KARAMIN ZAZZAU)**
- 9. ALHAJI DALHATU KASIMU IMAM
(LIMAMIN JUMA'AN ZAZZAU)**
- 10. ALH. MUHAMMAD SANI ALIYU
(LIMAMIN KONA ZAZZAU)**
- 11. AMBASSADOR AHMAD NUHU BAMALLI**

.....DEFENDANTS

NOTICE OF PRELIMINARY OBJECTION

TAKE NOTICE that the Defendants herein above named intends, at the hearing of this action to rely upon the following preliminary objection notice whereof is hereby given to you, viz:

1. The Plaintiff's action herein be dismissed in limine, or at the minimum be struck out as the High Court of Justice of Kaduna State has ab initio no jurisdiction to entertain the said action by virtue of the clear provisions of sections 254A (1) and 254C (1) under the (Third Alteration) Act, 2010 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

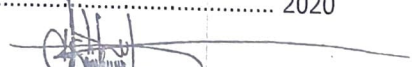
AND FURTHER TAKE NOTICE THAT THE GROUNDS FOR THIS OBJECTION ARE AS FOLLOWS:

1. The subject matter of the instant action is far off outside the ambit of the provisions of section 272 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) wherein the limits of the jurisdiction of this Honourable Court is clearly spelt out.
2. On the face of the reliefs claimed by the Plaintiff as reflected in his Statement of Claim, his action falls within the purview of the provisions of section 254C (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) in which exclusive jurisdiction to entertain same is solely vested on the National Industrial Court of Nigeria alone.

This Honorable Court cannot therefore exercise jurisdiction in this action as same was not initiated by due process of law.

Dated at Zaria this...*26th* Day of...*October*..... 2020




AISHA DIKKO, ESQ.
CHRIS A. UMAR, ESQ. ✓
SANUSI USMAN, ESQ.
JUMMAI A. DAN'AZUMI, ESQ.
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}DEFENDANTS

**1ST – 3RD DEFENDANTS' AFFIDAVIT IN SUPPORT OF THEIR NOTICE OF
PRELIMINARY OBJECTION.**

I, **Haruna Suleiman**, Adult, Male, Muslim, Nigerian citizen of the Hon. Attorney General's Chambers, Ministry of Justice Kaduna State, Kaduna do hereby solemnly swear to and depose on Oath as follows:

1. That I am a civil servant in the employment of the Government of Kaduna State and presently working in the Hon. Attorney-General's Chambers Ministry of Justice Kaduna as a Chief Litigation officer.

2. That I know as a fact that my employers are the solicitors to the 1st -10th Defendants/Objectors in the instant action.
3. That by virtue of my employment and position aforementioned, I am very conversant and familiar with all the facts of this case.
4. That I have earlier before now had the consent, authority and permission of my employers to depose to all the facts herein contained in this affidavit.
5. That sometime on 20th day of October, 2020 at about 1445 hours while in my office undertaking routine official duties here in Kaduna, I was called to the office of our Sanusi Usman, Esq. learned counsel assigned to handle this matter on behalf of the Defendants/Objectors, and in the said office I was informed by Ja'afaru Ibrahim Sani who is the 4th Defendant in this action, and is also again a member of the State's Executive Council, briefing our learned counsel aforementioned, and which information I verily believe to be true and correct as follows:-
 - (a) That he has been served with a copy of all the Originating processes in respect of this action, which said processes he has carefully perused and digested but to his dismay found same to be materially false and carefully prepared with a view to deliberately mislead this Honourable Court.
 - (b) That the true state of affairs at least as far as the facts and circumstances of this action is concerned, is that after the demise of the late Emir of Zazzau Alhaji Shehu Idris CFR (of blessed memory), a race to occupy his vacant stool commenced in earnest, which office was keenly contested by several princes amongst whom are the Plaintiff and the 11th Defendant herein.
 - (c) That after all that which ought to have been done had actually been lawfully done; the 11th Defendant successfully emerged as the 19th Fulani Emir of Zazzau.
 - (d) That as a matter of fact, the throne of the Emir of Zazzau is that of a First Class Chief in the grading of Chiefs in Kaduna State, and not only that but also serves as the Chairman of the State's Council of Chiefs.
 - (e) That any person occupying the office now in question is by virtue of that appointment an employee of the Government of Kaduna State, and thus enjoy all the salaries, wages, emoluments and perquisites attached to the said office and is also amenable to all disciplinary measures available on account of any infraction of the law thereon .
 - (f) That in proof of the foregoing, a copy of the salary voucher paid to the late Emir of Zazzau Alh. Shehu Idris CFR, for the month of June 2020 by the Kaduna State Government is herewith annexed and marked as **Exhibit AA1**.
 - (g) That all the other contestants who vied for the throne now in issue, with the exception of the Plaintiff, have all in unison wholeheartedly and happily too accepted the outcome of the entire process as free, fair and genuine, having been


carried out within the ambit of the law, and have thereby dutifully paid homage to the 11th Defendant as the duly appointed 19th Fulani Emir of Zazzau.

- (h) That in view of the above, the Plaintiff deservedly lost the contest to the throne to a better candidate.
 - (g) That as a matter of fact, the dispute in this action if at all there is one, is only about employment into the services of the Government of Kaduna State.
 - (h) That the Plaintiff very well knew and has also the reason to know as a fact that there is a specialized Court other than this Honourable Court that is now exclusively vested with the requisite power and jurisdiction to hear and determine his grievances if any, but unfortunately deliberately refused to go there.
 - (l) That in furtherance to all the foregoing, the Plaintiff's apparent desire and or design by the institution of the present action is simply to annoy, intimidate and or harass the Defendants for no just cause.
 - (m) That the acts complained of by the Plaintiff in the present circumstances cannot manifestly be maintainable before this Honourable Court.
 - (n) That as a matter of fact, the Plaintiff herein has everything to gain, nothing to lose, and was actually never personally affected, nor has he ever suffered any harm or injury to either his respective person or property as a result of any of the acts of the Defendants now complained of.
 - (o) That there is in fact actually no dispute whatsoever between the parties to this action.
6. That the Plaintiff would never be seriously prejudiced upon the grant of this application.
7. That it will serve the greater interest of justice in granting all the reliefs sought for in the present application.
8. That I swear to this Oath in good faith, honestly and conscientiously believing all the facts herein to be true, correct and in substantial compliance with the provisions of the Oaths Act.


.....
DEPONENT

SWORN to at the Registry, High Court of Kaduna State, Holden at Zaria,

This.....26th..... Day of.....October..... 2020

HIGH COURT OF JUSTICE
ZARIA.

COMMISSIONER OF OATHS
DATE.....27.10.2020

EMIR OF ZAZZAU

ZAZZAU EMIRATE COUNCIL
SALARY FOR THE MONTH OF JUNE, 2020

EXH A-1

S/N	NAME	GL/FIXED	RANK	SALARY P.M	P.A.Y.E	TOTAL	SIGN
1	His Highness, Alh. Shenu Idris, CFR	Fixed	Emir of Zazzau	N383,334.00	N26,646.67	N356,687.33	

6/7/2020
AMINU MAGAJI
CHECKED BY

SANI ABDU
INTERNAL AUDITOR
ZAZZAU EMIRATE COUNCIL
EMIR'S PALACE
SAGBAMA
DATE: 29.06.2020
INTERNAL AUDITOR

#356,687.33
26,646.67
383,334.00

O.C.V.

MINISTRY FOR LOCAL GOVT
AND
CHEPTANCY AFF
KADUNA
C.T.C
NAME: Dalton L. Goring
RANK: Director Fin. Accts.
DATE: 22/10/2020
SIGN:

Alhaji Bello Alhaji
Cashier
for: Zazzau Emirate Council

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1ST – 3RD DEFENDANT'S/OBJECTOR'S WRITTEN ADDRESS IN SUPPORT.

1. INTRODUCTION

On the face of the Plaintiff's endorsed Writ of Summons and Statement of Claim which were issued on the 16th day of October, 2020 his action is principally premised upon a failed bid to clinch an employment onto the enviable throne of

the 19th Fulani Emir of Zazzau in Kaduna State, which "right" he claimed was violated by particularly the 1st Defendant herein.

2. ISSUES FOR DETERMINATION

It is the humble contention of the Defendants with utmost respect, that in order to arrive at a just decision in the consideration of the instant application, the sole pertinent question calling for determination by this Honourable Court is follows:

- (1) Whether the Plaintiff's claim in the instant action was caught by the provisions of **Section 254C (1) (a), (k), (ii)** of the Constitution of the Federal Republic of Nigeria 1999 (as amended)?

3. ARGUMENT

3.01 The Defendants submit with all due respect and humility that the era of the High Court of a State having unlimited jurisdiction over all matters under the sun is now history and same may never return again. In fact, even in its heyday, the superior Courts in this country have reason to caution learned counsel from attempting to dump all sorts and manner of cases on the State High Courts. In his characteristic manner, it was Niki Tobi, J.C.A. (as he then was) who, while dealing with the provisions of section 236 of the defunct 1979 Constitution now in pari materia with **Section 272** of the **Constitution of the Federal Republic of Nigeria 1999** (as amended) held in the case of **Chikelwe V. Ifemeludike [1997]11N.W.L.R (Pt.529) 390** particularly at page 403-4 paragraphs H/A-C thus:

I am fairly worried at the way Section 236 is pushed all over the place whenever the issue of jurisdiction of the High Court arises. Most parties find it a useful conduit pipe to accommodate their actions in terms of jurisdiction.....The Section certainly has not the freedom or legal capacity to accommodate all forms of litigation under the sun.

Fortunately, the section itself does not arrogate to itself such unguarded, and what I may call for

want of better expression a, "free for all" jurisdiction. The restrictive opening words of the section "subject to the provisions of this Constitution", say it all. I have never seen in the common law world where a court has unlimited jurisdiction in the sense that it is competent to adjudicate on any matter under the sun. I think section 236 will be happier for it if we stop giving it extra-legal burden that it cannot carry.

- 3.02** It is humbly submitted for the Defendants that it is perhaps against the backdrop of the aforementioned authority that, particularly with the coming into effect on the 4th day of March, 2011 of the **Constitution of the Federal Republic of Nigeria(Third Alteration) Act 2010 (Act No.3)**, that now a rigid demarcation line is drawn between the limits of jurisdiction with regards to all the Courts of law established by the said Constitution.
- 3.03** The same said Constitution has now clearly put in place a rigid line of demarcation between the jurisdiction of the **Federal High Court in section 251**, that of the **High Court of the Federal Capital Territory, Abuja in section 257**, that of the **High Court of a State in section 272**, while that of the **National Industrial Court of Nigeria** is clearly spelt out in **section 254C**.
- 3.04** It is further submitted for the Defendants that the general principle of law is now so well established that the jurisdiction of a Court is determined by the Plaintiff's Statement of Claim. See **Inakoju v. Adeleke [2007] 4 N.W.L.R (Part 1025) 427** particularly at pages 588-589 paragraphs H-C; **Elebanjo v. Dawodu [2006] 15 N.W.L.R (Part 1001)76**; **Adeyemi v. Opeyori (1976) 9-10 SC**; **All progressive Grand Alliance (APGA) v. Sen. Christiana D. Anyanwu & 2 Ors. [2014] 7 NWLR (Pt. 1407) 541** particularly at page 573 paragraph 11; and **Azubuogu v. Oranazeri & Ors (2017) LPELR-42669 (SC)**, where the apex Court aptly held per Muhammad J.S.C. (as he then was) that:

.....whenever the jurisdiction of a court is challenged, in an action fought on pleadings, the objection is resolved by examining the plaintiff's claim alone within the context of the source of the court's jurisdiction.

3.05 Therefore, taking a dispassionate look at the Plaintiff's principal claims and the reliefs sought in his respective pleading in this action, the issue now under consideration is to determine whether the present action falls within either Sections **251, 257, 272, or 254C** of the Constitution of the Federal Republic of Nigeria 1999 (as amended)?

3.06 The Defendants will submit with all due respect that on the face of the purported reliefs sought for by the Plaintiff before this Honourable Court in his endorsed Writ of Summons and Statement of Claim dated the 16th day of October, 2020 his action is principally premised upon a failed bid to clinch an employment into the enviable throne of the 19th Fulani Emir of Zazzau in Kaduna State, which "right" he claimed was violated by particularly the 1st Defendant herein. It must be also stressed that the Plaintiff had unambiguously and particularly pleaded that the act now complained of is about "appointment" and in paragraphs 21 -26 that the 11th Defendant has already been appointed to the said throne, which said act is undoubtedly an employment into the services of the Government of Kaduna State. Accordingly, the dispute between the parties herein is all about "job" and noting more, thus, there is no way the Plaintiff can wriggle his way out of the effect of Section 254C (1) (a) and (k) (ii) of the 1999 Constitution (as amended), just as a similar attempt was made in the case of **Keystone Bank Limited V. Oyewole (2014) LPER-23612 (CA)**.

3.07 The Defendants therefore, humbly posits that, the Plaintiff's instant action is clearly caught by the clear provisions Sections **254A (1)** and **254C (1)** of the said Constitution which provides as follows:

254A-(1) There shall be a National Industrial Court of Nigeria.

254C-(1) Notwithstanding the provisions of section 251,257,272 and anything contained in the Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil cause and matters-

(a) Relating to or connected with labour, employment, trade unions, industrial relations and matters arising from workplace, the condition of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;

(k)Relating to connected with dispute arising from payment or non payment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public office holder, judicial officer or any civil or public servant in any part of the Federation and matters incidental thereto;

(ii)Appeals from the decision or recommendation of any administrative body or commission of enquiry, arising from or connected with employment, labour, trade unions or industrial relations;(Underlining mine for emphasis)

3.08 It is respectfully submitted for the Defendants that in order to activate the jurisdiction of this Honourable Court to entertain the present action, the condition precedent for the competency of the Court are as clearly stipulated in the locus classicus case of **Madukolu & Others V. Nkemdilim (1962) 1 All NLR 585** at page 595 thus:

.... a Court is competent when-

1). it is properly constituted as regards members and qualifications of the members of the bench, and no member is disqualified for one reason or another; and

2). the subject matter of the case is within its jurisdiction, and there is no feature in the case which prevents the Court from exercising its jurisdiction; and

3). the case comes before the Court initiated by due process of law, and upon fulfillment of any condition precedent to the exercise of jurisdiction.

Any defect in competence is fatal, for the proceedings are a nullity however well conducted and decided; the defect is extrinsic to the adjudication. (Underlining mine for emphasis)

3.09 It is respectfully submitted with all due respect for the Defendants, that the limits of the jurisdiction of the High Court of a State, the Federal High Court and that of the National Industrial Court of Nigeria is now comfortably resolved. Accordingly, all actions involving or connected with any **labour, employment, industrial relations and matters incidental thereto or connected therewith**; as in the instant action are within the sole and exclusive jurisdiction of the **National Industrial Court of Nigeria**. Reliance shall be humbly placed on the following cases as follows:

- (i) **John v. Ekiti Local Government [2013] 7. N.W.L.R (Pt.1352) 1;**
- (ii) **Keystone Bank Limited v. Oyewole (2014) LPER-23612 (CA); and**
- (iii) **Sun Ins. (Nigeria) Plc. v. U.E.C.C [2015] 11 N.W.L.R (Pt. 1471) 576.**

3.10 In **John V. Ekiti Local Government** (supra), the Court of Appeal held per Okoro, J.C.A (as he then was) particularly at pages 16/17 paragraphs A-B in the following terms thus:

Following the enactment of the Constitution (Third Alteration) Act, 2010 which gave exclusive jurisdiction to the National Industrial Court on labour matters, both the State and Federal High Court including that of the FCT, Abuja ceased to have jurisdiction in those matters pending before them. If they are struck out and there is need to file them afresh, some of them may be caught by statute of limitation (Underlining mine for emphasis)

- 3.11 Also, in the case of **Keystone Bank Limited V. Oyewole** (supra); the same Court held while reviewing the decision of Balogun J. of the Kaduna State High Court, per Mbaba, J.C.A. that:

The Respondent in an attempt wriggle out of the effect of section 254C (1) (a) and (k) of the 1999 Constitution, as amended, argued that his case was not employment, labour or industrial relations matter, rather it was case of severance benefit as the issue of employment had ended..... Of course, prior to the 3rd Alteration Act which brought section 254C of the 1999 Constitution and enhanced the Constitutional jurisdiction of the National Industrial Court, that court did not enjoy any constitutional reference of parity with the High Courts, and/or exclusive jurisdiction, to the exclusion of the other superior Courts of record, or to the extent of subjugating other Courts jurisdiction, in such matters, to that of National Industrial Court.....

There is no doubt that the National Industrial Court appears to be saddled with too much work or burden at the moment, which may in future result in litigation hardship or other legal constrains, if not reviewed but that is the law for now. The Respondent cannot, therefore, in my opinion, discount or wish away the exclusive jurisdiction of the National Industrial Court over the subject matter of the court in this appeal, by resort to the argument that the case was that of recovery for terminal or severance benefits!(Underlining mine for emphasis)

- 3.12 The Apex Court then put the matter to rest in **Sun Ins. (Nigeria) Plc V. U.E.C.C** (supra), when it held per Ogunbiyi, J.S.C particularly at page 608 paragraphs A-E, aptly thus:

The jurisdiction of the State High Court and Federal High Court are clearly spelt in the relevant provisions of sections 272(1) and 251(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).... In section 272(1) is very crucial and presupposes that the jurisdiction of the State High Court is limited only to the subject matters excluded by

section 251 and other provisions, inclusive of the jurisdiction conferred on the National Industrial Court established under section 254 A, B and C of the said Constitution.... The general principle of law is well established that the jurisdiction of a court is determined by the plaintiff's Statement of Claim which is paramount.(Underlining mine)

3.13 The submissions of the Defendants herein above are not a technicality but goes to the root and substance of the entire action. That this is the position of the law is clearly pointed out by the Supreme Court of Nigeria in the case of **Nnaji V. Chukwu [1988] 3 NWLR (PT 81) 184 at page 209**, where Oputa, J.S.C held as follows:

What is a technicality? A technical error is one committed in the course of a trial, but without prejudice to a party. It is an error which is purely abstract and harmless for practical purposes. "Technical" relates to details rather than principle"

3.14 The Defendants strongly submit with all due respect therefore, that the present action neatly and squarely fits into the definition of **"relating to or connected with any labour, employment..."**, within the meaning of the Constitution. The operating words here are "labour" and "employment", which have been defined in **Black's Law Dictionary, Ninth Edition** at pages 952 and 604, thus:

Labor, n. 1. Work of any type, including mental exertion <the fruits of one's labor>. The term usu. refers to work for wages as opposed to profits.

2 workers considered as an economic unit or a political element.....

employment.(15c) 1. The relationship between master and servant.....2.The act of employing.

3. The state of being employed. 4. Work for which one has been hired and is being paid by an employer.(Underlining mine)

See **S.C.C. Nigeria Limited Anor v. Sadi [2014] 41 NLLR (Pt. 127) 327.**

For a better appreciation of the above defined terms, see the case of **Lt. Cdr. F. J. Ebohon (Rtd) V. Attorney-General, Edo State & Others (2016) LPELR – 41269 (CA)**, where the Court held, per Danjuma, JCA, at pages 23 to 26, paragraphs G-E held thus:

Section 254 (c) – which provides as follows: “254 (c) (1) Notwithstanding the provision of Section 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other Court in Civil Causes and matters – (a) Relating to or connected with any labour, employment, trade unions, Industrial relations and matters arising from work place, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith; the Section 254(1) (c), by providing that “Notwithstanding the provisions of Section 251, 257, 272 and anything contained in this Constitution and in addition to any other jurisdiction as may be conferred by an Act of the National Assembly” has enlarged the jurisdiction of the National Industrial Court such as to include even items set out in the exclusive, concurrent and residual lists in so far as it relates to employment and labour. It may even include private employment and labour relationship of contracts, and in exclusivity of any Court as from 4 – 3 – 2011. See *Coca – Cola Nigeria Ltd. & 2 Ors. V. Akinsanya (2013) 1 ACELR 28* (Appellate Court Employment Law Report) Particularly at 43. The words in Section 254 (1) (c) (a), when given their plain and ordinary meaning may have created a monstrosity as it relates the jurisdiction of the National Industrial Court; but these provisions of the Amendment to the Constitution cannot justify the jettisoning of the application of the golden rule of Section 254 (1) (a). See *Babatunde V. Pan Atlantic Shipping and Transport Agencies Ltd. (2007) All FWLR (Pt. 372) 1721* wherein the Supreme Court at page 1752 stated per Mohammed JSC, that: “Judge’s duty is to interpret and not to make the law. In

the interpretation process, the judge should be liberal and give the natural meaning of the Statute where the words are clear and unambiguous." In *Daipanlong V. Dariye* (2003) 13 NSCQR 373, *NDIC V. Okem Ltd* the Supreme Court emphasized on the need to give a word or phrase its ordinary, literal interpretation. In *Fawehinmi V. IGP* (2002) FWLR (Pt. 108) 1335 at 128-129, it was held thus: "The proper approach to the interpretation of clear words of Statutes is to follow them, in their simple grammatical and ordinary meaning rather than look further because that is what prima facie gives them their most reliable meaning..." This is generally also true of the construction of constitutional provisions if they are clear and unambiguous even when it is necessary to give them a liberal or broad interpretation. In *Gafar V. The Government of Kwara State on duty of Court to interpret*, it was held thus: "It is now settled law that the duty of the Courts, is to interpret the words contained in a Statute or Constitution in the ordinary or a literally meaning. Certainly, it is not the duty of the Court, to go outside the words used and impart on interpretation which may be or is inconvenient to it or to the parties or one of the parties. Drawing from the aforesaid decisions on the interpretation of Statute including the Section 254 (1) (c) of the 3rd Alteration, i.e Act No. 3 of 2010 which commenced on 4th March, 2011, the exclusivity of the original jurisdiction of the National Industrial Court is beyond dispute as relating to employment and labour related matters. See the cases of *SCC (Nig.) Ltd and Ors. Vs. Yusuf Sedi* (2013) 1 NWLR (Pt. 1335) 231; *Echelunkwo John O. & Ors. V. Igbo Ekiti Local Government Area* (2013) 7 NWLR (Pt. 1352) page 1 (Enugu Division Court of Appeal); *National Union of Teachers (UNT) Niger State V. Conference of Secondary School Tutors (COSST) Niger State Chapter & Ors* (2012) 1 NWLR (Pt. 1370) 89 at 112 .

See also the case of **Kano State Government & Others V. Hon. Nasiru Muhammad (2016) – LPELR 41334 (CA)**, where the Court held, per Abiru, JCA, at pages 28 to 30, paragraphs C-B held thus:

Section 254C (1) (a) and (k) read thus:..... These provisions have already been interpreted by the Courts and this Court need not “re-invent the wheel” on the meaning and intendment of the provisions. The consensus of the Courts is that by the provisions, the National Industrial Court posses exclusive jurisdiction over all matters relating or incidental to an employee/employer relationship, whether or not the relationship is governed by statute or by a contract of employment and/or by a collective agreement, and this includes matter dealing with removal from office, termination or dismissal of an employee, payment of salaries, wages or terminal benefits, etc.....(Underlining mine)

- 3.15** It may respectfully be argued though in vain, that the Plaintiff’s claims before this Honourable Court are rooted on questions relating to “Chieftaincy.” However, even at that, the law is now trite that “Chiefs” are appointed and placed on a salary/emolument; their recognition removed and therefore, are employees and as circumstances dictate may be deposed by the appointing authority who are their employer. See **Chief Joseph Odetoye Oyeyemi V. Commissioner For Local Government Kwara State and 3 Ors. [1992] 2 NWLR (Pt. 226) 661**; see also **Adedolapo & Ors. V. The Military Administrator of Ondo State &Ors. (2005) LPELR-7538(CA)**.
- 3.16** Accordingly, no matter the Plaintiff’s grievance, such issues were before now heard by the High Court of a State. However, the position of the law has now changed drastically and in order to understand the jurisdictional evolution and change, the Respondents respectfully refer to the decision of the apex Court in **The Military Governor Ondo State & 1 Or. V. Victor Adegoke Adewumi (1989) MQLRN 49** particularly at pages 58-59

paragraphs D-H/A-F, where the Court held per Nnaemeka-Agu, J.S.C. in the following striking terms:

....It is useful, I believe, to cast a cursory glance at the chequered history of chieftaincy matters in this country. From what appears to me to be as a result of misapprehension of colonial courts as the nature and content of chieftaincy institutions in Nigeria, they declined to exercise jurisdiction over chieftaincy questions. See: Adanji V. Hunvoo (1908) 1 N.L.R.74. Their reason for so declining was that they thought, erroneously in my view, that it was a position of "mere dignity, a position of honour, of primacy among a particular section of the native community...." (See Cowley V. Cowley (1901) A.C. 450). But most Nigerians know that chieftaincy institutions carry with them not only dignity and honour but substantial proprietary interest. Yet the idea in Adanji's case (supra) persisted and found its way into our Federal and Regional Constitutions and Laws each of which removed chieftaincy questions from matters justiciable by the courts..... But the Constitution of the Federal Republic of Nigeria, 1979 swept away all these laws which ousted the jurisdiction of courts over chieftaincy questions. Section 6 (6)(a) and (b) provided as follows:-

"(6) The judicial powers vested in accordance with the foregoing provisions of this section:-

(a) shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law:

(b) shall extend to all matters between persons, or between government or authority and any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person";

And section 236(1) provides as follows:

"236.-(1) Subject to the provisions of this Constitution and in addition to such other jurisdiction as may be conferred upon it by law,

the High Court of a State shall have unlimited jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue or to hear and determine any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person."

Thus in a swoop jurisdiction over chieftaincy question became vested in the courts, just as any other causes or matters requiring the determination of civil rights and obligations of any persons, government or authority.

3.17 It should be noted that Sections **6(6)(a) and (b)** and also **236 (1)**, of the 1979 Constitution referred to by the apex Court in the above cited decision are now re-enacted verbatim as Sections **6(6) (a) (b) and 272(1)** of the Constitution of the Federal Republic of Nigeria, 1999(as amended). The Respondents respectfully submits that "subtraction" of the jurisdiction of the State High Court alluded to in the **Adewumi's** case (supra) is exactly what was done by the 1999 Constitution (Third Alteration) Act No. 3 of the 4th March, 2011 wherein jurisdiction in such matters is now removed and vested exclusively on the National Industrial Court of Nigeria vide the provisions of Section 254A (1) and 254C of the Constitution (as amended).

3.18 There is nothing to be "jealous" about in respect to parts of the jurisdiction of this Honourable Court which has now been ceded to the National Industrial Court of Nigeria by reason of the (Third Alteration) Act, 2010. The words used in the said constitutional amendment are plain, expressly clear and unambiguous. The law is clearly stated by Nwaemeka-Agu, J.S.C in the **Adewumi's** case(supra) at page 64 paragraphs F-G that:

I agree that ordinarily a constitutional amendment is a very serious affair. And when it is intended to divest a court of

jurisdiction which has been given to it by the constitution, it is a more serious affair still. It must be by express and unambiguous words and by a competent amendment of the Constitution.....

3.19 The Defendants contend with humility that on the face of the instant action, one cannot fail to see that same falls squarely within the ambit of the provisions of **Section 254C** of the Constitution of the Federal Republic of Nigeria 1999 (as amended), in which exclusive jurisdiction to entertain same is solely vested on the National Industrial Court of Nigeria alone and clearly caught by the clear provisions Sections **254A (1)** and **254C (1)** of the said Constitution. It is in respect of all the foregoing therefore, that the Defendants pray and humbly urge that their instant objection be up held, and most obliged, please.

4. CONCLUSION

The Defendants respectfully urge this Honourable Court to grant this application because:

- (1) The Plaintiff's instant action is far off outside the ambit of the provisions of section 272 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) wherein the limits of the jurisdiction of this Honourable Court are clearly spelt out; and
- (2) On the face of the reliefs claimed by the Plaintiff, as reflected in his Statement of Claim, his action falls within the purview of the provisions of sections 254A (1) and 254C of the Constitution of the Federal Republic of Nigeria 1999 (as amended) in which exclusive jurisdiction to entertain same is solely vested on the National Industrial Court of Nigeria alone.

5. LIST OF AUTHORITIES

A. Decided Cases:

- i. Chikelwe V. Ifemeludike [1997]11N.W.L.R (Part529) 390.
- ii. Inakoju V. Adeleke [2007] 4 N.W.L.R (Part 1025) 427.
- iii. Elebanjo V. Dawodu [2006] 15 N.W.L.R (Part 1001)76.

- iv. Adeyemi V. Opeyori (1976) 9-10 SC.
- v. All progressive Grand Alliance (APGA) v. Sen. Christiana D. Anyanwu & 2 Ors. [2014] 7 NWLR (Pt. 1407) 541.
- vi. Azubuogu v. Oranazeri & Ors (2017) LPELR-42669 (SC).
- vii. Madukolu & Others V. Nkemdilim (1962) 1 All NLR 585.
- viii. John V. Ekiti Local Government [2013] 7. N.W.L.R (Part1352).
- ix. Keystone Bank Limited V. Oyewole (2014) LPER-23612 (CA).
- x. Sun Ins. (Nigeria) Plc V. U.E.C.C [2015] 11 N.W.L.R (Part 1471) 576.
- xi. Nnaji V. Chukwu [1988] 3 NWLR (PT 81) 184.
- xii. S.C.C. Nigeria Limited Anor v. Sadi [2014] 41 NLLR (Pt. 127) 327.
- xiii. Lt. Cdr. F. J. Ebohon (Rtd) V. Attorney-General, Edo State & Others (2016) LPELR – 41269 (CA).
- xiv. Kano State Government & Others V. Hon. Nasiru Muhammad (2016) – LPELR 41334 (CA).
- xv. Chief Joseph Odetoye Oyeyemi V. Commissioner For Local Government Kwara State and 3 Ors. [1992] 2 NWLR (Pt. 226) 661.
- xvi. Adedolapo & Ors. V. The Military Administrator of Ondo State &Ors. (2005) LPELR-7538(CA).
- xvii. The Military Governor Ondo State & 1 Or. V. Victor Adegoke Adewumi (1989) MQLRN 49.

B. Statutes:

- i. Sections 6,251,257,272,254A, and 254C, Constitution of the Federal Republic of Nigeria 1999 (as amended).

Dated at Zaria this...26th Day of...October..... 2020



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