

Court 15

IN THE NATIONAL INDUSTRIAL COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

Before His Lordship:-

HON. JUSTICE E.D. E ISELE

JUDGE

DATE: 29TH JANUARY 2015

NICN/ABJ/117/2013

BETWEEN

ADEYEMI ADEGBORO ADESEGUN - CLAIMANT

AND

FEDERAL INLAND REVENUE SERVICE - DEFENDANT

REPRESENTATION: Isaac Adegbite Adeniyi with Godwin Okuoya for the Claimant. Binta Kachalla for the Defendant. Parties absent.

JUDGMENT

The Claimant commenced this action by way of a writ of complaint dated 13th May 2013. In it he claims for:

- (1) A declaration that the purported termination of the claimant's appointment by the Defendant via a letter dated 12th January, 2013, and served on the Claimant on 13th February 2013 is unlawful, illegal null and void.
- (2) A declaration that the said termination of the claimant's appointment is contrary to the statute as well as the rules and procedures regulating the claimant's employment.

- (3) An order re-instating the claimant to his appointment as Deputy Manager (Tax) in the employment of the Defendant, with all his accrued salary and or total emolument from February 2013 till the time the claimant is reinstated.

Alternatively the claimant claims:

- 4 (a) Damages for wrongful termination of employment in the sum of Thirty Six Million, four Hundred and Fifty Thousand naira (N36,450,000)

Particulars being:

- (i) The Claimant's total monthly emoluments as an officer on grade level 12, step 2 is Two Hundred and Twenty Five Thousand Naira (N225,000.00)
 - (ii) Claimant's remaining years of service is 13 ½ years at 12 months a year being 162 months
 - (iii) Salary for 162 months at the rate of 225,000 monthly N36,450,000
- b. An order directing the Defendant to pay the claimant forthwith all his total pension and gratuity that he would have been entitled to after his normal retirement age.

The writ is supported by a statement of facts, a witness statement on oath, list of documents and witness.

On the 17th May 2013 the Defendant entered a memorandum of appearance. The court thereafter on the 11th of November 2013 granted orders extending time for the Defence to file its Statement of Defence and other processes out of time in response the Defendant filed a reply to the Defendant, Statement of Defence filed the 27th of November 2013 with leave of Court. Eventually after all necessary processes were served between the parties the case proceeded to hearing. The Claimant testified as the sole witness in his case while the defendant called 4 witnesses.

It is the case of the claimant that he was employed by the Defendant formerly called the Federal Board of Inland revenue on 14th June, 1991. He rose through the ranks to the position of deputy manager, on 2nd July, 2012,

while his appointment was purportedly terminated by a letter dated 21st January 2013 and served on the claimant on the 13th of February 2013 by the Defendant.

The allegation brought against the claimant in the query served on him on 20th June, 2012 which led to his termination is that he collected the sum of Four Hundred Thousand Naira (N400,000) only, under false pretence to secure employment for one Miss Merriment Odion with the Federal Inland Revenue Service. In his reply to the query dated 21st June, 2012, the Claimant denied the allegation, stating that the said money was a loan given to him about two months earlier by his estranged lover, Miss Merriment Odion. The Claimant further explained that on 18th June 2012, Mr. Moti S.S. (DW1) who is the personal assistant to one Mr. Sunday Odukesan, the co-coordinating Director, Field Operations Group (CD, FOG) in the defendant's office called him on phone after working hours and informed him that the CD, FOG wanted to see, him in the office.

The claimant states that when he went to the office of the CD, FOG, that he met Miss Odion in the said office and in what looked like a pre planned arrangement Miss Odion jumped up and attacked the Claimant and tore his cloth and started shouting on him right in the front of the CD, FOG, who did nothing more than to report the claimant to the Defendant's Management for discipline. The claimant states further that he was further invited with Miss Odion by the disciplinary unit of the Human Capital Department of the Defendant to explain what actually transpired on the faithful day. They did and Miss Odion confessed that the claimant did not actually commit any offence. She also submitted a letter dated 19th July, 2012 to the Defendant with drawing her "informal Complaint" against the claimant.

The Claimant asserts that on the 8th of August, 2012, he was again orally invited by the disciplinary committee of the Defendant, Albeit called "Officers committee" which committee only directed the claimant to sign a letter of invitation dated 6th of August 2012, to watch the proceeding of the committee and then go and write a letter of apology to the Defendant on the same day, apologising for the conduct of Miss Odion and accepting responsibility for the lady's action.

The Claimant complied with all the directives of the disciplinary committee, even though the real culprit, Miss Odion confessed that the claimant was not guilty of any misconduct. The Claimant states that it must be noted that the officers committee did not have any representatives of the claimant's union as its members and the committee did not make it's report known to the claimant neither was the said report tendered in evidence as exhibit during the hearing of the case. The claimant then asserted that in a predetermined manner and contrary to the relevant laws and rules governing the claimant's employment, his appointment was terminated at the pleasure of the defendant. This made the claimant to write a letter to the Defendant notifying it of his intention to sue on the illegal termination unless the decision to terminate his appointment was reversed. It was the refusal of the Defendant to reverse the termination of the claimant that led to the filing of the present action.

On the part of the Defendant, they state that the claimant was issued with a query dated 20th June, 2012 the said query was issued because the claimant brought his private affairs to the office which resulted in a fight between the Claimant and one Miss Merriment Odion on the 18th June, 2012 at the head office of the Defendant. The Defendant states that the claimant responded to the query in a letter dated 21st June 2012, (exhibit C & C1) where the claimant admitted the issue raised by the query except that he gave a different reason for his inability to manage his private affairs. He claimed that he borrowed the money not under any pretense to help the lady procure employment with the Defendant. The claimant also stated that what happened on the 18th of June was embarrassing to him.

In their defence, the Defendant state that in exhibit "G" a letter dated 19th July 2012, merriment Odion described the relationship between her and the claimant as that of an Agent and customer contrary to what the Claimant claims that she was his lover. According to the Defendant Merriment did not deny or dispute what happened on the 18th of June, 2012 instead she pleaded that the same should not be used against the Claimant by the Defendant by way of punishment, suspension or out right relieve of his job as contained in exhibit G. Sequel to this the Defendant set up a Disciplinary Committee wherein the Claimant was invited to face a panel, which invitation he

honoured. However, Merriment was not invited for not being an employee of the Defendant as stated in paragraph 7 of DW3's statement on oath. The Defendant assert that the Claimant admitted and took responsibility of the incident that happened on the 18th of June 2012 which admission he was asked to put in writing which he did as evidenced in exhibit 'H'.

At the close of the hearing parties filed their written address. In the written address of the Defendant at the paragraph headed disputed act under 6.0. It is stated by the Defendant that it is the Claimants case that he was not afforded a fair hearing in accordance with the rules as stated in paragraph 14 of the Claimant's witness statement on oath, that he was not allowed to say anything at the disciplinary committee. The Defendant states thereafter that it is their case the Claimant's conduct with Merriment Odion on 18th June 2012 at the head office of the Defendant amounts to misconduct under the relevant rules and the said conduct caused embarrassment to the Defendant and its entire staff. It is also the case of the Defendant that, the Claimant was afforded an opportunity to Defend and exculpate himself and he used the opportunity accordingly. However his defence was not satisfactory to the Management, who went further to terminate his appointment via letter dated 21st January, 2013.

The Defendant then formulated the following three issues for determination.

- a. Whether or not the conduct of the claimant on 18th June 2012 in the head office of the Defendant amounts to misconduct under the Defendant's Human Resources, Policies and processes.
- b. Whether in the circumstances of the case the claimant was given the opportunity to be heard in this matter
- c. Whether the claimant has established a case against the Defendant.

The Claimant also formulated three issues for determination. These are:

- (a) Whether the claimant actually committed the offence alleged against him in the query served on him, or any other offence known to law to warrant the termination of his appointment.
- (b) Whether the claimant's appointment was properly terminated in line with the relevant laws and rules of procedure.
- (c) Whether the claimant is entitled to the reliefs sought in the complaint.

For the purpose of this judgment the above issues as formulated by the parties would be best expressed into 3 issues as some of the arguments therein tend to overlap or be repetitive. Bearing this in mind therefore, the first issue from the above as formulated by the Court is:

Whether the claimant actually committed the offence alleged against him in the query served on him, whether there was misconduct.

Issue 2 is whether there was fair hearing with the Defendant and

Issue 3: Whether the claimant is entitled to the relief sought or as the Defendant put it, whether the claimant has established a case against the Defendant.

On this first issue, counsel for the Defendant contend that the conduct of the claimant on the 18th of June 2012 in the head office of the Defendant amounts to a misconduct under its Human Resource Policies and processes Exhibit I. The Defendant submits that the claimant's conduct with Merriment Odion constituted misconduct prohibited by the rules that regulate the claimant's employment. By virtue of Section 4.2 (ii) (a) (i) (g) and (p) of exhibit I at page 51 categorized there under as scandalous conduct capable of undermining the reputation of the Defendant and bringing it into disrepute before the general public.

Counsel for the defendant submits at paragraph 73 of the address that if the claimant were honest in his dealings Merriment Odion would not have come to the office to engage him in a fight that (sic) destructed / disrupted management meeting which was going on at the same time. That the claimant's conduct with the lady on that day was disgraceful, diminishing and

opprobrious and not acceptable by any responsible organization. The court was urged to look at exhibits "C" "G" and "H" tendered by the claimant in the course of the trial as they shed light to the issue in dispute. Counsel particularly refers to Exhibit H, a letter of apology written by the claimant dated 8th August, 2012 to the Chairman Federal Inland Revenue Service, through the director, Medium Tax Payers Department; attentioned Human Capital Management and Development, Headed; Letter of Apology to the entire Staff and Management of FIRS. Counsel then submitted that in the light of this evidence the Document must be allowed to speak for itself in the light of section 128 of the Evidence Act (2011), that the claimant in his evidence at paragraph 9 -11 of his additional witness statement on oath and paragraph 5-7 of the additional witness statement on oath sought to vary the contents of exhibits "C", "G" and "H". Counsel relied on the cases of Madu vs. Madu (2008) 6 NWLR pt 1083, 296 @ 324 paras F-G, Union bank Nigeria PLC & Another V. Ayodare and Son (Nigeria) Ltd; Ojiogu V. Ojiogu (2010) 8 NWLR part 1198, pg 1 @ 26, and urged the Court to decide the issue in favour of the claimant.

The Defendant in their first issue for determination concluded in the main at paragraph 7.14 to 7.22 thereof that:

Exhibit G says the relationship between the Claimant and the Defendant is that of Agent and customer.

In Exhibit H the Claimant admitted culpability and promised to conduct himself appropriately in the future that Exhibit H resolved the issue in dispute in this case and the claimant's appointment was terminated on the strength of exhibit's "C", "G" and "H". That the scandalous behaviour in which the claimant is involved is a conduct prohibited by the FIRS HR Policies and processes, Exhibit I counsel relied on the Supreme Court cases of Ayoke V. Bello (1992) 10 NWLR Pt. 218pg380; Confidence Insurance Ltd V. Trustee of O.S.C.E (1999) 2 NWLR (pt.591) 373 and O.A.A Cooperative V. N.A.C.P Ltd (1999) 2 NWLR pt. 590 particularly at paragraph D-E.

On the effect of admission in disciplinary cases counsel relied on the Supreme Court case of Federal Civil Service Commission V. Laoye (1989) 2

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NWLR (pt 106) 652) in urging the Court to determine the issue in favour of the defendant in the face of the claimant's admissions of the disciplinary process against him.

The claimant at their issue (a) submits through counsel at paragraph 4.1 that the claimant did not commit any offence known to law, either as alleged or at all to warrant the termination of his appointment. Counsel refers to Exhibit E the query dated 20th June 2012 which alleges that the Claimant collected the sum of N400,000 from one Miss Merriment Odion under false pretence of wanting to give her employment which the claimant denied in exhibit C-C1 his reply to the query dated 21st June 2012 where the Claimant stated the correct position between him and the said Miss Odion as one of lender and borrower.

Counsel contends that at paragraphs 8, 9, 10, 11, and 12 of the Statement of Facts and 9, 10, 11 and 12 of the witness statement on oath of the claimant succinctly presented the true state of facts material to the case which elicited only one denial of paragraph which according to the defendant was "to the extent that the claimant never met with Mr. Ogungbesan, nor did he even enter his office.

Counsel then submitted for the claimant at 4.3 that the defendant is deemed to have admitted the averments of the claimant in paragraph 11 of the statement of facts and his defence to exhibit C-C1 to the extent that the money collected from Miss Odion was just a voluntary loan and not money collected under false pretence. He relied on NBC PLC V. UBANI (2014) 14 NWLR part 1398 page 421 page 457 paras A to E.

Counsel submitted further that DW3 evidence confirmed exhibit G that the Claimant did not collect money from Miss Odion under false pretence. He also submitted that the attempts by the Defendant to change its defence by alleging through its witnesses that the claimant's offence was his inability to repay his debt before the issue caused problems between him and Miss Odion, and as contained in the query and that the defendant did not plead borrowing by the claimant, and relies on POLLYN V. MIJJEWE (2012) 14 NWLR part 1321 PG 5.67 to state that the attempt by the

defendant to change its defence in this manner would not avail them and that exhibit 1 does not contain any offence as "borrowing from a friend or lover".

Counsel referred to the evidence of DW2, Bright Idehere that it is an offence for an employee of the Defendant if his creditor traces him to the office and attacks him as lacking in probative value; the rest of the said DW2's evidence being borne out of malice, and that paragraph 4.2 (iii) (h) of Exhibit I never envisaged failure to repay debts in 2 months to amount bankruptcy and serious financial embarrassment. Counsel submitted that it was the inability of the Defendant to prove the allegation of obtaining money under false pretence that led to the allegation of financial embarrassment which was an after thought. Counsel submitted further that exhibit H according to the evidence of DW3 was written by the Claimant pursuant to the directive of the Defendant as pleaded in paragraph 15 of the Statement of Facts, which could not be positively denied in paragraphs 14 and 15 of the statement of Defence. He relied on *Okadigbo V. Emeka* (2012) 11 NWLR part 1311 page 237 where the Supreme Court held that the parties to an action must be consistent with the case they present and urged the Court to determine this issue in favour of the claimant.

In determining this issue, it is proper for the court to determine what misconduct is. As this, according to the Defendant the Claimant was charged with, contrary to the provisions of Exhibit I, paragraph 4.2 at page 51. Before looking in to the said exhibit, the Black's law dictionary 9th edition defines misconduct at page 1089 as a dereliction of duty, unlawful or improper behaviour, this in general terms. It goes on in the same page to mention and define other types of misconduct: amongst others it defines official misconduct as a public officers' corrupt violation of assigned duties by malfeasance, or non feasance; - also termed misconduct in office, misbehaviour in office, misdemeanor in office, corruption in office etcetera.

It also defines willful Misconduct of an employee as the deliberate disregard by an employee of the employer's interest including its work rules and standards of conduct justifying a denial of employment compensation if the employee is terminated for the misconduct.

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In Exhibit I the FIRS Human Resource, policies and Processes at chapter four page 48, paragraph 4.0, is headed policies on Discipline and manner of Handling Disciplinary Cases. At 4.2 headed: Classes of inefficiency, Violations, Misconduct, Misdemeanor. There under it is stated: FIRS shall adopt with modifications as may be required the classifications and definitions of violations, misconduct, misdemeanor etc as contained in the public service Rules (PSR). However, misconduct and like infractions that are peculiar to the service have been classified separately misconduct at 4.2 (ii) include (a) scandalous behaviour (ii) unruly behaviour.

In their defence it is this violation of the reproduced portions of exhibit I that claimant is said to have violated. Whereas on the other hand the claimant contended strenuously that the claimant did not commit any offence to any known law, either as alleged or at all, to warrant termination of his appointment. Counsel referred to exhibit E the query which stated that the claimant collected N400,000 (Four Hundred Thousand naira) under false pretence to secure employment for a lady and the inability of the claimant to honour the promise informed the lady's unruly behaviour and the resultant fight between the two of them at revenue House on Monday 18th of June 2012 thus bringing the service to disrepute.

Counsel for the claimant stressed that the query was responded to in exhibit C and C1 wherein the claimant stated that the money in question was never for employment rather it was a loan.

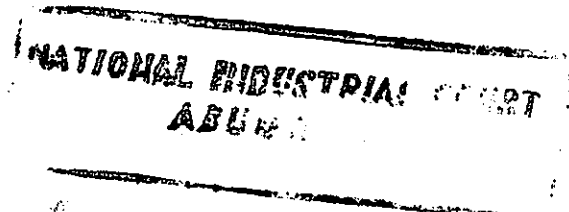
The first paragraph of exhibit C reads "The relationship between me and her dated back to about one year. Since then she has been my girl friend and my lover. It is true I collected the sum N400,000 (Four Hundred Thousand naira) but it was a loan I promised to repay at a later date. The loan was collected in April 2012 she never discussed the issue of FIRS recruitment with me. It is therefore surprising that she is attaching the issue of N400,000 that I borrowed from her for employment in FIRS "The exhibit further states at paragraph 3 that when he confessed that he would no longer be able to marry the lady, (Miss Odion) she started agitating for immediate repayment of the loan. That he promised to pay as he had the fund to do so and it was shocking she brought a private issue between them to the office. At C1 it is stated by the claimant that on 18th June 2012 he was called to the

CD, FOG's office on getting there he met Merriment Odion, it was very embarrassing to him that she tore his cloth in the presence of the CD without any provocation whatsoever from him. That the money was for his accommodation as they both agreed to be living together and the money was Miss Odion's contribution for the accommodation.

The claimant in addition to this exhibit also relied on exhibit C a letter dated 19th July, 2012, and stamped to have been received on 2nd August 2012 by the Defendant. The exhibit is headed: Application to Withdraw my Informal Complaint in it, the author states at paragraph 2 that though her deal with the claimant is unofficial she purposely came to his office to confront him since she did not always meet him at home whenever she went there; that her deal with the claimant was one of an Agent and Customer relationship and not for the claimant to give her a job in FIRS, that the incident that happened should not be used against the claimant by way of punishment leading to suspension or outright relief of the claimant from his job and that she would appreciate if she would be believed without further enquiry in to the issue between her and the claimant.

The claimant's counsel also stated at paragraph 4. 2 and 4.3 of the address that the Defendant should be deemed to have admitted the averments in paragraphs 8, 9, 10, 11 and 12 of the Statement of facts and 9,10 11 and 12 of the witness statement on oath, and cites NBC Plc v, UBANI (Supra) that where the Defendant is completely silent on an issue raised by the claimant in his pleadings the Defendant is deemed to have admitted the averment.

With due respect to learned counsel for the claimant I find that the above contention/submission of his not quite so. Rather I find that at paragraphs 6, 7, 8, 9 and 10 of the Statement of Defence the defence makes a series of strenuous denials and in appropriate cases like paragraph 7, claimant is put to the strictest proof of paragraph 10 of statement of claim. In a situation such as this it is clear that issues are only properly joined by the parties and in the next recourse is to look at the evidence as laid out by the parties and the context of a civil case determine the case on a balance of probabilities as required by section 134 of the evidence Act 2011, and no more.



From the above submissions on issue one, as formulated by both parties. I find that the case of NBC Plc vs. Ubani (supra) does not apply in this context as submitted by counsel for the claimant. I hold that the Defendants have made no such admissions to the aforementioned paragraphs of the statement of fact.

On the submission by the claimant that parties to an action must be consistent with the case they present wherein Okadigbo V. Emeka (2012) is cited in support of the claimant's contention at paragraphs 4.4. to 4.9 of the claimant's address. I hold here that counsel for the claimant merely tries to confuse or obfuscate issues by those lines of submission in the fore mentioned paragraphs 4.4. to 4.9. I find that those are the details of the allegations the Defendant have made against the claimant, the main allegation being misconduct as mentioned by the defendant in their issue (A) and the offence alleged by the claimant in their own issue (a). As a consequence, I hold that the defendant have been consistent in the case presented as contained in their pleadings as in paragraph 9 of the Statement of Defence where it is averred that the claimant's conduct by not being able to manage his personal affairs well enough, amounted to an unruly behaviour and brought the service financial embarrassment.

The defendant then went onto summarizing in paragraph 7-14 to 7.22 of the issue that Exhibit G says the relationship between the claimant and the lady is that of Agent and Customer. In exhibit H the claimant admitted culpability and promised to conduct himself appropriately in the future, that the claimant's appointment was terminated on the strength of exhibits C, G and H. That the scandalous behaviour which the claimant is involved in is conduct prohibited by the FIRS. HR policies and processes, Exhibit I. Counsel for the Defendant relied on the Supreme Court in the cases of Ayoke v. Bello (Supra) and Confidence Insurance Ltd v. Trustee of O.S.C.E (Supra) to submit that Exhibits G & H constitute admission of facts in issue and must be treated as such. In the light of Section 123 of the Evidence Act 2011 which provides:

No fact need be proved in any Civil proceedings which the parties to the proceedings or their agents agree to admit at the hearing or which before the hearing, they agree to admit by any writing under their hands, or which

by any rule or pleading in force at the time they have deemed to have admitted their pleadings provided that the Court may in its discretion, require the facts admitted to be proved otherwise than by such admissions.

In support counsel cites the Supreme Court case of Federal Civil Service Commission v. Laoye (Supra) on the effect of admission in disciplinary cases, where per Eso JSC the Court stated:

"Care must be taken that the provisions of S.33 (4) (Now 36 (4) of the Constitution are adhered to. It is not so difficult where the person so accused accepts his involvement in the acts complained of, and no proof of the criminal charges against him would be required. He has in such a case, been confronted with the accusation and he has admitted it. He could face discipline thereafter."

In this case, I find that the claimant had been confronted with the accusation and he had admitted in the exhibits C and C1, G and H. The contents of the documents speak for themselves. The Claimant was then terminated by the defendant for misconduct, contrary to or as mentioned at paragraph 4.2 (ii) scandalous behaviour, under (a), unruly behaviour under 4.2 (ii) (a) (ii) dishonesty (g) and Discourteous behaviour under item P; all at pages 50 and 51 of exhibit I.. I have earlier reviewed the evidence leading to this in the judgement. Consequently issue 1 (one) as framed by the court, that is whether he actually committed the offence alleged in the query or whether there was misconduct, is resolved against the claimant.

As to issue 2 whether there was a fair hearing with the Defendant.

At paragraph 14 of the claimant statement of claim the claimant states; that the Defendant's disciplinary committee later invited both him and Miss Odion to a meeting, at the meeting, the committee did not allow claimant to say anything and only solicited answers from Merriment. And the disciplinary committee directed him to write exhibit H.

The Defendant at their own paragraphs 12, 13, 14 & 15 of the statement of Defence admitted paragraph 14 of the statement of claim to the extent that the claimant was invited to the meeting on the 6th of August 2012 and the meeting took place on the 8th of August 2012 with the claimant in

attendance. The claimant was put to the strictest proof of paragraph 15 of the claim that the Defendant directed him to write the apology in exhibit 'H', admitting responsibility.

At paragraph 5 of the claimants reply to the Defendant's statement of Defense the Claimant averred that in response to paragraph 15 of the Statement of Defense that the disciplinary committee did not recommend the termination of his employment. Infact the said committee exonerated him of any wrong doing after his attacker Miss Odion had told the committee both orally and in writing that the claimant was actually innocent and the defendant put to the strictest proof

In the argument in respect of above pleadings counsel for the claimant at paragraphs 4.15, 4.16, and 4.17, and 4.18 of the written address submits at 4.15 that he was only invited to the disciplinary committee with Miss Odion and was asked to say nothing; and at 4.18 that the committee did not deem it necessary to invite Miss Odion because they were only interested in sitting to arrive at a pre-determined answer.

I find theses set of submissions quite contrary to the pleadings of the claimant above. The Defendant put the claimant to the strictest proof of his averments that he was made to write exhibit 'H' by the disciplinary committee and was asked to say nothing by the committee. I had the benefit of reading through the evidence of the defence witness especially their cross examination by counsel for the claimant. I find that no question was ever asked on the point why the claimant was asked by the Disciplinary Committee not to say anything when he was invited to the committee together with Miss Odion, more so no question was asked as to when the committee exonerated the claimant. This more perplexing when the defendant had put the claimant on the strictest proof in their denial at paragraphs 12,13,14 and 15 of the Statement of Defense. More so the claimant never called the said Miss Odion to testify on his behalf. Perhaps he could have called her. Counsel's submission for the claimant that the committee exonerated him cannot therefore be true because no evidence was led on this point and the pleading in paragraph 5 of the reply by the claimant to the Statement of Defence goes to no issue on this point.

On the contention therefore that there was no fair hearing. The law is fairly well settled that the right to natural justice i.e. fair hearing is not absolute. So the question will depend on the facts of each case. See *Carba v. University of Maiduguri* INWLR (1986) (pt. 18) 550.

From the facts of this case and having resolved the point that exhibits C & C1, G, and H constituted admission of misconduct by the claimant. The Dicta of *Eso JSC in the federal Civil service v. Laoye* put it. "He has in such a case been confronted with the accusation and he has admitted it. He could face discipline thereafter".

In the case of *Dangote v. Civil Service Commission of the plateau state* (2001) FWLR (pt 50) 1639, the Supreme Court held that there is nothing precluding an administrative body from resorting to relevant and necessary administrative machinery and imposing the applicable sanctions after the admission of the person to the commission of the offence.

I hold therefore that the admission of responsibility by the claimant in exhibit H made it easier for the defendant to proceed to terminate his employment the way they did. If the claimant had denied any wrong doing, and emphasis must be given here to the words 'any wrong doing', the court would have looked in closer as to whether he was given a fair hearing by the Defendant before he was terminated.

However, in this case I find that the defendant gave claimant every opportunity to defend himself but he could not do much for himself in the face of the exhibits just mentioned above.

In the case of *Mrs. Comfort E. Bassey v. Civil Service Commission of Cross River State & Ors* (2010) LPELR CA/C/166/08 as cited by the Defendant at paragraph 8.5 of their address, the holding of *Akaahs Jc* as he was is very instructive:

"An administrative tribunal is not bound to follow the procedure and practice of the Court of law; that although it is bound to observe and comply with the principles of natural justice, that a person who may be adversely affected by its decision is entitled to be given adequate opportunity not only to know the case against him but to answer it.

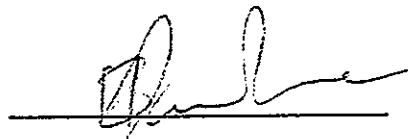
However, he is not entitled to oral hearing unless such a hearing is expressly prescribed"

The absence of oral hearing or an opportunity to be heard before an administrative tribunal does not necessarily tantamount to a denial of natural justice".

As a consequence of the above, issue 2 as formulated by claimant is decided against him. In essence, I hold that the rules of procedure were followed in substantial terms in the termination of the claimant's appointment. I so hold.

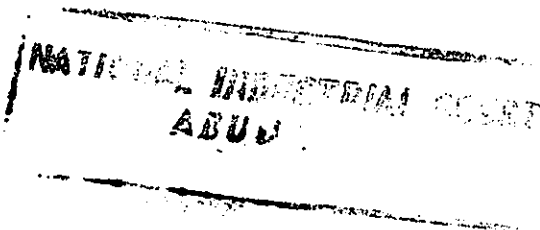
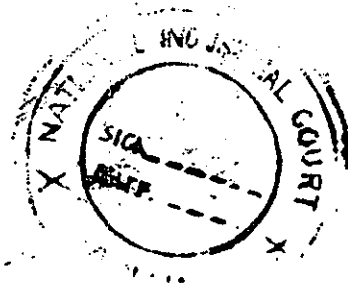
Issue 3 as formulated by the claimant, whether he is entitled to the reliefs sought in the complaint is therefore lame. In view of the resolutions of issues 1 and 2 against him. Judgement is therefore entered in favour of the Defendant. For the reasons given earlier, the claimants case fails. I make no order as to cost.

That is the judgement of the Court



HON. JUSTICE E. D. E. ISELE

JUDGE



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DATE 04-03-2015