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BARRISTERS AND SOLICITORS

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The Exclusive Jurisdiction of the National Industrial Court in Labour and Employment Matters

The National Industrial Court is vested with exclusive jurisdiction on all labour, employment and related matters and as such all labour, employment and allied matters pending before State High Courts across Nigeria are required to be transferred to the National Industrial Court. This position was confirmed in the recent case of *Josiah Madu vs. Solus Schall Nigeria Ltd (Unrep.)*. *Solus Schall* (a subsidiary of a multinational oil service company) was sued at the State High Court in Port Harcourt by the Claimant (a former employee of the Defendant) in a claim for special and general damages of sums over N538 Million for the wrongful termination of his employment with the Company. The Company had previously dismissed the employee on grounds of fraudulent misappropriation of Company's funds, forgery, and false accounting.

The Counsel for *Solus Schall**, challenged the competence of the suit before the State High Court by way of a preliminary objection in view of provisions of Section 254 of the Constitution of the Federal Republic of Nigeria, 1999 vide the Third Alteration Act, 2010, which had divested State High Courts of the jurisdiction to entertain matters relating to and/or connected with labour, employment and other industrial based disputes and had conferred same exclusively on the National Industrial Court. At the close of arguments from Counsel for both parties, the Presiding Judge of the State High Court upheld the Defendant's arguments and consequently declined jurisdiction to entertain the suit.

Prior to the enactment of section 254 of the Constitution of the Federal Republic of Nigeria, 1999 vide the Third Alteration Act, 2010, there was uncertainty whether the National Industrial Court could exercise exclusive jurisdiction in matters relating to and/or connected with labour, employment and other industrial disputes in view of the provision of the Constitution which also gave State High Courts unlimited jurisdiction to deal with general civil matters.

The decisions of the Court of Appeal on the question of jurisdiction of these two courts in respect of labour and employment matters prior to the enactment of the above law were inconsistent. Some Court of Appeal divisions were in favour of the argument that the National Industrial Court had exclusive jurisdiction in labour matters, while other divisions were of the view that jurisdiction can be exercised concurrently with State High Courts. The prevalent position of the Court of Appeal in such appeals was that the National Industrial Court was not recognized or created under the Constitution and cannot therefore displace the State High Courts which are superior courts of record with unlimited jurisdiction in general civil matters under the Constitution.

The result then was that prior to the enactment of the above cited Section 254 of the Constitution, litigants had an option of initiating a labour and employment matter either at the State High Courts or at the National Industrial Court.

The above situation continued until the enactment of section 254 of the Constitution of the Federal Republic of Nigeria, 1999 vide the Third Alteration Act, 2010 which accorded Constitutional recognition to the National Industrial Court with the conferment of jurisdiction (to the exclusion of any other court) to deal with all matters related to and/or connected with labour, employment, the workplace and other industrial disputes.

The decision of the court in the above case represents a clear confirmation of the current position of the law regarding the jurisdiction of the National Industrial Court (to the exclusion of any other court) in respect of labour, employment and all other industrial disputes. However, it remains to be seen whether the National Industrial Court alone which maintains presence in only a few States in Nigeria possesses the capacity, infrastructure and personnel to cope with the multitude of litigation matters emanating from this area of the law.



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