

SUSPENSION IN THE WORKPLACE UNDER NIGERIAN LAW: LEGAL CONSIDERATIONS AND BEST PRACTICES

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Abstract

Suspension in the workplace remains a delicate management tool under Nigerian labour law, often balancing the employer's prerogative to maintain order with the employee's right to fair treatment. Courts have consistently invalidated indefinite suspensions and, in certain cases, construed them as constructive dismissal, thereby entitling employees to damages or arrears of remuneration. This article examines the legal framework, judicial interpretation, and best practices surrounding suspension in Nigeria drawing from key Supreme Court and appellate decisions. The article further outlines best practice guidelines for employers and remedies available to aggrieved employees, ranging from reinstatement in statutory employment to damages in master-servant relationships. By synthesising case law, statutory principles, and practical considerations, this paper underscores that suspension, when misapplied, exposes employers to significant legal and reputational risks. It concludes by advocating fairness, diligence, and compliance as essential safeguards for employers navigating workplace discipline under Nigerian law.

1. Introduction

In Nigerian employment practice, suspension is a common yet controversial disciplinary measure. It involves placing an employee temporarily off duty, usually while allegations of misconduct are being investigated or, in some cases, as a form of penalty after wrongdoing has been established. Importantly, suspension does not bring the employment relationship to an end; it merely pauses the employee's duties and, depending on the terms of engagement, may also affect entitlement to wages.

The Supreme Court in *Esiaga v University of Calabar*¹ described 'suspension' thus:

“to defer, interfere, interrupt, lay aside, temporise, or hold in abeyance. It also means to cause to abate for a while or halt midway, but not to bring to an end. It connotes a state of affairs that should wait until a certain event occurs. It cannot be construed to mean “terminate, extinguish, bring to an end.”

This denotes a situation where the employment contract remains alive but is held in abeyance until a particular event occurs. The Court was clear that it cannot be equated with termination or dismissal, since the employer–employee relationship still subsists.

Despite its seemingly straightforward nature, the use of suspension often raises difficult questions: Should it be with or without pay? How long can an employee reasonably be kept on suspension? At what point does a suspension become unlawful or tantamount to constructive dismissal? Nigerian courts have consistently frowned on indefinite or arbitrary suspensions, especially where they contravene contractual provisions or amount to unfair treatment.

This article explores these issues by analysing judicial pronouncements

¹ (2004) 7 NWLR (Pt. 872) 366

and contractual principles governing suspension in the workplace. It also identifies the potential risks for employers who mishandle suspensions and sets out practical guidelines for ensuring fairness, legal compliance, and best practice in disciplinary processes.

2. Common Reasons for Suspension

Employees may be suspended from the workplace for various reasons, typically arising from actual or alleged misconduct or a breach of workplace policies. Such misconduct usually ranges from violations of an organisation's standard operating procedures to acts that cause damage to the employer's property or reputation. Suspension may also be used as an interim measure to maintain workplace order and integrity while an investigation into an employee's conduct is ongoing. Regardless of the underlying reasons, and while employers have an inherent right to suspend employees, they are expected to act fairly, within the bounds of the law and any applicable internal policies. This expectation of fairness becomes especially relevant when considering the purpose and context of the suspension, whether it is investigative or disciplinary in nature.²

3. Investigative Suspension

When suspension is imposed to allow investigation, the principles of fair hearing may not always be required, especially in cases of allegations of misconduct where the priority is to investigate quickly and minimise potential damages. In *City Central Group of Companies Ltd v Eze*³, held that, *'the power to suspend is not unfettered but only available to an employer to effect proper investigation of an allegation or during the process of disciplinary action: it must be exercised sparingly, reasonably and on good grounds, and in strict compliance with applicable regulations.'*

² Miaphen v Unijos Consultancy Ltd (2013) LPELR- CA/J/185/2002

³ (2021) LPELR-55725 (CA)

4. Punitive Suspension

When misconduct is alleged and suspension is to be imposed as a disciplinary sanction, the employee must first be given a fair hearing to establish such misconduct. The right to be heard arises before the imposition of a punitive suspension because it is a penalty, not a mere investigative measure. Furthermore, where an employment contract, staff handbook, or company policy expressly provides for such a hearing, any failure by the employer to comply renders the suspension wrong and constitutes a breach of contract.⁴ In all such cases, the employee must be afforded a genuine opportunity to respond to the allegations before the suspension can lawfully take effect.

5. Remuneration During Suspension

The settled principle under Nigerian law is that a suspended employee remains entitled to wages during the period of suspension, unless the contract of employment or the suspension letter expressly provides otherwise. This is because suspension does not terminate the contract of employment; the employee continues in service until recall, termination, or dismissal.

In *Globe Motors Holdings (Nig.) Ltd v Oyewole*⁵, the Court of Appeal affirmed this position, stating that:

“Since suspension is not a termination of the employment contract nor a dismissal of the employee, the implication is that the employee is still in continuous employment of the employer until he is recalled or formally terminated or dismissed. Pending his recall or dismissal, a suspended employee is entitled to his wages or salary during the period of suspension, unless the terms of the contract of employment or the letter of suspension itself is specific that the suspended employee will not be paid salaries during the period of suspension.”

⁴ Amuduine v Ibok (2006) 6 NWLR (Pt.975) 158 (Pp. 181-182, paras. F-C

⁵ (2022) LPELR-56856(CA)

Similarly, in *Bamisile v NJC & Ors*⁶, the Court of Appeal held that where a suspension is imposed “until further notice” without specified conditions, the employee remains entitled to full salaries and benefits during the period of suspension. These approaches are consistent with earlier authorities. In *Longe v FBN*⁷, the Supreme Court recognised suspension as a state of affairs in which the employment contract remains in force, even though work and pay may be temporarily affected. Similarly, in *Atoki v Ecobank Nig. Ltd*⁸, the National Industrial Court clarified that while an employer may suspend an employee with or without pay, such a measure must be expressly authorised by the employment contract, staff handbook, or policy document.

Accordingly, unless the governing employment terms expressly exclude wages during suspension, an employee is entitled to full pay and benefits throughout the suspension period. Failure to honour this obligation renders the suspension wrongful and constitutes a breach of contract.⁹

6. Legal Status of Suspended Employees

During the suspension period, a suspended employee remains employed. However, their duties are on hold, not terminated, while investigations or disciplinary actions are conducted.¹⁰

7. Duration of Suspension

While there is no fixed suspension period under Nigerian law, such suspension must be for a “reasonable period” unless the employment contract allows for a longer period. In *Dangote Cement Plc v. Ager*¹¹, employees of Benue Cement Company were indefinitely suspended for alleged fraud, exceeding the 7-day limit in their employment terms. They sued for breach of contract. While the suit was *lis pendis*, the employees were terminated without notice after Dangote Cements Plc acquired the company. The trial Court and the Court of Appeal found the indefinite

6 (2012) LPELR-8381 (CA)

7 (2010) 6 NWLR (Pt. 1189) 1

8 (2014) 47 N.L.L.R. (Pt. 151) 33

9 *Globe Motors Holdings (Nig) Ltd v. Oyewole* (2022) LPELR-56856(CA)

10 See the case of *Duru v Skye Bank Plc* (2015) 59 NLLR (Pt. 207) 680 at P. 731, Paras. E-B

11 (2024) 10 NWLR (Pt. 1945) 1

suspension and subsequent termination unlawful, ordering payment of entitlements from the date of suspension to the date of judgment. The Supreme Court varied the decision, ruling that while the termination was wrongful due to the absence of notice or payment in lieu, it was not invalid, as an employer retains the discretion to terminate employment. The Court also upheld the lower court's finding that the indefinite suspension was illegal, null, and void, entitling the employees to salaries and allowances between the indefinite suspension and the wrongful termination.

The courts determine what is 'reasonable' on a case-by-case basis, as the Courts have generally disfavoured indefinite or long suspensions, deeming them invalid or illegal¹². In *Fedpoly, Idah v Egbeke*¹³, the Court found that an indefinite suspension without pay, combined with freezing bank accounts and restricting movement, constituted oppressive, high-handed, and abusive conduct.

Notably, courts have interpreted indefinite suspension as constructive dismissal in some instances, especially without pay, which essentially connotes that the employer's actions have made the employment relationship untenable, forcing the employee to resign.¹⁴ Beyond this, the National Industrial Court has categorised indefinite suspension as an unfair labour practice¹⁵, stressing that an employer cannot keep an employee in perpetual uncertainty without justification or remuneration.

8. When Will Suspension Amount to Termination?

Under certain peculiar circumstances, Courts have equated suspension to constructive dismissals, especially when the suspension is indefinite, unpaid, or accompanied by other adverse actions that make continued employment untenable. A closer look at such instances includes:

- i. **Suspension in violation of contract terms:** When a suspension is indefinite and violates contractual terms (e.g., exceeding a maximum

¹² FI Group Corp. v. BPE (2012) LPELR - 9339 (SC); (2012) 18 NWLR (Pt. 1332) 209.

¹³ (2023) 1 NWLR (Pt. 1865) 227

¹⁴ Mr. Adelabu Patrick Olasumbo v Ecobank Nigeria Ltd. (unreported ruling delivered on 10 May 2017 by Hon. Justice B. B. Kanyip in Suit No. NICN/LA/257/2016)

¹⁵ Ogbodu v. Global Fleet Oil & Gas Ltd. & Anor. [2015] 55 N.L.L.R (Part 187) 201

allowable period) or includes unusual restrictions, courts may interpret it as constructive dismissal. In *Olafimihan v Nova Lay-Tech Ltd*¹⁶, the Court opined that an indefinite suspension extended beyond the contractually agreed two-week period, combined with denial of access to work premises, amounted to a de facto termination and showed the employer's intention to dispense with the employee's services.

- ii. **Employer's Failure to Recall:** If an employer fails to recall an employee after the expiration of a suspension period or prevents the employee from accessing the workplace, this can constitute constructive dismissal. These actions can signal an intention to terminate the employment relationship, even if formal termination procedures are not followed. In the case of *Ilodibia v Nigerian Cement Coy*¹⁷, the Claimant was suspended indefinitely and placed on a prorated salary. He instituted an action seeking to be reinstated. The Court of Appeal held that *"by failing, refusing and or neglecting to recall the employee, the defendant had repudiated the contract of employment and the employee's claim is tantamount to a claim for reinstatement which is only available to an employee whose employment is statutorily flavoured."*
- iii. **Indefinite Suspension for an Unreasonable Time:** Even if the employee is not explicitly violating service conditions, an indefinite suspension lasting an unreasonable time can be considered constructive dismissal. Even if the employee eventually resigns voluntarily during such a period, it may be construed as constructive dismissal.¹⁸

9. Best Suspension Practices for Employers under Nigerian Law

- a. **Compliance with employment contract and staff policies:**

¹⁶ (1998) 4 NWLR (Pt. 547) 608

¹⁷ (1997) 53 LRCN 2507

¹⁸ Mobil Oil (Nigeria) Ltd. v Johnson (1961) 1 SCNLR 157

Before suspending an employee, the procedures outlined in the aforementioned documents should be considered and implemented to avoid claims of breach or wrongful termination.

- b. **Compliance with judicial precedent and labour statutes:** Suspension practices should be devised in line with relevant statutory provisions like the Labour Act and the ever-evolving landscape of judicial precedent.¹⁹
- c. **Avoidance of oppressive, high-handed actions:** Organisations should always act in good faith and suspend only on reasonable grounds.
- d. **Diligent documentation of misconduct:** In cases of employee misconduct, organisations should ensure thorough documentation of all relevant facts and actions taken, as such records can significantly influence the outcome of any legal proceedings.
- e. **Clarification of suspension terms in writing:** To avoid allegations of arbitrary or vindictive suspension, it is best to issue a suspension letter clearly outlining the reasons for suspension, duration, limitations and whether it is with or without pay.
- f. **Payment of Remuneration unless expressly excluded:** unless the employment contract explicitly states otherwise, suspension must be paid during the suspension period. Unpaid suspensions without contractual support may be deemed wrongful.
- g. **Avoid indefinite suspension:** Nigerian Courts have consistently frowned upon indefinite suspensions, especially without pay, as it may be construed as constructive dismissal. Suspension duration must be for a reasonable period.

¹⁹ Mr. Adelabu Patrick Olasumbo v Ecobank Nigeria Ltd. (unreported ruling delivered on 10 May 2017 by Hon. Justice B. B. Kanyip in Suit No. NICN/LA/257/2016)

- h. **Effective communication:** Employees should be informed of developments in the investigations of their case, or disciplinary processes should be concluded without delay.

10. Remedies Available to Employees for Unlawful Suspension

- i. **Reinstatement of Employment in Master-Servant Relationships** is only available in statutory flavoured employment. In this situation, Courts can order reinstatement with full back pay and benefits.²⁰ However, reinstatement is generally not an option in a typical master-servant relationship, even if the employer acted wrongfully. As expounded in the case of *Dangote Cement Plc v Ager*²¹, a Court cannot force an employer to keep an unwanted employee.
- ii. **Payment of salaries in arrears or damages** – Where a court finds that an employee was unlawfully suspended, it may discretionarily order the employer to pay all outstanding salaries and allowances up to the date of termination or judgment (if no termination occurred). Alternatively, the court may award general or special damages, depending on the nature of the employee's claims and the circumstances of the case, taking into consideration factors such as the employment terms, the employer's conduct, and the hardship suffered by the employee due to the suspension.²²

11. Conclusion

Conclusively, suspension remains a lawful and sometimes necessary tool for maintaining workplace discipline and facilitating investigations. However, its exercise must be guided by fairness, due process, and adherence to the governing legal framework. Nigerian courts have consistently held that while employers retain the prerogative to suspend employees, such powers are not unfettered. Wrongful or indefinite

²⁰ Bamgboye v Univ. of Ilorin (1999) 10 NWLR (Pt. 622) 290; Odibo vs First Bank Plc (2018) LCN 12072 CA

²¹ (2024) 10 NWLR (Pt. 1945) 1

²² Ekpeogu v Ashaka Cement Coy (1997) 6 NWLR (pt. 508) 280

suspensions, particularly those imposed without contractual authority or in breach of fair hearing requirements, expose employers to liability, reputational harm, and workplace instability.

Accordingly, employers are advised to clearly define suspension procedures in contracts and policies, ensure compliance with statutory and judicial standards, and always afford employees the safeguards of natural justice. By doing so, organisations not only minimise the risk of litigation but also strengthen institutional trust and integrity in the employment relationship.

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