

CAN THE CENTRAL BANK OF NIGERIA STOP NIGERIAN BANKS FROM SACKING THEIR EMPLOYEES?

The apex bank in the country, the Central Bank of Nigeria, CBN on the 3rd of May, 2020 came out with a directive in which it stated that it had stopped banks from sacking any employee during this period and thus allayed the fears of the general public on the status of the employees of Nigerian banks in the wake of the Covid-19 pandemic on the economy. The Press Release titled 'CBN, Bankers Committee Suspend Lay-offs in Banks' seems to have been a reaction to the publicised intention of a bank to sack some of its staff as it had come to realise it could function without their services during the period of lockdown.

The Managing Director of one of the leading banks in Nigeria in a trending video had noted that the bank had come to the conclusion that it does not need the high number of employees that it currently has to drive its visions and achieve its objectives. This was made plain especially after it reviewed its services in the course of the lockdown wherein it was able to meet the needs of customers despite the closure of a large number of its branches in all parts of the country. To the bank, it had become obvious that technology was its major medium of providing its customers with the banking services necessary. Unfortunately, this publication to the whole world gathered a lot of negative reactions as people blamed the bank for what was termed its selfish and unsympathetic attitude in the light of the difficult times that the whole world is in presently.

The CBN in the release stated that after a meeting of the bank with the Bankers Committee, it had been decided that no bank would lay-off or retrench any member of staff without obtaining the express approval of the bank. This brings to the fore the need to examine whether the CBN has such powers to determine the fate of the contract of employment between the banks and their employees which by law, it is not a party to. It is entrenched in our laws that a willing employee cannot be forced on an unwilling employer, nor can an unwilling employee be forced on a willing employer. To this extent, can it be said that the CBN is simply trying to rewrite our laws without any amendments by this action. It is also a notorious fact that he who hires can also fire in line with the provisions of the employment contract. An employer can fire for a good or bad reason or even for no reason at all. The only known exception is that where he provides a reason, he has to prove the reason provided. An example can be found in situations where an employee is

sacked for any act of indiscipline, the act must be proved and the employee given ample opportunity to defend himself against the complaint brought by the employer. The employment of bank staff is also not one tainted with any statutory flavour as it is not governed by any statutes.

It is interesting to note that the release does not allude to any statutory power or authority of the CBN to regulate the contractual relationship between banks and their employees. A cursory look at the provisions of the Labour Act, the 1999 Constitution of Nigeria (as amended), the Banks and other Financial Institutions Act, BOFIA, 2004, the Central Bank of Nigeria Act 2007 and regulatory instruments shows that none of them vests the CBN with such powers. On the flip side, a lot of people have argued that in as much as the CBN has powers to control and supervise banks generally, this can be extended to mean that it can exercise control in labour contracts between the banks and their employees. In some instances, the CBN does have some regulatory powers to approve the appointment of some management officers but this provision still does not provide that the CBN can impose any particular officer as an employee of a bank. The above usually comes to the fore in situations where the CBN in the exercise of its supervisory powers take over a bank or midwife the sale or merger of a bank. However, the law remains what it is until it is properly amended in line with the relevant provisions.

CONCLUSION

Employments in banks are generally contract employments and are governed by the terms provided for in the contract. Where a bank decides to sack any employee of it, it can go ahead to do so in as much as the procedure adopted is in line with the terms of engagement.

For more information, please contact:

Ayodele Kusamotu: ayo.kusamotu@kusamotu.com

Adeyemi Akingbade: yemi@kusamotu.com



Kusamotu & Kusamotu
(The Greenfish Chambers)

2A, Udi Street, Osborne Foreshore Estate,
Ikoyi, Lagos State.
Email: enquiries@kusamotu.com
Website: www.kusamotu.com

Tel: +234 (0) 8147203068

Disclaimer:

Nothing in this Article should be construed as legal advice from any of our lawyers or the firm. The answers are a general summary of developments, principles, circulars and press releases of interest on the subject of discussion and may not apply directly to any specific circumstances. Professional advice should therefore be sought before any action is taken.