

SUPREME COURT OF NIGERIA
FRIDAY 1ST MARCH, 2013. SC. 258/2005
**CORAM:- M. MOHAMMED, M. S. MUNTAKA-
COOMASSIE, S. GALADIMA, N. S. NGWUTA,
S. S. ALAGOA, JJSC.**

UNIVERSITY OF JOS APPELLANTS
AND
DR. M.C. IKEGWUOHA RESPONDENTS

ACTIONS - Cause of action - Determination - Cause of action arose on 2nd October 1997 - When appellant made it known that it would not confirm the appointment of respondent (H1)

CONTRACTS - Statutory employment - Notice of non confirmation - As the period of notice provided in s. 22(vii) of Exhibit 5 was not complied with - Exhibit 3 was rightly treated as recommendation for non confirmation referred to in the section (H2)

CONTRACTS - Statutory employment - Confirmation - Proof - Respondent had in para. 5 of the statement of claim - Pleaded that he was positively recommended for confirmation by his HOD & Dean of Faculty - Which assertion was not denied by appellant (H3)

COURTS - Reliefs - Grant - Condition - For a party to be awarded relief - He must not only plead with particularity - But also prove by credible and convincing evidence - Entitlement to the relief he seeks (H4)

ACTIONS - Reliefs - Vagueness of - Fate - Respondent's claims pertaining to promotions and entitlements are uncertain - And as such must fail as there was no evidence - To prove his entitlement to same (H5)

FACTS

Before the Federal High Court Jos, plaintiff/respondent commenced this action against defendant/appellant, claiming inter alia, an order deeming that respondent continued as Lecturer II in De-

partment of Political Science of the University of Jos with effect from 27th January 1995 with all his promotions, allowances and entitlements and for injunction restraining appellant from terminating respondent's appointment pending the determination of the suit. Respondent was initially recruited as a temporary Lecturer and subsequently made Lecturer II in the University, following the regularization of his appointment by a full panel set up by the institution. Respondent's case is that upon his appointment being due for confirmation on 27th January 1995, he applied to appellant to be so confirmed. Respondent also stated that he was positively recommended for confirmation by his H.O.D. and Dean of the Faculty.

However, rather than confirming him, appellant much later on 2nd October 1997 wrote a letter of non confirmation (Exhibit 3) to him. Respondent's major contention is that appellant relied on an unsubstantiated protest letter against him from some students of the Department to terminate his appointment. Hence, this action was instituted. Appellant filed its statement of defence but led no evidence on same. At the end of hearing, the court dismissed the claims of respondent. Aggrieved, respondent appealed to the Court of Appeal Jos Division. Appellant made a contention that cause of action in the matter arose on 27th January 1995 and that since respondent did not comply with section 2 of Public Officers Protection Act LFN 1990 in instituting the matter, the action is statute barred. Respondent contended that the cause of action arose on 2nd October 1997 when he was served with Exhibit 3. The court held that the action was properly instituted and went on to allow the appeal. Dissatisfied, appellant appealed to Supreme Court contending among other things that respondent has not proved entitlement to the reliefs granted to him by the Court of Appeal.

ISSUES FOR DETERMINATION

- 1) Whether the Court of Appeal was right in its decision that the cause of action arose on 22/10/97 and not sometime in 1995.
- 2) Whether the Court of Appeal was right in construing Section 22 of exhibit 5 as it applies to this case.
- 3) Whether the Court of Appeal was right when it made an order directing the appellant to confirm the respondent with all his promotions, allowances and entitlements.

HELD (Unanimously allowing the appeal in part per

ALAGOA JSC)

ACTIONS - Cause of action - Determination

1. These facts are discernible by a resort to the writ of summons and the statement of claim and other relevant evidence. Paragraphs 2, 3, 4, 5, 6, 7, 11 and 12 of the respondent's statement of claim are instructive in this regard. Respondent applied for confirmation of his appointment having purportedly become due for same and the end result was exhibit 3 - The letter dated 2nd October, 1997 categorically stating that the appellant had no intention to confirm the respondent. The paragraphs of the statement of claim are facts or a combination of facts which have given the respondent the right to take action against the appellant and exhibit 3 - letter dated 2nd October, 1997 lends considerable weight to this right to sue. Going through the respondent's statement of claim and his evidence which was the only evidence as the appellant led no evidence despite filing a statement of defence, there is nothing in 1995 that would justify a cause of action. Let me say for the umpteenth time that the cause of action could only have arisen on the 2nd October 1997 when the appellant made it known that it would not confirm the appointment of the respondent. The court below was therefore right when it held that the cause of action arose on the 2nd October, 1997 when the fate of the respondent became sealed. Issue No. 1 must therefore be and is hereby resolved in favour of the respondent against the appellant. (p. 4629 D)

CONTRACTS - Statutory employment - Notice of non confirmation

2. This issue no doubt deals with the interpretation of section 22(iii) of exhibit 5, confirmation of appointment of the respondent is not automatic but subject to satisfactory scholarly work and ability of training as required by the regulations which the respondent had failed to plead or prove. According to the appellant, the court below found that in refusing to confirm the respondent's appointment, the appellant complied with exhibit 5 but the said lower court was of the view that the

compliance was outside the period provided in paragraph (vii) of Section 22 of exhibit 5 and in adhering to this line of reasoning, the lower court failed to advert its mind to the provision of paragraph (ii) of section 22 of exhibit 5 which makes it clear that the respondent's appointment stood terminated.

B As plausible as this argument may sound, it fails to take into account the fact that the appellant continued to regard the respondent and to deal with him as one of its staff from the 27th January, 1995 until exhibit 3 was written on the 2nd October, 1997 (a period of almost three years) when the appellant made its intention known that it was not going to confirm the respondent's appointment. By so doing the appellant literally played into the hands of the respondent. Part of exhibit 3 which is very germane to this issue reads "...the administration has directed that you should be issued with three (3) months mandatory notice of its intention of non confirmation of your appointment." (Italics mine for emphasis).

Section 22(vii) of exhibit 5 provides as follows, "A recommendation for non confirmation or deferment of confirmation should be made only after the member of staff concerned has been warned of his or her short comings and has been given sufficient time to remedy this. If after this it is necessary to recommend non confirmation or deferment, this should be done at least three months before the date when confirmation is due."

Was this period of notice as provided in section 22 (vii) of exhibit 5 complied with? The answer is in the negative and appellant's counsel's submission that the lower court could not have been right when it treated exhibit 3 as the recommendation of non confirmation referred to in section 22(vii) of exhibit 5 cannot be correct. The recommendation of non confirmation could not have been the one emanating from the respondent's Head of Department or Dean of Faculty as canvassed by the appellant's counsel.

A critical examination of section 22 (vii) of exhibit 5 shows that all its trappings, warning, shortcomings, deficiencies et al are contained in exhibit 3. I am therefore in total agreement with the finding of the lower court at page 96 of the record

that exhibit 3 was written outside the period required by section 22 (vii) of exhibit 5. I therefore resolve issue 2 in favour of the respondent. (pp. 4631 A/4632 E)

CONTRACTS - Statutory employment - Confirmation - Proof

3. Indeed both in his pleadings in paragraph 5 of the statement of claim at page 3 of the record of appeal, and in his evidence in chief at page 13 of the record of appeal, the respondent pleaded that both his Head of Department (H.O.D.) and Dean of his Faculty positively recommended him for confirmation. This assertion of the respondent was not contradicted by the appellant who led no evidence at all despite filing a statement of defence. Interestingly, not even in its scanty statement of defence which is deemed abandoned, evidence not having been led on same was any attempt made to deny the positive assertion in paragraph 5 of the statement of claim that the respondent was positively recommended for confirmation by both his Head of Department (H.O.D) and the Dean of his Faculty. (p. 4632 B)

COURTS - Reliefs - Grant - Condition

4. It is the law that for a party to be awarded any relief by a court of law that party must not only plead with particularity but also prove by credible and convincing evidence that he is indeed entitled to the relief he seeks. There is a plethora of case law on this very important subject matter.

In Peter Adebayo Odofin & Anor. v. Chief Agu & Anor (1992) 3 NWLR (Pt. 229) 350 this court stated categorically that courts ought not to play the role of Father Christmas which can go round granting to parties reliefs which they have not asked for. Let me state without any fear of contradiction that the “free giving” Father Christmas no longer exists, if he ever existed as parents pay indirectly for the “gifts” which their children appear to get freely.

The list of authorities on this subject matter is inexhaustive and are all to the effect that a court of law has no jurisdiction to grant to a party that which he has not asked for. It is an old legal principle and is quite sacrosanct. A claim that is vague

and lacks certainty is no claim at all. (p. 4632 G)

ACTIONS - Reliefs - Vagueness of - Fate

5. In paragraph 13(b) of the statement of claim at page 4 of the record of appeal the respondent is seeking the following reliefs,

“An order directing the defendant to confirm the plaintiff as a Lecturer II in the department of Political Science of the University of Jos with effect from 27th January, 1995, with all his promotions, allowances and entitlements” (Italics mine for emphasis).

Promotion from what grade to what grade and from what period to what period if I may ask. Allowances and entitlements of what nature, amount and from what period to what period if I may again ask. These are reliefs that are vague and not supported by primary facts or evidence as we shall soon come to see. In his evidence in chief at page 13 of the record of appeal the respondent said as follows regarding the relief he seeks,

“I want the court to order the defendant to confirm my appointment and all my entitlement to be restored.” The reliefs thus sought by the respondent by this evidence are not only vague but uncertain and the reliefs claimed by evidence do not even include promotion but confirmation. That relief would appear to me abandoned as no evidence was led on it, and same is deemed abandoned.

Moreover as stated earlier, all the reliefs pertaining to promotions, allowances and entitlements being reliefs that are vague, uncertain and lacking in particulars and proof by evidence must fail as there was no evidence of any promotion, allowances or entitlements enuring to the respondent which the appellant is withholding from being exercised in the respondent’s favour by the appellant. It is trite that a court of law will not make an order in vain or an order which is incapable of enforcement. The only enforceable part of the order appears to me the order directing the appellant to confirm the appointment of the respondent. This issue must therefore be and is hereby resolved in favour of the appellant against

the respondent.

The appeal accordingly succeeds in part and is allowed only in part. The appellant is hereby ordered to confirm the appointment of the respondent as a Lecturer II in the Department of Political Science of the University of Jos with effect from the 27th January 1995. The other reliefs claimed by the respondent namely for promotions, allowances and entitlements not having been satisfactorily proved fail and are hereby dismissed. (p. 4633 D)

REPRESENTATION

G.S. Pwul, SAN with Paschal Mammo, Esq.; T. Mayaki, E. Z. Kaatpo, Esq.; E.J. Nyang, Esq. and S. G. Pwul (Miss), for the Appellant
Ola Olanipekun, SAN with Daniel Alumul, Esq., for the Respondent

CASES REFERRED TO

Oshohoja v. Amuda (1992) NWLR (pt. 250) 690
Bello v. A-G Oyo State (1986) 5 NWLR (pt. 45) 828
Egbe v. Adefarasin (1987) 1 NWLR (pt. 47) 1
Thomas v. Olufosoye (1986) 1 NWLR (pt. 18) 669
Adimora v. Ajufo (1988) 3 NWLR (pt. 80) 1
Egbue v. Araka (1988) 3 NWLR (pt. 84) 598
Odofoin v. Agu (1992) 3 NWLR (pt. 229) 350
Okoko v. Dakolo (2006) 14 NWLR (pt. 1000) 401
Ayanboye v. Balogun (1990) 5 NWLR (pt. 151) 392
Ige v. Olunloyon (1984) All NLR 150 (1984) 1 SCNLR 158
Atser v. Gachi (1997) 6 NWLR (pt. 510) 609
Ladoke v. Olobayo (1992) 8 NWLR (pt. 261) 605
Awosile v. Sotunbo (1992) 5 NWLR (pt. 243) 514
Egbe v. Adefarasin (1985) 1 NWLR (pt. 3) 549

STATUTE REFERRED TO

Public Officers Protection Act Cap. 379 LFN 1990, s. 2

LEAD JUDGMENT BY ALAGOA JSC

The respondent as plaintiff in paragraph 14 of his statement of claim dated the 27th April, 1998 at pages 3 and 4 of the record of appeal claimed against the appellant as defendant at the Federal High

Court Jos as follows:-

a) An order deeming the plaintiff continued as Lecturer II in the Department of Political Science at the University of Jos with effect from 27th January, 1995 with all his promotions, allowances and entitlements OR

B b) An order directing the defendant to confirm the plaintiff as a Lecturer II in the department of Political Science of the University of Jos with effect from 27th January, 1995 with all his promotions, allowances and entitlements.

C c) An injunction restraining the defendant from terminating the plaintiff's appointment pending the determination of this suit.

d) Such further reliefs.

The facts as stated in the statement of claim are that the plaintiff was at all material times a Lecturer II in the Department of Political D Science of the University of Jos having initially been offered appointment as a temporary Lecturer on the 22nd January, 1993, a post with respect to which he assumed duty on the 27th January, 1993.

The plaintiff averred that in accordance with his conditions of service he was interviewed by a full panel, was found appointable and had his appointment regularized with effect from the 12th August, 1994. He became due for confirmation on the 27th January, 1995 and applied to be so confirmed. The plaintiff went on to aver that both his Head of Department and his Dean of Faculty recommended him for confirmation in accordance with the rules and regulations of the defendant and instead of confirming him the defendant purported to act on a purported protest by a few students who were instigated to write a petition against the plaintiff to refuse to confirm him, an act which was ultra vires as the protest letter was not only F false and malicious but was also not genuine. G

The plaintiff also averred that a majority of students wrote a rejoinder to the protest letter and absolved him of all the false allegations. It was further averred that the defendant went out of its way to set up a three man panel in a grand design to refuse to confirm him, H and instead purported to act on extraneous matters and initiated proceedings for the termination of the plaintiff's appointment by reason of which the plaintiff has been put to much inconvenience and has suffered loss and damage.

The appellant as defendant filed a statement of defence dated

the 6th December, 1998 but led no evidence in substantiation of same. Only the plaintiff gave evidence in support of his averments.

Addresses of counsel were thereafter taken and in a judgment delivered on the 27th January, 2000, the claim of the plaintiff was dismissed in its entirety.

Aggrieved at the Federal High Court judgment, the plaintiff appealed to the Court of Appeal Jos Division which allowed the appeal. The concluding part of the lead judgment of the Court of Appeal hereinafter referred simply as the lower court stated thus,

“The appeal thus succeeds and the appellant’s claim is hereby allowed and relief (b) in the statement of claim are granted as prayed i.e. “(b) The respondent is hereby directed to confirm the plaintiff as a Lecturer II in the Department of Political Science of the University of Jos with effect from 27th January, 1995 with all his promotions, allowances and entitlements. The judgment of the lower court is hereby set aside. Costs are assessed at N10,000.00 in this court and N5,000.00 in the lower court in favour of the appellant”.

Aggrieved the defendant now as appellant has appealed against this judgment of the lower court on nine grounds of appeal contained in the notice and grounds of appeal dated 19th November, 2004 at pages 105-111 of the record of appeal. Of the nine grounds of appeal three grounds of appeal namely grounds 3, 8 and 9 were abandoned.

The six remaining grounds of appeal are reproduced hereunder shorn of particulars:-

Ground One

Learned Justices of the Court of Appeal erred in law when they granted relief (b) in the statement of claim in the following terms:

b. The respondent is hereby directed to confirm the plaintiff as a Lecturer II in the Department of Political Science of the University of Jos with effect from 27th January, 1995, with all his promotions, allowances and entitlements.

Whereas there is no legal basis for making such order, which in any case is not enforceable.

Ground Two

The learned Justices of the Court of Appeal erred in law when they held thus:

“On the strength of the above argument and reasoning I am

satisfied that the cause of action arose on 2nd October, 1997 and not sometimes in 1995, as learned counsel for the respondent would want this court to believe. It is on record that this suit was initiated on 22nd December, 1997, only two months after said date the cause of action accrued, so whichever way one looks at it the action was commenced within time for even if the argument of learned counsel for the respondent is accepted, (although I am not necessarily saying that it is applicable here) the appellant was very much within time. I am satisfied that the appellant was within time in filing his suit, and the suit is not statute barred."

Whereas the cause of action arose sometime in 1995 and the suit was clearly outside the period of limitation stipulated in both the Public Officers Protection Act, Laws of the Federation of Nigeria, 1990 and Public Officers Protection Law, Laws of Northern Nigeria 1963, applicable to Plateau State.

Ground Four

The learned Justices of the Court of Appeal erred in law when after coming to the conclusion that:

Confirmation of the respondent's appointment was not automatic; Paragraph (viii) of Section 22 of University of Jos Regulations governing conditions of service had been complied with;

iii. The respondent's had been given more than 18 months to remedy his shortcomings;

later turned round to hold as follows:

It was after this stages had been followed that the respondent wrote exhibit "3" to the appellant, but then it was written outside the period required by Section 22 (viii) of exhibit "5" i.e. the regulations of the University, which specifically provides that such recommendation for non confirmation should be done at least three months before the date when confirmation is due... The provision of section 22(vii) was thus violated and thereby misconstrued section 22 of exhibit "5"

Ground Five

The learned Justices of the Court of Appeal erred in law when they held as follows:

"From my evaluation can be found the fact that the respondent complied with the substantial provision of Section 22 of exhibit 5 which lays down the procedure to be followed on confirmation or

non-confirmation.

The only violation is the period of notice given.”

and then proceeded to grant relief (b).

Ground Six

The learned Justices of the Court of Appeal erred in law when they directed the appellant to confirm the respondent as a Lecturer II B in the Department of Political Science when upon a proper interpretation of Section 22 of exhibit ‘5’ such appointment had lapsed.

Ground Seven

Learned Justices of the Court of Appeal erred in law when they directed the appellant to confirm the respondent’s appointment C as a Lecturer II with his promotions, allowances and entitlements without adverting to the relevant provisions of section 22 exhibit ‘5’.

The following issues were distilled by the appellant from the six grounds of appeal:- D

a) Whether the Court of Appeal was right in its decision that the cause of action arose on the 22nd October, 1997 and not some-time in 1995 (Ground 2)

b) Whether the Court of Appeal was right in construing Section 22 of exhibit 5 as it applies to this case (Grounds 4, 5 and 6). E

c) Whether the Court of Appeal was right when it made an order directing the appellant to confirm the respondent with all his promotions, allowances and entitlements (Grounds 1 and 7).

These issues are contained in paragraph 2.01 at page 2 of the appellant’s brief of argument dated 9th November, 2005 and filed on the 30th November, 2005. The appellant also filed a reply brief of argument dated the 14th February, 2011 and filed on the 9th March, 2011 which is in reply to the preliminary objection raised by the respondent in his brief of argument. This will become clearer later in the write up. F G

The respondent for his part adopted in its entirety the issues formulated by the appellant in its brief of argument and which need no restatement or reproduction. Also contained in the respondent’s brief of argument is a notice of preliminary objection and grounds H upon which the objection is based.

The appeal came up for hearing on the 10th December, 2012. A motion on notice for extension of time to file respondent’s brief of argument out of time and to deem same as having been properly

filed and served was moved by respondent's counsel Ola Olanipekun SAN and granted by this court and the respondent's brief of argument filed on the 5th October, 2012 was deemed properly filed and served on the 10th December, 2012. G. S. Pwul SAN also sought to regularize the appellant's reply brief of argument filed on the 9th March, 2011, so that same be deemed properly filed and served on the 10th December, 2012 after the filing and service that day of the respondent's brief of argument and this was also granted by this court and the appellant's reply brief was deemed as having been properly filed and served on the 10th December, 2012. Thereafter learned senior counsel for the appellant G.S. Pwul adopted and relied on the appellant's brief of argument wherein three issues were formulated from the existing six grounds of appeal, abandoning grounds 3, 8 and 9 out of which no issues were formulated and urged this court to allow the appeal and set aside the judgment of the lower court.

Learned counsel for the respondent Ola Olanipekun SAN also adopted and relied on the respondent's brief of argument. Counsel drew attention of this court to the preliminary objection raised and argued at page 7 of the respondent's brief of argument on the strength of which he urged this court to strike out issue 1 in the appellant's brief of argument. In the event that the court disallowed the preliminary objection, he had dealt with the issues as formulated in the respondent's brief of argument. With respect to issue 3 as formulated in the respondent's brief, Mr. Olanipekun SAN referred to the prayers or reliefs sought therein as consequential reliefs flowing naturally from the this court to dismiss same.

The preliminary objection urges this court to strike out ground 2 of the appellant's grounds of appeal together with issue 1 relating thereto as incompetent. Ground 2 has been stated earlier in this write up and needs no reproduction. Issue 1 which is distilled from around 2 reads as follows, "*Whether the Court of Appeal was right in its decision that the cause of action arose on the 22/10/97 and not some-time in 1995.*"

I should state right away that the Court of Appeal never stated that the cause of action arose on the 22/10/97. This makes further treatment of this objection unrealistic and since this issue has been treated fairly exhaustively in the appellant's brief of argument and adopted in the respondent's brief as issue 1 in both briefs of argu-

ment, I think it is appropriate to proceed to deal with the substantive appeal proper on its merits.

Both counsel for the appellant and respondent are agreed that this appeal be heard and determined on the under-listed issues which I am in total agreement with as proper issues for the determination of this appeal save for an error which I shall point out in due course. B These issues are:-

1) Whether the Court of Appeal was right in its decision that the cause of action arose on 22/10/97 and not sometime in 1995 (Ground Two).

2) Whether the Court of Appeal was right in construing Section 22 of exhibit 5 as it applies to this case (Grounds Four, Five and Six). C

3) Whether the Court of Appeal was right when it made an order directing the appellant to confirm the respondent with all his promotions, allowances and entitlements. (Grounds 1 and 7) D

The error I intend to point out relates to the date 22/10/97 which appears in issue 1 in the appellant's brief of argument and adopted by the respondent in his own brief of argument. At page 85 of the record of appeal the court below had stated in its lead judgment as follows- E

"It is instructive to note from the above that the cause of action indeed arose on the 2nd October, 1997 when the fate of the appellant was sealed for it was on that date he received the letter that he knew that the defendant/respondent had no intention of confirming his appointment." (Italics mine for emphasis). F

The court below as has just been seen did not state that the cause of action in this matter arose on the 22nd October, 1997 but the 2nd October, 1997. It is also instructive to note that the respondent as plaintiff's statement of claim at page 3 of the record of appeal refers in its paragraph 11 to that date as follows, *"The defendant's letter No. P. 3745 dated 2nd October, 1997 is hereby pleaded."* (Italics mine for emphasis) G

The date 22nd October, 1997 cannot therefore be anything H other than the proverbial "printer's devil". It is I think necessary to point out that the date 22/10/97 instead of 2/10/97 does not in any way affect the arguments canvassed for or against when the cause of action actually arose as the outcome would be the same but would

be different if the cause of action arose sometime in 1995. This clarification has become necessary before one delves into the appeal proper.

Was the court below right in its decision that the cause of action the subject matter of this further appeal arose on the 2nd October, 1997 and not sometime in 1995? I should perhaps commence this discourse by stating that the appellant is covered by the Public Officers Protection Act or the Public Officers Protection Laws of Northern Nigeria Section 2 of which have identical provisions that read thus-

“Where any action, prosecution or other proceeding is commenced against any person for any act done in pursuance or execution of any act or law or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, Law, duty or authority the following provisions shall have effect -

a) The action, prosecution or proceeding shall not lie or be instituted unless it is commenced within 3 months next after the act, neglect or default complained of or case of a continuance of damage or injury within 3 months next after the ceasing thereof.

Provided that if the action, prosecution or proceeding be at the instance of any person for cause arising while such a person was a convict prisoner, it may be commenced within 3 months after the discharge of such person from prison.”

It is not being contended by the respondent that the appellant is not a public officer within the meaning of the Public Officers Protection Act or Law. The contention in this issue is - when did the cause of action arise? Put in some other way, when did the 3 months provided for under the Public Officers Protection Act or Law begin to run? Two dates are in contention here in the computation of time - 2nd October, 1997 and sometime in 1995 but more precisely 27th January, 1995. The date 27th January, 1995 is, by paragraph 4 of the statement of claim when the respondent became due for confirmation while the date 2nd October, 1997 - exhibit 3 is when the respondent got the notice of non confirmation i.e. that his appointment was not going to be confirmed by the appellant. The relevant portion of that letter dated 2nd October, 1997 - exhibit 3 is as follows.

“After a careful review of the circumstances that led to the non-approval of your application for confirmation of appointment and

the memo from the Department of Religious Studies, the Administration has directed that you should be issued with three (3) months mandatory notice of its intention of non confirmation of your appointment.

Accordingly, I write to inform you that with effect from the date of this memo, the University has no intention to confirm your appointment (i.e. 7th October, 1997 - 2nd January, 1998)” B

This court in Taiye Oshohoja v. Alhaji Surakatu Amuda & Ors (1992) NWLR (Pt. 250) 690 defined the term “cause of action” as facts which when proved will entitle a plaintiff to a remedy against a defendant. See also Bello v. A-G Oyo State (1986) 5 NWLR (Pt. 45) 828 at page 876; Egbe v. Adefarasin (1987) 1 NWLR (Pt. 47) 1 at 20; Thomas v. Olufosoye (1986) 1 NWLR (Pt. 18) 669 at 682; Adimora v. Ajufo (1988) 3 NWLR (Pt. 80) 1 at 17; Egbue v. Araka (1988) 3 NWLR (Pt. 84) 598 at 613. C

These facts are discernible by a resort to the writ of summons and the statement of claim and other relevant evidence. Paragraphs 2, 3, 4, 5, 6, 7, 11 and 12 of the respondent’s statement of claim are instructive in this regard. Respondent applied for confirmation of his appointment having purportedly become due for same and the end result was exhibit 3 - The letter dated 2nd October, 1997 categorically stating that the appellant had no intention to confirm the respondent. The paragraphs of the statement of claim are facts or a combination of facts which have given the respondent the right to take action against the appellant and exhibit 3 - letter dated 2nd October, 1997 lends considerable weight to this right to sue. See Egbue v. Araka (supra). Going through the respondent’s statement of claim and his evidence which was the only evidence as the appellant led no evidence despite filing a statement of defence, there is nothing in 1995 that would justify a cause of action. Let me say for the umpteenth time that the cause of action could only have arisen on the 2nd October 1997 when the appellant made it known that it would not confirm the appointment of the respondent. The court below was therefore right when it held that the cause of action arose on the 2nd October, 1997 when the fate of the respondent became sealed. Issue No. 1 must therefore be and is hereby resolved in favour D
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of the respondent against the appellant.

Issue 2 is, *“Whether the Court of Appeal was right in construing section 22 of exhibit 5 as it applies to this case.”* Exhibit 5 is captioned *“University of Jos, Nigeria - Regulations governing the conditions of service of senior staff”* “Section 22 of this document exhibit 5 is titled *“confirmation of appointment”* and is contained at pages 22 - 23 of exhibit 5 and is reproduced hereunder: *Section 22: Confirmation of appointment.*

i. All appointments to posts below the rank of professorship made on permanent basis shall be subject to two years probation and thereafter subject to consideration for confirmation.

ii. All appointments subject to confirmation shall terminate unless confirmed or extended by the Appointments and Promotions Committee.

iii. Appointments may be either confirmed to retiring age of 60 or extended for specific periods or terminated after due notice has been given to the member of staff concerned.

iv. Confirmation to retiring age after the probationary service shall for the academic staff be subject to satisfactory evidence of scholarly research and teaching ability displayed by the member of staff concerned. For non academic staff, evidence of satisfactory service and professional competence shall be required.

v. Any period of training, leave or study leave of six months or more granted to an employee before confirmation of his or her appointment shall be excluded for the purpose of calculating the two years of probation.

vi. In deciding on confirmations of appointments, the Appointments and Promotions Committee will consider an up to date curriculum vitae of the member of staff concerned as well as recommendations from his/her Dean or Head of Department.

vii. A recommendation for non confirmation or deferment of confirmation should be made only after the member or staff concerned has been warned of his or her shortcomings and has been given sufficient time to remedy this. If after this it is still necessary to recommend non confirmation or deferment, this should be done at least three months before the date when confirmation is due.

viii. Where extension of period of probationary service is granted, member of academic staff shall not have more than a total

of six years nor member of administrative and technical staff more than a total of four years during which his/her appointment shall be confirmed or terminated.

This issue no doubt deals with the interpretation of section 22(iii) of exhibit 5, confirmation of appointment of the respondent is not automatic but subject to satisfactory scholarly work and ability of training as required by the regulations which the respondent had failed to plead or prove. According to the appellant, the court below found that in refusing to confirm the respondent's appointment, the appellant complied with exhibit 5 but the said lower court was of the view that the compliance was outside the period provided in paragraph (vii) of Section 22 of exhibit 5 and in adhering to this line of reasoning, the lower court failed to advert its mind to the provision of paragraph (ii) of section 22 of exhibit 5 which makes it clear that the respondent's appointment stood terminated.

As plausible as this argument may sound, it fails to take into account the fact that the appellant continued to regard the respondent and to deal with him as one of its staff from the 27th January, 1995 until exhibit 3 was written on the 2nd October, 1997 (a period of almost three years) when the appellant made its intention known that it was not going to confirm the respondent's appointment. By so doing the appellant literally played into the hands of the respondent. Part of exhibit 3 which is very germane to this issue reads "...the administration has directed that you should be issued with three (3) months mandatory notice of its intention of non confirmation of your appointment." (Italics mine for emphasis).

Section 22(vii) of exhibit 5 provides as follows, "A recommendation for non confirmation or deferment of confirmation should be made only after the member of staff concerned has been warned of his or her short comings and has been given sufficient time to remedy this. If after this it is necessary to recommend non confirmation or deferment, this should be done at least three months before the date when confirmation is due."

Was this period of notice as provided in section 22 (vii) of exhibit 5 complied with? The answer is in the negative and

appellant's counsel's submission that the lower court could not have been right when it treated exhibit 3 as the recommendation of non confirmation referred to in section 22(vii) of exhibit 5 cannot be correct. The recommendation of non confirmation could not have been the one emanating from the respondent's Head of Department or Dean of Faculty as canvassed by the appellant's counsel. Indeed both in his pleadings in paragraph 5 of the statement of claim at page 3 of the record of appeal, and in his evidence in chief at page 13 of the record of appeal, the respondent pleaded that both his Head of Department (H.O.D.) and Dean of his Faculty positively recommended him for confirmation. This assertion of the respondent was not contradicted by the appellant who led no evidence at all despite filing a statement of defence. Interestingly, not even in its scanty statement of defence which is deemed abandoned, evidence not having been led on same was any attempt made to deny the positive assertion in paragraph 5 of the statement of claim that the respondent was positively recommended for confirmation by both his Head of Department (H.O.D) and the Dean of his Faculty.

A critical examination of section 22 (vii) of exhibit 5 shows that all its trappings, warning, shortcomings, deficiencies et al are contained in exhibit 3. I am therefore in total agreement with the finding of the lower court at page 96 of the record that exhibit 3 was written outside the period required by section 22 (vii) of exhibit 5. I therefore resolve issue 2 in favour of the respondent.

Issue 3 is *"Whether the Court of Appeal was right when it made an order directing the appellant to confirm the respondent with all his promotions, allowances and entitlements."*

It is the law that for a party to be awarded any relief by a court of law that party must not only plead with particularity but also prove by credible and convincing evidence that he is indeed entitled to the relief he seeks. There is a plethora of case law on this very important subject matter.

In *Peter Adebayo Odofin & Anor. v. Chief Agu & Anor* (1992) 3 NWLR (Pt. 229) 350 this court stated categorically that courts ought not to play the role of Father Christmas which

can go round granting to parties reliefs which they have not asked for. Let me state without any fear of contradiction that the “free giving” Father Christmas no longer exists, if he ever existed as parents pay indirectly for the “gifts” which their children appear to get freely. See also Chief N. T. Okoko v. Mark Dakolo (2006) 14 NWLR (Pt. 1000) 401; Ayanboye v. Balogun (1990) 5 NWLR (Pt. 151) 392 at 413; Ige v. Olunloyon (1984) All NLR 150 (1984) 1 SCNLR 158; Atser v. Gachi (1997) 6 NWLR (Pt. 510) 609 at 630; Ladoke v. Olobayo (1992) 8 NWLR (Pt. 261) 605 at 619 - 630; Awosile v. Sotunbo (1992) 5 NWLR (Pt. 243) 514. **The list of authorities on this subject matter is inexhaustive and are all to the effect that a court of law has no jurisdiction to grant to a party that which he has not asked for. It is an old legal principle and is quite sacrosanct. A claim that is vague and lacks certainty is no claim at all.**

In paragraph 13(b) of the statement of claim at page 4 of the record of appeal the respondent is seeking the following reliefs,

“An order directing the defendant to confirm the plaintiff as a Lecturer II in the department of Political Science of the University of Jos with effect from 27th January, 1995, with all his promotions, allowances and entitlements” (Italics mine for emphasis).

Promotion from what grade to what grade and from what period to what period if I may ask. Allowances and entitlements of what nature, amount and from what period to what period if I may again ask. These are reliefs that are vague and not supported by primary facts or evidence as we shall soon come to see. In his evidence in chief at page 13 of the record of appeal the respondent said as follows regarding the relief he seeks,

“I want the court to order the defendant to confirm my appointment and all my entitlement to be restored.” The reliefs thus sought by the respondent by this evidence are not only vague but uncertain and the reliefs claimed by evidence do not even include promotion but confirmation. That relief would appear to me abandoned as no evidence was led on it, and same is deemed abandoned.

Moreover as stated earlier, all the reliefs pertaining to promotions, allowances and entitlements being reliefs that are vague, uncertain and lacking in particulars and proof by evidence must fail as there was no evidence of any promotion, allowances or entitlements enuring to the respondent which the appellant is withholding from being exercised in the respondent's favour by the appellant. It is trite that a court of law will not make an order in vain or an order which is incapable of enforcement. The only enforceable part of the order appears to me the order directing the appellant to confirm the appointment of the respondent. This issue must therefore be and is hereby resolved in favour of the appellant against the respondent.

The appeal accordingly succeeds in part and is allowed only in part. The appellant is hereby ordered to confirm the appointment of the respondent as a Lecturer II in the Department of Political Science of the University of Jos with effect from the 27th January 1995. The other reliefs claimed by the respondent namely for promotions, allowances and entitlements not having been satisfactorily proved fail and are hereby dismissed.

Parties are to bear their own costs.

F **MOHAMMED JSC**

The appeal is from the decision of the Court of Appeal Jos of 25th October 2004 allowing the appeal from the judgment of the trial Federal High Court Jos of 27th January 2000 dismissing the plaintiff/now respondent's claim for the confirmation of his appointment as Lecturer II in the University of Jos now the appellant. The Court of Appeal allowed the appeal and granted the reliefs sought by the plaintiff who is now the respondent. The University is now on appeal.

Grounds 3, 8 and 9 having been abandoned are hereby struck out. On the remaining 6 grounds of appeal, 3 issues were raised as follows –

1. Whether the Court of Appeal was right that the cause of action arose on 2nd October 1997 and not in 1995.
2. Whether the Court of Appeal was right in construing section

22 of conditions of service of Ex. 5 as it applies to this case.

3. Whether the Court of Appeal was right in allowing the appeal and granting all reliefs sought by the respondent including confirmation of his appointment with all his promotions, allowances and entitlements.

The main issue in this appeal is whether or not the action of the respondent/plaintiff filed at the Federal High Court was statute barred by virtue of section 2 of the Public Officers Protection Act Cap. 379 Laws of the Federation of Nigeria 1990. The question therefore is – when did the cause of action arise in this case. Is it on 17th January, 1995 as claimed by the appellant or on 2nd October 1997 when plaintiff/respondent received the letter exhibit 3 from the appellant refusing to confirm his appointment? Having regard to all the relevant cases on the subject, the Court of Appeal was right that 2nd October, 1997 was the correct date when the cause of action arose and therefore the case of the respondent was not statute barred as claimed by the appellant.

On the second issue relating to the interpretation of the letter exhibit 3 against the condition of services of senior staff rules of the Jos University exhibit 5, the Court of Appeal was quite right in saying that exhibit 3 was a letter of recommendation of non-confirmation of service of the respondent. Not having been issued within 3 months before date of the expected confirmation within section 22(vii) of the conditions of service exhibit 5, the notice became ineffective as found by the Court of Appeal. If by operation of section 22(ii) of exhibit 5 the appointment of the respondent was deemed terminated on refusal to confirm the appointment as claimed by the appellant, the appellant's letter exhibit 3 should have said so clearly by issuing a notice to such effect rather than dwelling on non-confirmation of the respondent's appointment. In other words, the appellant's letter exhibit 3 of 2nd October, 1997 conveying the decision of the appellant that the respondent's appointment was not confirmed should have proceeded under section 22(ii) of the rules of the conditions of service to give the respondent the appropriate notice of the termination of his appointment. Not having done so, the appellant's letter exhibit 3 still left the respondent in its service which gave him the opportunity to challenge his non-confirmation in the service of the appellant. In fact the case of the appellant was messed up right at the trial court

when after filing its statement of defence to the claims of the respondent, the appellant as defendant failed to put life into its defence at the trial by calling appropriate evidence.

It is for the above reasons and fuller ones contained in the judgment of my learned brother, Alagoa, J.S.C. which I was privileged to have read in draft before today and with which I completely agree that I also allow this appeal in part and abide by all the orders in the lead judgment, the order on costs inclusive.

C

MUNTAKA-COOMASSIE JSC

The claims of the plaintiff before the Federal High Court Jos Division were dismissed. The plaintiff successfully appealed to the Court of Appeal which allowed the claims of the plaintiff. The respondent, University of Jos was directed to confirm the plaintiff, now respondent, as a Lecturer II, in the department of political science in that university with effect from 27/1/1995 with all his promotions, allowances and entitlements.

The defendant was aggrieved and appealed to this court on nine (9) grounds of appeal. Three grounds were abandoned.

The appellant distilled three (3) issues for the determination of the appeal as follows:-

a) Whether the Court of Appeal was right in its decision that the cause of action arose on the 2nd October, 1997 and not sometime in 1995. (Ground 2)

b) Whether the Court of Appeal was right in construing Section 22 of exhibit 5 as it applies to this case. (Grounds, 4, 5, and 6)

c) Whether the Court of Appeal was right when it made an order directing the appellant to confirm the respondent with all his promotions, allowances and entitlements. (Grounds 1 and 7)

My learned brother allowed me a preview of his lead judgment. I have gone through it and I entirely agree that the appeal partially succeeds. The appellant should confirm and re-instate the respondent as a Lecturer II in the Department of Political Science of the University of Jos with effect from 27th January 1995. The pleadings and proof of the other claims cannot be granted as they are. There is no evidence properly adduced to support them and as such those claims are dismissed. No order as to costs.

GALADIMA JSC

I have had the privilege of reading in draft the lead judgment of my learned brother, Alagoa, J.S.C. just delivered.

I agree with his reasoning and conclusion that the appeal succeeds in part and I too allow it. The facts of the case have been fully stated in the said lead judgment. I do not intend to repeat them, except when it becomes necessary to emphasize the points being made.

The respondent as plaintiff claimed against the appellant as defendant at the trial Federal High Court, Jos as follows:

“(a) An order deeming the plaintiff confirmed as Lecturer II in the Department of Political Science at the University of Jos with effect from 27th January, 1995 with all his promotions, allowances and entitlements. OR

(b) An order directing the defendant to confirm the plaintiff as a Lecturer II in the Department of Political Science of the University of Jos with effect from 27th January, 1995 with all his promotions, allowances and entitlement.

(c) An injunction restraining the defendant from terminating the plaintiff’s appointment pending the determination of this suit.

(d) Such further reliefs.”

Pleadings were ordered filed and exchanged by the parties. The case proceeded to trial and at the trial only the plaintiff gave evidence in support of his averments. The appellant led no evidence to substantiate its defence.

In its judgment delivered on 27/1/2000, the trial Federal High Court dismissed the claim of the plaintiff. Aggrieved, the plaintiff appealed to the Court of Appeal Jos Division which allowed the appeal and directed the respondent to confirm the plaintiff as a Lecturer II in the Department of Political Science of the appellant with effect from 27/1/1995, with all his promotions, allowances and entitlements.

Dissatisfied, the defendant now as appellant has appealed to this court on nine grounds of appeal of the nine grounds of appeal, three grounds namely grounds 3, 8 and 9 were abandoned.

From the remaining six grounds appellant distilled 3 issues for determination as follows:

“(a) Whether the Court of Appeal was right in its 22nd October;

1997 and not sometime in 1995 (Ground 2).

(b) Whether the Court of Appeal was right in construing Section 22 of exhibit 5 as it applies to this case (Ground 4, 5 and 6).

(c) Whether the Court of Appeal was right when it made an order directing the appellant to confirm the respondent with all his promotions, allowances and entitlements (Grounds 1 and 7). ”

The appellant also filed a reply brief of argument to the preliminary objection raised by the respondent in his brief of argument.

The respondent on his part adopted in its entirety the issues formulated by the appellant as set out above. Contained in the respondent’s brief of argument is the said notice of preliminary objection and grounds upon which the objection is based. The objection which is argued at page 7 of the respondent’s brief of argument, urges this court to strike out ground 2 of the grounds of appeal together with issue No.1 relating thereto as incompetent.

Ground 2 reads as follows:

The learned Justices of the Court of Appeal erred in law when they held thus:

“On the strength of the above argument and reasoning I am satisfied that the cause of action arose on 2nd October, 1997 and not sometime in 1995, as learned counsel for the respondent would want this court to believe. It is on record that this suit was initiated on 22nd December 1997, only two months after the said date the cause of action accrued, so whichever way one looks at it the action was commenced within time; for even if the argument of learned counsel for the respondent is accepted, (although I am not necessarily saying that it is applicable here) the appellant was, very much within time. I am satisfied that the appellant was within time in filing his suit and the suit is not statute barred”.

Issue 1 which is distilled from ground 2 has been earlier reproduced above. The court below did not say that the cause of action in this matter arose on 22/10/97 but 2/10/97.

It would appear that the date 22/10/97 instead of 2/10/97 must be as a result of “printer’s devil” because even the plaintiff’s statement of claim at page 3 of the record, refers to the defendant’s Letter No. p. 3745 dated “2nd October, 1997...” Be that as it may, I do not think that the date of 22/10/97 instead of 2/10/97 does in any way affect the arguments canvassed for or as against when the cause

of action actually arose as the outcome would be the same, but the outcome would be different if the cause of action actually arose sometime in 1995.

However, all said and done, it is instructive to note that it is not contended by the respondent that the appellant is not “a public officer” within the meaning of section 2 of the Public Officers Protection Act or Law. The only contention is when the action of the respondent arose. That is when did the THREE MONTHS provide under the Act or Law begin to run? In the computation of time, two dates are in contention here. Is it 2nd October, 1997 or 27th January 1995? By paragraph 4 of the statement of claim, 27th January 1995 is when the respondent became due for confirmation, while the date 2nd October 1997 (exhibit 3) is when the respondent got the notice of non-confirmation by the appellant.

What then is the term “cause of action”. In *Egbe v. Adefarasin* (1985) 1 NWLR (Pt. 3) 549 at 551, the term is defined as facts which when proved will entitle a plaintiff to a remedy against a defendant. See *Egbue v. Araka* (1988) 3 NWLR (Pt. 84) 598 at 613. The facts are discernible by looking at the writ of summons and the statement of claim alleging when the wrong was committed which gave rise to the cause of action. In this regard paragraphs 2, 3, 4, 5, 6, 7, 11 and 12 of the respondent’s statement of claim provide a good guide. These paragraphs contain facts or combination of facts which have all given the respondent the right to initiate this action against the appellant, and exhibit 3, letter dated 2nd October 1997 stated clearly that the appellant had decided not to confirm the appointment of the respondent. This letter was the last straw that broke the camel’s back and the last of the events that prompted the respondent to approach the court. The cause of action therefore arose on the 2nd October, 1997 when the appellant declared that it would not confirm the appointment. To my mind, there is nothing in the date of 27th January 1995 that would indicate when the cause of action arose.

Issue No. 2 deals with the interpretation of section 22 of exhibit 5 (the appellant’s Regulations Governing the Conditions of Service of Senior Staff). Section 22 of this document deals with the confirmation of appointment. My noble Lord has graciously reproduced this Section as a whole. But for a particular reference is subsection (vii). It provides:

“A recommendation for non-confirming or deferment of confirmation should” be ‘made only after the number of staff concerned has been warned’ of his or her short comings and has been given sufficient time to remedy this. If after this it is still necessary to recommend non confirmation of appointment, this should be done at least
 B three months before the date when confirmation is due.”

The question is whether the above provision has been complied with. I don’t think so. It is instructive to note that the recommendation of non-confirmation could not have been the one coming from the respondent’s Head of Department or Dean of Faculty as
 C has been contended by the appellant’s learned counsel. The respondent in his pleadings in paragraph 5 of the statement of claim at page 3 of the record of appeal and in his evidence-in-chief at page 13 of the record, averred and contended that both his Head of Department and Dean of his Faculty positively recommended him for confirmation. This claim of the respondent was not contradicted by the appellant who has led no evidence on its scanty statement of defence. A close study of exhibit 3 will show clearly that it was written outside the period required by section 22 of exhibit 5. For this reason, issue 2 must be resolved in favour of the respondent.
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Issue 3 is a complaint against the order of the court below directing the appellant to confirm the respondent with all his promotions, allowances and entitlements.

The courts have no business playing the role of “Father Christmas,” dispensing largesse freely to whom he pleases. It is trite law that for a party to be awarded any relief or claim by a court that party must plead with particularity and also prove by credible and convincing evidence that he is indeed entitled to the relief he seeks. See
 F
 G Adebayo Odofin v. Chief Agu & Anor. (1992) NWLR (Pt. 229) 350; Ayanboye v. Balogun (1990) 5 NWLR (Pt. 151) 392 at 413.

The foregoing enunciations of the authorities on the subject matter that a court of law has no jurisdiction to grant to a party that which he has not asked for, beside that, it is also trite law that a claim
 H that is vague and lacking in certainly is no claim at all. In paragraph 13(b) of the respondent’s statement of claim, he is seeking for an order directing the appellant to confirm him as a Lecturer in the Department of Political Science of the University of Jos with effect from 27th January, 1995 “with all my promotions, allowances and entitle-

ments”. It is instructive to note that promotions are based on standard grade in an establishment. Enhanced and upgraded salaries and allowances are attributes of promotion. The respondent should have been able to state with certainty what his allowances and entitlements were and how he earned his promotion from one grade to another grade and for which period. These vital facts are not backed by any evidence. It is not sufficient to simply ask *“the court to order the defendant (appellant) to confirm my appointment and all my entitlement to be restored”* All the reliefs regarding promotions allowances and entitlements are vague, uncertain, unascertainable, and lacking in particulars and proof by evidence. All must therefore fail, as these are not enforceable in law. B

It is for the foregoing reasons and the fuller ones in the lead judgment that I also agree that the appeal succeeds in part and is allowed. While the appellant is ordered to confirm the appointment of the respondent as a Lecturer II in the Department of Political Science of the appellant University with effect from 27th January 1995, the other reliefs claimed by the respondent, viz promotions, allowances and entitlements not having been satisfactorily proved must fail and are dismissed. Parties are to bear their own costs. C

NGWUTA JSC

I read in advance the lead judgment delivered by My Lord Alagoa, J.S.C. I am constrained, in the circumstances of this appeal, to agree that the same be allowed in part only, based on the appellant’s breach of Section 22 (vii) of the Regulations governing the Conditions of Senior Staff, University of Jos. F

Having reluctantly agreed with the decision that the respondent be confirmed in his appointment by the appellant I desire to make a few observations. G

Exhibit 3 tendered by the respondent at the trial court reads:

“... your application for confirmation was not considered because since 300 level students wrote a protest letter against you which led to the setting up of a committee that investigated those allegations against you:” H

(i) You have failed in your primary responsibility by delivering the intellectual goods required of your official status as lecturer.

(ii) *You lack effective communication skills.*

(iii) *You lack mastery of your supposed field.*

The findings of the committee were also communicated to you in the same memo. They were:

B (i) *You are deficient in verbal expression in the English language.*

(ii) *You are deficient in written English*

(iii) *Almost all the course's you took for the Bachelor's, Master's and Ph. D Degrees were in philosophy.*

C (iv) *You had no training in the general sciences, especially in political science.*

On the basis of the above findings the committee established that you could no longer teach in the faculty of social sciences.

D *On the recommendation of your Dean, your case was further considered by the Administration with a view to your possible placement into the Department of Religious Studies. Your curriculum vitae were subsequently sent to that Department for assessment. This was to find out if it is possible to redeploy you to that Department. I regret to inform you that after going through your curriculum vitae, the*
 E *Department reported that your Ph. D Certificate was earned in general philosophy which has no relevance with what was being done in Religious Studies. You were therefore not suitable for any of the courses being offered in Religious Studies Department."*

F In his statement of claim, the respondent, as plaintiff, pleaded in paragraph:

"3. In accordance with this conditions, the plaintiff was interviewed by a full Panel, was found appointable and his appointment was regularized with effect from the 12th August 1994..."

G In paragraph 1 of the appellant's statement of defence, it was averred:

"1. The defendant admits paragraphs 1-4 of the plaintiff's statement of claim."

H Did the members of the "Full Panel" that interviewed the respondent on behalf of the University of Jos conduct the interview in their sleep? How could they have inflicted on the University lecturer who had no writing and/or communication skill in the English Language to teach Political Science?

This is the bane of the educational system in the country -

square pegs are put in round holes. And the appellant, having woken up to her errors thanks to some 300-level students failed to comply with section 22 (vii) of her regulations thereby compounding the problem for the University with the respondent. Perhaps the appellant will resolve that issue in due course. However, the sooner the issue is resolved the better for the University and her students, particularly those in the Social Sciences. B

Based on the breach of Section 22 (vii) of the Regulation of the appellant I also allow the appeal in part. I abide by the consequential orders in the lead judgment. Appeal allowed in part. C

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