

## **Labour law and staff retrenchment in commercial banks in Nigeria: Causes and consequences**

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### **Abstract**

Labour law execution and retrenchment in commercial banks has become a serious challenge to labour unions, employers and governments as result of non-compliance to standard operating procedure at workplace. It is even more frequent in private organization especially in banking sector. This paper examines the labour laws, banks and labour relationship and reveals that Nigerian Labor and Employment Laws are based on the statutes such as the Labour Act of 2004, Trade Union Amended Act, 2005, Employees' Compensation Act, 2010, and Factories Act, 2004. Others are Pensions Act, 2004; and Trade Disputes Act, 2004. The paper identifies basic causes and challenges of staff retrenchment, which includes poor management practice, fraudulent activities, staff under performance and economic recession. Some of the challenges are distortions of human resource processes, social; physical and psychological effects of retrenchment; and difficulties in working with affected employees respectively. The paper concludes that there is interrelationship among labour union, employees and employers in commercial banks in Nigeria and retrenchment has a detrimental effect on the workforce, their families and the society at large.

**Keywords:** employment laws, retrenchment, fraud, treasury single account

### **Introduction**

Staff retrenchment is considered to be an issue that was given maximum attention globally. In many countries a lot of policies, rules and regulations have been implemented in order to minimize the level of retrenchment. Whether Commercial banks are not working under government setup even though they are private financial institution with its primary objective to serve as financial regulatory body in handling issues preferably on finances. It is obvious that all over the world every organization be it private or public, must be governed by rules and regulations, but the major issue here is whether the rules and regulations governing the appointment and retrenchment of staff is strictly adhere to or not. Anaf, Newmorn, Baum, Zersch & Jolley, (2012) argued that, people who were affected by retrenchment, find it very difficult to cope especially when they have family that absolutely depends on them. However, they may search for other alternative means to satisfy the needs of their families, and the means might not be legitimate. They may also approach labour unions to take advantage of the provision of labour laws to get reinstated or seek for compensation.

The global economic downturn causes recent global financial crises and led to global imbalances in trade and financial sector as well as inequalities of wealth and income (Modise, 2002). Carlson, N. R. and Heth, C. (2010) opined that there should be a new ways of bank supervision and corporate governance reforms so as to ensure compliance of due processes and transparency in staff retrenchment.

In November 2013, The Central Bank of Nigeria (CBN) called for an urgent implementation of the Treasury Single Account (TSA) so as to properly manage the country's revenue. However, the Office of the Accountant General of the Federation (OAGF) directed all Ministries, Departments and Agencies (MDAs) of the Federal Government yet to comply with the Treasury Single Account (TSA) regime domiciled at

the Central Bank of Nigeria (CBN) to embrace the policy not later than 15th September 2015. By implication, the MDAs were directed to close all the revenue accounts they maintain in different Banks in the country and transfer the proceeds to the TSA.

Therefore, commercial banks in Nigeria has faced a lot of challenges with the new CBN directives that block some sources of income as Government funds have been moved to CBN due to the TSA policy, dwindling sources of revenue generating activities and anti-corruption fight scares looters to deposit in commercial banks. The new development causes problems in commercial banks such as retrenchment of staff, closure of some branches and slashing of staff salaries.

It is in the light of the above problems, this study focusing the Causes and Consequences of Labour Laws and Staff Retrenchment in Commercial Banks in Nigeria and also to study the labour union relationship with commercial banks in Nigeria.

### **Labour Law in Nigeria**

Employment law liaise the relationship between workers, employing entities, trade unions and the government. Labour laws collectively relates to the three-party relationship between employees, employers and unions. Globally, labour laws refer to laws regulating labour or employment especially under government sector. In India, traditionally, Indian governments at federal and state level have sought to ensure a high degree of protection for workers. Nigerian labour laws looks into the rights, working conditions, minimum wages, termination clauses, and many other rules set by the Government of Nigeria.

According to Robert Fallah (2015) in Nigeria, employment law is generally employee-employer friendly. Nevertheless, there are federal, state and local employment and labor laws that regulate contracts, salary and wage, discrimination,

terminations, lay-offs and privacy. Any organization conducting business in Nigeria or considering doing so should be familiar with the various laws that govern the employment relationship to avoid legal battling. It also provides protection for foreign workers.

### Commercial Banks and Labour Relationship

There are about Twenty-two (22) registered commercial banks in Nigeria. The primary objective of Commercial banks as a financial institution is to serve as financial regulatory body in handling issues related to finance. The recruitment and appointment exercises are normally based on laid down rules and regulations put in place by the government. With regard to private organization (commercial banks), Nigerian Labor and Employment Law is largely based on the following statutes:

1. The Labour Act of 2004
2. The Trade Union Amended Act, 2005
3. The Employees Compensation Act, 2010
4. The Factories Act, 2004
5. The Pensions Act, 2004, and
6. The Trade Disputes Act, 2004.

The Ministry of Labour and Productivity is the main regulatory agency. Enforcement of employment statutes and regulations falls under the protection of the National Industrial Court. With regard to discrimination claims; there are no laws that specifically prohibit discrimination or harassment in the employment context. However, Section 42 of the Nigerian Constitution provides for freedom from discrimination on the basis of retrenchment, sex, age, ethnic group, and political affiliation. If retrenchments of employers are necessary, there is a need to use fair and objective criteria in deciding which employees should be retrenched and which should retain their jobs. Last-In-First-Out (LIFO) is the criterion that labour unions prefer. The law allows the employer to use any platform by considering fair and objective as the only the criteria. This is the reason why most employers prefer to use work performance as the retrenchment selection criterion. However, employers are warned that, while the retrenchment code of good practice does not specifically outlaw this, it also does not specifically permit it. Also, implementing performance measurement in a fair and objective manner can be very tricky. For these reasons employers should be extremely careful before even considering the use of work performance as a retrenchment selection criterion. (Ivan Israelstam 2012)

### Causes of Retrenchment in Commercial Banks

Retrenchments is one of the ways through which commercial banks can separate workers either to break new ground of market or intention to improve performance. At times, it is necessary for the banks to periodically review and adjust their business plans in order to improve performance or to achieve targets. Taylor (2012) described targets as what is being used not as a mechanism to capture more business, but essentially as an anti-employee device. The ultimate of setting target by commercial banks is that it remains the stick approach to make sure that an employee remains motivated and that banks could achieve more through the employees for less. Retrenchment in some banks may be the only last resort to move the firm forward which can lead to a wide range of dismissals that do not essentially relate to the conduct or capability of the worker.

The following are some of the causes of staff retrenchment in commercial banks in Nigeria:

- **Management Practice-** Management can establish and decide that there is no alternative than to retrench in order for the bank to find it appropriate within the given competitive market. Meanwhile, if they want to be fair the process must be carefully carried out based on transparency; fairness applied consistently and should contain an appeal or grievance handling procedure. On the other hand, the consequent of setting unrealistic targets for employees eroded employee discretion and undermined organizational trust. In view of this, it can be deduced that when target is achieved, it shoots up the revenue base of the bank cannot be considered a mindful conclusion.
- **Fraud or Misconduct-** According to Issac A. (2016) fraudulent activities in commercial banks causes staff retrenchment. A false representation of a matter of fact whether by words or by conduct, by false or misleading allegations, or by concealment of what should have been disclosed that deceives and is intended to deceive another so that the individual will bear the legal injury. Fraud is commonly understood as dishonesty calculated for advantage. A person who is dishonest may be called a fraud. Payment related fraud is any type of false or illegal transaction completed by employee which characterized in three ways; 1. Fraudulent or unauthorized transactions; 2, Lost or stolen merchandise and 3. False requests for a refund, return or bounced checks.
- **Implementation Of Treasury Single Account (TSA)-** TSA implementation causes retrenchment in banking sector in Nigeria. The Abuja Chamber of Commerce and Industry blamed the massive retrenchment in the banking sector on the implementation of the Treasury Single Account. The chamber, while reacting to the gale of job losses in the banks in recent times, called on the Federal Government to come up with measures to assist the financial institutions rather than directing them to stop firing their workers. The implementation of Federal Government's Treasury Single Account policy has left the banks with severe liquidity problem, causing the financial houses to cut their workforce so as to remain in business. But some criticize that TSC is not responsible for the massive retrenchment because the truth is that banks in Nigeria have been living fat on government funds. Employment in commercial banks is mostly based on connection not competence. Training has not been considered seriously. Staff are worked to hell without a decent pay while the unproductive ones are paid handsomely then how do you think the bank will sustained.
- **Staff Redundancy-** Redundancy is a form of dismissal from your job. It happens when employers need to reduce their workforce. There are some situations when your employer can dismiss you fairly. For instance if an employee is not being able to do the job properly or you haven't been able to keep up with important changes to your job especially a new computer system or new technology. Furthermore, if you can not get along with your colleagues before taking any action in the course of your work. Illness is a sort of redundancy that may lead to dismissal of employee. You can be dismissed if you have a persistent or long-term illness that makes it impossible for you to do your job.

- **Staff Under-performance-** what monetary value should an employee add directly or indirectly in order that the bank is not losing money by retaining an employee? The value added by a good performer is half the amount that their employer is paying them. Under performance can usually be attributed to capability - this is generally when a member of staff cannot meet the requirements of a role. Perhaps he/she doesn't understand what is expected, or he/she has not got the skills required. And also conduct - this is generally when someone would not do something, for example because he cannot be bothered or don't want to. Therefore top management may decide to terminate the contract of service as the result of under-performance of an employee that may arise due to several reasons such as the closure of some branches of the bank, reduction in operation, mergers, technological changes, takeovers, economic downturn and others.
- **Economic recession-** A recession is a period of falling economic activity spread across the economy, lasting more than a few months. The economic recession are normally caused by a loss of business and/or consumer confidence. As confidence recedes, so does demand. This is the tipping point in business cycle where the peak often accompanied by irrational exuberance that moves into contraction. This loss of confidence makes businesses men and/or consumers stop patronizing, which may lead to mass layoffs in the banking, sector and increases the rate of unemployment in the country.

### Consequences of Staff Retrenchment in Commercial Banks

The following are some of the consequences of staff retrenchment in commercial banks:

- **Social Effects of Retrenchment-** According to Triandis (2001) citing Tutu (1999) a single employee could be having a 'father, mother, cousins, nephews and nieces' who were not in existence before s/he had joined the organization. Human resource personnel are not spared from this social arrangement, they also have their 'relatives' who should not be affected by the retrenchment exercise yet the organization is run not on relationships but professionally where profit and survival are the main drivers. The existence of these social ties makes the environment conducive for grapevine information to circulate. In as far as retrenchment is concerned, rarely employees are taken by surprise. Usually, the managements' intentions to retrench don't reach the ears of the employees long before the information is made official. Some of the employees would be having a sense of 'security' emanating from the existing relationships with the human resource personnel or with some highly ranked personnel from other departments.
- **Psychological Effects of Retrenchment-** The majority of employees working in the banks suffer high levels of psychological effects resulting from the retrenchment exercise. It is observed that some employee trying to appear good and considerate to their fellow employees at the same time trying to diligently execute the orders from the organization's top management. Psychologically, they are better off keeping the social relations intact at the same time keeping their employers happy, a situation that is not possible to maintain during retrenchment. It is obvious that

the staff become stressed with the exercise to the extent that they usually feel sick and psychologically tired after the exercise. It has been argued that most of them experience burnout, which eventually affects other spheres of their lives such as social lives with their immediate family members as well as friends outside the employment circles.

- **Physical and Verbal Effects of Retrenchment-** Employees working in commercial banks are exposed to some physical effects during and after the retrenchment exercise. If the outcome of those to be retrenched is clear and no reverse or further negotiations, it may definitely encounter physical threats from those to be retrenched. Threats take a physical form where human resource personnel and other supervisors and managers are cautioned that they run the risk of being beaten or attached by some unknown assailants organized by the retrenched or a part of them. Some retrenched employees are highly susceptible to stress related illnesses such as ulcers and persistent headaches. In addition, due to physical and verbal threats already highlighted, they are also exposed to such psychological ills as anxiety.
- **Difficulties in Working with Affected Employees-** Disturbed social ties do not only affect human resource personnel and the rest of the employees departing from the organization, but those remaining as well. Baguma and Matagi (2002) noted that the retrenchment process distorts the entire employees existing relationships. Retained staff's moral is negatively affected. Retrenchment process does not end with the departure of the retrenched but more has to be done with remaining staff to restore confidence and address the distorted organizational culture in banking sector.
- **Disturbed Human Resource Processes-** Human resource functions such as succession planning, fitting the human resource strategy to the organization's overall strategy to mention but few get affected by retrenchment of staff in commercial banks. In most cases, such elements as succession planning and building of the organizational culture are done on the assumption that there would be continuity, retention of employee and organizational stability. Sudden changes brought about by retrenchment distort the entire human resource long term plans and will require them to go back immediately to the drawing board so as to adjust and address their functional areas.

### Conclusion

The study shows that there is interrelationship among labour unions, employees and employers in commercial banks in Nigeria. It attempted to find out the causes and consequences of staff retrenchment in banking sector and also to identify the various employment laws, statuses and main regulatory agencies. It was observed that retrenchment has a detrimental effect on the workforce, their families and the society at large.

### Recommendation

The researcher itemizes the recommendation as follows:

- Employers should develop their employee's potentials, promote their wellbeing and retrench them only as a last resort and only if retrenchment is inevitable. Where retrenchment becomes necessary, the reasons behind the retrenchment should be disclosed to the employees.

- Companies' human relations function should be improved to minimize the impact of retrenchment on the concerned sections in sanitizing labor law, labor union and organizational culture. Notwithstanding, adequate provisions should be made for the laid off workers, to help them cope with domestic demand during the period they may remain unemployed.
  - Retrenchments should be cautiously considered, well prepared for and purposefully implemented to avoid legal battling. They should exercise patience to carry out a thorough analysis of the bank's problems before retrenching staff.
  - Employers should ensure that employees approaching the age of retirement and those to be retrenched should undergo a set of transiting training and self-development programs. These programs may include contemporized entrepreneurial and personal financial skills that will ensure that they have a stable socioeconomic life after retrenchment.
  - Government should formulate policies within the framework of labour laws and government constitutions. This framework will mitigate organizations strategies that take delight in retrenching their employees at will when they encounter circumstances that were not anticipated. For young retrenched employees, government should put in place a scheme that can help organizations effectively manage the costs of training and program development.
  - Management should consider that the employment contract contains explicit and implicit terms that all parties should adhere to. Surprisingly, the management of some banks outlines the explicit term of employment and retrenchment but there are also implicit expectations of employments and retrenchments that most commercial banks in Nigeria sometimes take for granted. Employees are human beings with dignity and intrinsic values; they should not be used only as a means to achieving organizations objectives.
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