



The Exercise of  
Business *Discretion*  
does not Amount to  
*Discrimination*

► Disputes Resolution Practice Group

ÆLEX is pleased to have represented the successful defendants; Pressure Control Systems Nigeria Ltd (PSCNL) and Baker Hughes (BH) in a suit instituted by a former employee in Suit No: NICN/LA/405/2019- Adebisi Arike Shonekan v. Pressure Control Systems Nigeria Ltd & Baker Hughes, A GE Company.

The Claimant alleged that the 1st Defendant is a subsidiary of the 2nd Defendant and that the discrepancies between the redundancy policy of the two entities constitute discriminatory labour practice in the workplace and are not in accordance with global best practices.

The Claimant further alleged that the discretionary payment of gratuity as part of redundancy benefits is an admission of discrimination by the Defendants, and that her redundancy benefits were wrongfully computed.

On behalf of the Defendants, ÆLEX challenged the entirety of the Claimant's case on the grounds that the allegations of discrimination remain unproven and that an employer has the right to exercise discretions in the operation of the business.

In its well-considered judgment delivered on 22 April 2024, the NICN, per Hon. Justice (Prof) Elizabeth Oji, the Court upheld the defence and found that to determine discrimination, a Claimant must be able to show that the conduct complained of was applied differently against or in favour of another employee or that the business discretion was applied in a discriminatory manner. In the absence of proof, the Court held that the claims against the Defendant failed, and the suit was dismissed.

This case is significant as it preserves the right of employers to exercise business discretions. Furthermore, an adverse judgment would have led to a floodgate of claims and compelled companies with global operations to unify company policies.

**Oluwaseun Philip-Idiok and Linda Ezenyimulu represented the Defendants.**

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