

1999 (as amended) and Order 6 Rule 1 of the Court of Appeal Rules, 2021, filed by the applicants/appellants, and consequently referred certain questions to this Court for determination.

The reference was made in exercise of the powers conferred by Section 295(3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), which provides as follows:

(3) Where any question as to the interpretation or application of this Constitution arises in any proceedings in the Court of Appeal and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so request, refer the question to the Supreme Court which shall give its decision upon the question and give such directions to the Court of Appeal as it deems appropriate.

The questions so referred are three in number and are framed as follows:

- 1. Whether, by virtue of Section 254(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the jurisdiction of the High Court of Lagos State is affected or excluded in respect of a claim in defamation arising from, relating to,**

or connected with labour and employment.

2. Whether, having regard to Section 254(c) of the Constitution, the mere termination of an employment relationship is sufficient to vest the High Court of Lagos State with jurisdiction to entertain a claim in defamation arising from or connected with labour and employment.
3. Whether an alleged defamatory publication emanating from an employee's work relationship, but made by a person who is not an employee, can properly be entertained by the High Court of Lagos State, having regard to Section 254(c) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

The reference was anchored on the following grounds:

GROUND:

- i. The applicants herein are defendants in Suit No: LD/ADR/5052/2020 before the High Court of Lagos State sitting at Osborne, Ikoyi, Lagos State (the High Court, Lower court or Trial Court).
- ii. The applicants had challenged the jurisdiction of the High Court on the ground that the matter as constituted is one preserved for the exclusive jurisdiction of the National Industrial Court by the virtue of Section 254C of the Constitution, the subject matter being related

- or connected to labour and employment of the 1st appellant/applicant.
- iii. The High Court had ruled in favour of the respondents herein, and in so doing, found that it had the jurisdiction to determine the matter.
 - iv. The applicants, dissatisfied with the ruling of the High Court, have appealed the decision which has been entered as Appeal No: CA/LAG/CV/1070/2024, before this Honourable Court.
 - v. The High Court, in deciding the applicants' application in Suit No: LD/ADR/5052/2020, had to wade through several conflicting decisions of the Court of Appeal on similar facts and circumstances as regards the interpretation and the application of Section 254(c) of the Constitution.
 - vi. There is no definite pronouncement by the Supreme Court on the questions sought to be referred.
 - vii. As a result of (vi), supra, the lower court selected from the myriad of decisions by this Honourable Court in deciding the application before it.
 - viii. Further to (vii), Supra, the lower court still handed down a judgment which the applicants herein conscientiously believe does not represent the position of the law, and have now appealed against it.
 - ix. Since there is no conclusive position of the substantial questions of law contained in the application's relief, it is important that the opinion of the Supreme Court is sought and

received, before any determination of the instant appeal.

- x. This Honourable Court has the power to state a case for reference in respect of a substantial point of law under Section 295 of the Constitution, for the apex court to deliver a conclusive decision on the subject.
- xi. The questions now submitted for constitutional reference to the Supreme Court arise from Appeal No: CA/LAG/CV/1070/2024 already submitted before this court and written arguments presented.
- xii. Questions submitted for constitutional reference if answered by the Supreme Court, will aid the Court of Appeal in effectively deciding the appeal.
- xiii. It is in the interest of justice to grant this application.

The background to this constitutional reference, as disclosed by the record before this Court, may be stated briefly.

The 1st appellant was employed by the 1st respondent and served as the Head of School until the termination of her appointment on 1st May, 2020. The 2nd appellant is her spouse. The 1st respondent is a limited liability company incorporated under Nigerian law and engaged in the provision of educational services under the name Hampton Preparatory School, with its registered office at No. 25, Crown Jubilee, Mojisola Onikoyi Street, Ikoyi, Lagos. The 2nd to 4th

respondents are members of the Board of Directors of the 1st respondent.

Following the termination of her employment, the 1st appellant, by an email dated 4th May, 2020, wrote to parents of pupils enrolled in the 1st respondent's school, explaining the circumstances surrounding her exit and offering clarification in respect of an email earlier circulated by the 1st respondent to the same parents on 2nd May, 2020.

The 2nd appellant was never in the employment of the 1st respondent. He is the spouse of the 1st appellant, and their children attend the 1st respondent's school. On 2nd May, 2020, the 2nd appellant communicated with some parents of pupils of the 1st respondent via WhatsApp in response to enquiries arising from the email circulated by the 1st respondent on the same date.

Consequent upon these events, the respondents commenced Suit No. LD/ADR/5052/2020 at the High Court of Lagos State ("the trial court") by a Writ of Summons and Statement of Claim filed on 26th May, 2020. (See pages 10–20 of the Record of Appeal.)

In the Statement of Claim, the respondents sought the following reliefs before the trial court:

- 1. A declaration that the letter dated 4th May, 2020 issued by the 1st defendant is defamatory of the claimants.**
- 2. A declaration that the WhatsApp message published by the 2nd defendant on 2nd May, 2020 is defamatory of the claimants.**
- 3. An order directing the defendants to immediately retract the said letter and WhatsApp publication and to publish the retraction in The Guardian Newspaper, This day Newspaper, or any other newspaper with nationwide circulation.**
- 4. An order of perpetual injunction restraining the defendants, their servants, agents, assigns, or any person acting on their behalf from further publishing or causing to be published any defamatory material concerning the claimants.**
- 5. Costs of the action. (See page 19 of the Record.)**

Upon being served with the originating processes, the appellants challenged the jurisdiction of the trial court, contending that the suit ought to have been commenced before the National Industrial Court. Issues were joined, and the parties exchanged written addresses on the jurisdictional objection.

In a considered ruling delivered on 24th September, 2024, the trial court dismissed the appellants' objection and assumed jurisdiction to hear the matter. (See pages 312–332 of the Record.)

Aggrieved by the ruling, the appellants appealed to the Court of Appeal. At the lower court, the parties filed and exchanged their respective briefs of argument. Thereafter, having regard to the submissions of counsel, particularly in view of the conflicting decisions of the Court of Appeal on whether the National Industrial Court has jurisdiction over defamation claims, the appellants invited the lower court to refer the constitutional question to this Court for authoritative determination.

Consequently, this constitutional reference was initiated to enable this Court resolve the conflicting judicial decisions and provide definitive guidance on the appropriate forum for the determination of the substantive action.

To facilitate the resolution of the questions referred, counsel for the parties filed and exchanged their respective written arguments.

Olajide Salami, Esq., learned counsel for the appellants, filed the Appellants' Brief of Argument on 13th October, 2025,

wherein he adopted the questions/issues referred to this Court by the lower court for determination.

Olabisi Makanjuola, Esq, Counsel for the 1st to 3rd Respondents, equally adopted the three questions/issues referred to this Court for determination in their Brief of Argument filed on the 7th day of October, 2025.

Learned counsel for the 4th Respondent, Mustapha Olayinka Ajenifuja Esq., also adopted the three (3) questions/issues referred to this court for determination in the 4th Respondent's Brief of Argument filed on the 27th day of October, 2025.

This court equally reached-out to four (4) Amicis Curiae, for their views on the said questions.

Having regards to the fact that this is not an appeal but a reference from the lower court, it is very necessary to bear in mind the protocol of a constitutional reference as different from the considerations of an appeal.

The principles of constitutional reference was elucidated by this court in the case of **The Miscellaneous Offences Tribunal & Anor v. Nwammiri Ekpe Okoroafor & Anor (2001)18NWLR (Pt745) 295**, where this court per Karibi Whyte, JSC held thus:

“The principles applicable to constitutional reference is completely different from that of interlocutory appeals. Hence a reference is sui generis and peculiar. The same

principles do not apply. A reference is *stricto sensu* not an interlocutory appeal. It is important to observe that the question of law referred to the higher Court for interpretation must be a substantial question of law that has arisen from the proceedings see S.259(1). The Court to which the question is referred must give its decision upon the question and the Court in which the question arose shall dispose of the case in accordance with the decision - see S.259 2), *Bamaiyi v. A. G., Federation* (2001) 12 NWLR (Pt.727) 468, *African Newspapers v. Federal Republic of Nigeria* (1985) 2 NWLR (Pt.6) 137 SC., *UBA Trustees v. Nigergrob Ceramic Ltd.* (1987) 3 NWLR (Pt.62) 600; *Gamioba v. Ezezi II* (1961) 1All NLR 584; 2 SCNLR 237, *Ifegwu v. FRN* (2001) 13 NWLR (Pt.729) 103. In answering the question or questions referred to it, the Court to which the question is referred will inevitably apply the facts of the case which are usually undisputed to their interpretation of the Constitution."

My lords, let us now consider the arguments of the parties and the *amici* on the questions referred.

Question One:

On this question, the learned counsel for the appellants contended that jurisdiction in any matter is determined by the originating processes. In support, he relied on ***Adeyemi v. Opeyori* (1976) 9–10 SC 31 at 49; *Obiuwuebi v. CBN* (2011) 2–3 SC (Pt. I) 46 at 85; and *A.G. Federation v. A.G.***

Lagos State (2017) 8 NWLR (Pt. 1566) 20 at 36. Counsel further argued that where a Statement of Claim fails to properly vest jurisdiction in a court, such court is thereby deprived of jurisdiction, jurisdiction being the very lifeblood of adjudication. He cited **Okoro v. Eguoh (2006) 15 NWLR (Pt. 1001) 1 at 23** in support of this proposition.

Learned counsel for the appellants drew the attention of the Court to the originating processes which gave rise to the present suit, as contained at pages 14 and 15 of the Record of Appeal. He further invited the Court to consider pages 13 to 19 of the Record, which embody the respondents' Statement of Claim. Counsel explained that paragraphs 1, 3, 4 and 6 of the Statement of Claim set out the locus standi of the respective parties.

He submitted that, even from the respondents' own description of the parties, it is evident that the 1st appellant, being a former employee of the 1st respondent, constitutes the central link between the parties. Counsel argued that the employment status of the 1st appellant is determinative, not only of the respondents' substantive claims, but also of the present constitutional reference. He urged the Court to observe that paragraphs 4 and 5 of the Statement of Claim

encapsulate the entirety of the grievance allegedly suffered by the respondents.

Counsel further reproduced the alleged defamatory statements attributed to the 1st appellant and maintained that the said statements are wholly rooted in, and inseparable from, the 1st appellant's employment relationship with the 1st respondent.

Learned counsel therefore contended that the respondents' entire claim is confined within the four walls of the 1st appellant's employment. He also noted that, in accordance with the rules of the trial court, the appellants entered a Memorandum of Conditional Appearance, thereby clearly signifying their intention to challenge the jurisdiction of the trial court.

Relying on the cases of **Zakari v. Muhammad (2017) 17 NWLR (Pt. 1594) 181 @ 230-231** and **MHWUN v. Ehigiegba (2018) LPELR-44972(CA)**, counsel submitted that the trial court acted within its interpretative bounds by adopting a literal construction of Section 254C(1)(a) of the Constitution in resolving the jurisdictional question. Advancing his argument on the proper interpretation of Section 254C of the Constitution, learned counsel for the appellants submitted

that the National Industrial Court enjoys exclusive jurisdiction over matters specified in Section 254C(1)(a)–(m) and (2) of the Constitution. He reproduced the relevant portions of Section 254(c) and contended that any cause or matter arising from, relating to, or connected with labour, employment, trade unions, industrial relations, and workplace matters, including conditions of service, health, safety, and the welfare of workers and employees, together with matters incidental thereto, falls squarely within the exclusive jurisdiction of the National Industrial Court.

In support of this position, counsel relied on decided authorities, submitting that the interpretative approach to constitutional provisions on jurisdiction must be literal and organic. He further argued that workplace injuries, though ordinarily framed under the tort of negligence, are nonetheless within the exclusive province of the National Industrial Court. According to counsel, negligence is a common feature of the jurisdiction of that specialized court.

He posited that defamation arising from an employment relationship constitutes a distinct species of tort rooted in the workplace context. Counsel maintained that defamatory statements published in the course of employment attract special consideration, having regard to the gradation and

peculiarities of labour and employment relations, where statements made about individuals or organizations are capable of assuming defamatory character.

Counsel further cited comparative authorities to demonstrate that employment-related defamation is recognized as falling within the employment nexus and is therefore justiciable within a specialized labour forum.

In his final submission on the issue, learned counsel urged the Court to resolve Issue One in favour of the appellants, not as a matter of discretion, but as a necessary consequence of the clear and express wording of Section 254C(1) of the Constitution. He argued that the provision vests exclusive jurisdiction in the National Industrial Court and, by necessary implication, excludes the jurisdiction of the State High Court.

He further contended that Section 254C(1) preserves all civil causes, whether founded in tort or otherwise, for determination by the specialized labour court. Counsel added that the duty of care owed by employers to employees further reinforces the conclusion that the National Industrial Court possesses jurisdiction over tortious claims arising from employment. He finally referred the Court to Order 20 Rule 1 of the National Industrial Court (Civil Procedure) Rules, 2017.

Learned counsel for the 1st to 3rd respondents submitted that a literal construction of Section 254C of the Constitution would introduce ambiguity and distortion into the allocation of judicial powers, thereby undermining the carefully demarcated jurisdiction of the superior courts. Counsel argued that such an approach would engender doctrinal uncertainty, as litigants and counsel could deliberately cloak ordinary tortious claims with the veneer of employment in order to divest the State High Courts of jurisdiction.

He contended that a rigid literal interpretation would inevitably result in an influx of general civil claims into the National Industrial Court, thereby diluting its specialized character as a court established to determine labour and employment disputes, and effectively converting it into a forum for general civil causes. Counsel maintained that the jurisdiction of the High Court of a State should not be displaced merely because a dispute bears some incidental or tangential connection with employment.

In support of this position, counsel relied on **SPDCN Ltd v. Oruambo (2023) 1 NWLR (Pt. 1866) 433 at 456 (paras F–H)** and **Britannia-U (Nig.) Ltd v. Chevron (Nig.) Ltd (2025) 3 NWLR (Pt. 1979) 179**. He argued that tortious claims do not fall within the scope of labour matters and are properly

justiciable by the regular courts through an examination of the alleged defamatory publications.

Counsel further submitted that the matters which the legislature intended to vest exclusively in the National Industrial Court are labour and employment disputes strictly so called, and not tortious causes of action.

Learned counsel for the 4th respondent submitted that the question of jurisdiction is to be determined from the plaintiff's claim as disclosed in the Writ of Summons and the Statement of Claim. In support, he relied on established authorities to the effect that it is the claimant's case, and not the defence, that determines jurisdiction.

Counsel contended that the respondents' claim is one founded in defamation, a tort injurious to reputation, and not a claim arising from any contract or condition of employment. He argued that the mere fact that the alleged defamatory publication made reference to the respondent's resignation from employment does not convert the tortious claim into an employment or labour matter.

He maintained that what is decisive in determining jurisdiction is the substance of the claim and the reliefs sought, rather than any attempt by a defendant to colour the claim with

employment-related considerations. In that regard, he relied on judicial authority affirming that courts must look at the real nature of the action.

Counsel further submitted that the wording of Section 254C of the Constitution is clear and unambiguous. He referred the Court to decided cases on the proper approach to constitutional interpretation, arguing that a close reading of Section 254C(1) shows that the jurisdiction of the National Industrial Court is confined strictly to labour and employment relations.

Proceeding to define industrial relations and employment, counsel submitted that the claim in the present case is not predicated on any condition of employment. Rather, it constitutes a distinct and independent cause of action in defamation which arose after the termination of the employer–employee relationship. He concluded that there was no evidence of any subsisting employment relationship between the parties at the material time.

Learned counsel for the 4th respondent further contended that the appellants failed to establish any credible basis for invoking the jurisdiction of the National Industrial Court in respect of a claim wholly unconnected with labour or

employment relations. He submitted that the respondents' cause of action, being one in defamation, falls squarely within the jurisdiction of the State High Court and not that of the National Industrial Court, and that the trial court was therefore correct in assuming jurisdiction over the matter.

Counsel argued that even where a court is vested with subject-matter jurisdiction by the Constitution or statute, such jurisdiction cannot be validly activated unless the action is initiated by due process and all conditions precedent are fulfilled. In support, he relied on the authorities of **Tukur v. Government of Gongola State (1989) 4 NWLR (Pt. 117) 517**; **Okafor v. A.G. Anambra State (1991) 6 NWLR (Pt. 200) 659**; and **SLB Consortium Ltd v. NNPC (2011) 9 NWLR (Pt. 1252) 317**.

He maintained that the appellants failed to demonstrate that any of the conditions precedent necessary to activate the jurisdiction of the National Industrial Court were satisfied. Counsel further observed that there was no subsisting employment relationship between the parties at the time the cause of action arose, and that the alleged tort was committed after the cessation of the employer–employee relationship.

Counsel also submitted that the tort complained of does not fall within any of the matters expressly enumerated under Section 254C(1)(a)–(m) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). He aligned himself with the submissions of the 1st to 3rd respondents on the existence of conflicting decisions of the lower court on the issue.

Finally, counsel emphasized that the National Industrial Court is a specialized court of limited jurisdiction, strictly circumscribed by the language of Section 254C of the Constitution. Relying on **N.U.E.F v. B.P.E (2010) 7 NWLR (Pt. 1194) 538 at 565 (paras E–G)**, he submitted that the proper and competent forum for the determination of the dispute remains the High Court of Lagos State.

Professor Emmanuel Ayangurum Kenen, appearing as *amicus curiae*, in his brief filed on 21st November, 2025, submitted on the first issue that none of the matters expressly listed under Section 254C(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), over which the National Industrial Court (NIC) is vested with jurisdiction, includes defamation. He contended that the general expressions such as “relating to,” “connected with,” “pertaining to,” “matters arising from workplace,” and “matters

incidental thereto or connected therewith" ought to be construed ejusdem generis, so as to confine their scope to core labour and employment matters which cannot be resolved without reference to labour-related rights, duties, or principles.

He accordingly submitted that the jurisdiction of the High Court of Lagos State is neither ousted nor excluded by Section 254C of the Constitution in respect of claims for defamation, even where such claims arise from circumstances connected with labour or employment. He maintained that the High Court of Lagos State is therefore competent to assume and exercise jurisdiction over such claims.

Inam Wilson, SAN, in his *Amicus* Brief filed on 20th November, 2025, aligned himself with the views expressed by the first amicus curiae.

Addressing the first issue, learned senior counsel submitted that the mere existence of an employment relationship does not vest the National Industrial Court with jurisdiction over a claim in defamation. He argued that jurisdiction under Section 254C of the Constitution is triggered only where the cause of action arises directly from the exercise of rights and

obligations under a contract of employment, or relates to the protection of labour interests and working conditions. He contended that an examination of the reliefs sought in the Writ of Summons and Statement of Claim reveals that the claims are wholly grounded in defamation and bear no labour-related character. Accordingly, he submitted that the jurisdiction of the National Industrial Court cannot be extended to accommodate the present claim.

Abimbola Akeredolu, SAN, appearing as *amicus curiae*, filed his brief on 20th November, 2025 and expressed concurrence with the views advanced by the first two *amici*.

On the first issue, learned Senior Advocate submitted that although the jurisdiction of the National Industrial Court (NICN) is exclusive within its constitutional remit, it is not a “catch-all” jurisdiction capable of accommodating every claim merely because it arises from, or is connected with, labour or employment. He contended that Section 254C of the Constitution does not exclude the jurisdiction of the High Court of Lagos State in respect of defamation claims such as the one in the present suit.