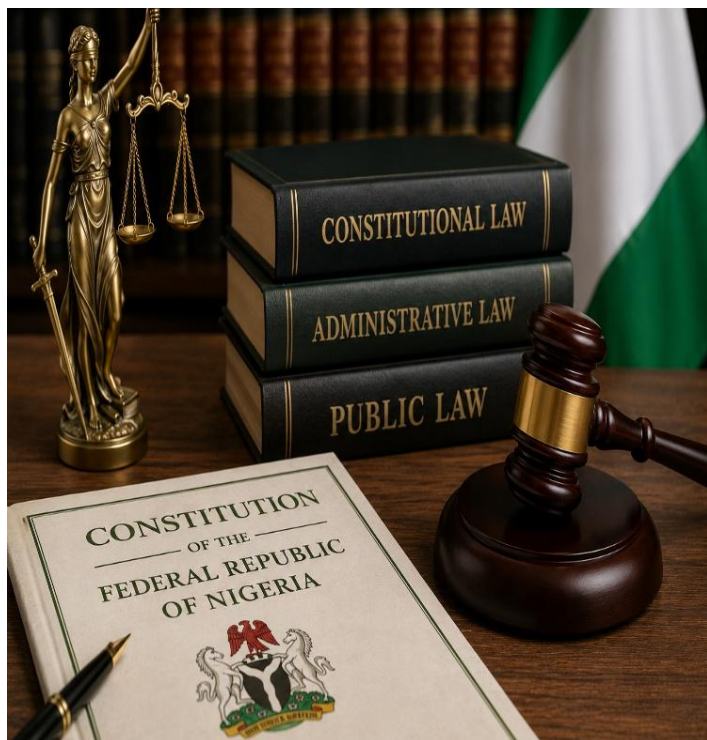


Revisiting the Applicability of Limitation Statutes to Employment Contracts in Nigeria: A Critical Appraisal of the Supreme Court’s Decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131

Omono Blessing Omaghomi
Yussuf Akinola Oyebanjo
Zaynab Abdussalam



Abstract

This article critically examines the Supreme Court’s decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131, which has clarified the scope of the Public Officers Protection Act (POPA) as it applies to employment contracts in Nigeria. Focusing on the reasoning of Moore Aseimo Abraham Adumein JSC, the article analyses the distinction between claims for “labour or work done” which are exempt from POPA’s limitation period, and other employment-related claims, such as wrongful termination, which remain subject to the Act. The judgment’s reaffirmation of judicially established exceptions to POPA addresses the longstanding confusion in Nigerian employment law and underscores the importance of prompt litigation of

employment matters.

Introduction

*The interplay between limitation statutes and employment contracts in Nigeria has long generated doctrinal uncertainty. A recurring question in Nigerian jurisprudence is whether the limitation period prescribed by POPA¹ applies to claims arising from contracts of employment involving public authorities. While earlier judicial authorities suggested that POPA does not apply to contractual claims or claims for labour or work done, later decisions introduced differing interpretations, particularly in relation to wrongful termination and other employment-related disputes. This lack of doctrinal consistency has produced significant debate among courts and practitioners. The Supreme Court’s decision in *Okoronkwo v INEC*² has therefore brought renewed attention to the issue by clarifying the scope of the POPA’s application to employment-related claims and the recognised exceptions to the statute.*

The Public Officers Protection Act: Purpose and Scope

POPA, as a general statute, is designed to protect public officers from indefinite exposure to litigation arising from acts done in the execution of public duty. Section 2(a) of the Act provides:

“Where any action, prosecution, or other proceeding is commenced against any person for any act done in pursuance or execution or intended 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: the action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within three months next after

¹ Public Officers Protection Act Cap 379, Laws of the Federation of Nigeria 1990.

² (2025) 8 NWLR (Pt 1991) 131.

Revisiting the Applicability of Limitation Statutes to Employment Contracts in Nigeria: A Critical Appraisal of the Supreme Court’s Decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131

the act, neglect or default complained of, or in case of a continuance of damage or injury, within three months next after the ceasing thereof...”

The rationale for POPA is to ensure that public officers are not distracted from their duties by the threat of stale claims. However, limitation statutes serve an important public policy purpose. They are designed to ensure that claims are brought promptly, to prevent the injustice that may result from the litigation of stale claims, and to provide certainty for defendants.³ POPA, in particular, is intended to shield public officers from the distraction and uncertainty of indefinite litigation. The broad language of the Act has led to its invocation in a wide variety of cases, including those arising from employment contracts, torts, and even constitutional claims⁴.

However, as the Supreme Court has recognised, this protection must be balanced against the need to ensure that genuine claims, especially those involving ongoing injuries or work already performed, are not unjustly barred. For the purpose of ensuring that aggrieved individuals are not unjustly barred from ventilating their grievances before the Court, the Courts have, over the years, maintained that limitation statutes are interpreted liberally in favour of aggrieved individuals and narrowly against the authorities who stand to benefit from such statutes.

Historical Judicial Approach to POPA and its Application to Employment Disputes

The Nigerian courts have, over the years, developed a body of jurisprudence on the application of the POPA. Early decisions such as *Salako v L.E.D.B & Anor*⁵ and *Nigerian Ports Authority v Construzioni Generali*

*Farsura Cogefar SPA and Anor*⁶ established that POPA does not apply in certain circumstances, notably recovery of land, breach of contract and claims for labour or work done. These exceptions were judicially created to prevent the injustice that would result from a rigid application of limitation statutes in cases where the cause of action is ongoing or arises from a contractual relationship.⁷

In *Salako v L.E.D.B & Anor (supra)* de Commarmond S.P.J., as he then was, construed the provision of section 2 of the Public Officers Protection Ordinance, which is identical to section 97 of the Ports Act. The Learned judge held that section 2 of the Public Officers Protection Ordinance does not apply in cases involving recovery of land, breaches of contract, claims for work and labour done, and similar matters. This interpretation has been widely accepted and cited in subsequent cases, reinforcing the principle that the protection afforded by POPA is limited to acts done in the execution of public duties and does not extend to contractual disputes or claims related to property recovery. A similar decision was reached in the case of *Nigerian Ports Authority v Construzioni Generali Farsura Cogefar SPA and Anor(supra)*.

The Facts and Issues in *Okoronkwo v INEC*

In *Okoronkwo v INEC(supra)*, the Appellant, a former employee of the Independent National Electoral Commission (INEC), challenged his suspension and subsequent dismissal. He filed his action outside the three-month window prescribed by POPA, arguing that his claim, being founded on a contract of employment, was not statute-barred. INEC, for its part, contended that the claim was caught by the limitation period. The trial court agreed with the Appellant, but

³ Alhaji Aliyu Ibrahim v Judicial Service Committee, Kaduna State & Anor (1998) 14 NWLR (Pt 854) 1.

⁴ Michael Idachaba & Ors v. University of Agriculture, Makurdi (2021) 11 NWLR (Pt. 1787) 209.

⁵ 1953 20 NLR169.

⁶ (1974) All NLR (Pt. 2) 945.

⁷ Federal Government of Nigeria v Zebra Energy Ltd (2002) 18 NWLR (Pt 798) 162.

Revisiting the Applicability of Limitation Statutes to Employment Contracts in Nigeria: A Critical Appraisal of the Supreme Court's Decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131

the Court of Appeal reversed the decision, holding that the POPA applied to the Appellant's claim and held that the suit was no longer maintainable. The Supreme Court was thus called upon to determine whether POPA barred the Appellant's claim for wrongful termination of employment.

The Supreme Court's Decision

The Supreme Court dismissed the appeal and affirmed the applicability of POPA to the Appellant's claim.⁸ The Court emphasised that while POPA applies generally to actions against public officers, there are recognised exceptions. Crucially, the Court did not overrule previous authorities such as *Nigerian Ports Authority v Construzioni Generali Farsura Cogefar SPA and Anor (supra)* and *Federal Republic of Nigeria v Zebra Energy Ltd (2002) 18 NWLR (Pt 798) 162* or create a new legal regime; it clarified the extent of the exceptions, particularly as they relate to employment contracts.

The Reasoning of Adumein JSC

While the lead judgment was delivered by Honourable Justice Saulawa, JSC, the concurring judgment of Honourable Justice Adumein is particularly illuminating. The Learned Justice meticulously reviewed the pleadings and found that the Appellant's claim was founded on a contract of service/employment, not tort. Adumein JSC at page 159 stated:

"The general principle of law is that proceedings must be commenced or initiated within the period prescribed by the relevant law or statute...In this case, the appellant is claiming an exception to the application of the Public Officers Protection Act because his action is founded 'on contract of service

or employment'."

The Learned Justice then examined the judicial interpretation of section 2 of POPA, referencing key authorities such as *Salako v L.E.D.B & Anor (supra)*, *Nigerian Ports Authority v Construzioni Generali Farsura Cogefar SPA and Anor (supra)* and *Federal Republic of Nigeria v Zebra Energy Ltd (supra)* which established that the POPA does not apply to cases of recovery of land, breaches of contract, or claims for labour or work done.¹⁰

Crucially, Adumein JSC at page 160 clarified the meaning of "claims for labour or work done," stating:

"I think that the phrase 'claims for labour or work done' means: demands for compensation or payment for labour, services or work that has been completed or performed... The Public Officers Protection Law or Act will also not apply where the public officer has acted in bad faith and/or ultra vires."

He further emphasised that the Appellant's claim did not fall within the recognised exceptions, as it was not a claim for "labour or work done" but rather for wrongful termination, and thus the limitation period applied.

Clarification, Not Creation, of Law

A critical reading of the judgment reveals that the Supreme Court did not create a new principle of law or carve out a special regime for employment contracts. Rather, the court clarified the scope of existing exceptions to POPA, particularly the distinction between:

⁸ *Okoronkwo v INEC* (n 2) (per Ibrahim Mohammed Musa Saulawa JSC, Jummai Hannatu Sankey JSC, Moore Aseimo Abraham Adumein JSC, Obande Festus

Ogbuinya JSC and Abubakar Sadiq Umar JSC) (unanimous decision).

Revisiting the Applicability of Limitation Statutes to Employment Contracts in Nigeria: A Critical Appraisal of the Supreme Court’s Decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131

- a. **Claims for “labour or work done”:** such as claims for unpaid wages, salaries, or compensation for services already rendered. These are exempted from POPA because they constitute a continuous injury that inures until final settlement.
- b. **Other employment-related claims:** Claims such as wrongful termination or dismissal, which do not constitute a continuing injury, remain subject to the limitation period prescribed by POPA unless they fall within another recognised exception.

The courts have interpreted “labour or work done” to mean demands for compensation for services that have already been rendered. For instance, if an employee sues for unpaid wages for work already performed, such a claim is not caught by the limitation period provided under POPA. However, a claim for wrongful termination, which is based on the employer’s act of dismissal, is not considered a claim for “labour or work done” and is therefore subject to the limitation period.⁹

This distinction is supported by a long line of Nigerian authorities, including *Alhaji A. R. Sule v Mr J. Orisajimi*¹⁰ and *Vincent Ugo v Diokpa Ummuna*,¹¹ which have consistently held that POPA does not apply to claims for work already performed, but does apply to claims arising from the termination of employment.

This clarification is significant because it addresses the longstanding confusion regarding the applicability of limitation statutes to employment matters. The court’s decision reinforces the principle that while claims for unpaid wages or compensation for work done are exempt from POPA, other employment-related claims

are not, unless the claimant can demonstrate that the injury is continuous or that another exception applies.

Section 2(a) of POPA provides that in the case of a continuance of damage or injury, the limitation period runs from the cessation of the injury. This means that where the wrongful act is ongoing, such as the continuous non-payment of salary, the limitation period does not begin to run until the wrongful act ceases.

The application of this principle has been affirmed in cases such as *Attorney-General of Rivers v Attorney-General of Bayelsa State*,¹² where the Supreme Court held that the limitation period only begins to run when the injury ceases. Thus, employees with claims for ongoing breaches like unpaid salaries may still bring their claims even after the expiration of three months from the initial breach.

Has the Supreme Court Removed Labour and Employment Claims from the POPA?

The court did not create a blanket exemption for all employment-related claims; rather, it clarified that only claims for “labour or work done”, i.e., claims for unpaid wages, salaries, or compensation for services already rendered, are exempted. Other claims, such as those for wrongful termination or dismissal, remain subject to the limitation period unless another exception applies.

The decision does not undermine the protective purpose of POPA but ensures that genuine claims for unpaid work are not unjustly barred by limitation of statutes, while also upholding the principle that claims must be brought promptly.

⁹Alhaji A. R. Sule v Mr J. Orisajimi (2019) 10 NWLR (Pt 1681) 513.

¹⁰ *ibid.*

¹¹ (2018) 2 NWLR (Pt 1602) 102.

¹² (2013) 3 NWLR (Pt 1340) 123.

Revisiting the Applicability of Limitation Statutes to Employment Contracts in Nigeria: A Critical Appraisal of the Supreme Court's Decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131

Implications for Employment Contracts and Limitation Statutes

The Supreme Court's decision in *Okoronkwo v INEC*¹³ has several important implications for employment law in Nigeria:

- i. **Clarity on Exceptions:** The judgment provides clear guidance on the scope of the exceptions to POPA, particularly the meaning of "claims for labour or work done." This will assist both practitioners and litigants in determining whether their claims are likely to be statute-barred.
- ii. **Promptness in Litigation:** The decision reinforces the importance of bringing claims promptly. Employees who wish to challenge wrongful termination or other employment-related actions must do so within the prescribed limitation period, unless their claim falls within a recognised exception.
- iii. **Continuous Injury:** The court's analysis of continuous injury is particularly relevant for claims involving ongoing breaches, such as non-payment of wages. In such cases, the limitation period does not begin to run until the injury ceases.
- iv. **Interpretation of other Limitation Statutes:** The analogy drawn by the Supreme Court regarding "claims for labour or work done" may influence the interpretation of other limitation statutes, such as the respective limitation laws of the various States in Nigeria. The implication of the interpretation would be that unless it is firmly

established that a claim bordering on labour and/or employment falls within the exempted degree of continuous injury claim- i.e., compensation for labour or work done, such claims must be commenced within the prescribed period for commencing actions in contracts, failure of which the claim would be statute barred. This view is discernible from the decision of the National Industrial Court in the case of *Adepoju G.A. & Ors v. Union Bank of Nigeria Plc* (Suit No: NICN/LA/70/2024), where the Court held that claims for wrongful computation of pension commenced outside 6 years was barred by Statute.

Recommendations for Legal Practice and Policy

Legal practitioners must carefully assess the nature of employment claims to determine whether they fall within the recognised exceptions to limitation statutes. Employees should be advised to bring claims promptly to avoid being caught by the limitation period. Where possible, where the main claim of an employee is in respect of a claim for labour and work done, the claim should be framed as claims for unpaid wages or compensation for work actually done, rather than as claims for wrongful termination or dismissal.¹⁴ Employers and public officers should be aware of the limitations imposed by the Public Officers Protection Act and other statutes and ensure that their employment practices comply with the law.

Conclusion

The Supreme Court's decision in *Okoronkwo v INEC* (*supra*) does not represent a radical departure from the established position that while POPA generally bars actions against public officers after

¹³ *ibid.*

¹⁴ The Court of Appeal's decision in the case of *Kasim v. N.N.P.C* (2008) 3 NWLR (pt. 1075) 569 has also affirmed

the position that claims for pension, and by parity of reasoning, other post-employment claims are subject to limitation laws.

Revisiting the Applicability of Limitation Statutes to Employment Contracts in Nigeria: A Critical Appraisal of the Supreme Court’s Decision in *Okoronkwo v INEC* (2025) 8 NWLR (Pt 1991) 131

three months, claims for compensation for labour or work done fall outside the limitation period. Rather, the decision clarifies the scope of POPA as it applies to employment contracts. The court, particularly through the judgment of **Adumein JSC**, reaffirmed the principle that only specific claims, namely, those for compensation accruing from “labour or work done”, are exempted from the limitation period, while other employment-related claims remain subject to the statutory time bar unless another exception applies.

This clarification is a welcome development, as it resolves longstanding confusion and provides clear guidance for litigants and practitioners. It underscores the need for prompt action in employment disputes and ensures that genuine claims for unpaid work are not unjustly barred.

Disclaimer

SSKÖHN NOTES is a resource of the law firm STREAMSOWERS & KÖHN deployed for general information and does not constitute legal advice, nor is it a substitute for obtaining legal advice from a legal practitioner



Omono Blessing Omaghomi
Partner

omono@sskohn.com



Yussuf Akinola Oyebanjo
Senior Associate

yussuf@sskohn.com



Zaynab Abdussalam
Associate

zaynab@sskohn.com

STREAMSOWERS & KÖHN is a leading commercial law firm providing legal advisory and advocacy services from its offices in Lagos, Abuja, and Port Harcourt. The firm has extensive experience in acting for Nigerian and international companies, government, and industry regulators in the firm’s various areas of practice.

Contact us at:

852b Bishop Aboyade Cole St,
Victoria Island,
Lagos

Tel: +234 1 271 2276; **Fax:** +234 1 271 2277

Email: info@sskohn.com; **Website:** www.sskohn.com