

Termination of employment after mandatory HIV test

07/29/2017

Mr. X v. Mr. Jakobus Brink & 3 Ors

In partnership with the South Africa Litigation Centre, SALC, Lawyers Alert is supporting Mr X in seeking justice based on his loss of employment owing to his HIV status.

By a written Employment Agreement dated, Mr. X entered into a contract of employment with Kings Guard Nig. Ltd (3rd Respondent) wherein he was posted to the United States Embassy to work there as a security. After working for the Defendants for three months, Mr. X was compelled by his employers to undergo medical test which test result revealed that he was HIV positive. Based on the results, the Defendants terminated his employment.

He contacted Lawyers Alert and on his behalf, filed a suit against his employers. Lawyers Alert has already obtained an Order of court granting Anonymity to the Plaintiff in recognition of his right to confidentiality and privacy. By this Order the name of the Plaintiff will not and is not part of the courts' records.

Issues for Determination

The issues we are going to formulate for the court to determine include:

- a. Whether by the combined acts of the Respondents, the Respondents are not jointly and severally liable.
- b. Whether by virtue of the provisions of Nigerian Constitution and the HIV and AIDS (Anti-discrimination) Act 2014, the 1st, 2nd and 3rd Respondents' act of compelling the Applicant to undergo HIV and AIDS test is not an infraction of his fundamental rights, and whether the procedure adopted by the 5th Respondent in conducting the medical test and transmitting the report of the medical test amounts to breach of confidentiality and unlawful disclosure.
- c. Whether by the provisions of the Labour Act, the termination of the Applicant's employment by the 1st, 2nd, 3rd and 4th Respondents' without a written notice is not lawful.
- d. Whether by virtue of the provisions of Nigerian Constitution and the HIV and AIDS (Anti-discrimination) Act 2014, the termination of the Applicant's contract of employment by the 1st, 2nd and 3rd Respondents on ground of his HIV

status is not unlawful. The court entertaining the case is the National Industrial Court of Nigeria, Abuja and making good progress. Keep checking this page for updates.

DECISION:

Judgement was delivered on the 26th of Sept 2018 prohibiting employers from coercing existing or prospective employees to undergo HIV testing and that dismissing employees on the basis of their perceived or actual HIV status is unlawful and discriminatory.

The court monetary damages to the total sum of 4,200,000 naira (11,500 USD). Mr X has since collected the judgement sum. pictures and videos are [here](#).