

CHAPTER FOUR

4.0 ANALYSIS OF THE FINDING THAT PART-TIME EMPLOYEES ARE EMPLOYEES WITHIN THE MEANING OF THE LABOUR LAWS

4.1 Introduction

This chapter is meant to synthesise the discussion in the previous chapters. Therefore, the raw material that forms the discourse in this chapter, is what has already been looked at in the preceding chapters. Simply put, the chapter shall consolidate the study and give an exposition of the findings.

4.2 Brief overview of the previous chapters

It must be stated lucidly that chapters two and three have demonstrated that part-time workers work under contracts of employment and as such are properly covered or come within the ambit of the protective labour legislation. It has also been established that what might have given birth to the erroneous view that part-time employees are outside the protective labour legislation is the fact that this class of workers ordinarily, spend less time at the place of work in relation to comparable full-time employees. It must have been conceived that since these workers spend less time at the place of work, they should be employed somewhere as full-time employees where they should be covered under the protective labour legislation. This conception might be true with some part-time employees. However, there is also a huge number of part-time employees whose sole source of livelihood is the part-time work they do. These must be protected in the area of benefits, sick leave and paid leave, among other entitlements. What other jurisdictions have done to exclude part-time employees who are employed elsewhere from having the best of “both worlds” is to place a minimum number of hours that a part-time employee must do in order

to be covered under the protective labour legislation. This is to prevent those who might find time away from their formal jobs during lunch to go and offer services elsewhere or those who work in the evening after leaving their formal jobs from claiming benefits under the protective labour legislation.

The other factor that might have led to the conception that part-time employees are not envisaged under the protective labour legislation is the fact that at the time when the labour legislation were being couched, Zambia had a controlled economy in which the government was the main employer and almost an exclusive player in the labour market. And as such, when the private sector was born in the early 1990s, following the indiscriminate implementation of the SAPs which is believed to have propelled the birth of the phenomenon of part-time employment, the term lacked the necessary legal framework. This research has however ably dispelled the mystical ideas that surrounded part-time employment by establishing that part-time employees share the same status as full-time employees. It has also been established that part-time employment as a categorisation of a class of employees is not meant to segregate or confer preferential treatment on full-time employees but only to indicate the flexibility of such an employee as far as spending time at the place of work is concerned.

4.3 Implications of part-time workers being employees

It must be appreciated that establishing the fact that part-time workers are employees within the meaning of the labour laws has far reaching consequences on both the employer and the employee. The huge scope of the implications in question makes it unattainable for work of this magnitude to discuss them exhaustively, and as such only those deemed central shall be briefly discussed.

The first element is that in every contract of employment, there are express terms that must have been agreed upon between the employer and the employee which spell out the duties and obligations assumed by both parties. Apart from spelling out the duties, the express terms are also an embodiment of rights to be enjoyed by the parties to the contract in question. This implies that should a dispute arise, the first point of call is the contract of employment for purposes of establishing precisely and expressly what the parties agreed upon. However, it must be remembered that any term that offends the law in the express agreement is always severed accordingly. The implication is that one cannot contract outside the law. The only exception, is where the terms of the express agreement are superior (confer greater benefit) to those under the labour laws¹.

The second implication is that a contract of employment does not only consist of terms that appear on its face. To limit the construction of a contract to the express terms is to distort the contractual cartography of a contract of employment. There are also implied terms by virtue of common law. Both parties tacitly assume these terms unless the express terms are inconsistent with such implications². Implied terms can be by custom, by statute or by the judiciary as the case may demand. Some of the implied terms in the contract of employment are:

- (a) The implied duties of good faith and confidentiality that every employee owes his employer.

It is well established that the relationship between an employer and an employee is one that is fundamentally grounded upon the obligations of mutual confidence, good faith and fidelity.

¹Mwenda, *Employment Law in Zambia: Cases and Materials*, 7-10

² Michael Furmston, *Cheshire, Fifoot&Furmston's Law of Contract* (Oxford: Butterworths, 1981), 174

These obligations dictate that an employment relationship does not simply ground to a halt following the termination of employment. From the perspective of the employer, there is always a risk that an ex-employee may, among other things, enter into the employment of a competitor or set up a competing business and, in that event, unfairly exploit the former employer's proprietary information for his or his new employer's benefit³. In the absence of any express term, the obligations of good faith and fidelity which govern the employment relationship mitigates this risk by imposing on the employee an implied contractual obligation to keep in confidence the information of his employer during and after the term of employment. This duty is implied in every contract of employment. In the case of *Robb v Green*,⁴ as well as the case of *Attorney General v Blake*⁵, the court noted that the employee must act in good faith; he must not make a profit out of his trust; he must not place himself where his duty and interest may conflict; he may not act for his own benefit or the benefit of a third party without the informed consent of his employer.

A balance is however, drawn between the two competing interests being the right of an ex-employee to use and exploit the skill, experience and knowledge acquired by him during the term of employment to make a living and to advance his chosen trade or profession, the interest of the state in securing an environment in which the freedom of trade and competition can flourish and the need for the employer to legitimately protect his trade secrets from encroachment. In the Malaysian case of *Schmidt Scientific SdnBhd v Ong Han Suan*⁶, the court held that trade secrets

³ William Rider., and Bennet Rogers, *Trade Secrets: The Power of an Idea Kept Under Lock and Key*. (Toronto: Paul Mahaff Publishers, 2004), 20

⁴(1895) 2QBD 315

⁵(1998) 2WLR 805

⁶(1997) 5MLJ 632

are not limited to manufacturing processes or secret formulae but extend to information relating to the list of names and addresses of customers and suppliers, specific questions sent to the customer, costs, prices, specific needs and requirements of the customer and the status of the ongoing negotiations with the customers

The court in the consideration of whether a former employee is prohibited by the employer from poaching his employees, stated in the case of *Hanover Insurance Brokers Limited v Schapiro*⁷, that an employee has the right to work for an employer he wants to work for if that employer is willing to employ him. Staff is not an asset of the company like apples or pears or other stock in trade.

This particular duty as can be aptly noted, secures the rights of an employer to the inventions and other trade secrets which if divulged can adversely affect the employer. This duty however, can only be implied if the contract in question is a contract of employment. Having therefore, established that part-time employees are employees within the meaning of the labour laws, employers must be inspired to view part-time employees as much viable a workforce as full-time employees who can equally be held accountable during and after the severance of the contract of employment. Establishing that part-time employees are employees as envisaged in the labour laws should not be viewed therefore as a menace to employers' minimisation of costs due to obligations that employers will be required to discharge but as a positive assurance on the employers that part-time employees are expected to exhibit and uphold the same levels of confidentiality in the execution of their duties towards their employers.

⁷(1994) IRLR 82

- (b) The implied duty by an employee holding out as being skilled, that he will exercise reasonable skill and competence in the exercise of his duties.

The implied duty under common law that an employee who holds himself out as being skilled undertakes that he will in the performance of his duties exercise reasonable skill, care and competence is an essential component of every contract of employment. By virtue of this implied duty to exercise reasonable skill, employees impliedly warrant that they possess reasonable skills for the work they have agreed to undertake, and that they will exercise reasonable competence in undertaking it. This duty extends to employees adapting to new methods and technologies in performing the duties, where the employer applies necessary and adequate training. A breach of this implied duty by the employee is as much a breach of an express term of the contract of employment. In the case of *Agholor v Cheesebrough Ponds (Zambia) Limited*⁸, the High Court of Zambia stated that it is well settled that an employee who holds himself out as being skilled to do a certain type of work impliedly undertakes that he will exercise reasonable skill or competence in that work. He can be dismissed summarily if he fails to display such skill or competence in that work. The basic authority for this proposition is the case of *Harmer v Cornelius*⁹. This duty of care applies generally and could cover, for example, care in using the employer's equipment. However, its principal legal significance arises where an employee in the course of employment injures a third party or his goods. In these circumstances, the employer may be sued for damages by the third party for being vicariously liable for the tort of his employee. Once sued, however, the employer can take legal action against the employee for indemnity as was demonstrated in the case of *Lister v Ramford Ice and Cold Storage Co*

⁸(1976) ZR HC

⁹(1858) 141 ER 94

*Limited*¹⁰. The court held in this case that there is an implied duty of care owed to the employer by the employee. As a consequence, the insurers thriving on the principle of subrogation were awarded an indemnity against the employee who had negligently run down a third party (his own father) who had successfully sued the company for damages. The House of Lords held that contracts of employments contain an implied term that an employee owes a duty to take reasonable care of the employer's property and in the performance of his tasks. This duty as clearly noted tilts towards or favours the employer. As regards a part-time worker, since he is an employee, he is expected to continually hold himself out as a skilled person and carry out duties diligently. Any exhibition of negligence or incompetence on the part of the part-time employee, gives the right to the employer to dismiss such an employee summarily as the case above has shown. Further, the finding that a part-time worker is an employee makes it possible for an employer to invoke the principle of indemnity for purposes of recovering from an employee what might have been paid out to an injured third party as a result of a delinquent employee's actions.

(c) The implied undertaking by the employer that he will pay reasonable remuneration for the services rendered.

Although there is usually an express term to the same effect, it will come as no surprise that employers are under the implied duty to pay wages. This term is nevertheless conditional upon an employee earning his wage or salary by carrying out work for the employer, or at least serving the employer by being ready and willing to perform work. It is an implied common law duty that wages will be paid for work done thereby confirming that a contract of employment is not gratuitous but one that requires to be sustained by furnishing of consideration. The application of

¹⁰(1956) AC 555

this common law duty is found in the case of *Reeve v Reeve*¹¹. Legislation now covers how wages shall be paid. Legislation, however, tends not to have clauses which state that wages shall be paid for work done, hence ensuring the relevance of this common law implied term.

This particular duty favours an employee whose contract of employment may not have stated clearly the remuneration package. The law is unambiguous to the effect that every employer must reasonably remunerate an employee for the services rendered. As a consequence of having established that part-time employees are employees within the meaning envisaged by the Employment Act and other labour laws, it therefore follows that an employer cannot evade his responsibility to remunerate a part-time employee on the ground that a contract lacks a provision pertaining to remuneration. The law provides that even in the absence of a clause entailing remuneration, an employee is nevertheless entitled to reasonable remuneration.

(d) The implied term that either party to a contract of employment can terminate such a relationship on notice.

A contract of employment like any other contract comes to an end at one time or the other. Banda, aptly states that every well drafted contract of employment must contain a clause stipulating how or when such a contract may be terminated by either party¹². This is in recognition of the fundamental consideration that contracts of employment should never be converted into contracts of slavery. In the case of *Contract Haulage v Kamayoyo*¹³, the court

¹¹(1858) 1 F&F 280

¹² Darlington Banda, *A Guide to Employment Law in Zambia* (Lusaka: Ebert Stiftung, 1999), 43

¹³(1982) ZR 13 SC

noted that payment in lieu of notice was a proper and lawful means of terminating a contract of employment in the absence of an express stipulation to that effect. Further, in the case of *Gerald Lumpa v Maamba Collieries Limited*¹⁴, the court stated that it is the notice or payment in lieu of notice that terminates a contract of employment and reiterated the same principle in the case of *Zambia Privatisation Agency v Matale*¹⁵. This implied term is a cardinal one as contracts of employment flourish on the basis of relationships built in places of work. If the relationship breaks down between an employee and the employer, ordinarily, the input from such an employee is invariably affected adversely. Therefore, to prevent production from plummeting, either party must be free to extricate himself or herself from such an obligation, notwithstanding, that mainly due to clumsy draftsmanship, such a contract may have no severance clauses.

This duty is a sigh of relief to many part-time employees whom employers deem as “second class” workers who can easily be gotten rid of without legal implications. This myth has been dispelled by the finding that part-time workers are employees who are equally entitled to notice as a declaration of intention on the part of the employer to part with such an employee. This duty eschews arbitrariness in the way many part-time employees are relieved of their duties and thrown onto the streets devoid of notice from employers. The effect of the finding that part-time workers are employees is that any employer who terminates a contract of employment of a part-time employee without due notice risks a legal challenge in which he or she may be condemned in damages in the courts of law. It must be observed that it is not only an employer who owes this duty to a part-time employee, equally a part-time employee who seeks to terminate a contract of employment with an employer is legally obliged to give notice to the employer.

¹⁴(1988- 1989) ZR 217 SC

¹⁵(1995-1997) ZR 157 SC

It is clear that notice of this kind helps an employer to plan the process of recruiting a suitable replacement to fill the vacant position. Notice to terminate a contract of employment ameliorates the risks of losses that an employer may incur if a part-time employee simply walks away without due notice thereby grinding business to a halt, especially if the position left is a sensitive one. By the same token, notice to terminate a contract of employment enables an employee to adjust and begin to look for alternative means of survival even before the period of notice of termination expires. It is therefore correct to assert that notice bodes well for both employers and part-time employees given the attendant consequences that may result from such a failure by either party.

4.4 The *Zambian Constitution vis-à-vis part-time employment*

Further, one would observe that the preferential treatment perpetuated by employers in favour of full-time employees is unconstitutional according to the *Zambian constitution*¹⁶. The Constitution of Zambia 1991, as amended in 1996, prohibits any form of discrimination. For avoidance of doubt, article 23 (2) of the Constitution of Zambia, 1991 categorically provides that no person should be treated in a discriminatory manner by any other person acting by virtue of a written law or in the performance of the functions of any public office or any public authority. “Discriminatory manner” has been defined as affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, marital status, political opinion, colour or creed, whereby persons of one such description are subjected to disabilities or restrictions to which persons of another description are not made

¹⁶ Article 23 (2) the Constitution, Chapter 1 of the Laws of Zambia

subject or accorded privileges or advantages which are not accorded to persons of another such description.

Article 23 (2) above, is an entrenched provision falling under part III of the constitution, which contains the bill of rights. The purpose of the entrenched provisions of the bill of rights is to control or limit the executive or legislative powers of the government¹⁷. What this means is that should Parliament enact a law which is discriminatory, any person who is aggrieved or adversely affected by such law, can petition the High Court under article 28 of the Constitution to have the legislation declared null and void on grounds of unconstitutionality for being in breach of article 23(2) of the Constitution. In addition, should an officer of the executive arm of government, be it the president himself, ministers or senior civil servants, dismiss or terminate the services of an employee in the public service on grounds of discrimination, the employee concerned can petition the High Court to have the dismissal or termination declared null and void for being in breach of the said article 23(2) and therefore unconstitutional. This provision applies to employees who may be serving on part-time basis in public institutions especially in colleges and universities where it is common to find lecturers serving on part-time basis and denied other privileges accorded to full-time employees. According to Anyangwe, rights are a claim as against the state and not by appeal to love, brotherhood or charity¹⁸. What this implies is that if an employee has suffered any disadvantage on account of being a part-time employee serving in the public sector or quasi-governmental bodies, such a person can institute an action under

¹⁷Mwenda, *Employment Law in Zambia: Cases and Materials*, 27

¹⁸ Carlson Anyangwe, *International Human Rights and Humanitarian Law* (Lusaka: The University of Zambia Press, 2004), 4

Article 28 so that the High Court can determine the validity of the action taken by such a body.

For avoidance of doubt, Article 28 provides that:

Subject to clause (5), if any person alleges that any of the provisions of Article 11 to 26 inclusive has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the High Court which shall-

(a) hear and determine any such application;

(b) determine any question arising in the case of any person which is referred to it in pursuance of clause (2);

and which may, make such order, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of Articles 11 to 26 inclusive.

In the context of employment, this provision applies to employees who may be serving on part-time basis in public institutions especially in colleges and universities where it is common to find lecturers serving on part-time basis and being denied privileges accorded to full-time employees.

From the above, it is clear that employees working in the private sector cannot petition the High Court under article 28 of constitution. In view of this, the law has made a specific provision in the Industrial and Labour Relations Act to guard against discrimination in employment. This provision is found in section 108 of the Act. The section proscribes the termination of the services of any employee or imposition of any other penalty or disadvantage by an employer on grounds of race, sex, marital status, religion, political opinion, or affiliation, tribal extraction or status of the employee. It states that;

if any employee has reasonable cause to believe that his services have been terminated or has suffered a penalty or disadvantage or any other prospective employee has reasonable cause to believe that he has been discriminated against on the grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status, he may within thirty days of the occurrence which gives rise to such belief, lay a complaint before the industrial relations Court.

If the court finds in favour of the complainant, it may award damages or compensation for loss of employment or make an order for re-employment or reinstatement in accordance with the gravity of the circumstances of the case. The ground which can be exploited in this case is that of status. It must be noted that Act Number 30 of the Industrial and Labour Relations Act of 1997 amended section 108 of the Industrial and Labour Relations Act with the removal of the word “social”. This means that the position at present is that no employer should terminate the services of an employee on grounds, *inter alia*, of the status of the employee. Part-time employees are therefore legally protected both under the Constitution for those serving in the public sector and under the Industrial and Labour Relations Act for those in the private sector as has been seen under section 108.

4.5 Part-time employees’ rights to form Trade Union

It is also clear as noted in the preceding chapters, that there is no provision whatsoever in the labour laws of Zambia that restrains part-time employees from forming or joining trade unions. This is in recognition of the fact that part-time workers are employees just like full-time employees. For avoidance of doubt, the provision that touches on the formation of trade unions is section 9 (2) of the Industrial and Labour Relations Act¹⁹. This section provides that any group of employees not less than fifty in number or lesser number as prescribed by the Minister of Labour, may sign an application to be registered as a trade union. It can clearly be seen that a keynote factor to be satisfied is that a group seeking to register itself as a trade union must be a group of employees. Having therefore established that part-time workers are employees within the meaning of the labour laws, it follows that they are eligible employees for purposes of

¹⁹ Section 9 (2) Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia

forming trade unions as long as they meet the numbers as provided by the Industrial and Labour Relations Act.

We must hasten to point out that the right of a worker to join a trade union of his or her choice is a constitutional one and deeply embedded in the Bill of Rights under article 21. As earlier pointed out, the rights in the Bill of Rights are fundamental and underlie the very core of individual dignity. In the case of *Marbury v Madison*²⁰, the Supreme Court of the United States held that the purpose of the American Bill of Rights is to withdraw certain rights from the vicissitudes of political controversy and set them as legal principles in matters of adjudication.

Article 21 of the Zambian Constitution provides that:

except with his own consent a person shall not be hindered in the enjoyment of freedom of assembly and association, that is to say, his right to freely assemble and associate with other persons and in particular to form or belong to any political party, trade union or other association for the protection of his interests.

This article is in consonance with the obligations that Zambia has assumed under the Freedom of Association and the Protection of the Right to Organise Convention, No.87 of 1948, which Zambia ratified on 2nd September, 1996. Further, the Convention in question provides that workers and employers without distinction whatsoever shall have the right to establish and only subject to the rules of the organisation concerned, to join organisation of their own choice without previous authorisation²¹. Article 5 of the same Convention provides that workers and employers shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers. However, in the exercise of these rights provided for

²⁰(1803) US. 137

²¹ Article 3 and 4, Freedom of Association and the Protection of the Right to Organise, Convention 87, 1948

them, employees and employers and their respective organisations shall respect the law of the land which law shall not be such as to impair, nor shall it be applied so as to impair the guarantees provided for in the Convention. The Convention on the Right to Organise and Collective Bargaining is equally an important document in as far as trade unionism is concerned. Of much concern is article 1, which provides that²²;

Workers shall enjoy adequate protection against acts of anti-unionism and discrimination in respect of their employment. Such protection is to apply more particularly in respect to acts calculated to make the employment of a worker subject to membership: to cause the dismissal or otherwise prejudice a worker by reason of membership or because of participation in union activities outside working hours or with consent of the employer, within working hours.

Section 5 of the Industrial and Labour Relations Act insulates employees from suffering any penalty as a result of participation in the activities of trade unions. The section gives the right to any employee to lay a complaint before the Industrial Relations Court, if he has reasonable cause to believe that his services or employment has been terminated or he has suffered any penalty, disadvantage or victimisation for exercising or in connection with the exercise of any rights under section the section. Such an employee must lay the complaint within thirty days after exhausting administrative channels available to that employee in that undertaking. Where administrative channels are not available, he must lay the complaint before the court within the thirty days of the termination of the services or employment or of knowing that he has suffered any penalty, disadvantage or victimisation.

In the narration of the rights relating to formation of trade unions, one golden thread that tends to run through all these rights is that one must be an employee to enjoy the rights above. The finding therefore, to the effect that part-time workers are employees implies that they are eligible

²²Article 1, The Convention on the Right to Organise and Collective Bargaining, Convention 98, 1949

to form, join and exercise all the rights that accrue to trade union membership. As already noted, any form of intimidation or termination of employment arising from one's exercise of the rights pertaining to trade unionism is challengeable in the Industrial Relations Court.

4.6 Part-time employees' eligibility to social security

The aspect of social security with respect to part-time employees is one that has merited no attention in the current literature, thriving on the notion that they are not employees within the meaning of the law, hence outside the protective provisions of the labour laws. However, with the repulsion of the myth that saw the perpetuation of the victimisation of part-time employees in the area of social security, it becomes inescapable to state boldly that part-time employees are eligible for all forms of social security that fellow full-time workers are entitled to. According to Mwenda, social security is understood to be the protection furnished by society to its members through a series of public measures against the economic or social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death; to provide for medical care and to subsidise families with children²³. It can be noted that the benefits of social security are so fundamental and in fact the lifeblood that ensures sustenance of life in times of calamities and other life contingencies. Social security ensures regular income in old age and an adequate standard of living.

A perusal of the National Pension Scheme Act, No 40 of 1996, reveals no discrimination between full-time and part-time workers²⁴. The said Act provides that all tax paying employers

²³Mwenda, *Employment Law in Zambia: Cases and Material*, 230

²⁴ Section 12, National Pension Scheme Act, No 40 of 1996

are required to withhold 5% from each employee's earnings and contribute an additional 5% to the National Pension Scheme Authority²⁵. In other words, the Act mandates unequivocally, every tax paying employer to deduct the said 5% from an employee's earnings, the employer too, carries a corresponding obligation of adding a further 5% and remit these funds as contribution to the authority on behalf of an employee. As can be noted above, the Act does not in any way provide differential treatment between part-time employees and full-time employees. The only qualification in order to oblige an employer to carry out this mandate is that the person on whose behalf the employer carries this obligation must be an employee. Surprisingly, no contributions are made in respect of part-time employees by their employers on account that they are part-time employees, and where some employers have attempted to do so, such remissions are marred by inconsistencies. To attempt to conceive that the National Pension Scheme Authority is unaware of this sad development which wrecks the hope of part-time employees having a decent life in old age is to be naive. Similarly, it is a tenuous thought to think that the Authority is not endowed with competent human resource to ably interpret the provisions of the Act they administer. Whether it is a question of mere ineptitude to initiate rigorous inspections and sensitisations, is something that merits another discussion. It is interesting to note that Zambia is a signatory to key international conventions that enshrine the right to social security such as the Universal Declaration of Human Rights of 1948, The International Covenant on Economic Social and Cultural Rights, and the African Charter on Human and People's Rights (Banjul Charter of 1981). Under these instruments, Zambia has an obligation to implement the provisions of these conventions as they relate to social security. It is therefore hypocritical to note that on

²⁵ Section 14, National Pension Scheme Act, No 40 of 1996

the ground, the deprivation of social security has continued unabated despite these commitments under international instruments and other local laws in place.

4.7 **Conclusion**

This chapter has sought to bring out the implications following the finding that part-time employees are employees within the meaning of the labour laws. It has been established that since part-time employees work under contracts of employment, they owe certain express as well as implied obligations to their employers. These obligations that employees owe to their employers make it easy for employers to repose equal trust in part-time employees as they do in full-time employees and to hold an employee accountable as opposed to independent contractor. This finding, therefore, makes it practical for employers to legitimately expect the same levels of commitment, allegiance and loyalty from part-time employees just as they do from full-time employees. The obligations however, are mutual to the extent that employers too have obligations they owe to part-time employees just as they do to full-time employees. The chapter has also demonstrated that differential treatment between full-time and part-time employees is unconstitutional and challengeable in the courts of law. It has further shown that part-time employees are eligible to form trade unions and also entitled to social security. Preferential treatment therefore, on account of being a full-time employee is a fallacy and has no legal basis on which it can be countenanced.