

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

CONSTITUTIONAL PETITION OF 19 OF 2014

HANNINGTON OWAKA OKOLOPETITIONER

VERSUS

THE CABINET SECRETARY TREASURY1ST RESPONDENT

HE DIRECTOR OF PENSIONS2ND RESPONDENT

J U D G M E N T

The petitioner herein was an employee of Kenya Marine and Fisheries Institute therefore a Civil Servant. His terms of service were permanent and pensionable. He retired in the year 1992 April. From the records, it appears that he was not paid his terminal dues which has necessitated him to file suit in Kisumu CMCC 221/1993. The court ordered that he be paid a sum of Kshs.74,921.75/=.

Apparently the Kenya Marine department remitted the sum of Kshs.74,921.15/= to the respondents for onward transmission to the petitioner. It appears that todate the petitioner has not been paid the sum due hence the filing of the petition.

The petitioner has anchored his petition on several Articles of the Constitution and in particular Article 43(1) thereof dealing with the Economic and Social Rights and in particular Social Security.

Having carefully perused the uncontested petition I am satisfied that the rights of the petitioner have been violated. The Respondents have no reason whatsoever to refuse to pay the petitioner his terminal dues He worked as a civil servant for about 30 years or thereabouts and the fact that he was partially paid was a clear admission by the respondents. The several back and forth correspondences attached to the petition are clear testimony that the respondents are alive to the issues herein. In any event the judgment of the court is alive e and well. The same was never overturned in the usual appeal process or compromised in any way. Needless to say a pensioner has every right of enjoying his retirement fully having served his country faithfully.

I shall therefore allow the petition dated 10.9.14 in terms of prayer (3) therefore. The petitioner shall have costs of this petition.

Dated, signed and delivered this 16th day of November 2015

H. K. CHEMITEI

J U D G E