



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 3939 OF 1994

CHRISTOPHER OWITI AGWATA PLAINTIFF

VERSUS

KENYA POSTS & TELECOMMUNICATION

CO-OPERATION DEFENDANT

R U L I N G

This application by way of chamber summons seeks order to review the judgement of this court delivered on 27.7.2000 to include house allowance for 11 months at Kshs.1,600/= the duration the plaintiff was suspended and also for 3 months notice period which was erroneously omitted. The application is not opposed. Allowed. This will work out as follows:- $14 \times 1600 = 22,600/=$. The Judgement is amended to read an award of Kshs.82,478.20.

Order accordingly.

J.L.A OSIEMO

JUDGE

9.10.2000

CHRISTOPHER OWITI AGWATA PLAINTIFF

VERSUS

KENYA POSTS & TELECOMMUNICATION)

C-OPERATION DEFENDANT

J U D G E M E N T

The Plaintiff was employed by the defendant on the 23rd September, 1981 as technical assistant G. II. He was confirmed on his employment and was placed on permanent and pensionable terms on 21st June, 1988. On 21st May, 1993 he was arrested along with others by the police on suspicious that they were involved in diversion of telephone lines for making fraudulent international calls. But they were not charged with any offence in a court of law for lack of sufficient evidence.

The defendant carried out material investigations and recommendations were made in respect of each of

those employees who had been arrested. It was recommended that some be dismissed others be demoted but it was recommended that the Plaintiff be reinstated with a warning.

But despite that recommendation. On 28th March, 1994, the defendant served the Plaintiff with a dismissal letter. The reason given for the dismissal was "**doubted integrity**".

This according to the terms of the contract of employment would not warrant summary dismissal and the Plaintiff was entitled to a 3 months notice or one month's salary lieu of notice. The dismissal was therefore unlawful and I so declare. The next pray sought by the Plaintiff is general damages for wrongful dismissal. This the Plaintiff is not entitled to. All what the Plaintiff was entitled to is a 3 months notice as stipulated in the contract of employment.

I awarded the Plaintiff 3 months salary which was a requirement for terminating his services.

This is to be calculated at the scale at the time his services were terminated. This would work out as follows **4,362.80 x 3 =13,088.40**. The Plaintiff is also entitled to his salary for the whole duration he was suspended to the time he received termination letter, which was 11 months.

This would work out as follows:

$$4,362.80 \times 11 = 47,989.80$$

The Plaintiff was also entitled to 11 months house allowance. This would work out as follows

$$11 \times 1,600 = 16,600/=$$

He was also entitled to house allowance for the period of notice. This would work out as follows:

$$3 \times 1600 = 4800$$

Accordingly there shall be Judgment for the Plaintiff and against the defendant for Shs.**82,478.20** with costs and interest.

Dated and delivered at Nairobi this 11th day of October, 2000

J.L.A OSIMEO

JUDGE