



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 126 OF 2015

JAPHETH MUITA GITHAIGA.....CLAIMANT

VERSUS

PRESBYTERIAN UNIVERSITY OF EAST

AFRICA.....RESPONDENT

JUDGMENT

1. Japheth Muita Githaiga (Claimant) served the Presbyterian University of East Africa (Respondent) from 8 November 2010 to 30 September 2013 when he resigned. The Claimant was holding the position of Registrar at the time of separation.
2. Upon the resignation, the Respondent wrote to the Claimant on 22 September 2014 to advise him that his gratuity was Kshs 1,285,200/-.
3. Despite computing the gratuity, the Respondent did not pay the Claimant the gratuity save for Kshs 200,000/-, forcing the Claimant to institute these legal proceedings for the balances of the gratuity.
4. In its *Response*, the Respondent denied the authenticity of the computations and contended that the gratuity due to the Claimant was lower than the Kshs 1,285,200/- (but did not disclose such amount).
5. When the Cause was called out for hearing on 8 October 2019, the Respondent indicated that the parties were negotiating, nevertheless, the Court directed the hearing to proceed after the cause list call over.
6. For unexplained reasons, the Respondent and its advocate were not in Court at 1150am when the Cause was reached.
7. The Claimant testified and filed submissions on 24 October 2019. The Court has considered the pleadings, evidence on record and the submissions.
8. The Claimant's testimony was not interrogated at all.
9. The Court has no reason at all to doubt the authenticity of the letter dated 22 September 2014 signed by the Respondent's then Vice-Chancellor setting out the gratuity due to the Claimant and/or the Claimant's testimony that he was only paid Kshs 200,000/- of the gratuity.

Conclusion and Orders

10. The Court finds and holds that the Respondent owes the Claimant Kshs 1,085,200/- on account of gratuity.
11. The Court enters judgment for the Claimant in the sum of Kshs 1,085,200/- together with interest at court rates from 3 February 2015.
12. The Claimant to have costs.

Delivered, dated and signed in Nairobi on this 1st day of November 2019.

Radido Stephen

Judge

Appearances

For Claimant Ms. Ingati instructed by Eshiwani Ashubwe & Co. Advocates

For Respondent P.M. Kamaara & Associates Advocates (disappeared from Court before the hearing)

Court Assistant Lindsey