



REPUBLIC OF KENYA



**Board of Management Yinthungu Mixed Day & Boarding Secondary  
School v Mutie (Employment and Labour Relations Appeal E008 of 2024)  
[2025] KEELRC 2488 (KLR) (19 September 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2488 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS  
EMPLOYMENT AND LABOUR RELATIONS APPEAL E008 OF 2024**

**JW KELL, J  
SEPTEMBER 19, 2025**

**BETWEEN**

**THE BOARD OF MANAGEMENT YINTHUNGU MIXED DAY & BOARDING  
SECONDARY SCHOOL ..... APPELLANT**

**AND**

**JENNIFER KALUNDE MUTIE ..... RESPONDENT**

*(Being an appeal from the Judgment and decree delivered on 14th February  
2024 by Hon. P. N. Gesora Chief Magistrate in the Chief Magistrate's  
Court at Makueni Employment and Labour Relations Cause No. 6 of 2022)*

**JUDGMENT**

1. The appellant, being dissatisfied with the Judgment and decree delivered on 14th February 2024 by Hon. P. N. Gesora Chief Magistrate in the Chief Magistrate's Court at Makueni Employment and Labour Relations Cause No. 6 of 2022 filed a memorandum of Appeal dated 7<sup>th</sup> March 2024 seeking for the following relief-
  - a) This appeal be allowed.
  - b) The Judgment and decree delivered on 14th February 2024 by Hon. P. N. Gesora Chief Magistrate in the Chief Magistrate's Court at Makueni Employment and Labour Relations Cause No. 6 of 2022 be set aside and instead be substituted with a decree dismissing the claim.
  - c) The costs of this appeal be awarded to the Appellant.



## **Grounds of the Appeal**

2. That the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to one months' pay in lieu of notice of Kshs. 8,000.00 despite the fact that the Respondent did not prove the same.
3. That the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to unpaid salary for August 2018 of Kshs. 8,000.00 despite the fact that the Respondent did not prove the same.
4. That the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to service pay despite the fact that the Respondent did not demonstrate to the Court that she had a superior social security scheme other than NSSF.
5. That the Learned Magistrate erred in law and in fact in failing to deduct NSSF contributions paid by the Appellant from the benefit conferred by a superior social security scheme (CBA) if at all any existed.
6. That the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to unpaid leave days despite the fact that the Respondent did not prove the same.
7. That the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to compensation for unfair termination despite the evidence on record.
8. That the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to underpayment despite the fact that the terms and conditions of service were initially agreed between the parties.
9. That the Learned Magistrate erred in law and in fact in applying Kshs. 8,000.00 the basic salary in calculation of the service pay whereas the same was the gross salary thereby arriving at an erroneous figure.
10. That the Learned Magistrate erred in law and in fact in awarding costs to the Respondent.
11. That consequently the Learned Magistrate's decision occasioned a miscarriage of justice.

## **Background to the Appeal**

12. The Respondent filed a Statement of Claim dated 26th April 2022. The Respondent claimed to have been employed by the Appellant as an Accounts Clerk on or about 1st January 2014 at a gross salary of Kshs. 8,000/= . From 20th July 2018 to 24th August 2018, the Respondent was suspended from work and later on terminated on 3rd September 2018. The Respondent avers that her employment was terminated unfairly without any notice, no disciplinary hearing and that she was not paid her terminal dues.
13. The Honourable Magistrate at the trial court entered judgment on the 14<sup>th</sup> February 2024 for the respondent against the appellant as follows:-
  - a) That the termination of the Respondent was unlawful.
  - b) Payment of all terminal dues owed to the Claimant as set out in Paragraph 14 of the Statement of the Claim totaling to Kshs. 544,047.00.
  - c) Costs of the suit.
  - d) Certificate of service and a Letter of Recommendation.



## Determination

14. The appeal was canvassed by way of written submissions. Both parties filed written submissions.
15. This being a first appellate court, it was held in *Selle v Associated Motor Boat Co.* [1968] EA 123 that:-

“The appellate court is not bound necessarily to accept the findings of fact by the court below. An appeal to the Court of Appeal from a trial by the High Court is by way of a retrial and the principles upon which the Court of Appeal acts are that the court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in this respect. In particular the court is not bound necessarily to follow the trial Judge’s findings of fact if it appears either that he has clearly failed on some point to take account of particular circumstances or probabilities materially to estimate the evidence or if the impression based on the demeanor of a witness is inconsistent with the evidence in the case generally.”
16. Further in on principles for appeal decisions in *Mbogo V Shah* [1968] EA Page 93 *De Lestang V.P (As He Then Was) Observed At Page 94:*

“I think it is well settled that this court will not interfere with the exercise of its discretion by an inferior court unless it is satisfied that its decision is clearly wrong, because it has misdirected itself or because it has acted on matters on which it should not have acted or because it has failed to take into consideration matters which it should have taken into consideration and in doing so arrived at a wrong conclusion.”

## Issues for determination

17. The appellant addressed the following issues in its submissions in the appeal-
  - a) Whether the Claimant's termination was unlawful and whether she is entitled to compensation for unfair termination.
  - b) Whether the Claimant is entitled to any reliefs as sought in the statement of claim.
  - c) Whether the Claimant is entitled to costs of the suit and interest.
18. The respondent addressed the following issues in her submissions in the appeal-
  - a. Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to unpaid salary
  - b. Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to one months' pay in lieu of notice.
  - c. Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to severance pay
  - d. Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to unpaid leave days.
  - e. Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to compensation for unfair termination.



- f. Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to underpayment.
19. The court taking into consideration the issues addressed by the parties and the grounds of appeal was of the considered opinion that the issues placed before it for consideration in the appeal were –
- a) Whether the Claimant's termination was lawful and was entitled to compensation
  - b) Whether the Claimant is entitled to the reliefs awarded
    - a. Whether the Claimant's termination was lawful and was entitled to compensation

### **Appellant's submissions**

20. The appellant submitted that the termination of the respondent from employment was fair based on the claimant's conduct, capacity or compatibility. In the case of *Galgalo Jarso Jillo v Agricultural Finance Corporation* [2021] Eklr, the Court while commenting on section 43 of the [Employment Act](#) stated that. "an employer will be deemed to have a substantive justification for terminating a contract of service if he/she genuinely believed that the matters that informed the decision to terminate existed at the time the decision was taken. In other words, it is not a requirement of the law that the substantive ground informing the decision to terminate must in fact be in existence. All that is required is for the employer to have a reasonable basis for genuinely believing that the ground exist ...has occurred shall rest on the employee, while the burden of justifying the grounds for the termination of employment or wrongful dismissal shall rest on the employer."
21. The appellant further submitted that in the case of *Protus Wanjala Mutike v Anglo African Properties t/a Jembo Mutare Lodge Laikipia* [2021] eKLR: the Claimant's case was dismissed for failure to prove that unfair termination occurred. That, in the present case, the Appellant had a valid reason to initiate the disciplinary process of the Respondent. The reasons were based on the Respondent's conduct, capacity and compatibility. The Appellant-produced exhibits 1-6 (pages 37-41 of the Record of Appeal) in support of the Appellant's case.
- a) On 29th May 2017, the Claimant received a letter for Insubordination of the office of the Principal.
  - b) On 1 June 2017, having failed to surrender documents in support of the position of an accounts clerk, the Claimant was redeployed as a Lab assistant/secretary.
  - c) On 20 July 2018, the Claimant was suspended from duty for one week and was-to-appear before the Board on 24th August 2018.
  - d) On 24 August 2018, the claimant appeared before the Board and was given a chance to defend herself.
22. The appellant contended that vide a letter dated 3 September 2018 (page 40 of the Record of Appeal), the Claimant's services were terminated on account of -
- a) Failing to perform duties leading to the claimant being summoned before the Board on 19 April 2013.
  - b) Failing to work as a lab-assistant.
  - c) Failure to meet the qualifications set by the employer and her continued act of disrespect to the Principal.



23. The appellant further relied on the case of *National Bank of Kenya v Samuel Nguru Mutonya* [2019] eKLR; the Court of Appeal (referring to its previous decisions) said that in determining whether a decision by the employer to terminate is just and equitable. "the adjudicating authority is enjoined to scrutinize the procedure adopted by the employer in reaching the decision to dismiss the employee." It is therefore important to consider whether the Respondent met this second requirement. On the 19th April 2017 (page 54 of the Record of Appeal), the whole Board sat to deliberate on the conduct and qualifications of the Claimant. The Board noted that the Claimant was absenting herself severally from work. It was also noted that she had not furnished the school with the relevant testimonials. The BOM mandated the principal to advertise the positions of the watchman, grounds man and accounts clerk. Further on 12 May 2017 (page 50 of the Record of Appeal), the Claimant appeared before the Board/ Interviewing panel and when asked why she failed to apply for the position advertised, her response was that she did not have certificates. In this regard, therefore, the appellant urged the Court to dismiss the Respondent's claim for unlawful termination, compensation for unlawful termination and one month's pay in lieu of notice.

### **The Respondent's submissions**

24. Conversely, the Respondent submitted that she provided evidence before the trial court that she had been unfairly and unlawfully terminated. That evidence was not controverted. In fact, the Appellant admitted that there was no disciplinary meeting in relation to any notice to show cause as to why the respondent would not be terminated. There was no sufficient reason for termination neither was there procedural fairness. Section 43 (1) of the *Employment Act*, 2007 provides that: - "In any claim arising out of termination of a contract, the employer shall be required to prove the reason or reasons for the termination, and where the employer fails to do so, the termination shall be deemed to have been unfair within the meaning of section 45." The case of *Kenfreight (EA) Limited v Nguti* (Petition 37 of 2018) [2019] KESC 79 (KLR) (23 July 2019) (Judgment) stated that: "When giving an award under section 49 of the *Employment Act*, a court of law is expected to exercise judicial discretion on what is fair in the circumstances. The Black's Law Dictionary 9th edition at page 534 defines judicial discretion as follows: "the exercise of judgment by a judge or court based on what is fair under the circumstances and guided by the rules and principles of law; a court's power to act or not to act when a litigant is not entitled to demand the act as a matter of right"
25. The Respondent further relied on the decision in *British Leyland UK Ltd v Swift* (1981) I.R.L.R 91 where Lord Denning described the test of reasonableness in the following words: - "The correct test is; was it reasonable for the employers to dismiss him? If no reasonable employer would have dismissed him, the dismissal was unfair, but if a reasonable employer might reasonably have dismissed him, the dismissal was fair. It must be remembered in all these cases that there is a band of reasonableness, within which an employer might reasonably take one view; another quite reasonably takes a different view. One would quite reasonably dismiss the man. The other quite reasonably keeps him on. Both views may be quite reasonable. If it was quite reasonable to dismiss him, then the dismissal must be upheld as fair even though some other employers may not have dismissed him." The Respondent called for dismissal of the appeal.

### **Decision**

26. The threshold for determination of fairness of termination of employment is according to the provisions of section 45 (2) of the *Employment Act* to wit:- '45(2) A termination of employment by an employer is unfair if the employer fails to prove—
- (a) that the reason for the termination is valid



- (b) that the reason for the termination is a fair reason—
  - (i) related to the employees conduct, capacity or compatibility; or
  - (ii) based on the operational requirements of the employer; and
- (c) that the employment was terminated in accordance with fair procedure.”  
To pass the fairness test the termination must pass the substantive (in terms of reasons) fairness and the procedural fairness under section 41 of the [Employment Act](#) (Walter Ogal Anuro v Teachers Service Commission [2013] eKLR).

27. Section 43 provides for proof of reasons for termination as follows:- ‘43. Proof of reason for termination-
- (1) In any claim arising out of termination of a contract, the employer shall be required to prove the reason or reasons for the termination, and where the employer fails to do so, the termination shall be deemed to have been unfair within the meaning of section 45.
  - (2) The reason or reasons for termination of a contract are the matters that the employer at the time of termination of the contract genuinely believed to exist, and which caused the employer to terminate the services of the employee.”
28. The claim was that the respondent worked for four and a half years for the appellant without complaint, having been employed as an accounts clerk on 1st January 2014. In May 2017, the appellant advertised the position of accounts clerk and proceeded to recruit another person without the respondent’s knowledge. The appellant demoted her to the position of lab assistant cum secretary at a lower salary. The respondent was suspended from duty on 20th July 2018 until 24th August 2018, when she appeared before the board of governors, and her service was terminated without a reason on 3rd September 2018. She was not issued with a notice to show cause. (memorandum of claim dated 8th April 2022). In support of the claim, the respondent/claimant produced before the trial court documents listed on 8th April 2022, which included the redeployment letter dated 1st June 2017, the insubordination letter dated 29th May 2017, the suspension from duty letter dated 20th July 2018, and the letter of termination of services dated 3rd September 2018.
29. The appellant entered appearance before the trial court vide the office of the Attorney General and filed a memorandum of response dated 26<sup>th</sup> July 2022. The defence was to the effect that the reason for the recruitment of the position of accounts clerk was based on the fact that the claimant had no academic qualifications, according to the human resources records maintained by the respondent. The respondent had been asked to apply for the position and bring her academic papers, but she declined, leading to the demotion. She was accused of laxity and insubordination, leading to the termination of the position of lab assistant. The appellant relied on a witness statement of Janet Muange Nyoike dated 16<sup>th</sup> June 2023 and documents under list dated 22<sup>nd</sup> May 2023 a further list dated 14<sup>th</sup> August 2023.
30. The respondent filed a reply to the response and denied the allegations of laxity and insubordination.
31. During cross-examination the Respondent told the trial court she worked diligently. That there was a problem when she proceeded on maternity. That she did not type the 2<sup>nd</sup> term exams and told the BOM. That between 2015-2017 she worked as accounts clerk. The position was advertised and she did not apply. She was suspended on 20<sup>th</sup> July 2018 and there was letter stating the reasons. That she appeared before the board and explained herself.



32. The appellant's witness was Janet Nyoike, who adopted her statement. On cross-examination, she told the trial court the Respondent was employed as a secretary and acted as accounts clerk. On re-examination the witness told the court they advertised the position of accounts clerk as the respondent was not qualified.
33. The trial court held that the appellant made serious allegations as regards the reason for termination, but there were no disciplinary proceedings initiated, and the respondent was informed by way of a letter of the decision of the board. That she was demoted and eventually hounded out of the office.
34. The Court established that the letter dated 29<sup>th</sup> May 2017 alluded to the fact that following advertisement of position of accounts clerk the respondent had failed to submit documents to the interviewing panel which amounted to insubordination. The letter dated 1<sup>st</sup> June 2017 stated that following failure to submit documents to support her position as accounts clerk in the school as directed in the BOM minutes of 16<sup>th</sup> May 2016, the BOM had decided to terminate the Respondent's services as accounts clerk forthwith. The letter further stated she was deployed as lab assistant/secretary pending confirmation by the full BOM.
35. The court, on re-evaluation of the evidence before the trial court, finds that the trial court correctly held there was no disciplinary proceedings held on the alleged insubordination and before the termination of the employment of the Respondent as accounts clerk and the subsequent deployment/demotion. The claimant was already in employment as an accounts clerk; hence, the act of advertising her while she was still in service amounted to constructive dismissal. The issue of academic papers only came up at interviews, from documents before the lower court. The court finds the reason for the termination as accounts clerk was not justified and finds no basis to fault the trial court.
36. The termination of the position of accounts clerk was without a fair procedural process. The subsequent deployment, which was a demotion, was unfair labour practice as it was based on unjustified termination of the position of accounts clerk. The court finds no basis to fault the trial court's position that the reason for the termination was unfounded and the procedural process was not compliant with the provisions of section 41 of the *Employment Act*. '41. Notification and hearing before termination on grounds of misconduct
- (1) Subject to section 42(1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation.
  - (2) Notwithstanding any other provision of this Part, an employer shall, before terminating the employment of an employee or summarily dismissing an employee under section 44(3) or (4) hear and consider any representations which the employee may on the grounds of misconduct or poor performance, and the person, if any, chosen by the employee within subsection (1) make." There was no evidence of compliance with the foregoing process before termination of employment of the respondent as accounts clerk or even in the demoted position. The letter of 29<sup>th</sup> May 2017 was a show cause of 14 days, but termination was on 1<sup>st</sup> June 2017, less than 5 days later. The Board appeared to take arbitrary position against the respondent. I find no basis to fault the trial court on its finding that the termination was unfair.



## b) Whether the Claimant is entitled to the reliefs awarded

37. The trial court granted all relieves sought stating the appellant did not think through its acts. The trial court on finding unfair termination is obliged to factor in the provisions of section 49(4) of the Employment Act to wit- ‘49(4) A labour officer shall, in deciding whether to recommend the remedies specified in subsections (1) and (3), take into account any or all of the following—
- (a) the wishes of the employee;
  - (b) the circumstances in which the termination took place, including the extent, if any, to which the employee caused or contributed to the termination; and
  - (c) the practicability of recommending reinstatement or re-engagement;
  - (d) the common law principle that there should be no order for specific performance in a contract for service except in very exceptional circumstances;
  - (e) the employee's length of service with the employer;
  - (f) the reasonable expectation of the employee as to the length of time for which his employment with that employer might have continued but for the termination;
  - (g) the opportunities available to the employee for securing comparable or suitable employment with another employer;
  - (h) the value of any severance payable by law;
  - (i) the right to press claims or any unpaid wages, expenses or other claims owing to the employee;
  - (j) any expenses reasonable incurred by the employee as a consequence of the termination;
  - (k) any conduct of the employee which to any extent caused or contributed to the termination;
  - (l) any failure by the employee to reasonably mitigate the losses attributable to the unjustified termination; and
  - (m) any compensation, including ex-gratia payment, in respect of termination of employment paid by the employer and received by the employee.”
38. The trial court did not apply the foregoing criteria or demonstrate the same in the judgment. The court awarded the maximum award without disclosure of the applied parameters. The court faults the trial court on that basis. The claimant had worked slightly above 4 years as at the termination. Prior to the decision to demote her she had no disciplinary issues. She admitted having had issues like failing to type exams which was after the demotion, hence not an issue relevant to the termination. The court finds that the maximum award was not deserved taking into account the period of service. The court finds award compensation equivalent to 10 months' salary as compensation for unfair termination, taking into account the period of service, the non-contribution to the termination, and the bare minimum social security afforded to the Respondent. Thus Kshs. 8000x10 Kshs. 80000. The court tempers with the decision of the trial court to substitute the award to Kshs. 80000.



39. The unpaid salary is upheld as the respondent discharged her burden of prove that she was not paid. It was now the burden of the employer to provide evidence as the custodian of employment records that it had paid the Respondent's salary for August 2017 as claimed. There was no such evidence and the award of Kshs. 8000 is upheld.
40. The court, having held that the termination was unfair, the notice pay of 1 month's salary under section 36 of the *Employment Act* is upheld at Kshs. 8000.
41. On severance pay the ground of appeal was - Whether the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to severance pay. Severance pay is payable under section 40 of the *Employment Act* where the termination is on account of redundancy. This was not the case here. There was evidence before the lower court that the Respondent was under NSSF. The respondent would not be entitled to service pay under section 35 (5) and (6) of the *Employment Act* to wit:- '35(5) An employee whose contract of service has been terminated under subsection (1)(c) shall be entitled to service pay for every year worked, the terms of which shall be fixed.
- (6) This section shall not apply where an employee is a member of—
- (a) a registered pension or provident fund scheme under the *Retirement Benefits Act*;
  - (b) a gratuity or service pay scheme established under a collective agreement;
  - (c) any other scheme established and operated by an employer whose terms are more favourable than those of the service pay scheme established under this section; and
  - (d) the National Social Security Fund.” The award of severance pay is set aside and disallowed.
42. Leave:- The Respondent stated she never went on leave. She went on maternity leave. The employer was a school and pleaded that the Respondent took leave during school holidays. The appellant submitted that the Respondent is not entitled to leave pay as the same would be unjust enrichment considering that the Respondent proceeded for leave during the school holidays. In the case of Patrick Nyongesa Makokha v Teachers Service Commission & Eldoret Polytechnic [2019] eKLR; the Court observed as follows-”The claimant has also claimed for pay for annual leave. It is common cause that the respondents covered under the provisions of Article 237 of *the constitution*, 2010 is concerned with public academic institutions and which have a schedule factoring long holidays and time off to its employees. To claim for annual leave beyond the scheduled long vacations, rest days would be an unjust enrichment.” Further in the case of Jacob Ronoh Lagatt versus Board of Management Kagaki School (2019) Eklr; the Court observed thus-

“Such secured and noting academic institutions take such time off the school calendar for rest for students and teachers, the claim for work on weekends, public holidays, rest day and annual leave does not suffice.” Stare decisis is a Latin legal term meaning "to stand by things decided." It's the legal principle that courts should follow precedent, or the rulings and legal principles established in previous court decisions, when deciding new cases with similar facts and legal issues. This doctrine is a cornerstone of common law legal systems, because it promotes stability, predictability, and fairness in the law. In the instant case it was established the Respondent went on maternity leave. There is no basis for the court to find the employer breached statutory provision on leave and the only logical conclusion was that being a school the respondent went on leave during the school holidays as held in the above



cited decisions which I uphold. The court tempers with the decision of the trial court for the foregoing reasons and sets aside the award on annual leave in its entirety.

43. Underpayment – The ground of appeal was -THAT the Learned Magistrate erred in law and in fact in finding that the Respondent was entitled to underpayment despite the fact that the terms and conditions of service were initially agreed between the parties. The respondent on this issue submitted as follows:- Under the Regulation of Wages (General) (Amendment) Order, 2015, a Clerk minimum wage should be Kshs. 13,152. 50/= which kept changing until the year of his termination being 2017. The Respondent provided a well-tabulated schedule of underpayment as seen in the record of appeal-memorandum of claim, proceedings and judgment and urged the court to be guided and will do so. The Appellant told the trial court that the Respondent's pay was as a result of an agreement of the parties as of the date of employment. The respondent submitted that it is established jurisprudence that it is the responsibility of the Respondent to ensure that any wages paid to an employee meet the threshold of minimum wage regulations of that specific time. The Respondent was employed at a monthly salary of Kshs. 8,000/= which she submitted was below the minimum wage.
44. The trial court awarded underpayment of salary applying the minimum wages orders of 2016/2017 and 2018/2019 for 56 months. It is trite that the employer cannot agree to pay less than regulated wages under section 26 of the *Employment Act* to wit- '(2) Where the terms and conditions of a contract of service are regulated by any regulations, as agreed in any collective agreement or contract between the parties or enacted by any other written law, decreed by any judgment, award or order of the Employment and Labour Relations Court are more favourable to an employee than the terms provided in this Part and Part VI, then such favourable terms and conditions of service shall apply.' I perused the wages order and did not find the position of accounts clerk. The minimum wage order is specific to positions. The respondent did not point to the court the position of accounts clerk in the Minimum wages order. The court cannot condemn an employer for an unregulated position. I set aside the award of underpayment for lack of support under the regulations, consequently.
45. In the upshot, the appeal was partially successful. The court sets aside the Judgment and decree delivered on 14<sup>th</sup> February 2024 by Hon. P. N. Gesora Chief Magistrate in the Chief Magistrate's Court at Makueni Employment and Labour Relations Cause No. 6 of 2022 and the same is substituted as follows:-
- Judgment is entered for the claimant against the respondent as follows:-
- a. The termination is held as unlawful and unfair
  - b. Salary for August 2018 Kshs. 8000
  - c. Notice pay Kshs. 8000
  - d. Compensation for unfair termination equivalent of 10 months Kshs. 80000
- Total sum awarded Kshs. 96000 (b,c, and d above) plus costs with interest at court rate from date of judgment.
46. On costs- the appeal was partially successful. Each party to bear own costs in the appeal.
47. Stay of 30 days is granted.
48. It is so ordered.

**DATED, SIGNED, AND DELIVERED IN OPEN COURT AT MACHAKOS THIS 19<sup>TH</sup> DAY OF SEPTEMBER, 2025.**



**J.W. KELI,**

**JUDGE.**

In the presence of:

Court Assistant: Otieno

Appellant – Absent

Respondent: Ms Kyalo

