



**Pktai & another v Cloudfactory Kenya Limited & another (Petition  
E006 of 2023) [2025] KEELRC 2574 (KLR) (22 September 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2574 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KAKAMEGA  
PETITION E006 OF 2023  
DN NDERITU, J  
SEPTEMBER 22, 2025**

**BETWEEN**

**MILLER CHEMONGES PKTAI ..... 1<sup>ST</sup> CLAIMANT**

**VINCENT OTIENO OOKO ..... 2<sup>ND</sup> CLAIMANT**

**AND**

**CLOUDFACTORY KENYA LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**MILDRED MUHAMBE ADANGA ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

**I. Introduction**

1. The two claimants commenced this cause by way of a “petition of claim” dated 1st November 2023 through Christian Andole M. Advocates. The claim is accompanied with a verifying affidavit sworn by the 1st claimant, a list of witnesses, a list of documents and a bundle of copies of the listed documents.
2. The respondent replied to the petition through Iseme, Kamau & Maema Advocates by way of a replying affidavit of 9th February 2024 and a further affidavit of 10th July 2024 both sworn by Peninah Kimani.
3. In a ruling dated and delivered on 30th May 2024 following an application by the respondent the claim by the 2nd claimant was struck out and the name of the 2<sup>nd</sup> respondent was also removed from the cause.
4. The 1st claimant (the claimant) is seeking for the following reliefs –
  - a. 12 months’ gross salary equivalent to Kenya shillings 465,213.81 x 12 = 5,582,565.72
  - b. Service pay equivalent to Kenya Shillings 465,213.81 x 5 = 2,326,069.05



- c. Severance pay for 4 years equivalent to Kenya shillings 232,606.905 x 4 = 930,427.62
  - d. Payment in lieu of 4 accrued leave days amounting to Kenya Shillings 62,028.508
  - e. One (1) months' salary in lieu of notice equivalent to Kenya Shillings 465,213.81
  - f. Contractual damages/compensation under the Separation and Exit Agreement calculated as follows: Kenya Shillings 465,213.81 x 54 months = 25,121,545.7/- only.
  - g. Anniversary Award pursuant to the Respondent's Anniversary Award Policy equivalent to USD \$ 4500 X Kenya Shillings 150/= equivalent to Kenya Shillings 675,000
  - h. Ex-gratia payment to be assessed by the Honourable Court
  - i. General damages for loss of reputation
  - j. Exemplary damages for mental anguish resulting from economic and time loss;
  - k. Costs of the suit;
  - l. Interest at court rate on all outstanding benefits from the date of filing suit to the date of payment of all outstanding benefits in full.
  - m. A letter from Mark and Trophy to be presented at CT Global Culture Awards.
  - n. Any other relief the Honourable Court deems fit.
5. The claim is denied in toto by the respondent through the two affidavits alluded to above alongside the annexures thereto.
  6. The matter came up for virtual hearing on 4th February 2025 when the claimant (CW1) partly testified and was stood down to 27th February 2025 when he concluded his testimony and closed his case.
  7. The defence was heard on 27th February 2025 when Peninah Kimani (RW1) testified and the defence closed its case.
  8. Counsel for both parties addressed the court by way of written submissions. Mr. Andole for the claimant filed submissions dated 20th March 2025 alongside copies of the cited authorities. Miss Athumani for the respondent filed submissions dated 5th May 2025 alongside copies of the authorities cited.

## **II. The Claimant's Case**

9. The claimant's case is expressed in the "petition of claim", the oral and documentary evidence he adduced in court, and the written submissions by his counsel.
10. In what is described as the petition of claim, the claimant avers that the respondent is a limited liability company incorporated in the United States of America with branches across the globe including in Kenya. The respondent is further described as a global leader in linking people with technology to provide a cloud workforce solution for machine learning and data processing working with Artificial intelligence (AI) projects with high data processing accuracy.
11. It is pleaded that on or about 4th June 2018 the respondent engaged the full-time services of the claimant as a project delivery associate in the project delivery team for delivery of data and artificial intelligence projects. It is pleaded that the employment relationship between the parties lasted until about 9th December 2022 when the claimant was unlawfully terminated.



12. It is pleaded that as at the time of termination the claimant was on a monthly salary of Kshs465,213.81.
13. It is the claimant's averment that he took his annual leave from 4th to resume on 21st, November 2022. He took a vacation to a remote part of Samburu County and while there he was informed by agents of the respondent that there was an on-going process to lay-off some workers and that the claimant needed to participate in the process online in case he wanted to re-apply for the position that he occupied.
14. It is the claimant's case that he was on leave enjoying a vacation in a remote location where he had no access to the internet and he informed the respondent as such and that he could thus not be able to participate in the intimated redundancy process. However, it is pleaded that the respondent went ahead with the redundancy and the claimant was served with an employment separation agreement with instruction to read and review the same and sign. The claimant signed off the separation agreement as requested by the respondent.
15. It is the claimant's case that the termination was unfair and unlawful. It is pleaded that the termination violated Sections 45, 46, & 47 of the Employment Act (the Act) and Articles 10, 24, 27, & 41 of the Constitution. It is further pleaded that since the termination was based on redundancy the respondent failed to comply with Section 40 of the Act.
16. In his testimony in court the claimant (CW1) adopted his statement dated 28th August 2024 and stated that he was in employ of the respondent from June 2018 to 9th December 2022. He stated that he was terminated on redundancy while on annual leave as pleaded and summarized above.
17. In cross-examination the claimant stated that while the respondent as an employer had a right to terminate him on redundancy the applicable lawful process and procedures were not followed and that is why he filed this matter in court. He stated that he was not served with any notice and he did not attend any meeting to discuss the redundancy as he was not invited to such meeting. He stated that either way he could not have participated in the redundancy process as he was lawfully and procedurally on annual leave when the respondent commenced and concluded the process.
18. The claimant admitted that he signed the exit agreement and was paid his terminal dues. He did not appeal the termination and he did not apply for vacancies that the respondent advertised thereafter. He reiterated that his monthly gross salary as at the time of termination was Kshs464,852.81.
19. It is on the foregoing basis that the claimant prays for judgment against the respondent as stated in the introductory part of this judgment. The submissions by his counsel shall be considered in a succeeding part of this judgment.

### **III. The Respondent's Case**

20. The respondent's case is contained in the two filed affidavits in response to the petition of claim, the oral and documentary evidence adduced through RW1, and the written submissions by its counsel.
21. In the replying affidavit it is stated that the dispute between the parties is purely an employment claim and not a constitutional petition as implied by the claimant. It is stated that other than citing various constitutional provisions the claimant has not demonstrated how his rights under the various provisions were either threatened, violated, and or breached.
22. It is deposed that the claimant was engaged by the respondent as a project assistant on 4th June 2018 and confirmed on 21st February 2019 upon completion of the probationary period. It is stated that as at the time that the claimant was terminated on redundancy on 9th December 2022 he had risen to the position of delivery associate.



23. It is further deposed that on 9th November 2022 the respondent issued a notice of redundancy to all its employees through their respective email addresses. It is further deposed that all the affected employees including those who were on leave were summoned to participate in the redundancy process. It is deposed that the claimant objected to the process and opted not to participate in the same. It is further deposed that the claimant was served with a “provisional notice of redundancy” dated 9th November 2022. It is stated that the labour office, Nairobi, was notified of the intended redundancy on even date.
24. It is deposed that the claimant and all other affected employees were invited for further discussions to a meeting held on 10th November 2022 but the claimant failed and or refused to attend.
25. It is deposed that the claimant was informed and invited at all the steps in the redundancy process but he deliberately opted not to take part. He expressed interest in the vacancies that were available after the redundancy process but he did not qualify for rehiring and was thus issued with another “provisional notice of redundancy” on 18th November 2022. The claimant was informed of his right to appeal the redundancy but he did not file such appeal and hence his termination on redundancy took effect from 9th December 2022.
26. It is deposed that the claimant was issued with a one month’s notice on 8th December 2022 and he signed exit agreement on 20th December 2022 wherein he acknowledged receipt and payment of all his terminal dues. He was thereafter issued with a certificate of service dated 9th December 2022.
27. It is deposed that the claimant’s monthly gross salary as at the time of termination was Kshs100,004/= not Kshs465,213.81 as claimed.
28. In the further affidavit the respondent attached a power point presentation explaining the selection process discussed in the meetings held on 9th and 10th November 2022 and the redundancy guidelines applied in the selection process. The deponent annexed the respondent’s employee handbook and the claimant’s letter of termination.
29. In her testimony in court RW1 relied on the contents of the two filed affidavits above and produced the annexed documents as exhibits. As at the time of her testimony RW1 had left employment of the respondent where she had worked as head of talent.
30. She stated that the redundancy process through which the claimant was terminated was executed in accordance with the law. She stated that the process was objective based on the needs and for efficient delivery of services by the respondent. She stated that the claimant though on annual leave during the process was fully engaged as per the emails and other documents attached to the affidavits. She stated that the claimant did not express any difficulties in accessing emails or receiving phone calls during the entire process and upon conclusion of the process he was paid all his terminal dues. The claimant freely and voluntarily signed exit agreement.
31. In cross-examination RW1 stated that the notices of redundancy were served upon the labour office at Nyayo House in Nairobi. She stated that she had voluntarily resigned from the employment of the respondent on 1st August 2024.
32. She stated that the claimant was on annual leave when the redundancy process was carried out. She stated that the claimant had a good disciplinary record. She stated that the vacancy left by the claimant was advertised after one year in 2023.
33. She stated that the claimant was paid his terminal dues as per the pay-slip for December 2022 and issued with a certificate of service dated 9th December 2022.



34. It is on the basis the foregoing evidence and circumstances that the respondent prays that the claimant's cause be dismissed with costs. The submissions by the respondent's counsel shall be considered in the succeeding part of this judgment alongside those by counsel for the claimant.

#### **IV. Submissions**

35. On the one hand, the claimant's counsel submitted that the claimant was in the employ of the respondent from 4th June 2018 to 9th December 2022, that the claimant was terminated on redundancy while on his annual leave, and that the claimant was not issued with a certificate of service, and that the position he vacated was advertised soon after he was terminated.
36. It is further submitted that the respondent did not justify the termination by giving reasons under Section 43 of the Act. It is submitted that the respondent failed to demonstrate that the redundancy was related to claimant's performance or disciplinary record. It is further submitted that the respondent's actions and termination of the claimant cannot be justified under Section 45 of the Act.
37. It is submitted that RW1 had no authority to swear the replying and further affidavits and as such her testimony is improperly before the court. It is also argued that the documents annexed to the affidavits are not properly before the court as evidence as they fail to meet the threshold in Section 106B of the *Evidence Act* on admission of electronic records.
38. On the procedure adopted by the respondent in effecting the redundancy and the process thereof, it is submitted that Section 40 of the Act was not followed and adhered to. It is submitted that the period between the notice of intention to declare redundancy on 9th to the actual notice of redundancy on 18th November, 2022 was less than the one month provided for in the law. Counsel cited *Moni Wekesa V Mount Kenya University (2024) KEELRC 538 KLR* in support of this point.
39. It is further submitted that instead of the respondent issuing and serving a written notice to the claimant it purported to inform him of the intended redundancy over the phone contrary to the law cited above. It is further submitted that the procedure adopted by the respondent was substantively and procedurally wrong, unfair, and unlawful and in contravention of Section 40 of the Act. Counsel cited *Kenya Airways Limited V Aviation & Allied Workers Union Kenya & 3 Others (2014) eKLR* in elaborating the steps that an employer must take and follow in effecting redundancy.
40. It is on the basis of the foregoing that the court is urged to allow the entire claim as pleaded.
41. On the other hand, counsel for the respondent submitted that the respondent followed and adhered to the law in executing and effecting the redundancy in which the claimant was terminated alongside others. It is submitted that the redundancy was caused by declining revenue and change of technology. It is further submitted that the respondent issued the requisite notices to the claimant and to the labour office and held consultations but the claimant opted not to participate in the process though duly notified.
42. It is further submitted that upon taking the decision to terminate him the claimant was duly notified and paid his terminal/exit dues upon execution of an agreement to that effect. It is submitted that the claimant was also issued with a certificate of service dated 9th December 2022.
43. Counsel for the respondent identified the following issues for determination –
- a. Whether there is valid petition before this honourable court;
  - b. Whether the termination of the claimant's employment on account of redundancy was fair;



- c. Whether the pleadings and documents filed by the respondent are valid; and
  - d. Whether the petitioner is entitled to the relief's sought.
44. On the first issue it is submitted that the petition as filed is incompetent for failure to comply with Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 (the Mutunga Rules). It is further submitted that the petition as filed is not supported with an affidavit but what was filed is a verifying affidavit and a list of documents and copies thereof. It is submitted that the purported petition by the claimant violates the Mutunga Rules and should be dismissed without much ado.
45. It is further submitted that the verifying affidavit purportedly in support of the petition was sworn by the 2nd claimant whose claim was struck out. The said affidavit cannot be in support of the claimant's claim as the said 2nd claimant had no authority to swear the same on his own behalf and that of the claimant and, in any event, there is no evidence whatsoever that the said deponent could positively depose to the facts and circumstances leading to the termination of the claimant. The court is urged to be guided by the holding of the Court of Appeal in *Research International East Africa Limited V Julius Arisi & 213 Others* (2007) eKLR to the effect that unless a deponent can positively swear in support of the correctness of each of the plaintiffs' case or claim, each party should swear an affidavit in support of his/her own case.
46. It is further submitted that contrary to the allegations by the claimant the pleadings raise no constitutional issues other than citing of various constitutional provisions in vain. It is submitted that constitutional threats, breaches, and or violations must be specifically pleaded and proved as held in *Manase Guyo & 260 Others V Kenya Forest Services* (2016) eKLR, and *Robert N. Gakuru & Others V Governor and Kiambu County & 3 Others* (2014) Eklr. Both decisions followed the ratio in *Anarita Karimi Njeru V Attorney General* (1979) KLR.
47. It is submitted that no threat, breach, and or violation of constitutional rights have been proved and the various citations of constitutional provisions and allegations of violation of the same are merely intended to mislead the court. The court is urged to apply the doctrine of constitutional avoidance and deal with the matter for what it is – an ordinary employment dispute. Counsel cited *Communications Commission of Kenya & 5 Others V Royal Media Services Limited & 5 Others* (2014) eKLR and *Sumayya Athmani Hassan V Paul Masinde Simidi & Another* (2019) eKLR among other decisions in support of that submission.
48. It is reiterated that the redundancy process and termination of the claimant was fair and lawful. It is submitted that the claimant was paid all his terminal dues as per the notice of termination following execution and signing of an exit/settlement agreement.
49. It is reiterated that the claimant was notified at all stages of the redundancy process and invited to meetings that he voluntarily and freely opted and or declined to attend. Further, he opted not to appeal the termination even after being informed of that right.
50. It is submitted that redundancy is a lawful way of terminating an employee so long as the same is executed in accordance with the law. Counsel cited several authorities on this point including *Solanki V Hard Tech Industrial Supplies Ltd* (2024) KEELRC 1883 (KLR). It is submitted that the claimant was only one amongst many other employees who were terminated at the same time and process and the allegation of discrimination is absolutely false.
51. On reliefs, it is submitted that having failed to prove his case the claimant is entitled to none of the remedies sought. It is submitted that by failing to appeal the termination and accepting and signing



the exit agreement and receiving his terminal dues, the claimant is estopped from instituting a claim on the same subject matter. Counsel cited *Trinity Prime Investment Limited V Lion of Kenya Insurance Company Limited* (2015) eKLR and *Thomas De La Rue V David Opondo Omutelema* (2013) eKLR in support of that argument.

52. It is further submitted that since the claimant was a member of the National Social Security Fund (NSSF) and the respondent remitted to the fund on behalf of the claimant, the claimant is not entitled to service pay or gratuity under Section 35 of the Act. It is further submitted that the contract between the parties did not provide for gratuity. Counsel cited *Elizabeth Wacheke & 62 Others V Airtel Networks (K) Ltd & Another* (2013) KEELRC 572 (KLR) & *Nelson Keshei V Narok County Government & Another* (2019) eKLR in support of the foregoing submission.
53. It is further submitted that the claim for compensation equivalent to 54 months' salary is wrong and without any factual or legal foundation. It is submitted that the claim for an anniversary award is untenable as what the claimant is seeking is only payable to those employees who served with the respondent for at least 15 years. The claimant only did four years and was admittedly paid a reward on his third anniversary.
54. On claim for damages for loss of reputation, it is submitted that this claim is based on the tort of defamation and the claimant ought to have filed a claim based on that specific tort. It is submitted that the claimant failed to plead and prove defamation to the required standard. Counsel cited *Mark Agoya V Department for International Development (DFID)* (2020) KEELRC 1012 (KLR) in support of that argument.
55. Likewise, it is submitted that the claimant did not prove a case for award of exemplary damages. The court is urged to be guided by the Court of Appeal in *Kenya Revenue Authority V Menginya Salim Murgani* (2010) wherein *Rookes V Barnard* (1964) was cited. It is submitted that the claimant did not prove a case for award of such damages.
56. It is on the foregoing submission that the court is urged to dismiss the entire cause with costs.

## **V. ISSUES FOR DETERMINATION**

57. The court has carefully and dutifully gone through the pleadings filed, the oral and documentary evidence tendered from both sides, and the written submissions by counsel for the parties. The following issues commend themselves to the court for determination-
  - a. Whether the claim is competent and properly before the court.
  - b. Whether the termination of the claimant on redundancy was unfair and unlawful.
  - c. Whether the claimant is estopped from filing this claim in court having voluntarily signed an exit/separation agreement upon payment of the agreed terminal dues.
  - d. Whether the claimant is entitled to the reliefs sought.
  - e. Who should bear the costs of the cause?

## **VI. The Claim**

58. The respondent's counsel has argued that the claim as filed is incompetent because although it was filed as a petition it did not comply with the Mutunga Rules. It is further argued that the petition is not supported with an affidavit as per the Rules and instead it was accompanied with a verifying affidavit as if the same was an ordinary cause.



59. Although counsel for the claimant did not specifically address the above issue the court notes that the claim was commenced by way of what is headed as “Petition of Claim”. However, the claim was admitted into the court process as Cause No. E006 of 2023. Further, the court notes that the claim is coached in a manner to suggest that the same is a constitutional claim as opposed to an ordinary cause. This explains why the respondent replied to the same by way of replying affidavits as discussed elsewhere above in this judgment.
60. Whether the claimant intended to file a constitutional petition or an ordinary claim, the cause is poorly pleaded and even misleading. The “petition of claim” is not a recognized method of commencing a cause before this court either in the Employment and *Labour Relations Act*, the Employment and Labour Relations Court (Procedure) Rules (the Rules), or even the *Civil Procedure Act* and the Rules thereunder. The bulky document contains stories and quotes that truly add no value. It is way off any recognized way of pleading a claim in any court of law in this Republic. It is a mongrel sui generis and the same ought to have been rejected at the registry for the claimant to be specific and particular on what it is that he wished to file.
61. Rule 7 of the ELRC (Procedure) Rules provides on the manner and style of filing disputes in this court commencing the same by way of a statement of claim. In case of a constitutional petition the Mutunga Rules apply.
62. However, avoiding technicalities, the court shall leave it at that but with a clear warning to all and sundry of the dire need of complying with the law in filing causes and pleadings. Rule 32 of the ELRC (Procedure) Rules warns of striking out pleadings for want of form. Moreover, Section 3 of the *Employment and Labour Relations Court Act* lays emphasis on the need for the court to avoid technicalities but rather deal with the real issues in contest between the parties. To that extent the claimant benefits from Article 159(2)(d) of *the Constitution* through the Oxygen Rule.
63. Likewise, the response by the respondent by way of replying affidavits in what is clearly headed as a cause was equally wrong and un-procedural.
64. However, there is a more fundamental issue that has been raised by the respondent. The “Petition of Claim” was accompanied with a verifying affidavit sworn by the 2nd claimant. The court agrees with the submission by the respondent’s counsel that each of the two claimants ought to have sworn own affidavit in support or in verifying their respective claims. From the very nature of the claim, there is no way the 2nd claimant would have verified to the facts and circumstances that led and culminated in the termination of the 1st claimant. To that extent the claim was improperly filed and unsupported and or verified in accordance with the law.
65. But even more fundamentally, the claim by the 2nd claimant was struck out and his name and that of the 2<sup>nd</sup> respondent removed from these proceedings. Further, the 1<sup>st</sup> claimant was not called as a witness by the 2nd claimant as to give authenticity to his dispositions and averments in the verifying affidavits.
66. The 1st claimant never sought to amend the claim after the name of the 2nd claimant and the 2<sup>nd</sup> respondent were struck out. The 1st claimant did not file an affidavit in support and or verification of his claim. This fundamental omission is not a mere technicality but goes to the core value of the claim. As it stands, the claim by the 1st claimant is neither verified nor supported with an affidavit. This renders the claim untenable, incomplete, and incompetent in law and the same is for striking out.
67. Having found and held as above, it is of no value to go into the merits of the claim. However, for completeness, the court shall briefly comment on the other issues for determination as hereunder.



## VII. Termination

68. It is not in dispute that the claimant was terminated on redundancy; he signed an exit agreement and he was paid and received his terminal dues. It is on this basis that the respondent argues that the claimant is estopped from bringing this claim and that the same is an afterthought.
69. Section 40(1) of the Act provides as follows –
- (1) An employer shall not terminate a contract of service on account of redundancy unless the employer complies with the following conditions—
    - (a) where the employee is a member of a trade union, the employer notifies the union to which the employee is a member and the labour officer in charge of the area where the employee is employed of the reasons for, and the extent of, the intended redundancy not less than a month prior to the date of the intended date of termination on account of redundancy;
    - (b) where an employee is not a member of a trade union, the employer notifies the employee personally in writing and the labour officer;
    - (c) the employer has, in the selection of employees to be declared redundant had due regard to seniority in time and to the skill, ability and reliability of each employee of the particular class of employees affected by the redundancy;
    - (d) where there is in existence a collective agreement between an employer and a trade union setting out terminal benefits payable upon redundancy; the employer has not placed the employee at a disadvantage for being or not being a member of the trade union;
    - (e) the employer has where leave is due to an employee who is declared redundant, paid off the leave in cash;(f)the employer has paid an employee declared redundant not less than one month's notice or one month's wages in lieu of notice; and
    - (g) the employer has paid to an employee declared redundant severance pay at the rate of not less than fifteen days pay for each completed year of service.
70. It is the claimant's case that the respondent failed to comply with the above law rendering his termination on redundancy unfair and unlawful. The claimant has made a big deal of the fact that the process was carried out and concluded while he was on his annual leave. This argument however is hollow, empty, and a clear afterthought.
71. The uncontroverted evidence on record is that the claimant was called on phone and informed of the process and a notice duly sent to his official email account. There is no evidence on record of any difficulties that the claimant suffered in accessing his official email account. Further, he was invited for two meetings organized to discuss the redundancy but he opted not to attend. However, probably in mistaken protest that he was being engaged on official process while enjoying his leave, the claimant failed, refused, and or neglected to cooperate and take part in the process.
72. In my considered view, the claimant shot himself in the foot when he decided not to cooperate and take part in the process, ostensibly in protest that the he was on annual leave. The claimant thereafter decided not to apply for the positions that the respondent was offering to those affected by the redundancy.



73. The evidence on record confirms that the claimant was informed of each step taken via phone calls and email to his official account. The notice of the intended redundancy was also served upon the labour office, Nairobi County. The claimant received and acknowledged payment of his worked out terminal dues.
74. Clearly and evidently, the claim filed in court is an afterthought intended to settle some soar grapes and or old scores. Redundancy is a lawful method available to an employer to apply in terminating an employee or so many of employees for no blame on her/his/their part. As long as an employer applies and executes the process in accordance with the above law, it shall be unfair for any court to order an employer to retain employees that it cannot sustain or does not require for its optimum efficient productivity – see Kenya Airways Limited V Aviation & Allied Workers Union of Kenya (supra).
75. The court finds and holds that it is the claimant who opted, failed, refused, and or neglected to cooperate and or take place in the redundancy process. Having conducted himself in that way and manner, the claimant should not turn around and challenge the same process and more so having acquiesced to the same by signing off for his exit and received his terminal dues. Nonetheless, the court finds and holds that the respondent complied with the provisions of the law on redundancy.
76. In my considered view, the exit agreement that was voluntarily signed and executed by and between the parties is a binding contract for which both parties are estopped from claiming otherwise. The claimant neither pleaded nor proved any of the grounds upon which such a contract may be set aside such as duress, misrepresentation, coercion, etc. The claimant was paid gross salary up to December 2022, one month’s salary in lieu of notice, pension, unutilized leave days, and severance pay at the rate of 15 days for every completed year of service.
77. There is absolutely no evidence in support of the reliefs sought by the claimant as the payments above fairly and justifiably compensated the claimant for what was due to him upon termination. The claim for damages is completely unfounded and unsupported by evidence and without any statutory or constitutional foundation or basis. The claimant was neither discriminated nor were his constitutional rights threatened, breached, and or violated. In that regard the claimant failed to meet the threshold set in Anarita Karimi Njeru & Mumo Matemu (supra).
78. The court further finds and holds that the terminal dues paid and received by the claimant as stated elsewhere in the analysis of the evidence and pleadings above was in accordance with the law and the court finds no reason for disturbing the same.
79. The foregoing paragraphs answer to all the issues stated above for determination.

#### **IX. Costs**

80. Costs follow the event and the respondent is awarded the costs of the cause.

#### **X. Orders**

81. For all the foregoing reasons the claimant’s cause is hereby dismissed with costs to the respondent.

**DELIVERED VIRTUALLY, DATED, AND SIGNED AT NAKURU THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2025.**

**DAVID NDERITU**

**JUDGE**

