



Kemboi v Vice Chancellor Multimedia University of Kenya & another (Cause E441 of 2023) [2024] KEELRC 1916 (KLR) (25 July 2024) (Judgment)

Neutral citation: [2024] KEELRC 1916 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E441 OF 2023**

**L NDOLO, J
JULY 25, 2024**

BETWEEN

KIPKIRUI KEMBOI CLAIMANT

AND

**VICE CHANCELLOR MULTIMEDIA UNIVERSITY OF KENYA 1ST
RESPONDENT**

MULTIMEDIA UNIVERSITY OF KENYA 2ND RESPONDENT

JUDGMENT

Introduction

1. The Claimant in this case, Kipkirui Kemboi is an employee of the Multimedia University of Kenya, having been employed as an Assistant Lecturer on 2nd September 2012, and later promoted to the position of Lecturer in the Faculty of Media and Communication.
2. The Claimant states that he acquired a Bachelor of Laws Degree from Jomo Kenyatta University of Agriculture and Technology in 2018 but the 1st and 2nd Respondents failed to increase his salary in line with the Staff Training and Development Policy.
3. The Claimant adds that upon acquiring his Post Graduate Diploma in Law, from the Kenya School of Law, and admission to the Roll of Advocates in 2021, he made a request for salary increment, which was declined on the ground that the acquired training did not qualify for salary increment under the Staff Training and Development Policy.
4. The Claimant now seeks the following remedies:
 - a. An order compelling the Respondents to recognise the Claimant's Post Graduate Diploma in Law as a relevant post graduate academic certificate;



- b. A declaration that the Respondents' statement that the resulting award from the subject course at the Kenya School of Law is a practicing certificate, contravenes clause 5.2.2(v) of the Staff Training and Development Policy;
- c. An order compelling the Respondents to recognise and address the Claimant as University Lecturer and Advocate of the High Court of Kenya;
- d. A declaration that the Respondents' decision to deny the Claimant promotion and/or salary increment constitutes an unfair labour practice;
- e. An order directing the Respondents to promote and pay the Claimant the correct salary from 30th November 2021;
- f. An order directing the Respondents to compensate the Claimant for loss of legitimate expectation and esteem upon completing his advocate's training program and being admitted to the Bar;
- g. An order directing the Respondents to pay the Claimant's salary increment on a prorated basis;
- h. An order directing the Respondents to issue the Claimant with an official letter acknowledging that he is an Advocate of the High Court;
- i. Costs plus interest.

The Respondents' Case

5. In their Statement of Response dated 5th September 2023, the Respondents admit that the Claimant was employed as a Lecturer in the Faculty of Media and Communication, where he was teaching Media Law and Ethics.
6. The Respondents further admit that sometime in 2018, the Claimant acquired a Bachelor of Laws Degree upon which he was awarded two salary increments. The Claimant then proceeded to the Kenya School of Law where he was awarded a Diploma in Law, in 2021.
7. The Respondents concede having received the Claimant's request for a further salary increment, which was declined because it did not meet the criteria stipulated in the Staff Training and Development Policy, for the following reasons:
 - a. The Claimant had been teaching the subject units prior to acquiring the Diploma in Law, meaning that the Diploma was not a necessary qualification, as per clause 10 of the Policy;
 - b. Clause 10 of the Policy on salary increment dictates that the long term relevant skill has to lead to the award of a degree;
 - c. Clause 5.2.2 on long term plans and itemisation of courses is specifically for courses with respect to which the University may grant an employee training benefits, which does not necessarily amount to a salary increment;
 - d. If the University were to award all employees holding certificates, diplomas and degrees salary increment, without subjecting them to relevance in skill, there would be mayhem as a floodgate to unjustified requests would have been opened.
8. The Respondents assert that the Claimant has not produced any documentary evidence to support his claim. They therefore ask the Court to dismiss the claim with costs.



Findings and Determination

9. The Claimant's claim is based on his training at the Kenya of School of Law leading to an award of a Post Graduate Diploma in Law and his admission to the Roll of Advocates. On their part, the Respondents state that this qualification did not qualify as a relevant skill to justify change in the Claimant's terms of service.
10. By consent of the parties, the dispute was urged by way of written submissions. In advancing his case, the Claimant relies on clause 5.2.2 of the 2nd Respondent's Staff Training and Development Policy which defines long term training plans as courses whose duration is more than one year, including a post graduate diploma.
11. However, the relevant provision for purposes of the Claimant's claim is clause 10 on salary increment which provides as follows:

“Any long term relevant skill development of a member of staff that leads to an award of a degree shall attract two (2) immediate increments upon successful completion of the course.”
12. By definition and import, the Post Graduate Diploma in Law, acquired by the Claimant in 2021 is not a degree and is therefore not eligible for salary increment.
13. That said, the Claimant's entire claim fails and is dismissed with an order that each party will bear their own costs.
14. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY JULY 2024

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JUDGE

Appearance:

Mr. Kipkirui Kemboi (the Claimant in person)

Mr. Okiro for the Respondent

