



**Oluoch v Golden Biscuits [1985] Limited (Appeal E037 of 2021)  
[2024] KEELRC 2081 (KLR) (2 August 2024) (Judgment)**

Neutral citation: [2024] KEELRC 2081 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
APPEAL E037 OF 2021**

**J RIKA, J  
AUGUST 2, 2024**

**BETWEEN**

**ELIJAH OTIENO OLUOCH ..... APPELLANT**

**AND**

**GOLDEN BISCUITS [1985] LIMITED ..... RESPONDENT**

*(An Appeal against the Judgment/ Decree of the Hon. Ms. L. Gicheha, Chief Magistrate,  
delivered at Nairobi on 19th March 2021 in CM E&LRC Cause NO. 493 of 2019)*

**JUDGMENT**

Presentation

Court Assistant: Bernard Kirui

Ochieng' Ochieng,' Advocates for the Appellant

Chege Kamau & Company Advocates for the Respondent

1. The Appellant filed the Claim at the Trial Court, claiming underpayment of salaries, overtime, costs and interest.
2. In its Judgment delivered on 19<sup>th</sup> March 2021, the Trial Court dismissed the Claim in its totality, on the ground among others, that the Appellant executed a discharge voucher in settlement of all claims against the Respondent.
3. The Appellant filed this Appeal through a Memorandum of Appeal, dated 31<sup>st</sup> March 2021.
4. He advances 7 Grounds of Appeal, most of which are repeated, which can be summarized as follows: the Trial Court erred in dismissing the Claim which had been established on a balance of probability; the Trial Court erred in finding that the Respondent had no obligation in adjusting the Appellant's salary on attainment of higher artisan grade; the Trial Court erred in failing to find that the CBA



was part of the Claimant's contract; the Trial Court erred in failing to implement the correct rate of monthly salary under the CBA; the Trial Court erred in relying on evidence adduced by the Respondent which was inadmissible; the Trial Court's findings were not based on available evidence; and the Trial Court erred in failing to consider the totality of evidence.

5. He proposes to the Court that the Appeal is allowed; Judgment of the Trial Court is set aside; and orders granted in his favour as prayed on Trial, with costs to him.
6. It was agreed by the Parties that the Appeal is considered and determined on the strength of the Record of Appeal and Submissions. Submissions were confirmed to have been filed and exchanged, on 30<sup>th</sup> January 2024.

**The Court Finds: -**

7. The Appellant left employment on redundancy, and was paid a sum of Kshs 189,602.53. He acknowledged payment, and executed discharge dated 14<sup>th</sup> June 2019. He confirmed that what was paid was adequate, and in final and full payment.
8. He confirmed upon trial that he executed discharge freely. He did not raise complaint about underpayment of salary and unpaid overtime. The Trial Court correctly found his Claim to have been made in afterthought.
9. His Appeal is equally without foundation.
10. The binding nature of discharge agreements, was underscored by the Court of Appeal in *Thomas De Rue v David Opondo Omutelema* [2013] eKLR and *Coastal Bottlers Limited v Kimathi Mithika* [2018] eKLR. The execution of discharge by the Appellant, constituted a complete contract. It was not argued by the Appellant to have been made involuntarily, or to contain misrepresentation, fraud or other elements that would result in invalidation of the contract. The Appellant accepted payment as full and final.

**It is ordered: -**

- a. The Appeal is declined.
- b. No order on the costs.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 2<sup>ND</sup> DAY OF AUGUST 2024.**

**JAMES RIKA**

**JUDGE**

