



Munguti v General Plastics Limited (Under Administration) & another (Cause E067 of 2023) [2025] KEELRC 2866 (KLR) (22 October 2025) (Judgment)

Neutral citation: [2025] KEELRC 2866 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E067 OF 2023
DKN MARETE, J
OCTOBER 22, 2025**

BETWEEN

DAN MUNGUTI CLAIMANT

AND

**GENERAL PLASTICS LIMITED (UNDER ADMINISTRATION) 1ST
RESPONDENT**

PVR RAO (ADMINISTRATOR) 2ND RESPONDENT

JUDGMENT

1. This matter was originated by way of a Memorandum of Claim dated 2nd February, 2023. The issue in dispute is therein cited as;

Unfair and unlawful termination from employment

2. This matter is not defended or at all. This is despite service and all agitation and invitation so to do.
3. The claimant case is that the 1st Respondent is a limited liability company while the 2nd Respondent is a male adult working for gain as an Insolvency Practitioner in Nairobi. This claim comes in courtesy of leave granted in Misc, Application No. E143 of 2022 between the claimant and 1st Respondent and another.
4. The claimant's other case is that he was employed by the 1st Respondent on 26th November, 1992 as a Quality Controller. He earned Kshs.1,690.00. Over the years he rose to become Quality Assurance Head of Department to which position he was appointed by a letter dated 28th August, 2019.
5. The claimant avers that by a letter dated 15th June, 2021, the 1st Respondent through the 2nd Respondent purportedly terminated the claimant's employment on grounds of cutting costs. This was as a consequence of the 1st Respondent being put under receivership. At this time, he earned



Kshs70,000.00. This had been all along a cordial working relationship until turbulence blew up around April, 2020 and has never settled to date.

6. The claimant's further case is that despite diligent and blemish free stint of service with positive appraisals and promotion, he was on 8th May, 2020 served with a notice to show cause by the Respondent's Human Resource Manager. This was on grounds of poor performance which grounds were malicious and callous, to say the least. On 9th March, 2020, he responded to the show cause letter and thereafter imagined that everything was put to rest. At this time, he was the chairman of the Plastic Sacco Limited, a staff Sacco for the members of the 1st Respondent and to which the 1st Respondent owed large amount of money deducted from the members. This had led to involvement of the office of the Commissioner of Co-operatives leading to forceful deduction of the monies from the Respondent's account.
7. The above union deductions saga had not gone down well with the Respondent. The claimant was victimized for his action and participation in it. He was sacked without being awarded a hearing which termination of employment was unlawful and unprocedural. The particulars of unprocedural, unfair and unlawful termination are as follows;
 - a. The Respondent did not grant the Claimant an opportunity to be heard in blatant disregard and contravention of constitutional and prevailing legal provisions on fair labour practices.
 - b. Unlawfully terminating the services of the Claimant.
 - c. Discriminating against the Claimant.
 - d. There was no plausible reason for termination since the Respondent was only keen to terminate the employment of the Claimant.
 - e. There was not substantive reason for termination of the Claimants employment.
 - f. Violation of the provisions of Section 40 and 45 of the Employment Act, 2007.
 - g. Summarily dismissing the Claimant on the spot.
8. The clamant further avers that the termination from employment was unfair, malicious, biased and discriminatory for the following reasons;The termination was as a result and consequence of involvement in the employees' welfare matters.The termination lacked procedural fairness.The claimant was targeted and victimized by the Respondent for being a Sacco official.The claimant was confronted with a pre-determined termination and served with a letter to this extend on the day.There wea not consultation between the claimant, Respondent and the labour officer on the subject.
9. The Claimant avers that his termination was unfair, malicious, bias and discriminatory for the following reasons;
 - a. Terminating employment because of involvement in the employee's welfare matters.
 - b. There was no procedural fairness.
 - c. The Claimant was targeted by the Respondents in the termination for being Sacco official hence victimization.
 - d. The Claimant was confronted with termination decision already made by the Respondents, and slammed with a letter communicating that decision, on the same date.
 - e. There was no consultation between the Respondents, the Claimant and the Labour Office.



10. This is contrary to the provisions 41, 47, 50 and 28 of *the constitution* of Kenya and applicable ILO convention 1982, CIII Discrimination (Employment and Occupation) Convention, 1958, C112 Employment Policy Convention, 1964, ILO Declaration on fundamental principles and Rights at work. Kenyan Labour and Employment Laws notable Sections 5 and 7 of the *Employment Act*, 2007.

He claims thus;

- i. Twelve months compensation Kshs 1,637,076/-
- ii. Twelve months compensation -Kshs 840,000/-
- iii. Notice of termination of 1 month as per the agreement Kshs.70.000/
- iv. Severance pay at the rate of 26 days for each completed year of service, for 29 years
Kshs 1750,900/-
- v. Outstanding leave days Kshs.162.150/
- vi. June 2021 salary - Kshs 40,000/-

He prays thus;

- a. A declaration that the Respondent's action to terminate the Claimant's employment was illegal, unlawful and unfair and amounted actually to an unlawful summary dismissal and therefore the Claimant is entitled to payment of his terminal dues and compensatory damages as pleaded in the statement of claim
- b. Payment of 1 month salary in lieu of notice.....Kshs. 70,000/-
- c. Payment of 69 unpaid leave days..... Kshs 162,150/-
- d. Payment of June 2021 salaryKshs 40,000/-
- e. Severances pay for 26 years workedKshs 1750.900
- f. Maximum Compensation fer the unlawful and unfair termination of employment
.....Kshs 840,000.
- g. Certificate of service.
- h. Interest on b, c, d, e and f.
- i. Costs of the suit on an Advocate Client basis and interest thereon until payment in full.

11. As earlier observed, this matter is not defended. The matter came to court variously until 19th February, 2022 when the claimant in the absence of the Respondent agreed on a determination by way of written submissions.

The issue for determination therefore are;

1. Whether the termination of employment of the claimant by the Respondent was wrongful, unfair and unlawful.
2. Whether the claimant is entitled to the relief sought.
3. Who bears the costs of this claim?



12. The 1st issue for determination is whether the termination of employment of the claimant by the Respondent was wrongful, unfair and unlawful. The claimant in his written submission dated 26th February, 2025 reiterates his case and submits a case of unlawful termination of employment.
13. On this the claimant seeks to rely on the authority of section 45 of the Employment Act, 2007 which debars unlawful termination of employment. It also provides that a termination of employment would be unfair if the employer fails to prove that the reasons for termination was fair reason and also this was in tandem with employer's conduct, capacity, compatibility or in the alternative that the employer did not act in accordance with just and equity.
14. The claimant further seeks to rely on authority of inter alia Walter Ogal Anuro -v- Teachers Service Commission Cause No 955 of 2011, Gideon Mwangi Kabaru v Craft Silicom Limited [2022] eKLR and Gilber Mariera Makori v Equity Bank Limited [2016] eKLR where the courts where the court emphasized substantive justification and also procedural fairness as parameters for a test of fairness in termination of employment.
15. In all, this comes out clearly as a case of wrongful, unfair and unlawful termination of the employment of the claimant by the Respondent. It went contrary to the provision of sections 41, 43 and 45 of the Employment Act, 2007 which explicitly underscore the case and ingredients of a lawful termination of employment. I therefore find a case of wrongful, unfair and unlawful termination of employment and hold as such.
16. The 2nd issue for determination is whether the claimant is entitled to the relief sought. He is. Having won on a case of unlawful termination of employment, he becomes entitled to the relief sought.
17. I am therefore inclined to allow the claim and order relief as follows;
 - i. A declaration be and is hereby issued that the termination of the employment of the claimant by the Respondent was wrongful, unfair and unlawful and amounted to unlawful summary dismissal.
 - ii. The claimant, as a result of (i) above, is entitled to terminal dues and compensation for unlawful termination of employment.
 - iii. One (1) month's salary in lieu of noticeKshs.70,000.00
 - iv. Salary for June, 2021Kshs.35,000.00
 - v. Severance payKshs1,750,900.00
 - vi. Eight (8) months compensation for unlawful termination of employment .
.....Kshs.70,000x8months.....Kshs560,000.00
 - Total of claimKshs.2,415,900.00
 - vii. The Respondent is ordered to issue a certificate of service to the claimant in sixty (60) days from the date of this judgment of court.
 - viii. Interest at court rates from the date of this judgment of court till payment in full.
 - ix. The costs of this cause shall be borne by the Respondent.

DELIVERED, DATED AND SIGNED THIS 22ND DAY OF OCTOBER 2025.

D. K. NJAGI MARETE

JUDGE



Appearances:

Mr. Ogola instructed by Togolaw & Company Advocate for the Claimant.

Mr. Mwaka holding brief for Muoka instructed Philip Muoka & Company Advocate for the Respondent.

