



**Morintat v CSI Energy Group Limited (Cause E081 of 2024)
[2026] KEELRC 248 (KLR) (30 January 2026) (Judgment)**

Neutral citation: [2026] KEELRC 248 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E081 OF 2024
J RIKA, J
JANUARY 30, 2026**

BETWEEN

JANE TIPITIP MORINTAT CLAIMANT

AND

CSI ENERGY GROUP LIMITED RESPONDENT

JUDGMENT

1. The Claimant filed her Statement of Claim, dated 7th October 2024.
2. She states that she was employed by the Respondent as a Human Resource Manager, in a contract of 21 months, commencing 1st March 2024 to 30th November 2025.
3. Her gross monthly salary was Kshs. 576,000.
4. Her duties involved oversight of the daily human resource operations, at the Respondent's project site. She reported directly to the Project Manager.
5. She received a series of letters from the Respondent on 29th May 2024, falsely claiming that as a result of several meetings held between the Parties herein, it had been agreed that the Claimant's contract is terminated effective 30th June 2024.
6. The Claimant responded on 18th June 2024, disputing that such meetings took place, and that there was any agreement on termination of her contract.
7. She asked for confirmation from the Respondent that her contract would not be terminated. There was no confirmation given. Instead, the Respondent issued her letters to show cause on 21st June 2024 and 22nd June 2024, making false and malicious allegations against the Claimant. She replied to the allegations through her letter dated 26th June 2025.



8. The Respondent issued the Claimant a letter dated 27th June 2024, terminating her employment effective 30th June 2024.
9. Her contract dated 26th February 2024 did not require her to undergo probation. It was specific that she would serve for 21 months.
10. The Claimant states that termination of her employment was without valid reason. There was no conclusive disciplinary process. She was not invited to show cause. The Respondent acted unfairly and contrary to the rules of natural justice.
11. She prays for: -
 - a. Declaration that termination was unfair and unlawful.
 - b. Declaration that the letter of termination is unfair, unlawful and unconstitutional.
 - c. Salary for the unexpired contract period of 17 months at Kshs. 9,792,000.
 - d. 2 months' salary in lieu of notice, at Kshs. 1,512,000.
 - e. 13 months' salary in compensation for unfair termination at Kshs. 7,488,000.
 - f. Compensation for violation of the Claimant's right to fair labour practices.
 - g. Costs.
12. The Respondent filed its Statement of Response, dated 9th December 2024. It is conceded that the Respondent employed the Claimant as pleaded in her Claim, following advertisement of vacancy, and successful interview.
13. Her contract stipulated that her employment was subject to the laws of Kenya and Respondent's policies and procedures.
14. As the Human Resource Manager, she had full access to the Employee Handbook. She was aware of the Employee Handbook.
15. She was required to undergo probation. She was evaluated. Her performance and conduct were below expectation.
16. On 25th April 2024, it was reported that the Claimant called new recruits to report at the 35 MW Geothermal Power Plant site, without following human resource procedures, including obtaining gate passes for the recruits.
17. She hired new skilled recruits, without advertising vacancies to the local community, as required under the labour management plan, agreed to, between the Respondent and its client, Globeleq.
18. The Respondent wrote to the Claimant on 30th April 2024 urging her to adhere to established policies and procedures. It also held a meeting with her, providing feedback on her performance and conduct.
19. Further meeting was held between her and senior management, where it was resolved that the Claimant's contract would be terminated.
20. She was issued a notice of intended termination, dated 29th May 2024.
21. After this notice, there were further complaints received by the Respondent against the Claimant, concerning her performance and conduct.



22. On 14th June 2024, she made discriminatory comments to a member of senior management and a colleague, via messaging app, stating that: “ The Indians will wipe out CSI in Kenya.”
23. On 17th June 2024, she alleged through the same media platform, that her colleagues, Rebecca and Catherine, had sabotaged an interviewee, disabling his teams link. He alleged that the candidate was an IT guru, and was from the President’s tribe. The interview aborted, and the Respondent was reported to the authorities. It was alleged that the authorities consequently, blacklisted the Respondent.
24. The Claimant alleged that Catherine was the ringleader of the ensuing mess.
25. The Claimant’s behaviour was incompatible with her position. She disclosed confidential information to 3rd parties. She intimidated her colleague, telling Catherine, “ above is my 1 cent advice to you... watoto wako bado ni wachanga,” [Kiswahili for, trend carefully, you have young children].
26. The Claimant rejected termination by mutual separation. Considering her continued misconduct, the Respondent issued her letters to show cause, dated 21st June 2024 and 22nd June 2024.
27. She responded on 26th June 2024, denying wrongdoing. She was afforded an opportunity to be heard.
28. The Respondent wrote to the Claimant on 27th June 2024, clarifying that the letter to her, dated 29th May 2024, served as a notice of termination. Any ongoing or intended disciplinary process was discontinued.
29. The Respondent reiterates that clause 9.5. of the Employee Handbook, requires that, all staff will undergo a probationary period of 6 months. The Claimant was still on probation at the time of termination.
30. The Claim has no merit. The Respondent urges the Court to dismiss the Claim, with costs to the Respondent.
31. The Claimant gave evidence on 10th July 2025 and 25th July 2025, when she rested her Claim. The Respondent did not call witnesses, and closed its case, on 5th November 2025. The Claim was last mentioned on 2nd December 2025, when the Parties confirmed filing and exchange of their submissions.
32. The Claimant restated the contents of her Statement of Claim, as summarized above, in her evidence-in-chief. She adopted her witness statement and 3 sets of documents, exhibits [1-13], exhibit [14] and exhibits [15-24].
33. Cross-examined, she told the Court that she signed a verifying affidavit. She signed before her Advocate Mokua. The Commissioner for Oaths, Onderi Nyabuti, was not in the room.
34. She was headhunted by the Respondent. She had over 15 years’ experience, having worked in world bank funded projects, in wind energy.
35. There were no work-related complaints against her. There was a complaint about noncompliance with a labour management plan. She was also alleged to have invited recruits without gate passes. She was familiar with Respondent’s policies and procedures. Her contract was subject to the laws and policies in force. She was to keep other Employees informed about the policies.
36. Probationary period was months. It all depended however, on the individual contract. The Employee Handbook did not specify when, probation was not applicable.



37. Noncompliance with the policies and procedures, was discussed between the Claimant and senior management. There was no meeting to discuss mutual separation. She received notice of intended termination. The letter of termination did not mention disciplinary issues.
38. As the Human Resource Manager, it was not wrong to refer to Indian Employees. It was her view that the Indian Employees did not want to follow the law, hence her remark. She complained about Catherine sabotaging a job interviewee. She said that the interviewee was from the President's tribe. His name was Lang'at, an engineer. He was the best candidate. He was blocked during his interview. She meant that the Respondent was reported to the client, Geothermal Development Company. The client may not have blacklisted the Respondent, but there was exposure to the Respondent. She invoked the President's name, because it was a government project. It is not true that the Claimant bullied and blackmailed colleagues.
39. Nafula was the sustainability manager. The Claimant wrote to her reminding her that her children were still young, and that she should be cautious. Nafula was in charge of health and safety. An Employee had been injured and was laid off. The Claimant was concerned that Nafula was about to violate labour laws, and cautioned her concerning dismissal of the injured Employee. It was wise counsel, not intimidation.
40. The Claimant was issued a letter dated 29th May 2024. She was told that termination would take effect on 30th June 2024. There was no agreement on separation. The letter was not a notice, but a negotiation document.
41. The Claimant expected to be moved to the Respondent's offices at Nairobi, on 30th June 2024, to continue with her contract. She did not agree to exit. She was Human Resources Manager for a specific project.
42. She sought clarification from the Respondent, and was advised that the letters to show cause had been done away with, and that the letter dated 29th May 2024, was indeed a notice of termination.
43. She was hurriedly cleared and coerced to hand over. She exited in the evening of 29th June 2024. Her contract had a termination clause. It did not have provision for payment of anticipatory salary.
44. Redirected, the Claimant told the Court that she signed the verifying affidavit in her Advocate's chambers. The Commissioner for Oaths came to chambers, signed and left.
45. She was headhunted. There was an emergency at the site on 25th April 2024. Administrator Rebecca, decided to engage temporary labour, and invited former Employees, working with user department. She called them to site without gate passes. The Claimant told her not to. The Respondent looked into the issue and concluded that the Claimant and Rebecca were not in the wrong, but to appease the Respondent's client, decided to invoke the disciplinary process.
46. The Claimant's contract was non-probationary, for a specific period and purpose. There was no mention of probation at her recruitment. Her reference to Indians was not derogatory, but was made in the context of the human resource function. She was concerned about a Construction Manager Surjit Singh, who was hired from outside the country, and who did not want the Claimant and her team, to hire Kenyans. Government policy demanded that Kenyans are hired. Surjit wanted to recruit Indians, which the Claimant advised the CEO against.
47. The issues are whether, the Claimant was on probationary employment; whether her contract was fairly and lawfully terminated; and whether she merits the orders sought.



The Court Finds: -

48. Was the Claimant under probation at the time of termination?
49. The Respondent submits that she was. It relies on clause 9.5. of the Respondent's Employee Handbook.
50. The clause states that, "All staff will undergo a probationary period of [6] full calendar months, during which either party, may terminate employment as governed by the prevailing law on probation. The probation period may be extended at the discretion of the company, but may not normally exceed 12 months."
51. The Parties agree that the Claimant worked for a period of 4 months, beginning 1st March 2024 to 30th June 2024.
52. It is common ground that the contract was for a period of 21 consecutive months, running from 1st March 2024 to lapse 30th November 2025.
53. The Respondent terminated her contract after 4 months, and submits therefore that termination was within the probationary period of 6 months, and clause 9.5. of the Employee Handbook was applicable. The Respondent invoked this clause, as well as the underpinning law, Section 42[4] of the Employment Act, which allows Employers to terminate probationary contract by issuing 7 days' notice, or payment of 7 days' salary in lieu of notice.
54. The Respondent submits that the Claimant's contract clearly advised her that her employment was subject to the applicable laws in Kenya, and to the Respondent's policies and procedures. The Employee Handbook was part of her terms and conditions of employment.
55. The Claimant submits that she was not subject to the probationary clause. Her contract was for a specific task, and for a specified period of 21 months. She also states that the Employee Handbook was not supplied to her at the time she was recruited. It was supplied much later, while she was already working. It was in any event, not applicable to her.
56. The Employee Handbook dated 1st March 2022, has clause 3.0. on applicability. It states: -
"These conditions of employment shall apply to all full time Employees of the company. They do not apply to temporary or contractual Employees..."
57. The Claimant was a contractual Employee, and clause 3.0. of the Employee Handbook, confirms that the Handbook did not govern her employment. Clause 9.5. on probation was inapplicable to her.
58. This conclusion has additional anchorage, in the contract itself. It states that the employment was in the nature of a specific task. She was to work for 21 months, in a specified project. Commencement date, duration of the contract and its lapsing date, were given. There was no mention of probation.
59. The Respondent underscored in its termination letter to the Claimant, dated 29th May 2024, that, "your employment contract mentioned above, is of a specific task nature, where the company business and operations are of project-based nature."
60. The answer to the first issue, is that the Claimant was not on probationary employment, at the time of termination. The Employee Handbook did not apply to her contract.
61. Was termination procedurally and substantively fair?



62. The Respondent issued the Claimant a letter of termination, dated 29th May 2024, referenced “termination of employment on mutual separation.”
63. The letter states that there were meetings held prior to the letter, where it was agreed that the contract is terminated with effect from 30th June 2024.
64. The Claimant wrote to the Respondent on 18th June 2024, denying holding any meetings with the Respondent, and denying that there was agreement, on mutual separation.
65. The Respondent appears to have shifted from mutual separation, to a disciplinary process, after receiving the Claimant’s response dated 18th June 2024.
66. It issued the Claimant a letter to show cause, dated 21st June 2024. There was a raft of accusations made against the Claimant, including that: she made discriminatory comments against the Indian race; she alleged that her colleagues, Catherine and Rebecca, had sabotaged a job interviewee, alleging that the Respondent’s name had been ruined by her colleagues’ evil schemes; and that Employees had complained that the Claimant was un-professional, given to sharing confidential company information with 3rd parties.
67. The letter to show cause was followed by a second letter to show cause, issued the following day on 22nd June 2024. The same allegations made the previous day were repeated, with one more allegation generated; that, the Claimant intimidated a colleague, Sustainability Manager Christine Nafula, telling her “watoto wako bado ni wachanga,” [Kiswahili for – trend carefully, you have young children].
68. The Respondent then wrote a letter dated 27th June 2024, voiding the letters to show cause, and the “intended or ongoing disciplinary process.”
69. All accusations in the letters to show cause were therefore dropped. They were not pursued in a disciplinary hearing.
70. The Claimant was advised that she was on probation, and that the letter of termination dated 29th May 2024, was her notice of termination. The Respondent as observed elsewhere in this Judgment, invoked clause 9.5. of the Employee Handbook.
71. The accusations in the letters to show cause, which took a large part in the pleadings and evidence placed before the Court, are therefore not relevant in considering whether there was valid reason, justifying termination.
72. The sole reason given in justifying termination, was that the contract was probationary, allowing parties to terminate the contract through notice, under clause 9.5. and Section 42 [4] of the *Employment Act*.
73. The Court has explained why clause 9.5. of the Employee Handbook and by extension, Section 42[4] of the *Employment Act*, were not applicable to the Claimant’s contract.
74. In the absence of other reasons to justify termination, the Respondent did not establish valid reason, as required under Sections 43,45 and 47[5] of the *Employment Act*. Termination on this ground was unfair.
75. Procedure was likewise glaringly unfair. The Respondent initially attempted to impose on the Claimant what was termed as, ‘mutual separation.’ She was issued a letter of termination, founded on the claim that parties had agreed to terminate employment. She did not accept the letter.



76. When the Claimant repudiated the mutuality of termination, the Respondent confronted the Claimant with serious workplace accusations. Two quickfire letters to show cause issued. She responded to the accusations.
77. Instead of proceeding to the disciplinary hearing, the Respondent shifted position, straining the probationary clause into the Claimant's terms and conditions of service.
78. The Respondent in the end, denied the Claimant her right to be heard under Sections 41 and 45 of the *Employment Act*.
79. Termination was unfair for want of valid reason, and on account of procedure. It did not meet the minimum standards of fairness, under Sections 41, 43, 45 and 47 of the *Employment Act*.
80. The Respondent did not give evidence, denying the position expressed by the Claimant. It did not justify the contents of its pleadings, and justify termination. It did not discharge its evidential burden, under Section 47[5] of the *Employment Act*.
81. It is declared that termination was unfair and unlawful.
82. The prayer for Kshs. 9,792,000 in anticipatory salary, for the balance of the contract period is declined.
83. This Court, in *Wekesa v. Mt. Kenya University* [2024] KEELRC 538 [KLR], cautioned that, Courts must be careful, not to turn unfair termination claims, into a cash-grab industry.
84. The Court of Appeal in *Elizabeth Wakanyi Kibe v. Telkom Kenya Limited* [2014] KECA 765 [KLR] held that anticipatory salary is not a fair and reasonable remedy. The Court must weigh the interest of the Employee as well as that of the Employer, by upholding the principle of a fair go all round. In *Mengiya Salim Murgani v Kenya Revenue Authority* [High Court Civil Case Number 1139 of 2002], it was stressed that it would be injudicious, to found an award of damages upon sanguine assessments of prospects. This position was reiterated by the Court in *Industrial Court Cause No. 203 of 2011, Engineer Francis Gachuri v. Energy Regulatory Commission*, where it was held that there is no provision for payment of salary to the date of retirement, because the employment contract, like other contracts, provide for exit from the contract.
85. The possibility for extended legal argument on the subject of anticipatory salary has been curtailed with finality, by the Supreme Court of Kenya, in *Ngokonyo & 2 Others v. Telkom Kenya Limited* [2025] KESC 75 [KLR], which held: -
- “ .. Claims for anticipatory salaries or future earnings, lack a statutory foundation under both the repealed *Employment Act*, and the current *Employment Act*, 2007; and general measure of damages does not extend to salaries for the unexpired period to retirement age...”
86. The prayer for salary for the balance 17 months left in the Claimant's contract is declined.
87. The Claimant was advised that the letter dated 29th May 2024, served as her notice of termination. She does not merit notice pay. Her prayer for 2 months' salary in lieu of notice at Kshs. 1,152,000 is declined.
88. She prays for damages for wrongful dismissal, equivalent of 13 months' salary at Kshs. 7,488,000.
89. The *Employment Act* limits compensation for unfair termination to equivalent of 12 months' salary. The prayer for damages equivalent of 13 months' salary, is without legal foundation.



90. The Claimant worked for 4 months. She was on a 21-month contract. She did not cause or contribute to the circumstances leading to termination. She testified, and there was no evidence from the Respondent to contradict her, that she was headhunted. She left her own business, to work for the Respondent in a specific project, but was not allowed to complete the task. She had 17 months left to the end of her contract. The Court has considered her expectation to serve the full 21 months as contracted, and the period served of 4 months. The Respondent was solely responsible for termination of the Claimant's contract.

91. She is granted equivalent of 8 months' gross salary at Kshs. 2,304,000, in compensation for unfair termination.

92. There is no merit in her prayer for separate damages for breach of her constitutional right to fair labour practices. There is adequate remedy to be found in statute.

93. Costs to the Claimant.

94. Interest granted at court rate, from the date of Judgment, till payment is satisfied in full.

In Sum, It Is Ordered: -

- a. It is declared that termination was unfair and unlawful.
- b. The Respondent shall pay to the Claimant equivalent of 8 months' gross salary in compensation for unfair termination, at Kshs. 2,304,000.
- c. Costs to the Claimant.
- d. Interest granted at court rate, from the date of Judgment, till payment is satisfied in full.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, UNDER RULE 68[5] OF THE E&LRC [PROCEDURE] RULES, 2024, THIS 30TH DAY OF JANUARY 2026.

JAMES RIKA

JUDGE

