



**Muli v Housing Finance Company Limited (Cause E504 of 2020)
[2025] KEELRC 1019 (KLR) (28 March 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1019 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E504 OF 2020
JW KELI, J
MARCH 28, 2025**

BETWEEN

FESTUS MUO MULI CLAIMANT

AND

HOUSING FINANCE COMPANY LIMITED RESPONDENT

JUDGMENT

1. The Claimant filed suit against the Respondent vide a Statement of Claim dated 24th August 2020, seeking the following reliefs:-
 - a. An order of reinstatement of the Claimant to employment with the Respondent without any loss of rank, salary, and/or benefits;
 - b. A declaration that the act of the Respondent in dismissing the Claimant from employment is illegal and unlawful and, therefore null and void;
 - c. Damages for unlawful dismissal being equivalent of 12 months gross salary totalling to Kshs. 1,769,664/=
 - d. Exemplary damages
 - e. Costs of this suit
 - f. Interest in c) and d) above
 - g. Any other relief that this Honourable court may deem fit to grant.
2. The claim was filed together with the list of documents, bundle of documents, list of witnesses, and Claimant's witness statement, all dated 27th August 2020.



3. The Respondent entered appearance through their Advocates Muma and Kanjama Advocates on the 8th of October, 2020 and filed a Response to the Statement of Claim dated 21st October, 2020 accompanied with the Respondent's witness statement, list of witnesses, list and bundle of the documents of even date.

Hearing And Evidence

4. The Claimant's case was heard on the 8th November, 2023 and 9th July, 2024. The Claimant testified and produced his documents under the Claimant's list of documents dated 27th August, 2020 as Exhibits 1-13 that were eventually adopted by the court as the CW 1's evidence and his witness statement of even date. The Claimant was cross-examined by counsel for the Respondent, Mr. Musyoka holding brief for Mr. Kanjama Counsel for the Respondent and thereafter, the Claimant's case was marked as closed.
5. The Respondent's case was heard on 12th November, 2024. Ms. Gloria Lelechi the Respondent's witness gave sworn testimony as RW1. She adopted her witness statement dated 21st October, 2020 as her evidence in chief. On even date the witness was cross-examined by counsel of the claimant Mr. Masinde holding brief for Mr. Mungai and was re-examined. The defence case was marked as closed.

The Claimant's case in summary

6. The Claimant averred that he was employed by the Respondent firstly as a Branch Support Officer as from 16th June 2014 and then as an Acting Branch Support Manager of the Respondent in an acting capacity which was effective from 21st September 2015.
7. The Claimant was assigned in the Branch Business Department of the Respondent and has worked at the Respondent's Sameer and Rehani branches, and as of 1st April 2016, his role changed from that of an Acting Branch Support Manager to Operations Manager.
8. It was further averred that on 2nd September 2019, the Claimant was given a Show Cause letter by the Respondent to demonstrate why disciplinary action should not be undertaken against him for alleged failure to account for a sum of Kenya Shillings Forty Nine Thousand and One (Kshs. 49,001/=) that was allegedly discovered to have been missing from the vault after an annual audit was conducted.
9. On 26th September 2019, the Claimant was given a warning letter by the Respondent wherein he was informed of the resolutions by a disciplinary committee that resolved to have him surcharged a sum of Kenya Shillings Forty Nine Thousand and One (Kshs. 49,001/=) being the money allegedly lost from the vault.
10. The Claimant contends that on the same day, 26th September 2019, the Claimant was given a letter of transfer from the Respondent's Rehani Branch to BuruBuru Branch in the same capacity of a Branch Operations Manager with effect from 1st October 2019.
11. On 3rd October 2019, the Claimant appealed against the disciplinary committee's resolution to surcharge him for a cash shortage of Kenya Shillings Forty Nine Thousand and One (Kshs. 49,001/=) on the basis that vault management operations was a responsibility of two custodians and therefore the burden should be shared among the two custodians.
12. On 6th November 2019, the Claimant was given a letter by the Respondent confirming to him that a decision had been made by the Respondent to review the surcharge amount to be paid by the Claimant to fifty percent (50%) of the amount allegedly lost from the vault.



13. It is further averred that on 11th October, 2020 the Claimant while embarking on an exercise to bundle all the mutilated notes held at the Respondent's Rehani House Branch in readiness for repatriation to the Central Bank of Kenya and after counting all the cash in the vault discovered that there was an excess amount of Kenya Shillings Fifty Thousand (Kshs, 50.000/=).The Claimant informed the Respondent of the excess amount in the vault which could only be attributed to the mutilated notes since the other cash in the vault was counted on daily basis.
14. On 23rd January 2020, the Claimant was given a Show Cause letter by the Respondent explaining why disciplinary action should not be undertaken against the Claimant for alleged failure to report an excess amount discovered in the vault on or about 11th October 2019.
15. It was asserted on 12th March 2020, the Claimant was given a letter for summary dismissal of his services by the Respondent for reasons of gross misconduct and gross negligence. At the time of the dismissal from employment by the Respondent the Claimant was earning a basic salary of Kshs. 123,435/= per month and a consolidated allowance of Kshs. 24,037/= thereby making gross monthly pay of Kshs. 147,472/=.
16. Further, it is contended that the time of dismissal from employment by the Respondent, the Claimant was also entitled to a medical cover of Kshs. 80,000/= for out-patient and Kshs 500,000/= for in-patient per annum which covered the Claimant, his spouse and children.
17. The Claimant contends that the act of the Respondent of terminating the Claimant's contract of employment for alleged gross misconduct and gross negligence was illegal and unlawful as the Claimant was not guilty of any such offence and in any event the Claimant had already been surcharged for the loss of Kenya Shillings Forty Nine Thousand and One (Kshs. 49,001/=) money believed to have been lost from the vault at Rehani House Branch but later on was discovered that the cash was never lost during the repatriation exercise of the cash to the Central Bank of Kenya.
18. On cross-examination, the Claimant admitted that he was issued with a Notice on 18th May, 2017 with respect to the allegations involving failure to ensure that staff members did not share passwords and failure to ensure that correct entries were posted in the system.
19. The Claimant stated that he responded to the letter explaining that he did not assist the member with the password reset as the staff had not officially filled in a formal request form. Subsequently, the Claimant was issued with a warning letter dated 18th July, 2017 by the Respondent with respect to the allegations.
20. The Claimant averred that before being issued with the warning letter, the Respondent held a disciplinary hearing dated 31st May, 2017 and was given an opportunity to be heard.
21. Further, it is averred that the Respondent issued the Claimant with a Notice to show Cause Letter dated 11th July, 2018 with the allegations that the Claimant had activated a dormant account which led to the loss of Kshs. 565,600/=.the Claimant responded to the letter through email dated 13th July, 2018 giving an explanation of what had transpired and was then issued with another warning letter dated 30th August, 2018.
22. Subsequently, the Claimant was issued with another Notice to show cause letter via email dated 10th September, 2018 alleging that he failed to act as per instructions to ensure that a fixed deposit account was attracting interest. Consequently, the Claimant averred that he responded to the letter via email of 11th September, 2018 where he stated that the fixed deposit account had an error which affected many accounts and escalated the issue with the IT department.



Respondent's case in summary

23. Conversely, in the Respondent's response to the statement of claim dated 21st October, 2020 the Respondent averred that the Claimant's employment with the Respondent was marred by several instances of both gross misconduct and gross negligence in the performance of his designated functions contrary to the contract of employment and several policies governing the Claimant's employ including the HF Group Limited Staff Code of Conduct, the HF Group Limited Human Resource Management Manual (Revised 2015) and the HF Group Limited Regulations and Rules for Management & Secretarial Staff.
24. The Respondent averred a chronology of events leading to the Claimant's dismissal being that on 18th May, 2017, one client's cheque was posted to the wrong account belonging to a different client. The error was reversed but it was noted that there was a lack of attention to detail when posting the cheque in the system. The Respondent issued the Claimant with a Notice Show Cause via email on 18th May, 2017. The Claimant responded to the Notice to Show Cause by writing an apology letter in which he admitted the error. The Respondent issued a 1st Warning Letter to the Claimant, noting that his actions amounted to gross misconduct contrary to his employment contract, Staff Code of Conduct, Regulation and Rules for Management and Secretarial Staff, and the *Employment Act*.
25. On 30th May 2017, one client had instructed the Respondent to liquidate his Housing Development Bond (HDB) account and transfer the proceeds to his transactional account. The teller, under the Claimant's supervision, duplicated the credit to the customer's account. The error was not noticed during the closure of the till at the end of the day or even during the tick back the following day. It was eventually picked up by the finance team during reconciliation and the audit and was communicated back to the branch. The entry was reversed immediately after being identified and reported by the finance team.
26. The Respondent further averred that on 23rd May 2018, the Claimant authorised the reactivation of a dormant account without conducting due diligence as per policy and procedure. This led to the Claimant failing to notice the disparity in the physical address on the dormant reactivation form and in the bank system. Consequently, the Respondent lost KSh.565,600.00. The Claimant was issued with a Notice to Show Cause on 11th July 2018.
27. The Claimant responded to the Notice to Show Cause by writing an apology letter in which he admitted the error. The Respondent issued a 1st Warning Letter to the Claimant, noting that his actions amounted to gross misconduct contrary to his employment contract, Staff Code of Conduct, Regulation and Rules for Management and Secretarial Staff, and the *Employment Act*.
28. That on 17/07/2017, the Claimant failed to act on the instructions given to him by then RM, and this resulted in a client's account failing to accrue interest as per expectation and thereby compromising service delivery and exposing the Respondent to reputational risk. The Respondent issued the Claimant with a Notice of Show Cause via email on 10th September 2018. The Claimant responded to the Notice to Show Cause by writing an apology via email on 11th September 2018 in which he admitted the error. The Respondent issued a 2nd and Final warning Letter to the Claimant, noting that his actions amounted to gross negligence and gross misconduct contrary to his employment contract, Staff Code of Conduct, Regulation and Rules for Management and Secretarial Staff and the *Employment Act*.
29. The Claimant, as custodian of the vault, failed to account for a cash shortage of KShs. 49,001.00 and this was discovered during the annual audit. The Respondent issued the Claimant with a Notice to show because letter dated 2nd September 2019. The Claimant responded to the annual audit and



- Notice to Show Cause by writing an apology letter on 10th September 2019 in which he admitted the error.
30. The Respondent then held a Disciplinary Hearing on 11th September 2019. The recommendations at the end of the hearing were inter alia that the Claimant be issued with a Warning Letter and also be surcharged because this was an audit repeat issue. The Respondent issued a 2nd and Final Warning Letter to the Claimant, noting that his actions amounted to gross negligence and gross misconduct contrary to his employment contract, Staff Code of Conduct, Regulation and Rules for Management and Secretarial Staff and the [*Employment Act*](#).
 31. On 28/10/2019, as the Business Support Manager the Claimant, failed to report an average that he discovered on 11th October 2019; failed to prepare an incident report and submit it as per the company guidelines which provide that the report should be prepared and submitted within 24 hours of the incident; Eventually filed a misleading and inaccurate incident report; and deliberately gave false information in the incident report dated 28th October, 2019 to conceal the cash overage discovered on 11th October 2019. The Respondent issued the Claimant with a Notice Show Cause on 23rd January 2020.
 32. The Claimant responded to the Notice to Show Cause by writing an apology on 27th January 2020 in which he admitted the error. The Respondent held a Disciplinary Hearing on 7th February 2020. It was noted that the Claimant was dishonest about the cash count and that he filed an inaccurate and misleading incident report. The recommendation at the end of the hearing was that the Claimant be dismissed.
 33. The Respondent issued a Notice of Summary Dismissal Letter to the Claimant, noting that his actions amounted to gross negligence and gross misconduct contrary to his employment contract, Staff Code of Conduct, Regulation and Rules for Management and Secretarial Staff, and the [*Employment Act*](#).
 34. The Respondent contends that its management was lenient and allowed the Claimant to correct his mistakes on several occasions (by issuing warning letters) before taking severe disciplinary action against him. Besides, the Claimant admitted his mistakes and their effect on either the financials or reputation or both on the Respondent in all his apology letters.
 35. In view of the circumstances, the Respondent contends that it was justified to summarily dismiss the Claimant under section 44(4) (c) & (e) of the [*Employment Act*](#) 2007.

Written Submissions

36. The parties filed written submissions after the closure of the hearing. The claimant's written submissions dated 15th January 2025 were drawn and filed by Mungai & Kalande & Company Advocates. The Respondent filed their Written Submissions dated 31st January 2025 through Muma & Kanjama Advocates.

Issues for determination

37. The claimant in written submissions submitted on the merits of the Claim.
38. Conversely, the Respondent in its submissions raised the following four(4) issues for determination namely: Whether there was a substantive reason for dismissing the claimant from employment; Whether the claimant was subjected to a procedurally fair procedure before his dismissal from employment; Whether the claimant is entitled to the reliefs sought; and Who should bear the costs of this suit.



39. The court established the issues for determination in the claim were as follows:-

1. Whether the termination was lawful and fair.
2. Whether the Claimant was entitled to the reliefs sought.

Whether the termination was lawful and fair

40. The threshold for fair termination of employment against which the Court determines claims for unfair termination is according to the provision of section 45(2) of the *Employment Act* to wit:-⁴⁵ Unfair termination

- (1) No employer shall terminate the employment of an employee unfairly.
- (2) A termination of employment by an employer is unfair if the employer fails to prove—
 - (a) that the reason for the termination is valid;
 - (b) that the reason for the termination is a fair reason—
 - (i) related to the employees conduct, capacity or compatibility; or
 - (ii) based on the operational requirements of the employer; and
 - (c) that the employment was terminated in accordance with fair procedure.”

41. The burden to prove the reason for termination is on the employer according to section 43 of the *Employment Act* to wit:- ⁴³ Proof of reason for termination

- (1) In any claim arising out of termination of a contract, the employer shall be required to prove the reason or reasons for the termination, and where the employer fails to do so, the termination shall be deemed to have been unfair within the meaning of section 45.
- (2) The reason or reasons for termination of a contract are the matters that the employer at the time of termination of the contract genuinely believed to exist, and which caused the employer to terminate the services of the employee.”

41. The letter of termination of employment was dated 12th March 2020 titled summary dismissal referred to Disciplinary Proceedings of 7th February 2020 and stated reasons for termination as follows:-

“RE: Summary Dismissal

We acknowledge receipt of your response in reply to a show cause letter dated January 23, 2020. Reference is also made to the disciplinary hearing held on February 7, 2020 where you were given a fair hearing.

During the hearing it was established that you

You did not report an overage that you discovered on or about October 11, 2019.

You did not prepare an incident report and submit it as per the company guidelines. An incident report should be prepared and submitted within 24 hours of the incident.

You deliberately gave false information in the incident report dated October 28, 2019 in order to conceal the cash overage discovered on or about October 11, 2019.

Your actions amount to gross misconduct and gross negligence contrary to incident reporting procedure, your employment contract section 6 (ii), Staff Code of Conduct



section 2 (e), 7 & 8. Regulations and Rules for management and secretarial staff section 8 (b) and Employment Act section 44, 4 (c & e).

We therefore regret to inform you that you are Summarily Dismissed in line with section 44 of the Employment Act and therefore your services will no longer be required with effective March 12, 2020.

You will be paid your final and lawful dues after successful completion and return of the attached Clearance Form to the Human Resource Department.”

42. The Claimant had been issued with a show cause of 23rd January 2020 on same issues. He responded on 27th January 2020 via email and stated the overage was reported same date of the incident to the Branch Manager. The Claimant admitted he did not raise an incident report as required which he regretted and added after the report to the Branch Manager no further instructions were given. He apologized for the incident. He was employed as a Business Support Manager and promoted to Operations Manager and based at the Rehani Branch of the Respondent.
43. The Claimant in his statement asserted that the termination was illegal as he carried out his duties diligently as assigned by the immediate supervisor. (paragraph 20).
44. The Respondent in Respondent witness statement summarized justification of the termination in paragraph 11 as follows:

“11. From the foregoing I verily believe that:

 - a) The Claimant's conduct as stated above was contrary to the contract of employment (see paragraph 4 on discipline), the HF Group Limited Staff Code of Conduct (see paragraphs 6.7, 6.8, 6.9, & 6.18 of the Code), the HF Group Limited Human Resource Management Manual (Revised 2015) (see parts A, B & C of the Manual) and the HF Group Limited Regulations and Rules for Management & Secretarial Staff (see Regulations 8 and 11). The said conduct was also contrary to the Claimant's principal accountabilities as Business Support Manager listed at paragraph (6) above. Further, as per the HF Group Limited Human Resource Management Manual, the Claimant's conduct amounted to persistent failure or negligence to follow prescribed Company rules, procedures and standing instruction (see page 60 of the Respondent's Bundle of Documents). Consequently, the Respondent was thus justified in summarily dismissing the Claimant in terms of section 44 (3) & (4) (c) & (e) of the Employment Act 2007.
 - b) The Respondent's management was lenient and allowed the Claimant to correct his mistakes on several occasions (by issuing warning letters) before taking severe disciplinary action against him. Besides, the Claimant admitted his mistakes and their effect on either the financials or reputation or both on the Respondent in all his apology letters aforementioned.
 - c) The Respondent acted in accordance with section 44(4) (c) & (e) of the Employment Act 2007 and paragraph 4 (ii) of the Offer of Employment which states: 'an employee shall be subject to summary dismissal or such other disciplinary action as may be considered fir if he contravenes the following...performs any duties allocated to him/her in a negligent or careless manner, or omits to perform such duties...' Consequently, the summary dismissal of the Claimant by the Respondent was justified.
 - d) Further, the Respondent is a leading financial institution which, in the ordinary course of business, holds funds in trust for its depositors and thus any monies lost due the negligence of its employees, as in this case, belong to the depositors. As a custodian of public funds, the



Respondent thus has a moral, legal and statutory duty to secure its integrity and credibility by ensuring that the depositors' funds are being safeguarded by all in its employ, to maintain public confidence.”

45. During the hearing, the Claimant relied on his witness statement dated 24th August 2020 and produced his document of even date as C-Exh.1 – 13. He asked for reinstatement to his job.
46. During cross-examination the Claimant informed the trial court that he was employed as Branch Support Officer on 16th May 2014. On 18th May 2016, his duties were administrative and accounting roles. The regulations and rules for management and secretarial staff applied to him. He signed the regulations. The staff code of conduct applied with. He was familiar with the Human Resources Management Manual. He was issued with a notice to show cause on 18th May 2017. During cross-examination the Claimant was taken through previous record of incidents some of which he admitted and others he said the process was not fair. The cause of action arose from the incident of 11th October 2019. The Claimant confirmed having received show cause letter dated 23rd January 2020 over an overage of money which he discovered. The Claimant admitted he did not prepare an incident report. He said he called the Branch Manager. The report to the branch manager was not in writing. The incident report was prepared later and not on the same day. The procedure required for filing of a incident report within 24 hours. He did the report within 24 hours verbally. In the response email he apologized for the incident.
47. The Claimant told the court he could not remember attending a disciplinary hearing. On re-examination, the Claimant told the court that he could not recall attending disciplinary hearing on 7th February 2020 and that no minutes were produced. The Respondent produced minutes of a previous hearing. The Claimant contended that he reported the incident immediately to the acting manager Mr. Vincent Mule, who did not discount the position. He admitted he did not report the incident as required.
48. On the issue of overage (which he said meant the amount had as per record is more than you are supposed to hold), the claimant relied on his witness statement which he stated indicated the overage was caused as a result of mutilated notes (notes that cannot be circulated) and the bank had not presented any audit report to counter his allegation.
49. The Respondent's witness, Gloria Lilech, adopted her witness statement dated 21st October 2020 together with list of documents dated 21st October 2020 as R – Exh. 1 – 24. Gloria confirmed the Claimant was issued with a dismissal letter. She told the trial court that the Claimant had previous record of warnings and disciplinary hearings. She confirmed that the Claimant had been subjected to disciplinary hearing with respect of shortage of KShs.49000 on 7th June and that the minutes were at page 104 of the Respondent's bundle.
50. The Respondent Witness had no letter inviting Claimant for disciplinary hearing with respect to the incident under show cause of 23rd January 2020. On the allegation the Claimant responded to say the incident was reported to the branch manager. On minutes of hearing of 7th February 2020 the Respondent witness stated no minutes had been produced and that the Claimant confirmed attendance to the hearing in cross-examination.
51. The Respondent witness at Re-exam stated there was hearing which she attended on 7th February 2020. That the Claimant was dismissed for overage charge of failure to report. That there was no evidence in writing of the report to Branch Manager who was in attendance. The other charge was admitted. That there was no evidence of the said report to the manager. The court on evaluation of the evidence



found that the Claimant admitted failure to report the incident as per the procedure in his response to show cause. The allegation of the verbal report to the manager was not proved.

52. The court held the reason for termination was valid on basis of non- compliance with operational requirements of the employer by the Claimant. The claimant admitted to failing to report the incident of overage as per the Respondent’s procedures. He was aware of the procedures. The court found that the reason was valid and fell within the reasonableness test by Lord Denning in *British Leyland UK Limited v Swift*(1981)I.R.L.R 91 who held that:- “The correct test is: Was it reasonable for the employers to dismiss him? If no reasonable employer would have dismissed him, then the dismissal was unfair. But if a reasonable employer might reasonably have dismissed him, then the dismissal was fair. It must be remembered that in all these cases there is a band of reasonableness, within which one employer might reasonably take one view: another quite reasonably take a different view...’
52. Procedural fairness is according to section 41 of the *Employment Act* to wit:-“41. Notification and hearing before termination on grounds of misconduct
- (1) Subject to section 42(1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation.
 - (2) Notwithstanding any other provision of this Part, an employer shall, before terminating the employment of an employee or summarily dismissing an employee under section 44(3) or (4) hear and consider any representations which the employee may on the grounds of misconduct or poor performance, and the person, if any, chosen by the employee within subsection (1) make.”
53. In *Walter Ogal Anuno vs. Teachers Service Commission* (2013) eKLR it was held:- “For a termination to pass the fairness test, it must be shown that there was not only substantive justification but also procedural fairness.” The court on the procedure found no evidence of invitation of the Claimant to a hearing. The Claimant could not recall having been subjected to a hearing. The employer produced minutes dated 13th September 2019 (page 104 of Respondent’s documents.) The said minutes related to an earlier incident. The court concluded on a balance of probabilities the Claimant was not called for hearing in accordance with section 41 of the *Employment Act* before the termination. The court holds the reason for termination was valid but the procedure was unfair.

Whether the claimant was entitled to reliefs sought

54. The Claimant sought for reinstatement and compensation. The reasons for termination having been held as valid the Claimant would not have been a suitable candidate for reinstatement. The court has held several times that an employee cannot be compensated for his own wrong. That position is upheld in the instant case.
55. The court finds that the Claimant was entitled to notice as per his contract for lack of fair procedural hearing under section 35 of the *Employment Act*. Clause 2 of the contract of employment dated 16th May 2014 provided for one-month notice. The same is awarded at the undisputed gross salary of KShs.147,472/= as pleaded in paragraph 15 of the Claimant’s witness statement.
59. On the prayer for exemplary damages which are meant to deter , the Court held that there was no prove of the same and even if there was, the court had no jurisdiction to grant the same. (see Court of Appeal in *Godfrey Ndumba Mbongori & Karimi Associates Ltd v Nairobi City County* (2018) e KLR where



it cited *Rookes V Barnard* (1964)AC 1129 on circumstances under which exemplary damages may be awarded). On finding unfair termination the court is obliged under section 50 of the *Employment Act* to grant remedies guided by section 49 of the Act. Exemplary damages is not one the remedies. Section 49 provides for remedies for unfair termination as follows:- ‘49 (1) Where in the opinion of a labour officer summary dismissal or termination of a contract of an employee is unjustified, the labour officer may recommend to the employer to pay to the employee any or all of the following—

- (a) the wages which the employee would have earned had the employee been given the period of notice to which he was entitled under this Act or his contract of service;
 - (b) where dismissal terminates the contract before the completion of any service upon which the employee's wages became due, the proportion of the wage due for the period of time for which the employee has worked; and any other loss consequent upon the dismissal and arising between the date of dismissal and the date of expiry of the period of notice referred to in paragraph (a) which the employee would have been entitled to by virtue of the contract; or
 - (c) the equivalent of a number of months wages or salary not exceeding twelve months based on the gross monthly wage or salary of the employee at the time of dismissal....
- (3) Where in the opinion of a labour officer an employee's summary dismissal or termination of employment was unfair, the labour officer may recommend to the employer to—
- (a) reinstate the employee and treat the employee in all respects as if the employees employment had not been terminated; or(b) re-engage the employee in work comparable to that in which the employee was employed prior to his dismissal, or other reasonably suitable work, at the same wage.” The claimant was awarded notice pay for the lack of procedural fairness one of the remedies under section 49.

Conclusion

56. The claim is allowed. The court declared that the reasons for termination were lawful. There was no procedural fairness. Judgment is entered for the Claimant against the Respondent for notice pay of one month consolidated salary of KShs.147,472 with Costs and Interest at court rates from date of judgment. 30 days' stay is granted.

57. It is so Ordered.

DATED, SIGNED, AND DELIVERED IN OPEN COURT AT NAIROBI THIS 28TH DAY OF MARCH, 2025.

J.W. KELI,

JUDGE.

In The Presence Of:

Court Assistant: Otieno

Claimant - Ms. Wangui hb Mungai

Respondent: Musyoka

