



**Kadu v Kenya Ports Authority (Cause E096 of 2021)  
[2025] KEELRC 729 (KLR) (7 March 2025) (Judgment)**

Neutral citation: [2025] KEELRC 729 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CAUSE E096 OF 2021**

**AK NZEI, J  
MARCH 7, 2025**

**BETWEEN**

**ERASTUS OTIENO KADU ..... CLAIMANT**

**AND**

**KENYA PORTS AUTHORITY ..... RESPONDENT**

**JUDGMENT**

1. The Claimant, Erastus Otieno Kadu, sued the Respondent vide a Memorandum of Claim dated 25<sup>th</sup> October, 2021 and filed in this Court on the even date, and sought the following reliefs:-
  - a. Loss of salary from April 2012 upto October 2020 ..... Kshs.2,248,208.33.
  - b. Loss of House Allowance from April 2012 to October 2020 ..... Kshs.758,900/=.
  - c. Loss of Motor Transport Allowance from April 2012 to October 2020 ..... Kshs.1,042,500/=.
  - d. Loss of Berth Productivity Allowance from April 2012 to October 2020 ..... Kshs.4,323,706.91.
  - e. Loss of Shift Allowance from April 2012 to October 2020 ..... Kshs.301,719.39.
  - f. Costs of the suit and interest and incidentals.
  - g. Interest at Court rates.
2. The Claimant pleaded that he was employed by the Respondent as a Clerk Financier in April 1984 or thereabouts, and subsequently rose through the ranks to the Marine Operations Department. That vide a letter dated 18<sup>th</sup> June, 2008 (Ref No. PD/7/8851), the Claimant was promoted to the position of Bunkering Superintendent HM4 No. 411-5006.



3. It was the Claimant's further pleading:-

- a. that on 12<sup>th</sup> April, 2012, the Claimant received a letter Ref. HR/6/16/MO-2012) from the Respondent's Managing Director (through the Head of Marine Operations). That the communication in the said letter was that pursuant to (the Respondent's) Establishment and Human Resource Committee vide its concluded meeting held on 22<sup>nd</sup> and 23<sup>rd</sup> March, 2012, there had been restructuring into the new Kenya Ports Authority and subsequent review of various departments; and that there was an approval for the Claimant to be translated to the post of Bunkering Superintendent, Grade HM4 with effect from 20<sup>th</sup> January, 2012.
- b. that on 4<sup>th</sup> June, 2012, the Claimant wrote an appeal to the Head of Marine Operations, stating that he had been successfully interviewed on 23<sup>rd</sup> November, 2007 for the post of Bunkering Superintendent (Grade HM4), and had been promoted to the post vide a letter dated 18<sup>th</sup> June, 2008; and that he had faithfully served in that position for 5 years. That he (the Claimant), had been unfairly treated in the just concluded restructuring and translation into the new KPA Structure.
- c. that when the aforesaid letter was not acted upon, the Claimant wrote another letter to the Head of Marine Operations on 7<sup>th</sup> September, 2016, drawing his attention to the fact that the Claimant had been left out and overlooked in the new establishment and harmonization of all superintendency positions in the entire Respondent Authority to Grade HM3; and to the fact that the Claimant was the only staff in the entire Authority holding and performing the duties of a Superintendent at a lower grade, Grade HM4, and sought to be upgraded from Grade HM4 to HM3.
- d. that again, vide a letter dated 14<sup>th</sup> October, 2018, the Claimant re-appealed and sought adjustment from Grade HM4 to HM3. That the Claimant made reference to a previous letter by the Head of Marine Operations (dated 17<sup>th</sup> July, 2018) whereby the Head of Marine Operations had pointed out that the Claimant ought to have been promoted and adjusted from HM4 to HM3, and that an error had been made during the restructuring and harmonization into the new KPA establishment effected on 20<sup>th</sup> January, 2012, translating and harmonizing all superintendent positions in the entire Respondent Authority to Grade HM3.
- e. that vide a letter dated 24<sup>th</sup> March, 2020, the Respondent informed the Claimant that he was due for retirement on 24<sup>th</sup> October, 2020, and that the Respondent Authority was grateful for loyal and faithful service that the Claimant had rendered to the Respondent for 36 years. That the Claimant was given a 3 months' notice which was to commence on 24<sup>th</sup> July, 2020.
- f. that the Claimant was provided with an exit questionnaire on 22<sup>nd</sup> April, 2020 in which he expressed that during the period of his employment, since 2012, he had been unlawfully, illegally and wrongfully discriminated, and set out grounds:-
  - i. that he ought to have been translated to bunkering superintendent Grade HM3 as enjoyed by all staff working in the superintendent position in the Marine Operations Department and in the entire Authority.
  - ii. that he (the Claimant) had appealed severally to the Management and the Head of Human Resource through the Head of Marine Operations, but no action had been taken since the year 2012; and that the Claimant did not receive any response on the issue or an acknowledgment letter from the Human Resource Department.



- g. that in an attempt to conceal the illegal and discriminative actions, the Respondent's Managing Director sent a letter dated 12<sup>th</sup> October, 2020 (through the Head of Marine Operations) stating that the Claimant was up for promotion to the position of Bunkering Superintendent Grade HM3 with effect from 25<sup>th</sup> July, 2020; that the Claimant would be given salary increment and that his incremental date would be 1<sup>st</sup> July, 2021.
  - h. that the Claimant wrote a letter to the Respondent's Pension Manager on 13<sup>th</sup> October, 2020 and informed him of the late and backdated promotion to Grade HM3 with a salary increase from Kshs.123,500/= to Kshs.129,360/=, and requested for adjustment.
  - i. that on or about 24<sup>th</sup> October, 2020, the Claimant retired from employment with the Respondent.
  - j. that the actions meted out on the Claimant by his employer (the Respondent) through its employees constituted an unfair labour practice; and were unlawful, illegal and wrongful, and breached the Claimant's constitutional rights guaranteed in the *Employment Act* and enshrined in *the Constitution* of Kenya 2010.
4. Documents filed alongside the Claimant's Memorandum of Claim included the Claimant's written witness statement dated 25<sup>th</sup> October, 2021 and an evenly dated list of documents, listing 16 documents. The listed documents included the Respondent's letter dated 18<sup>th</sup> June, 2008 promoting the Claimant to the position of Bunkering Superintendent Grade HM4 – Post No. 411-5006 with effect from 23<sup>rd</sup> November, 2007, the Respondent's letter dated 12<sup>th</sup> April, 2012, translating the Claimant to the post of Bunkering Superintendent Grade HM4 with effect from 20<sup>th</sup> January, 2012, the Claimant's appeal letters dated 4<sup>th</sup> June, 2012, 7<sup>th</sup> September, 2016, 14<sup>th</sup> October, 2018, 6<sup>th</sup> October, 2019 and 20<sup>th</sup> December, 2019, a letter by the Respondent's Head of Marine Operations dated 17<sup>th</sup> July, 2018 pleading the Claimant's case to the Respondent's Head of Human Resources and the Claimant's retirement letter dated 24<sup>th</sup> March, 2020.
  5. The Respondent entered appearance on 3<sup>rd</sup> December, 2021 and filed Response to the Claimant's claim, denying the Claimant's claim. The Respondent further pleaded:-
    - a. that the process of promotion of the Respondent's employees is strictly governed and regulated by the Respondent's Human Resource Policies, including the Human Resource Manual 2017 and the applicable laws governing Public Service.
    - b. that the Respondent establishment is only as per an approved scheme of service which cannot be adjusted at will, without following due process and statutory approvals.
    - c. that the approved scheme of service has never been erroneous as alleged by the Claimant.
    - d. that the Claimant was issued with an Exit Interview Questionnaire prior to his [exiting] the establishment.
    - e. that the Claimant was promoted only after following due Human Resource process in accordance with the Respondent's policies and law governing Public Service.
  6. On 28<sup>th</sup> June, 2022, the Respondent filed a witness statement of Josphat Langat dated 27<sup>th</sup> June, 2022 and a list and bundle of documents (dated 27<sup>th</sup> June, 2022), listing 16 documents. The said documents included a letter by the Respondent's Head of Marine Operations, pleading the Claimant's case and asking that he be promoted to Grade HM3 similar to other superintendents in the Respondent Authority.



7. On 30<sup>th</sup> May, 2023, the Claimant filed a further list of witnesses and a witness statement of Philip Kipng'eno Malel, dated 23<sup>rd</sup> May, 2023. The Claimant also filed a further list of documents listing some 4 documents. All these were, however, withdrawn by the Claimant on 21<sup>st</sup> June, 2023.
8. The Respondent filed a further list and bundle of documents dated 12<sup>th</sup> July, 2024, listing some 2 documents; a letter dated 18<sup>th</sup> March, 2019 and the Respondent's Human Resource Manual 2011.
9. Trial opened before me on 21<sup>st</sup> June, 2023. The Claimant adopted his filed witness statement dated 25<sup>th</sup> October, 2021 as his testimony, and produced in evidence the documents listed on his evenly dated list of documents. The Claimant further testified that he was first employed by the Respondent (KPA) on 29<sup>th</sup> April, 1984 and retired on 24<sup>th</sup> October, 2020, having served the Respondent Authority for 36 years. That in the year 2008, the Claimant attained the position of Bunkering Superintendent Grade HM4, which was the lowest management grade.
10. The Claimant further testified:-
  - a. that he was promoted to the said position of Bunkering Superintendent Grade HM4 after retirement of the previous holder of the position. That the position had been advertised and upon application for the same, the Claimant had been successfully interviewed for the same. That his letter of promotion to the post was dated 18<sup>th</sup> June, 2008.
  - b. that in the year 2012, the Respondent underwent an upgrade and harmonization of all positions, and that all the employees at the Claimant's rank, including those in his department, were moved to Grade HM3, with the Claimant being left at Grade HM4. That no other superintendent remained at Grade HM4.
  - c. that the upgraded superintendents did not undergo any interviews before being upgraded.
  - d. that the Respondent's letter to the Claimant dated 12<sup>th</sup> April, 2012 only talked of translation into the new (KPA) establishment.
  - e. that the Claimant wrote to the Head of HR Department through the Head of Marine Operations, (at the time one Captain William Ruto) and then Captain Moses Muthama. That the Claimant's Head of Department wrote to the Head of HR and addressed the issue of the Claimant's upgrading, that the Claimant had been left out. (The Claimant exhibited a letter by Captain Moses Muthama dated 17<sup>th</sup> July, 2018).
  - f. that the 2012 harmonization exercise had resulted in the staff under the Claimant being upgraded to HM4, HG1, HG2 upto HG3; and that as a result of the Respondent's failure to upgrade the Claimant to Grade HM3 along with the other superintendents, the Claimant, who performed supervisory duties, shared a Job Group with the staff under him, something which did not happen to any other superintendent.
  - g. that the Claimant [finally] received a letter of promotion to grade HM3 on 12<sup>th</sup> October, 2020, and retired on 24<sup>th</sup> October, 2020. That the Claimant was given the promotion letter 12 days to his retirement.
  - h. that the person who had been sent to understudy the Claimant, one George Kimutai, came from Finance Department and was at Grade HM3, and went to Marine Operations Department with a letter promoting him to Grade HM3.
  - i. that the Claimant's promotion on retirement to a grade that he had been fighting for for 8 years was meant to upgrade the Claimant's office so that someone else could go and occupy the same.



11. Cross-examined, and re-examined, the Claimant testified that on being promoted to the post of Bunkering Superintendent Grade HM3 just days to his retirement, his post number remained the same, and that the salary difference between his previous job grade (HM4) and the new grade to which he was promoted (HM3) was about Kshs.5,000/=. That the effect of the upgrading done in 2012 was that all job grades were translated upwards, each position a grade higher. That other superintendents' grades were translated, but the Claimant's was not; as he had been promoted to the post of Bunkering Superintendent HM4 in the year 2008.
12. The Respondent called one witness, Joshat Langat (RW-1), a Principal Human Resources Officer at the Respondent Authority. The witness (RW-1) adopted his filed witness statement dated 27<sup>th</sup> June, 2022 as his testimony; and produced in evidence the Respondent's documents referred to at paragraph 6 of this Judgment. RW-1 testified that after the restructuring exercise in 2012, the HR received several requests from the Marine Department, requesting that the Claimant be upgraded to Grade HM3, which was the next grade up from Grade HM4. That the response was that the Claimant could not be promoted in the absence of a vacant Grade HM3 position. That allegations of discrimination against the Claimant and allegations that all other superintendents had been upgraded to Grade HM3 were untrue as there were many other positions in the Respondent establishment which retained the same level after restructuring.
13. RW-1 further testified:-
  - a. that the Claimant was upgraded to Grade HM3 based on a case put up by the Respondent's Management; and that this came as a result of change of functions regarding the said post. That the post was not restructured for the benefit of another employee.
  - b. that the Claimant was not entitled to the difference (in salary) between Grades HM4 and HM3 because he could not have been upgraded to a non-existent post.
14. Cross-examined, RW-1 testified:-
  - a. that the position of Bunkering Superintendent Grade HM3 did not fall vacant between 2012 and 2020. That the Claimant's promotion letter dated 12<sup>th</sup> October, 2020 was preceded by an Internal Memo by the Principal Human Resource Officer informing the Senior Human Resource Officer of the Respondent's Board's decision to upgrade the Claimant from the position of Bunkering Superintendent Grade HM4 to Bunkering Superintendent Grade HM3. That the basis of the Claimant's said promotion was the KPA Board's action; and that the Board's Minutes had not been produced in Court.
  - b. that the Claimant's first promotion (in 2012) resulted from successful interviews, while the second one (in October 2020) resulted from upgrading of an existing post. That the Claimant had not been upgraded during the 2012 (general) upgrading.
  - c. that the witness (RW-1) had not produced in Court any records to show that there were other superintendents, other than the Claimant, who had not been upgraded. That the upgraded superintendents received upgrading letters which were not similar to that given to the Claimant.
  - d. that in the Exit Questionnaire, which originated from the Respondent's HR, and in response to the question whether he had been subjected to discrimination, harassment and bullying, the Claimant answered in the affirmative. That the Claimant explained the kind of discrimination suffered by him as being failure by the Respondent to translate him from HM4 to HM3 similar



to all other superintendents, that he had appealed severally and no action had been taken; and that the Exit Questionnaire had been produced in evidence in this Court.

- e. that RW-1 had nothing to show that the Claimant's 8 years' complaint had been escalated to the KPA Board. That the evidence of that escalation was the Respondent's letter to the Claimant dated 12<sup>th</sup> October, 2020. That the Claimant retired on 20<sup>th</sup> October, 2020.
  - f. that the Claimant's Exit Questionnaire was received by the Respondent's Head of Human Resource Department, and that the Respondent's Board; without the Human Resource Committee's recommendation, cannot entertain anything Human Resource.
  - g. that the Claimant appealed against the Respondent's failure to upgrade him in 2012 vide a letter dated 4<sup>th</sup> June, 2012, which was received by Marine Operations within KPA by stamping on it. That an employee could only address the HR Department through his Head of Department.
  - h. that RW-1 was not able to tell why the Claimant was left out during harmonization and upgrading in 2012. That the exercise had been carried out by an internal committee of managers.
  - i. that the position held by the Claimant before translation/upgrade was Grade HM4, and that he remained there after harmonization. That RW-1 believed that the Claimant's position was not presented by the Marine Operations [Department] for upgrading, and that it was the fault of that Department.
  - j. that vide a letter dated 17<sup>th</sup> July, 2018, Captain Muthama, a Manager in the Respondent Authority, pleaded the Claimant's case on the Respondent's failure to upgrade the Claimant.
  - k. that vide a letter dated 27<sup>th</sup> April, 2017, Captain William, currently the Respondent's Managing Director, pleaded the Claimant's case to the Respondent upon the Respondent's failure to upgrade the Claimant. That Captain William was not wrong.
15. Re-examined, RW-1 testified that he believed that the Claimant's department did not present the Claimant's name for elevation during the translation (harmonization) exercise. That there was a difference in salary and allowances between the positions of Bunkering Superintendent Grade HM3 and Bunkering Superintendent Grade HM4.
16. The Respondent (RW-1) demonstrated that the Claimant's basic salary, standard house allowance and motor transport allowance remained constant over a period of time, while payment of Berth Productivity Allowance and Shift Allowance kept fluctuating. RW-1 also demonstrated that shift allowance was not paid to the Claimant every month, but during months when the Claimant was on shift.
17. RW-1 further demonstrated that upon the Claimant's upgrading/promotion on 12<sup>th</sup> October, 2020, with the promotion/upgrading being back-dated to June 2020, payments (increments) that were prompted by the promotion were paid to the Claimant by the Respondent in retrospect regarding the months of June, July, August and September 2020. The Respondent (RW-1) did not tell the Court why the Claimant's salary and allowances were back-dated to June 2020 instead of January 2012 when the Claimant's upgrading (promotion) ought to have been effected. Failure by the Respondent to back-date the Claimant's higher salary and allowances to the actual date when the upgrading ought to have been effected was wrong, and echoed on the discrimination which the Claimant had endured for over 8 years. The Claimant's fellow superintendents in the entire Kenya Ports Authority establishment



had enjoyed higher salaries and allowances from January 2012, being the indicated date of upgrading/translation.

18. The Respondent (RW-1) further demonstrated that the Claimant's upgrading/promotion from Job Grade HM4 to Grade HM3, after more than 8 years of deliberate discrimination by the Respondent, resulted in increment of the Claimant's basic salary, standard house allowance and motor transport allowance. The Respondent did not dispute, in its evidence, the amounts claimed by the Claimant in the suit herein on the foregoing 3 items; and did not offer a different sum thereon. All that the Respondent (RW-1) told the Court was that the Claimant was not entitled to the sums claimed, and invited the Court to dismiss the suit.
19. Having considered the pleadings filed herein and evidence adduced by both parties, issues that fall for determination, in my view, are as follows:-
  - a. Whether the Claimant was a victim of unfair treatment and discrimination during the period of his employment, and particularly from January 2012 to October 2020.
  - b. Whether the Claimant is entitled to the reliefs sought.
20. On the first issue, Section 5(2) of the Employment Act provides as follows:-

“(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment or policy.”
21. Section 5(1)(a) of the Employment Act 2007 on the other hand obligates the Minister, Labour Officers and the Industrial Court:-

“(a) To promote equality of opportunity in employment in order to eliminate discrimination in employment.”
22. The term “Industrial Court” as used in Section 5(1)(a) of the Employment Act 2007 refers to the forerunner of this Court and, therefore, in the context of the Section, refers to this Court.
23. The Black's Law Dictionary 10<sup>th</sup> Edition defines discrimination as:-

“Differential treatment; especially a failure to treat all persons equally when no reasonable distinction can be found between those favoured and those not favoured.”
24. In the present case, it was a common ground that the Claimant was, vide a letter of promotion dated 18<sup>th</sup> June, 2008, promoted to the post of Bunkering Superintendent, Grade HM4, Post No. 411-5006. The promotion was pursuant to a successful interview of the Claimant, and was effective from 23<sup>rd</sup> November, 2007.
25. It was further a common ground that in the year 2012, the Respondent undertook a harmonization and restructuring process which resulted in the upgrading of the Respondent's employees to higher job grades. The Claimant pleaded and testified that all the Respondent Authority's employees of the rank of Superintendent, apart from the Claimant, were upgraded to job Grade HM3, which was a grade higher than the rank/position of Grade HM4, which the Claimant had held since 23<sup>rd</sup> November, 2007. The Respondent's letter to the Claimant dated 12<sup>th</sup> April, 2012 stated as follows:-

“This is to inform you that following the Restructuring of the Kenya Ports Authority and subsequent review of your Department's Establishment, the Human Resource Committee of the Board at its 130<sup>th</sup> Meeting held on 22<sup>nd</sup> and 23<sup>rd</sup> March, 2012, accorded its approval



for you to be translated to the post of Bunkering Superintendent, Grade HM4 with effect from 20<sup>th</sup> January, 2012 . . .”

26. It is to be noted that the Claimant had held the position of Bunkering Superintendent Grade HM4, to which he was being purportedly translated/upgraded, since November 2007. The Claimant testified that all Superintendents in the entire Respondent Authority were translated/upgraded to the higher job Grade HM3, except himself; forcing him (the Claimant) to write appeals to the KPA Management requesting to be upgraded to Job Grade HM3 like the other Superintendents. The Claimant produced in evidence appeal letters dated 4<sup>th</sup> June, 2012, 7<sup>th</sup> September, 2016, 14<sup>th</sup> October, 2018 and 6<sup>th</sup> October, 2019; all of which were shown to have been received by the Respondent, but never acted upon. Indeed, the Respondent is not even shown to have acknowledged receipt of the said appeal letters.
27. The Claimant’s assertion that he was discriminated against by the Respondent by being left out when all the other employees of the rank of Superintendent were being translated/upgraded to the higher job Grade HM3 was corroborated by 2 letters written at different times by the Respondent’s Heads of Marine Operations Department, in which the Claimant worked.
28. A letter written to the Respondent’s Head of Human Resources by the Head of Marine Operations Department (Captain William Ruto), dated 28<sup>th</sup> April, 2017 and produced in evidence by the Respondent states:-

“RE: APPEAL FOR PROMOTION TO GRADE HM3, MR. ERASTUS KADU, GRADE HM4

Mr. Erastus Kadu was promoted to the position of Bunkering Superintendent grade HM4 . . . vide Human Resource letter of ref. PD/7/88511 dated 18<sup>th</sup> June, 2008.

During transition and harmonization to the New KPA Establishment, he was translated at the same grade of HM4.

Owing to the duties that he performs, . . . it is recommended that he is considered for promotion to Grade HM3 similar to other Superintendents in the Authority.”

29. The foregoing letter, whose author the Court was told by the Respondent’s witness (RW-1) is currently the Respondent’s Managing Director, was never acted upon by the Respondent. Indeed, RW-1 testified that the author of the said letter was not wrong in writing the letter.
30. In the year 2018, the Head of Marine Operations, this time one Captain Muthama, wrote a letter dated 17<sup>th</sup> July, 2018 to the Respondent’s Head of Human Resources, also pleading the Claimant’s case. The letter stated in part:-

“Restructuring process harmonized and placed all staff working as Superintendents within Marine Operations Department and indeed the entire Authority to grade HM3.

However, Mr. Kadu was erroneously left out and retained to Bunkering Superintendent grade HM4 without any valid explanation despite numerous appeals by him, whose relevant copies are attached herewith.

The purpose of this letter therefore is to recommend correction of the anomaly which has left Mr. Kadu disadvantaged, and to upgrade him to grade HM3 (supernumerary) like all other Superintendents in the Marine Operations Department and entire Kenya Ports Authority Structure.”



31. The Respondent (RW-1) did not question the validity or authenticity of the aforesaid 2 letters; which were the Respondent's own letters, written by the Claimant's immediate superiors/supervisors. Indeed, the letter (dated 28<sup>th</sup> April, 2017) was produced by the Respondent in evidence. The Respondent is not shown to have acted on the same.
32. Discrimination of the Claimant by the Respondent was proved by the Claimant, on a balance of probability. The Respondent did not demonstrate the existence of any reasonable distinction between the Claimant and the other Superintendents in the Respondent's employment who had been favoured. The Claimant did not, however, claim damages for discrimination.
33. The Respondent did not remedy the situation until 24<sup>th</sup> October, 2020, some 12 days to the Claimant's retirement date, when the Respondent wrote a letter (dated 12<sup>th</sup> October, 2020) to the Claimant, promoting him to the position of Bunkering Superintendent Grade HM3, and adjusting/increasing his salary to Kshs.129,360/= per month. The promotion was back dated to 25<sup>th</sup> June, 2020. The Claimant retired from the Respondent's service on 24<sup>th</sup> October, 2020. The Claimant testified that the difference in salary between Job Grade HM4 and Grade HM3 was about Kshs.5,000/= per month.
34. On the second issue, and as already stated in this Judgment, the Respondent demonstrated by evidence that the Claimant's belated upgrading/promotion from Job Grade HM4 to Job Grade HM3, after more than 8 years of deliberate discrimination of the Claimant by the Respondent, resulted in increment of the Claimant's basic salary and allowances, save for Berth Productivity Allowance. The Respondent did not explain its failure to back-date the increments to January 2012 when the Claimant's upgrading/promotion ought to have been effected, and did not dispute the Claimant's claim on loss of salary, house allowance and motor transport allowance.
35. The Respondent, however, demonstrated that payment of Berth Productivity Allowance and Shift Allowance was not constant. It thus behoved the Claimant to demonstrate otherwise, which he did not.
36. I am satisfied that the Claimant has, on a balance of probability, demonstrated and proved entitlement to the claimed sums in respect of loss of salary, loss of house allowance and loss of motor transport allowance, all from April 2012 to October 2020 as pleaded. The claims regarding loss of Berth Productivity Allowance and Shift Allowance, both from April 2012 to October 2020, are declined. The Respondent demonstrated by evidence that payment of these two was not constant, and that the Claimant's Berth Productivity Allowance was not increased after the Claimant's promotion/upgrading.
37. In sum, and having considered written submissions filed on behalf of both parties herein, Judgment is hereby entered for the Claimant against the Respondent as follows:-
  - a. Loss of salary from April 2012 to October 2020 ..... Kshs.2,248,208.33/=.
  - b. Loss of house allowance from April 2012 to October 2020 ..... Kshs.758,900/=.
  - c. Loss of motor transport allowance from April 2012 to October 2020 ..... Kshs.1,042,500/=
 Total = Kshs.4,049,608.33
38. The awarded sum shall be subject to such statutory deductions as applied to the Claimant as at the date of his retirement.
39. The Claimant is awarded costs of the suit and interest on the awarded sum. Interest shall be calculated at Court rate from the date of this Judgment.



**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 7<sup>TH</sup> DAY OF MARCH 2025**

**AGNES KITIKU NZEI**

**JUDGE**

**ORDER**

This Judgment has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

**AGNES KITIKU NZEI**

**JUDGE**

Appearance:

Mr. Kadu for the Claimant.

Miss Asiimu holding brief for Mr. Cheruiyot for the Respondent.

