



**Marwa v University of Eastern Africa Baraton (Employment and Labour Relations Cause 45 of 2020) [2025] KEELRC 739 (KLR) (6 March 2025) (Judgment)**

Neutral citation: [2025] KEELRC 739 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET  
EMPLOYMENT AND LABOUR RELATIONS CAUSE 45 OF 2020**

**MA ONYANGO, J**

**MARCH 6, 2025**

**BETWEEN**

**IMMACULATE NYASEBA MARWA ..... CLAIMANT**

**AND**

**UNIVERSITY OF EASTERN AFRICA BARATON ..... RESPONDENT**

**JUDGMENT**

1. Vide her Memorandum of Claim dated 8<sup>th</sup> October 2020 and filed in court on 6<sup>th</sup> November 2020, the Claimant alleges that the Respondent wrongfully and unfairly dismissed her summarily from employment.
2. According to the Claimant, she was employed by the Respondent on 1<sup>st</sup> October 2004 as a clinical instructor having been previously employed on contractual basis. That she confirmed on 3<sup>rd</sup> November, 2009 on permanent basis. That she rose through the ranks to the position of Assistant Lecturer in the Department of Nursing. That her last gross salary was Kshs.137,707.21 as at the time of termination of her employment.
3. It is the Claimant's case that under instructions of the Respondent, she was arraigned and charged in Kapsabet Principal Magistrates' Court Criminal Case No. 2313/2017 with the offence of making a document without authority contrary to section 357(a) of the *Penal Code* in which she was acquitted on the 29<sup>th</sup> September, 2019, after a full trial. The Claimant stated that as a result of the criminal charges leveled against her, she lost her job opportunity at Kenyatta University.
4. The Claimant avers that without any lawful justification, she was summarily dismissed from employment on 27<sup>th</sup> November 2017 on allegations of absconding duty, a fact which the Respondent knew was false and untrue as at that time she had already resigned from her employment with the Respondent and assumed new duties at Kenyatta University.



5. The Claimant further contended that the termination of her employment was unfair as she was not accorded an opportunity to be heard contrary to Section 41 and 45(4)(b) of the Employment Act 2007.
6. The Claimant prayed for judgment against the Respondent for wrongful and unfair termination of her employment. She further prayed that the court compels the Respondent to pay her the following terminal benefits:
  - a. Payment in lieu of notice @ Three (3) months of net salary Kshs. 93,102.64 x3 ..... Kshs.279,307.92/=
  - b. Wrongful loss of employment 12 months' salary Kshs. 93,102.64 x 12 ..... Kshs1,117,231.68/=
  - c. Wrongful loss of employment at Kenyatta University and employment opportunity gross pay at Kshs. 149,029/=x25 years x 12months ..... Kshs.44,708,700/=
  - d. Termination allowance
  - e. Gratuity
  - f. Issuance of fresh certificate of service.
7. In response, the Respondent filed a Reply to Statement of Claim and Memorandum of Counterclaim dated 18<sup>th</sup> December 2020 denying the averments made by the Claimant in her claim. According to the Respondent, the Claimant decided to seek gainful employment with Kenyatta University without informing it and instead chose to make several requests for leave. The Respondent asserts that it is when the Claimant discovered to have used a forged letter to apply for employment at Kenyatta University that she attempted to resign from her employment with the Respondent.
8. The Respondent denied the allegation made by the Claimant that she was wrongfully dismissed from employment and averred that there were justifiable grounds for summarily dismissing her from employment.
9. The Respondent avers that the Claimant having tendered her resignation to the Respondent and having maintained that her ceasing employment with the Respondent was based on her resignation, she is now estopped from basing any claim against the Respondent on the letter of summary dismissal dated 27<sup>th</sup> November 2017. Further, it is contended that in any event, the Claimant did not at any time from 1<sup>st</sup> January 2017 resume duties with the Respondent. That upon her resignation the Respondent had no jurisdiction thereafter to subject her to any disciplinary process.
10. In response to the allegation made by the Claimant that the Respondent gave instructions for the Claimant to be arraigned and charged in Court, the Respondent maintained that it lodged a complaint with the relevant authorities who subsequently deemed it fit to charge the Claimant and institute criminal proceedings against her. The Respondent stated that the Criminal proceedings against the claimant cannot be said to be unfair, actuated by malice, unlawful and meant to embarrass the Claimant as alleged as the same were instituted by the relevant authorities after carrying out their investigations and determining that there were sufficient grounds for instituting the case. It was stated that the court even went ahead to put the Claimant on her defence after ruling that the prosecution had established its case on a prima facie basis.
11. On this basis, the Respondent averred that the Claimant is not entitled to any of the prayers she sought in her Memorandum of Claim as her employment was never terminated wrongfully, unfairly or



- unlawfully. It is the Respondent's defence that the Claimant in her Memorandum of Claim contended that she willfully resigned from her employment with the Respondent.
12. The Respondent also maintained that it had no authority and is not responsible for the Claimant's alleged loss of employment with Kenyatta University as the said institution is a separate and distinct entity with its own rules and procedures of employment. Further, it was stated that the Claimant has been working at Kirinyaga University as the Dean of School of Health Sciences from the year 2018 and cannot therefore claim for loss of employment from the Respondent.
  13. In the Counterclaim, the Respondent avers that it awarded the Claimant bursaries in the sum of USD Sixteen Thousand Three Hundred (USD 16,300.00) to enable her pursue her PhD studies in Nursing at the University of Kwazulu Natal in South Africa. According to the Respondent, in light of the bursaries awarded to her, the Claimant was in effect bonded to the University for five (5) years after completion of her PhD studies, as amortization of the bursaries issued, as per the Respondent's policy governing bursary awards.
  14. The Respondent stated that the Claimant without notice or consent of the Respondent decided to take up employment with Kenyatta University while still in employment with the Respondent contrary to her contract of employment with the Respondent as well as in breach of clause 4(e) of the Bursary/ Loan Agreement between the parties herein.
  15. The Respondent is demanding from the Claimant the refund of the bursaries awarded to her as the Claimant chose to desert her employment with the Respondent and has to date neglected, refused and/ or otherwise failed to amortize or pay her debt owed to the Respondent in the sum of USD Sixteen Thousand Three Hundred (USD 16,300.00).
  16. Accordingly, the Respondent in the Counterclaim prayed for:
    - i. Judgement be entered for the Respondent against the Claimant for the principal sum of USD 16,300.00 with interest thereon at 20% per annum from 17<sup>th</sup> August 2020, until payment in full.
    - ii. Costs for this suit and interest thereon for such period of time and at such rate as the Court may determine.

### **Claimant's Case**

17. The Claimant testified on 14<sup>th</sup> November 2023 as CW1. She adopted her recorded witness statement and relied on the documents she filed in support of her case as her evidence in chief.
18. It was the Claimant's testimony that the Respondent summarily dismissed her from employment and she was subsequently taken to court on criminal charges as a result of which she lost her job at Kenyatta University. In her evidence, the Claimant stated that she proceeded on study leave and when she came back, the working environment was hostile prompting her to apply for unpaid leave which was not granted as a result of which she resigned from employment.
19. The Claimant stated that when she left the employment of the Respondent, she went for an interview at Kenyatta University and at the time she was charged in the criminal case she had already reported to Kenyatta University. She contended that the Respondent wrote a letter to Kenyatta University alleging that she had forged the resignation letter and as a result, she was suspended by her new employer, Kenyatta University.
20. The Claimant denied absconding duty while in employment of the Respondent as alleged by the Respondent and stated that she finished marking exams on 4<sup>th</sup> December 2016 and submitted her



grades. That from January to April 2017, she was not assigned any duties by the Respondent as she had already informed it that she was not interested in working.

21. On cross examination, the Claimant stated that she is currently working at Kirinyaga University having been employed in August 2018. She stated that by the time she was summarily dismissed from employment on 27<sup>th</sup> November 2017, she had already resigned from the Respondent's employment. It was her testimony that as at 27<sup>th</sup> November 2017, she was no longer the Respondent's employee as her resignation was effective January 2017.
22. The Claimant admitted that she never gave notice to the Respondent for her resignation as stipulated by the terms of her employment. She also confirmed that she had been awarded a bursary by the Respondent vide a loan agreement signed on 17<sup>th</sup> April 2015 which award was to be amortized or paid in cash. The Claimant in her testimony admitted that as per the letter dated 24<sup>th</sup> September 2017, she requested the Respondent to give her the calculation of the money she owed it and that as at the time she wrote the letter, she was no longer an employee.
23. The Claimant also stated that she started working with Kenyatta university on 10<sup>th</sup> January 2017. That as per her employment contract, she was appointed at Kenyatta University on 25<sup>th</sup> November 2016. That as at that date, she had not resigned from the Respondent's employment as she resigned on 1<sup>st</sup> December 2016.
24. It was the Claimant's assertion that she was invited to appear before the Board but she declined to appear as she was not given clarification on the agenda.

### **Respondent's Case**

25. The Respondent called Paul Onyango Wahonye who testified as RW1 and introduced himself as the Respondent's DVC-Academic Affairs. RW1 adopted his witness statement recorded on 9<sup>th</sup> November 2023 as his evidence in chief and relied on the documents filed by the Respondent in support of its case.
26. RW1 testified that the Claimant owed the Respondent USD 16,300 as evidenced by the bursary loan agreement in which the Claimant entered into a contract with Respondent on 17<sup>th</sup> April 2015. RW1 explained that as per the terms and conditions of the said agreement, the Claimant upon completion of her studies was to be bonded with the Respondent through 5 years of service. RW1 testified that the Claimant did not amortize the bursary awarded to her and as per the contract, being in breach of service, she was to pay the loan in cash.
27. According to RW1, the Claimant was dismissed by the University Council on 13<sup>th</sup> November 2017 after the Claimant tendered her resignation letters dated 9<sup>th</sup> June 2017 and 25<sup>th</sup> April 2017 which resignation letters were rejected but she nonetheless, absconded duty as she had already taken up employment with Kenyatta University contrary to the loan agreement which prohibited her from taking up any other employment or engaging in business without the Respondent's consent.
28. During cross examination, RW1 stated that from the Loan/Bursary agreement, the Claimant was advanced USD 2800 in first year, USD 8000 in 2<sup>nd</sup> year and USD 1500 in 3<sup>rd</sup> year. That there is no indication for disbursements for 4<sup>th</sup> year. RW1 also stated that although the Claimant was summarily dismissed from employment on 27<sup>th</sup> November 2017, the dismissal was effective from 17<sup>th</sup> January 2017 being the date the Claimant absconded duty.



### **The Claimant's submissions**

29. In her submissions, the Claimant submitted that she tendered her resignation on 1<sup>st</sup> December, 2016 which resignation was voluntary and also explicit that she had been frustrated at her place of work forcing her to take up employment at Kenyatta University. The Claimant contended that despite her resignation out of frustration by the Respondent, the Respondent followed her to her new place of employment at Kenyatta University alleging that the Claimant had submitted a forged letter leading to the Claimant's summary dismissal from Kenyatta University.
30. The Claimant submitted that she was summarily dismissed from employment on the 27<sup>th</sup> November 2007 by the University Council without being heard and that through letters dated 12<sup>th</sup> June, 2017 and 16<sup>th</sup> June, 2017 attached to the Respondent's bundle of documents, the Claimant was required to appear before the Administrative board and not the university council as was required.
31. On the issue raised by the Respondent that the Claimant secured another job at Kenyatta University while still in its employment, the Claimant submitted that there was nothing wrong for a frustrated and constructively dismissed claimant to look for employment elsewhere
32. The Claimant urged the court to allow the claim and dismiss the Respondent's counterclaim with costs.

### **Respondent's submissions**

33. The Respondent on its part identified the issues for determination to be:
  - i. Whether the Claimant is entitled to payment in lieu of Notice as claimed.
  - ii. Whether the Claimant is entitled to payment for wrongful loss of employment and compensation for wrongful loss of employment opportunity at Kenyatta University as claimed.
  - iii. Whether the Claimant is entitled to termination allowance and Gratuity pay.
  - iv. Whether the Claimant is entitled to issuance of fresh certificate of service.
  - v. Whether the Respondent is entitled to a judgement in the sum of USD 16,300 with interest at 20% per annum from 17<sup>th</sup> August 2020 until payment in full.
  - vi. Who should bear the costs of the main suit and the Counterclaim.
34. On the first issue, the Respondent submitted that it issued the Claimant the summary dismissal letter dated 27<sup>th</sup> November 2017, 11 months after her first letter of resignation and 7 months after the second letter of resignation. According to the Respondent, the Claimant in her evidence admitted that her formal resignation took effect before the alleged summary dismissal and further, to confirm that the Claimant was not returning to work with the Respondent, vide a third letter dated 8<sup>th</sup> June 2017, she informed the Respondent that her decision to resign was irreversible. In this regard, the Respondent submitted that pursuant to the provisions of Section 36 of the *Employment Act* and Clause 5 of the Employment Contract, the Claimant is not owed any payment in lieu of notice as claimed as her resignation from work took effect long before she was issued with a summary dismissal letter by the Respondent.
35. On the second issue on whether the Claimant is entitled to payment for wrongful loss of employment and compensation for wrongful loss of employment opportunity at Kenyatta University as claimed, the Respondent while citing the case in Mombasa ELRC No. 339 Of 2016 Kennedy Obaga Oaga



Vs Kenya Ports Authority submitted that whereas it issued a letter dismissing the Claimant on 27<sup>th</sup> November 2017, it was as a result of misapprehension of the law as the Claimant had already resigned from employment on her own volition.

36. In response to the allegation by Claimant in her submissions that she was constructively dismissed from employment, the Respondent submitted that the Claimant did not plead constructive dismissal anywhere in her Memorandum of Claim and no evidence was adduced to prove constructive dismissal.
37. As regards her claim for damages for loss of employment with Kenyatta university, the Respondent submitted that the loss of employment with Kenyatta university is not in any manner connected with her arraignment in court and that the claim for loss of employment has not been proved.
38. On the third issue, the Respondent submitted that the Claimant resigned from employment and is thus not entitled to termination or gratuity allowance. Further, it was submitted that the Claimant did not prove that she is entitled to any payment under the ECD Working Policy.
39. On the issue whether the Claimant is entitled to issuance of fresh certificate of service, the Respondent submitted that it has no problem issuing a fresh one if needed.
40. As regards the Respondent's claim for judgement in the sum of USD 16,300 with interest at 20% per annum from 17<sup>th</sup> August 2020 until payment in full as sought in its counterclaim, the Respondent submitted that it granted the Claimant a bursary in the sum of USD 16,300 with interest at 20% per annum an award which was admitted by the Claimant on cross examination. The Respondent submitted that no evidence was produced by the Claimant to confirm that the loan had been repaid or amortized as anticipated in contract. The Respondent therefore submitted that it had proved that it was entitled to grant of the prayers sought in the counterclaim and urged the court to grant the same
41. Lastly, as regards the issue on who should bear the costs of the main suit and the Counterclaim, the Respondent while submitting that there was no legal or factual basis for filing of the suit herein by the Claimant averred that the instant suit is an attempt by the Claimant not to repay the sums advanced to her as bursary. The Respondent sought for the Claimant to be condemned to repay the loan advanced to her as bursary having failed to amortize the same.
42. The court was thus urged to dismiss the Claimant's claim and to allow the Respondent's counterclaim with costs.

### **Determination**

43. Upon considering the pleadings herein, the evidence of the respective parties as well as the submissions, I find that the issues that fall for this court's determination are: -
  - i. Whether the Claimant resigned or was summarily or constructively dismissed by the Respondent
  - ii. Whether the Claimant is entitled to the reliefs sought.
  - iii. Whether the Respondent is entitled to the reliefs sought in the CounterclaimWhether the Claimant resigned or was summarily or constructively dismissed by the Respondent
44. The Claimant contended in her pleadings as well as in her oral testimony in court that she was frustrated by the Respondent forcing her to resign from employment. According to the Claimant, upon returning from study leave, she reported back to a hostile working environment as a result of



which she sought to be granted unpaid leave, maternity leave and subsequently, opted to resign from employment.

45. The Claimant contended that after her resignation she was unfairly and wrongfully summarily dismissed by the Respondent. That she was not given an opportunity to be heard.
46. Vide a letter dated 1<sup>st</sup> December 2016, the Claimant wrote to the Respondent the letter reproduced hereunder:

December 1, 2016

Dr. Immaculate Nyaseba Marwa,  
University of Eastern Africa Baraton,  
Box 2500,  
Eldoret.

To

The Chairman,  
Administration Board,  
University of Eastern Africa Baraton,  
Box 2500,  
Eldoret.

Dear Sir,

RE: REQUEST FOR UNPAID LEAVE

In reference to the above I would like to request for a formal leave without pay for a period of two (2) years and six (6) months effective January 1<sup>st</sup> 2017 to July 1<sup>st</sup> 2019.

The above stated request has been necessitated by personal reasons which require my fulltime attention.

I look forward to a positive response from you.

Yours Faithfully,

Signed

Dr. Immaculate Nyaseba Marwa

cc: DVC-Academics

Human Resource Manager

Dean School of Nursing

47. In response to the above letter, the Respondent wrote to the Claimant the letter dated 5<sup>th</sup> January 2017 which reads:

Dr. Immaculate Marwa Morara  
Department of Nursing  
University of Eastern Africa Baraton



Dear Dr. Morara,

Re: Request For Unpaid Leave

In the Administrative Board meeting held on December 20, 2016, your request for an unpaid leave for two and a half years was considered. The Administrative Board considered the fact that you have recently returned from your study leave and you have not completed your amortization period. Secondly, your services are currently needed in the School of Nursing. Based on these considerations, it was decided to deny your request for an unpaid leave. You can apply again when your amortization period is over (Action 1442-46-2016).

Thanks and God bless you in your service to the university

Sincerely,

Signed

Phillip Maiyo, BSc (Hons), MBA (Finance), MSc (Computer Science), PhD, CCNSP

Vice-Chancellor

University of Eastern Africa, Baraton

48. On receiving the above letter, the Claimant on 18<sup>th</sup> January 2017 applied for 90 days maternity leave which leave although recommended by the head of department, was declined by the Respondent.
49. On 20<sup>th</sup> April 2017, the Claimant wrote the resignation letter reproduced hereunder:

April 20,2017

Dr. Immaculate Marwa-Morara,

C/o Gideon Nyangena,

30197-00100,

Nairobi.

Email: xxxxxxxxxxxxxxxx@yahoo.com

Mobile:07215xxxxxxxx

TO:

The Chairman,

Administration Board,

University of Eastern Africa, Baraton,

Box 2500-30100,

Eldoret.

Dear Sir,

Re: Resignation As An Assistant Lecturer From UEAB

I hereby wish to tender my resignation effective immediately, due to personal reasons which are beyond my control.

Yours Faithfully,

Signed



Immaculate Marwa-Morara (PhD)

cc. DVC-Academics

Human Resource Manager

50. On 22<sup>nd</sup> May 2017, the Respondent in response to the resignation letter issued by the Claimant wrote the letter dated 22<sup>nd</sup> May 2017 whose contents are as follows:

Dr. Immaculate Marwa-Morara

C/O Nairobi Campus

UEAB

Dear Dr. Marwa,

Re: Adboard Action on Your Resignation

This is to communicate to you an action that was taken by the Administrative Board on May 17, 2017, with regard to your resignation, as follows:

Whereas Dr. Immaculate Marwa has resigned effective April 20, 2017, and

Whereas the University gave her full sponsorship to Study for a PhD in Nursing at the University of Kwa Zulu Natal in South Africa; and

Whereas Previously the University had also given her three months' Study Leave with pay and;

Whereas she was also given unpaid study leave for one year from August 1, 2015 to July 31, 2016, and

Whereas she has just reported to duty and has therefore not amortized her bursary as per the bursary agreement,

Voted to deny Dr. Immaculate N Marwa's resignation request. (Action no.465-22-2017)

Yours Sincerely

Signed

Prof. Phillip Malyo

Vice-Chancellor

Xc: DVC Academics

DVC Finance

51. Subsequently, the Claimant in what appears to be the last nail on the coffin wrote the letter dated 8<sup>th</sup> June 2017 whose contents are reproduced hereunder:

Dr. Immaculate Marwa-Morara

c/o Gideon Nyangena

xxxxxxxxxx-00100

NAIROBI

8th June 2017



The Vice-chancellor,  
University Of Eastern Africa, Baraton  
2500-30100

Eldoret

Dear Sir,

Re: Denial Of Resignation Request

Following your letter dated 22<sup>nd</sup> May 2017 denying my resignation as communicated to you through my resignation letters dated 1<sup>st</sup> December 2016 and subsequently 29<sup>th</sup> April 2017, I hereby wish to present my response as follows:

That I am not in any way denying the fact that I was given a Bursary by the University to Study at the University of Kwa Zulu Natal in South Africa. I sincerely appreciate the support I received all through from the university.

It is discouraging that my resignation has been declined for having not amortized the bursary as per the agreement, when there is more than one way of amortizing the bursary as per the entire conditions on the agreement.

It is worth noting that I have a right to resign from U.E.A.B due to personal reasons as I had indicated on my resignation letter.

I therefore state that, am more than willing anytime to amortize the bursary so long as the other options are presented for exploration as per the entire conditions of the bursary agreement.

Finally, therefore wish to state that my decision to resign from U.E.A.B is irreversible.

Yours Faithfully,

Signed

Dr. Immaculate Marwa-Morara

DVC-Academics

52. From the above correspondence between the Claimant and the Respondent, it is evident that the Claimant made the choice to resign on her own and the Respondent did not play any part in her decision to resign. In fact, as can be deduced from the responses by the Respondent, the Respondent vehemently declined the resignation requests by the Claimant, but the Claimant was adamant that her resignation was irreversible.
53. The issue raised by the Claimant that she was summarily dismissed from employment without being heard does not therefore hold any water. It is the finding of this court that the Claimant resigned on her own volition and the subsequent issuance of the summary dismissal by the Respondent did not have any effect on her employment status as clearly, she had already left the Respondent's employment.
54. Further, from the evidence on record and particularly the email correspondences between the Respondent and Kenyatta University, the Claimant as at 17<sup>th</sup> January 2017 had already started working for Kenyatta University. The Claimant confirmed this position in her testimony.
55. Flowing from the above, the claim for unfair and wrongful termination is accordingly dismissed as the Claimant voluntarily resigned from employment.



**Whether the Claimant is entitled to the reliefs sought.**

56. Having found that the Claimant was not unfairly and wrongfully summarily dismissed from employment as she alleged in her claim, she is not entitled to any of the reliefs she sought as she voluntarily resigned from employment which included pay in lieu of notice, compensation for wrongful loss of employment, loss of employment at Kenyatta University, termination allowance and gratuity.
57. The Claimant is however entitled to a certificate of service of the same has not yet been issued to her.

**Whether the Respondent is entitled to the reliefs sought in the counterclaim**

58. The Respondent in its counterclaim prayed for refund of USD 16,300 which it granted to the Claimant to enable her pursue her PHD studies for which she was bonded to serve the University for five (5) years after completion of her studies as amortization of the bursaries issued. According to the Respondent, the Claimant upon completion of her studies decided to take up employment with Kenyatta University while still in the Respondent's employment contrary to her contract of employment as well as in breach of clause 4(e) of the Bursary/Loan Agreement between her and the Respondent.
59. From a perusal of the Bursary/Loan Agreement executed between the Claimant and the Respondent on 17<sup>th</sup> April 2015, clause 4 is on employees covenants and it provided as follows:
4. EMPLOYEES COVENANTS: -
- a. To diligently undertake the studies and complete the studies within the specified timeline.
  - b. To immediately resume her employment as soon the studies are completed, discontinued and/or terminated.
  - c. To avail his/her academic grades and submit progress report every six months to the employer.
  - d. To repay the loan to the employer in the form of five year service or however, in case of breach of contract, loan repayment be paid in cash
  - e. Not to take any employment and/or engage in any business without the employer's consent,
  - f. That he/she is in state of sound health to enable him/her undertake the studies.
  - g. The bursary/loan shall be amortized as per University Policy as indicated herein and as amended from time to time and no further request for study shall be made until amortization has been completed:
60. Clause 5 of the agreement provided for breach of contract as follows:
- a. In the event the employee breaches the terms and conditions of this agreement he/she shall be required to pay fifteen percent (15%) interest on the amount received as the loan (sponsorship amount/ Bursary/salary) or fifteen percent (15%) interest on the remaining amount after amortization to the employer as damages for breach of contract.



- b. In addition to the aforesaid amount paid on account of breach of agreement, the employee shall repay the loan advanced (sponsorship amount/Bursary/salary) to him/her and any future amount that will be advanced.
  - c. The payment once demanded shall be payable within thirty (30) days failing which the sum owing on account of sub clause a and b above shall attract an annual interest of 20% and refund any salary /wages earned during the study leave.
61. From the foregoing, the Respondent is entitled to a refund of the bursaries granted to the Claimant in view of the breach of the terms of the loan agreement by the Claimant. Under clause 2, the Claimant was to be awarded USD 2800 in 2012, USD 8000 in 2013 and KShs 150,000 in 2014 in her 3<sup>rd</sup> year. There is however no indication as to how much the Claimant was awarded in the fourth year. Consequently, I make a finding that the Respondent is entitled to a refund by the Claimant of USD 2800 for 2012, USD 8000 for 2013 and KShs 1500 for 2014.
62. Consequently, the Respondent's counterclaim succeeds and the Claimant is directed to pay the Respondent the total sum of USD 12,300/=.
63. The Claimant shall pay the Respondent's costs for both the claim and the counterclaim. Interest on the decretal sum shall accrue from date of judgment.

**DATED, SIGNED AND VIRTUALLY AT ELDORET ON THIS 6<sup>TH</sup> DAY OF MARCH 2025**

**MAUREEN ONYANGO**

**JUDGE**

