



**Barasa v Kenya Forestry Research Institute (Cause E134 of 2021)
[2025] KEELRC 1086 (KLR) (4 April 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1086 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E134 OF 2021**

CN BAARI, J

APRIL 4, 2025

BETWEEN

HUDSON WAFULA BARASA CLAIMANT

AND

KENYA FORESTRY RESEARCH INSTITUTE RESPONDENT

JUDGMENT

Introduction

1. The Claimant lodged this suit vide a claim is dated 15th January 2021 and later amended vide an amended statement of claim dated 9th March 2021. The Claimant seeks the following reliefs as against the Respondent: -
 - a. A declaration that his termination was discriminatory, unfair and unlawful, procedurally and substantively.
 - b. Damages for unfair termination at the maximum award of twelve months amounting to Kshs 4,048,800/=.
 - c. Costs of the claim and interest at court rates.
2. The Respondent on its part through the State Law office, filed a Memorandum of appearance dated 1st April 2021, and subsequently lodged a Response to the claim dated 28th April 2021 accompanied with their list of witnesses.
3. The Claimant's case was heard substantially by Honourable Justice Rika, but due to his transfer, the matter was heard by this Court and concluded on 11th December 2024, paving way to filing of submissions.
4. Submissions were filed for both parties.



The Claimant's Case

5. It is the Claimant's case that he was employed on 1st December 2015 as a Deputy Director Supply Chain based at the Respondent's office in Nairobi. He states that he served in this position diligently and competently without any disciplinary incident until 14th August 2020, when his employment was terminated in circumstances that he deemed unfair and unjust procedurally and substantively.
6. It is his case that the events that led to his unjust dismissal relate to a project that was executed between the Respondent and the National Environment Management Authority (hereinafter 'NEMA') in which NEMA was the financier and not as per his contract of employment with the Respondent.
7. The Claimant states that in the year 2016, the Respondent and NEMA signed a contract for the implementation of the Integrated Programme to Build Resilience on Climate Change and Adaptive Capacity to Vulnerable Communities in Kenya (hereinafter "KCCAP"). He avers that by this contract, NEMA was the National Implementing Entity and the financier, while the Respondent was the Executing Entity.
8. He avers further that this contract entirely provided for the mode of engagement between NEMA as the National Implementing Entity (NIE) on one hand, and the Respondent as the Executing Entity (EE). That NEMA was also responsible for management and disbursement of the project funds to the Respondent.
9. It is the Claimant's case that of specific relevance to this matter was the construction of Six Water Pans in Kajiado County, specifically at Lenkism, Kuku, Imbirikani, Kimana, Entonet and Rombo, and that the contract under Clause 8 required the Respondent as the executing entity to appoint the Programme Steering Committee/Programme Implementation Team to be headed by a Programme Focal Person.
10. He states further that pursuant to Clause 8 of the contract, the Respondent appointed the Programme Steering Committee comprising of eight (8) individuals, himself included as the Deputy Director Supply Chain Management. He avers that his role was to support the programme in procurement of goods and services as requested by the implementers, and to liaise with the Programme Focal Officer in execution of his duties as far as this project was concerned.
11. It is his case that after developing the technical specifications, the user department (Programme Focal Person) raised a purchase requisition for the procurement of the Six Water Pans. He states that upon receipt of the purchase requisition, he prepared the tender document after incorporating the technical specifications of the Water Pans as advised by the user department and the Water Engineer.
12. He states further that once the tender document was complete, he placed an advertisement in the Nation Newspaper inviting interested parties to submit their bids for the construction of the Water Pans with a capacity 18,000 cubic metres as requested by the user department, and based on the technical advice rendered by the Engineers from the Ministry of Water and Sanitation.
13. It is his case that upon advertisement, the local community of one of the proposed site (Rombo), objected to the location of the Water Pan. He avers that when this matter was brought to his attention, he immediately notified the then Director/CEO of the Respondent Dr. Ben Chikamai, who despatched a team that included Dr. Stanley Nadir to go and address the concerns raised by the local community. He avers that in the meantime, the Director advised him to withdraw the tender by advertising to cancel the tender which he did.



14. It is the Claimant's case that the team that went to the disputed site came back and met the CEO and the Project Focal Person, and advised that the local community had agreed on a site for the construction of the Water Pan at Rombo. He avers that upon this agreement, and following consultations with the Director/CEO, he proceeded to re-advertise the tender and that Seventy-nine (79) bids were received in the fourteen days that the tender was open, and subsequently, a tender opening and evaluation committees were constituted.
15. The Claimant states that the Evaluation Committee agreed to adjust the Work Plan activities and the budget, within the law and have the same submitted to NEMA by the Programme Focal Person for approval and disbursement of funds. That the Project Focal Person liaised and consulted with NEMA on the adjusted Work Plan activities and the budget, which NEMA approved and proceeded to release the funds on 24th April 2018.
16. The Claimant states that the then Director, Dr. Chikamai upon concurrence with the opinion that the Claimant provided on the awards, issued letters of award to all the five successful bidders on 24th October 2017 who accepted the offers. He states further that contracts were then prepared by the Respondent signed with the successful bidders on 14th November 2017. That it is worth noting that the contracts signed by the contractors reflected the fact of the phased-out implementation of the activities.
17. He states that after the signing of the contracts, the Project Focal Person together with the Project Engineer handed over the respective sites to the contractors around December 2017. That the implementation of the project then commenced.
18. The Claimant states that when the contractors began constructing the Water Pans, the local community raised safety concerns with the Respondent's Project Implementation Committee where they proposed that a fence be erected around the Water Pans to control livestock, wildlife and people living around. He avers further that the Project Implementation Committee after meeting with the local community, prepared a report recommending to the Acting Director to approve substitution of gabions and infiltration galleries with fencing.
19. It is his case that the Project Supervising Engineer, Simon Mwangi Kibachio on 12th February 2018, also wrote to the Respondent's Director emphasizing on the need to prioritise the fencing works around the Water Pans based on the safety concerns raised by the local community.
20. That following this recommendation on substitution, Dr. Muturi Gabriel, on behalf of the Acting Director, Dr. Jane Njuguna instructed the contractors vide a letter dated 5th March 2018 to substitute gabions and infiltration galleries with fencing so as address the safety concerns raised by the local community.
21. It is the Claimant's position that upon receipt of the instructions on substitution, the contractors proceeded with their work and completed the works on Kuku Site, Entonet Site, Lenkism Site, Kimana Site and Imbirikani Site, but the contractor for Rombo Site abandoned it due to a disagreement that arose when he demanded variation of the contract terms.
22. He states that the Project Supervising Engineer proceeded to issue Taking over Certificates for the completed sites on 3rd December 2018.
23. The Claimant avers that once the Taking over Certificates were issued by the Project Supervising Engineer, there was an expectation from the contractors who had completed their work that the Respondent will honour their payment. He avers that the Respondent failed to do so throughout the year 2019, forcing one of the contractors -Shangdong Construction Company Limited to file a suit



in court seeking the payment of its dues by the Respondent, and that an interlocutory judgment was entered in their favour.

24. The Claimant avers that on 25th January 2020, the Respondent convened a Special Management Meeting which apart from discussing the Shangdong case, also deliberated on other matters touching on the project. That during this meeting, resolutions were made regarding the project generally and that at no time was any blame apportioned at the Claimant who was physically present, in the manner that the project had been conducted as far as procurement is concerned.
25. He states that on 6th February 2020, he was surprised to receive a letter of interdiction from the Respondent through a resolution of the Respondent's Board of Directors, accusing him of irregularities related to the implementation of the project.
26. He states that he responded to the accusations in the interdiction letter vide his letter dated 18th February 2020, which was received by the Respondent on 21st February 2020. The Claimant avers that the Respondent then required him to fill in and complete a questionnaire which he did and submitted on 7th May 2020.
27. The Claimant states that after the submission of the questionnaire, the Respondent invited him for a face to face interview by the Adhoc Committee of the Board on KCCAP on 19th May 2020, which interview he attended. The Claimant states that during the 'face to face interview', the committee required him to offer explanation on the same issues that he had responded to in the questionnaire, which he did.
28. It is his case that the committee did not at any one time inform him that the 'face to face interview' was a disciplinary hearing, and that even the heading of the minutes is clear that, this was an "In-Person Interview" not a disciplinary hearing as the Respondent's witness wanted the court to believe. He states that once the 'face to face interview' session was over, the committee asked him to leave and await further communication from them.
29. The Claimant states that on 14th August 2020, the Respondent sent its driver to his residence to deliver the termination letter, which letter listed five grounds as the basis of the termination.
30. He avers further that on 9th September 2020, he appealed against the unfair decision to terminate his employment, and that the Respondent on 12th November 2020, responded by dismissing his appeal in its entirety. He avers that the decision dismissing the appeal was again, curiously, arrived at by the same Board of Directors.
31. The Claimant contends that it is procedurally and legally unfair for the same Board that had sealed his fate to again sit in an appellate capacity. That the board's mind was already made up, and therefore, there was going to be one decision only, confirmation of the dismissal which it did.
32. It is his prayer that his claim be allowed.

The Respondent's Case

33. The Respondent's case is that it had the right to assign the Claimant any other duties consistent with his professional qualifications and avers that the Claimant was compensated through the payment of an Extraneous Allowance of Kshs.14,000 per month.
34. The Respondent avers that Dr. Joram Kagombe attended the meeting in accordance with the provisions of Section 41(1) of the *Employment Act* No.11 of 2007. The Respondent denies that it terminated the employment services of the Claimant unfairly and without due process.



35. The Respondent further avers that preferring an appeal against termination was optional at the election of the Claimant. The Respondent further states that the decision of the KEFRI Board of Directors was procedurally and substantively sound.
36. It is the Respondent position that the Claimant refused to co-operate with the officers who conducted the Internal Audit of the Water Pans Project between November, 2018 and February, 2019. It states that the material contained in the Internal Audit Report and the Board Audit Committee Verification Report were put to the Claimant in the questionnaire he completed, and during the in-person interview with the Board's Ad Hoc Committee that inquired into the Water Pans Project under the KCCAP.
37. The Respondent states that it levelled specific charges against the Claimant, and that the Board found the same to have been proved on a balance of probability.
38. The Respondent avers that its Board is responsible for making regulations governing the appointment, conduct & discipline of employees of the Institute in accordance with Section 2.1 of their Human Resources (HR) Manual, 2011. It states further that the Board is also vested with the power to dismiss or terminate the contract of an employee under Section 7.5 Manual, 2011, and is allowed to delegate "either generally or in any particular case to a committee of the Board or the Director any of its powers".
39. The Respondent further avers that in the case of the Claimant, the Board proceeded by way of inquiry conducted by an Ad Hoc Committee comprising of Independent Members, who chair various committees assisted by the alternate director, representing the Secretary to the Inspector-General of State Corporations. It states further that there is an inquiry Report into the KCCAP that has 53 Annexes which formed part of the documents the Respondent produced as evidence before this court.
40. The Respondent avers that a quasi-judicial or judicial body that has rendered a verdict has power(s) to review its decision on its own motion or upon being moved by a dissatisfied party.
41. The Respondent denies that it acted in a discriminatory manner, but argues that it meted out punishment consistent with the role and responsibilities of each individual during execution of the Water Pans Project and its actions are in line with Section 45(5) of the Public Procurement & Asset Disposal Act, 2015.
42. The Respondent avers further that it followed its own Human Resource Manual, 2011, the Employment Act No.11 of 2007 and the Fair Administrative Action Act No.4 of 2015 in terminating the Claimant.
43. It is the Respondent's case that it considered the professional responsibility under the Water Pans Project and applied the provisions of Section 45(5) of the Public Procurement and Asset Disposal Act, 2015 in considering sanctions against the Claimant. It avers that the termination of the Claimant's contract was fair, lawful and took cognizance of his professional obligations and responsibility under Sections 2 (meaning of "professional"), 47(2), 80(4) & (5), and 84 of the Public Procurement and Asset Disposal Act, 2015.
44. The Respondent states that it has since paid to the Claimant: -
 - i. 1 (one) month's salary in lieu of Notice before termination of contract in the sum of Kshs.337,400;
 - ii. Withheld salary amounting to Kshs.710,622.58 at the rate of Kshs.110,700 multiplied by 6 months plus 13 days for the period the officer was on Interdiction in accordance with Section 70(5) under which "salary" is defined as basic salary;



- iii. The 13 days in 26(ii) above include the 5 days that the Applicant worked in the month of February, 2020;
 - iv. That court should take note that under section 70(3), the Claimant is not entitled to be paid withheld salary because he was not successful in his appeal.
 - v. The Certificate of Service is ready for collection by the Claimant or his authorized representative;
45. The Respondent prays that the Court finds no merit in the Claimant's cause and dismisses it with costs to the Respondent.

The Claimant's Submissions

46. The Claimant contends that the Respondent flagrantly breached the requirements of fair labour practices and procedural fairness as stipulated by Constitution and the *Employment Act* and case law before unfairly dismissing him.
47. It is the Claimant's submission that contrary to the testimony of the Respondent's witness that a disciplinary hearing was held, none was actually held to accord him the opportunity to defend himself as required by law. He submits that the responses to the interdiction letter, completion of the questionnaire and appearing for the In-Person/Face to Face interview cannot be termed as a disciplinary hearing as provided by the law. The Claimant placed reliance in the cases of Fredrick Owegi versus CFC Life Assurance, Cause No.1001 of 2012 and Dr Kizito Lubano versus KEMRI & Others, Petition No.47 of 2015 to support this position.
48. The Claimant submits that considering what transpired between the date of his interdiction, termination and dismissal of the appeal, none of the reasons forming the basis of his termination was either valid or proven. That more importantly, there was no disciplinary hearing during which session the Respondent would have proved the validity of the reasons forming the basis of the termination.
49. The Claimant further submits that to date, since his unlawful and unfair dismissal on 14th August 2020, no criminal charges have been preferred against him in a court of law for allegedly contravening any of the provisions under the Public Procurement & Asset Disposal Act either by the EACC or the Director of Public Prosecution as is the practice in such circumstances. That the failure to prefer charges against the Claimant is a pointer to his innocence and the malicious nature of the dismissal.
50. He submits that the release of funds by NEMA signified concurrence and approval of what the PFP as the linkage person had presented to NEMA. That it further confirms that there was communication between PFP and NEMA and that there is no way a government agency/a financier would release funds if there is no compliance with the set terms and conditions.
51. It is his submission that if the procurement process was indeed flawed as alleged, then the entire Tender Evaluation Committee which comprised of Dr. Gabriel Muturi, Betty Prissy Njoki, Samuel Kariuki, Stanley Nadir and himself, ought to have been dismissed by the Respondent. That instead, the Respondent only picked Dr. Gabriel Muturi and himself for dismissal which amounts to discrimination and unfair.
52. The Claimant prays that the claim be allowed as prayed.



The Respondent's Submissions

53. The Respondent submits that the grounds for termination are not only valid, but also substantiated by evidence that the Claimant acted outside the agreed contractual terms. That his conduct jeopardized project outcomes, warranting the Respondent's Board's decision to terminate his services.
54. The Respondent asserts that the termination of the Claimant was based on valid and substantive reasons related to his conduct. Specifically, the Claimant's actions, including, substituting project elements without the necessary approvals, contravened the contractual obligations outlined in the agreement with the National Environment Authority (NEMA) and violated provisions of the *Public Procurement and Asset Disposal Act* (PPADA) 2015.
55. The Respondent placed reliance in the case of Kenya Revenue Authority v. Reuvel Waithaka Gitahi & 2 Others [2019] KECA 300 (KLR), where the Court of Appeal held that the employer merely needs to demonstrate that they genuinely believed the reasons for termination were justified, which is to be evaluated on a balance of probabilities.
56. The Respondent submits that the nature of the Claimant's role as Deputy Director Supply Chain, demanded adherence to legal and contractual obligations, and that his failure to seek approval for modification of project terms is indicative of a lack of professionalism and accountability. It submits that in this case, the Respondent maintains it based the reason for termination on valid and substantiated claims of breach of duty.
57. It is the Respondent's submission that the Claimant was duly informed of the allegations against him, primarily relating to his unauthorized actions regarding the KCCAP Project. That this notification was provided before the termination through an interdiction/show cause letter dated 6th February 2020, where he was given considerable time to reply and explain the irregularities, allowing the Claimant to comprehend the basis on which disciplinary actions were being considered.
58. That prior to the termination decision, the Claimant was granted an opportunity to present his case during a disciplinary hearing in a letter dated 13th May 2020, where he could appear and respond to the allegations made against him in line with the requirements in Section 41 of the *Employment Act*, which stipulates that an employee must be allowed to defend themselves against any accusations of misconduct.
59. It submits further that it took the necessary steps to ensure that the Claimant was afforded a fair and just procedure before the termination of his employment.
60. The Respondent finally submits that the Claimant's prayers are unfounded in light of the provided legal and factual analysis of the case.

Analysis and Determination

61. I have considered the pleadings, the witness' oral testimonies and the submissions by both parties. The issues that present for my determination are: -
 - i. Whether the Claimant was unfairly terminated
 - ii. Whether the Claimant is entitled to the reliefs sought



Whether the Claimant was unfairly terminated

62. Whether or not a termination is fair, depends on the employer's adherence to the tenets of procedural fairness and the substantive fairness test. In *George Musamali v G4S Security Services Kenya Limited* [2016] KEELRC 1665 (KLR) the Court stated as follows:-

“A termination of employment takes two stages. First there must be a valid and justifiable reason for termination and once this is established, the termination must be carried out in accordance with the procedure laid down in the employers' human resource manual or as set out in the *Employment Act* or both. The most important thing to be ensured is that there is a valid or justifiable reason for termination and that the termination must be conducted by following a fair procedure. This includes furnishing the employee with the charges he or she is facing and affording them an opportunity to defend themselves. It does not matter whether the employee's guilt is apparent on the face of the record. He or she must be heard no matter how weak or useless his or her defence might seem to be.”

63. Section 41 of the *Employment Act*, 2007 states:-

“(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.”

64. It is not disputed that the Claimant was issued a letter of interdiction listing the grounds for his interdiction, and further requiring him to respond to the charges levelled against him within 21 days. Parties are also in agreement that the Claimant responded to the charges and was later invited to attend what the Respondent called a 'face to face interview' that was scheduled to take place on 19th May, 2020, at their headquarters in Nairobi.

65. The Claimant was thereafter terminated on 14th August, 2020, and his subsequent appeal disallowed. In *Postal Corporation of Kenya V Andrew K.Tanui* (2019) eKLR, the Court of Appeal underscored the essential elements of procedural fairness as follows;

“Four elements must thus be discernible for the procedure to pass muster: -

- a. an explanation of the grounds of termination in a language understood by the employee;
- b. the reasons for which the employer is considering termination;
- c. entitlement of an employee to the presence of another employee of his choice when the explanation of grounds of termination are made;
- d. hearing and considering any representations made by the employee and the person chosen by the employee.”

66. For starters, although the Claimant disputes receipt of a show cause letter, my reading of the letter of interdiction placed before court confirms that the Claimant was notified of the charges against him and



further allowed sufficient time to respond to the charges. It is also evident that the Claimant responded to the charges.

67. Two elements were however conspicuously missing in the process of the Claimant's termination. First is the fact that the Claimant was invited to attend a 'face to face interview' and not a disciplinary hearing. The letter inviting the Claimant to the hearing did not expressly state that he was appearing before a disciplinary committee with the possibility that his services could be terminated. An interview cannot in my view be construed to mean the same thing as a disciplinary hearing, considering especially that the Claimant had already appeared before a panel of the Respondent investigating the same issues.
68. Secondly, it is evidently clear that the Claimant was neither notified nor in any way allowed to have a representative of his choice present during the process culminating in the termination of his services with the Respondent. In the case of *Mary Chemweno Kiptui V Kenya Pipeline Co. Ltd* the Court opined thus:-
- “... Where an employer fails to follow these mandatory provisions whatever outcome of the process is bound to be unfair as the affected employee has not been accorded a hearing in the presence of their union representative or in the presence of a fellow employee of their own choice”.
69. For these reasons, the Respondent's process failed the procedural fairness test. I thus find and hold that the Claimant's termination was procedurally unfair.
70. On the question of substantive fairness, Sections 43, 45 and 47(5) of the *Employment Act*, 2007 require that the reason(s) for the employee's termination was valid, fair and related to the employees conduct, capacity, compatibility. (See *National Bank of Kenya v Attorney Njue John* (2019) eKLR).
71. It is not disputed that the Claimant and other employees of the Respondent were appointed as a programme management/support team in a climate change programme that the Respondent and NEMA were engaged in. It is also clear from the instrument of appointment that the role of the Claimant in the support team, was to support the programme in the procurement of goods and services in accordance with the requests of the implementers of the programme.
72. The grounds for the Claimant's termination were summarized as failure to obtain approval for the cancelation of a tender and approval for the advertisement of the second tender for the rombo site. His position is that he cancelled the tender so that bidders do not visit the rombo site that had a dispute. It is his contention that the CEO of the Respondent allowed him discretion in advertisement for as long as it was within the approved work plan.
73. Further, on the allegation that the Claimant failed to seek approval from the CEO on construction of gabbions, the Claimant contends that it was not his role to seek approval, but that of the focal person. He further submitted that the project implementation committee made the recommendations, and the inspection committee made the substitution, and that most importantly, the budget did not change.
74. The Respondent's position is that the Claimant's termination was based on valid and substantive reasons related to his conduct. Specifically, that the Claimant's actions, including, substituting project elements without the necessary approvals contravened the contractual obligations outlined in the agreement with the National Environment Authority (NEMA) and violated the provisions of the *Public Procurement and Asset Disposal Act* (PPADA) 2015.
75. The Respondent further submitted that the nature of the Claimant's role as Deputy Director Supply Chain, demanded adherence to legal and contractual obligations, and that his failure to seek approval for modification of project terms is indicative of a lack of professionalism and accountability.



76. In the case of *Charles Musungu Odana v Kenya Ports Authority* [2019] eKLR the Court stated;

“It is now clear that the burden placed on an employer by Section 43 of the *Employment Act* is to establish a valid reason that would cause a reasonable employer to terminate employment. The Court of Appeal affirmed this position in its decision in *Reuben Ikatwa & 17 Others v Commanding Officer British Army Training Unit Kenya & Another* [2017] eKLR by citing with approval the following excerpt from the Halsbury’s Laws of England, 4th Edition, Vol.16(1B) para 642:

“In adjudicating on the reasonableness of the employer’s conduct, an employment tribunal must not simply substitute its own views for those of the employer and decide whether it would have dismissed on those facts; it must make a wider inquiry to determine whether a reasonable employer could have decided to dismiss on those facts. The basis of this approach (the range of reasonable responses test) is that in many cases there is a band of reasonable response to the employee’s conduct within which one employer might reasonably take one view and another quite reasonably take another; the function of a tribunal as an industrial jury is to determine whether in the particular circumstances of each case the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band, the dismissal is fair; but if it falls outside the band, it is unfair.”

77. The Claimant told court on cross-exam that there was no written approval for the cancellation of the advertisement of the subject tender and neither was there a written approval to go ahead with re-advertising the tender. He further admitted that he gave a professional opinion leading to the award of the tenders in excess of the approved budget.

78. The Claimant further confirmed on cross-examination that the budget for the water pans increased from 35M to 73M, while he knew that the approved budget was Kshs. 54M, and that no contract variation was sought or approved.

79. It is further clear that no evidence was led to show that the Claimant obtained the requisite approval for the replacement of gabions with fencing, from both the Respondent and NEMA.

80. The Claimant was no doubt responsible to guide the Respondent on issues of budgeting and procurement. He advised the Respondent vide his professional opinion to award tenders on a budget higher than what was approved.

81. All these in my view, are prove that the Respondent had valid, fair and justified reasons to terminate the Claimant, and which renders the termination substantively fair, and so I hold.

Whether the Claimant is entitled to the Reliefs sought

82. In his amended claim the Claimant sought a declaration that his termination was unlawful and unfair and an award of the maximum 12 months salary as compensation for the unfair termination.

83. A finding of an unfair termination no doubt entitles the Claimant to an award of compensation. (See *Benjamin Langwen v National Environment Management Authority* (2016) eKLR).

84. In the case of *Kenya Broadcasting Corporation v Geoffrey Wakio* [2019] eKLR the court pointed out that an award of the maximum of 12 months’ pay must be based on sound judicial principles, and that the trial judge must justify or explain why a Claimant is entitled to the maximum award.



85. The Claimant's termination has been held unfair only on account of procedure. Having found that the reasons for the Claimant's termination were proved on a balance of probability, goes to show that the Claimant contributed to his own termination, and for which reason, I deem an award of six (6) months' salary sufficient compensation for the unfair termination.
86. In the final analysis, the Claimant's claim succeeds in terms of the following orders: -
- a. A declaration that the Claimant's termination was procedurally unfair.
 - b. That the Respondent pays the Claimant 6 months' salary as compensation for the unfair termination at Kshs.2,024,400
 - c. The Respondent shall bear the costs of the suit.
87. Judgment accordingly.

DATED, SIGNED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 4TH DAY OF APRIL, 2025.

C. N. BAARI

JUDGE

Appearance:

Mr. Wesonga present for the Claimant

Ms. Aluoch h/b for Ms. Akuno for the Respondent

Ms. Esther S-C/A

