



**Kesi v Krystalline Salt Limited (Appeal E012 of 2024)
[2025] KEELRC 1097 (KLR) (3 April 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1097 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MALINDI
APPEAL E012 OF 2024**

M MBARŪ, J

APRIL 3, 2025

BETWEEN

REUBEN KATANA KESI APPELLANT

AND

KRYSTALLINE SALT LIMITED RESPONDENT

*(Being an appeal from the judgment of Hon. J Ongondo
dated 6 March 2024 in Malindi CMELRC No.41 of 2022)*

JUDGMENT

1. The appeal arises from the judgment delivered on 6 March 2024 in Malindi CMELRC No.41 of 2022. The appellant seeks to set aside the judgment and allow his claim with costs.
2. The appeal is that the trial court erred in dismissing the appellant's case because he had discharged the respondent when he executed the Discharge Voucher. The trial court failed to appreciate the circumstances under which the Discharge Voucher was executed and that there was an unprocedural dismissal from employment. The reliance on the discharge voucher denied the appellant a fair chance to have his evidence addressed on the merits, and the trial court arrived at an erroneous judgment.
3. The appellant submitted that the court could interfere with the discharge voucher where the same is obtained outside the law. The appellant started working for the respondent on 2 May 2008, and before that, he had worked for Mombasa Salt Works Limited, which was acquired by the respondent in 2003. The appellant was subjected to a periodical contract for 14 years. The periodical contracts were meant to deny the appellant his retirement benefits and work in servitude. There was no evidence that the appellant was paid his terminal dues for the last two years of his employment under the contracts renewed automatically.



4. The appellant submitted that he signed the discharge voucher in the presence of the directors. There was no shop steward and no evidence that terminal dues were paid for the previous contracts; hence, he claimed his contract dues from 2008 to 2022.
5. The appellant submitted that his employment rights were violated and denied the right to join a trade union of choice to champion his employment rights. This amounted to unfair labour practices. He is entitled to the following dues;
6.
 - a. A declaration that there was unfair termination of employment;
 - b. A declaration that there was a violation of the right to join a trade union of choice, which amounts to unfair labour practices;
 - a. 2 months' salary in lieu of notice Ksh 20,465 total ksh.40,930;
 - b. Service pay for 14 years Ksh.20,465 x 14 Ksh.143,255;
 - c. 12 months' compensation for unfair dismissal Ksh.245,580;
 - d. Costs of the suit.
7. The respondent submitted that the appellant was a pump attendant in the solar department. He was not denied his right to join a trade union of choice as alleged, and before termination of employment, he was part of a workers' union. The appellant was lawfully terminated from his employment upon the expiry of his term contract and was issued a month's notice following the employment contract. He was paid his terminal dues under the applicable laws. The employment was in a mutual agreement and a term contract, and the appeal should be dismissed.
8. The respondent submitted that the appellant served under a two-year contract ending on 20 July 2022, and before it ended, the respondent did not renew it. Under clause 19 of the contract, the appellant was issued a one-month notice on the contract's end date. He executed the discharge voucher and paid his terminal dues. The trial court dismissed the claims for lack of jurisdiction on the discharge voucher.
9. The respondent submitted that in the case of *Trinity Prime Investment Limited v Lion of Kenya Insurance Company Limited* [2015] eKLR, the court held that where the employee had signed a discharge voucher, this constituted a contract, and no further liability remained. In the case of *Coastal Bottlers Limited v Kimathi Mithika* [2018] eKLR, the court held that the court should give effect to the intention of the parties and, where there is a discharge voucher, apply the agreement. Parties to a contract are free to determine what obligations they will accept. The only exception where the court can disregard a discharge voucher is where it is obtained under duress, coercion, fraud or misrepresentation, as held in *Thomas De La Rue (K) Ltd v David Opondo Omutelema* [2013] eKLR. In this case, the appellant signed the discharge voucher out of his free will.
10. The respondent submitted that fixed-term contracts are lawful and binding. The appellant was under a term contract, and the last ended on 20 July 2022 and was not renewed. In the case of *Enid Nkirote Mukire v Kenya Yearbook Editorial Board* [2022] eKLR, the court held that a fixed-term contract has a start and end date. The employee cannot rely on the provisions of Section 41 of the [Employment Act](#) and claim that there was an unfair termination of employment. The appeal is without merit and should be dismissed with costs.



Determination

11. The trial court sorely relied on its jurisdiction to hear the claim on the basis that, upon the appellant's admission that he had executed a discharge voucher, the same being voluntary, it had no jurisdiction to hear the matter settled between the parties. The trial court held that the appellant had not demonstrated that the discharge voucher had been secured through coercion, mistake, fraud, misrepresentation, or undue influence. The suit was dismissed with costs.
18. Indeed, once executed by the parties, a discharge voucher constituted a complete contract. Unless obtained under unlawful means, it is enforceable as held in *Coastal Bottlers Limited v Kimathi Mithika* [2018] KECA 523 (KLR).
19. However, each case should be addressed on its merits, particularly under Section 35(4) of the *Employment Act*. Where the employee seeks to enforce his lawful rights in employment, a discharge voucher cannot be used to sanitise an otherwise unlawful termination of employment. The employee is allowed to challenge such matters.
20. In this case, the appellant's case was that he was under a term contract from 2003. He had periodic contracts; the last was terminated on 20 July 2022. A fixed-term contract starts and ends on its terms. The employer has no duty to issue a notice or give reasons for terminating a term contract as held in *Wambugi v Board of Management Afya Yetu Initiative* [2024] KECA 1557 (KLR). The term contract has a definite end date. No notice is due, and the employee cannot rely on section 41 of the *Employment Act* to claim that his rights to a hearing were violated.
21. The appellant also argued that he was denied his right to join a trade union of choice. The respondent submitted that the appellant was unionized before the termination of his employment. This evidence was not challenged, and the orders sought in this regard were, therefore, not justified.
22. On the claims made, the claim for 2 months' notices paid on the basis that such notice was due under the term contract is not due. The respondent notified the appellant that his contract would end on 20 July 2022 and would not be renewed. The appellant knew he had a term contract ending as agreed with the respondent.
23. On the claim for service pay for 14 years, under the term contract, each started and ended on its terms as held in *Kenya Power and Lighting Company v Osiro* [2024] KECA 854 (KLR). A fixed-term contract carries no benefits beyond the end date. The execution of the discharge voucher concluded the final payment of the dues owed to the appellant. No compensation is due in this case.
24. The discharge voucher is valid and removes the respondent from any liability.
25. The appeal is without merit and is dismissed with costs to the respondent.

DELIVERED IN OPEN COURT AT MALINDI ON THIS 3RD DAY OF APRIL 2025.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Davis Wekesa

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