



REPUBLIC OF KENYA



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Musyimi v Kleen Homes Security Services Limited (Employment and Labour Relations Appeal E143 of 2024) [2025] KEELRC 1826 (KLR) (20 June 2025) (Judgment)

Neutral citation: [2025] KEELRC 1826 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS APPEAL E143 OF 2024**

**JW KELI, J
JUNE 20, 2025**

BETWEEN

TITUS MASILA MUSYIMI APPELLANT

AND

KLEEN HOMES SECURITY SERVICES LIMITED RESPONDENT

(Being an Appeal from the Judgment and Decree of the Honourable S.A. Opande (PM) delivered at Nairobi on the 30th of April, 2024 in MCELRC No. E1482 of 2022)

JUDGMENT

1. The Appellant herein, being dissatisfied with the Judgment and Decree of the Honourable S.A. Opande (PM) delivered at Nairobi on the 30th of April, 2024 in MCELRC No. E1482 of 2022 between the parties filed a memorandum of appeal dated the 15th of May 2024 seeking the following orders:-
 - a. This Appeal be allowed. The decision of the learned Magistrate be partly set aside, overturned and or reversed and this Honourable Court be pleased to substitute with an Order that the Appellants suit in the Lower Court be allowed for further prayers of;
 - i. The Honourable Court awards the Appellant Kshs. 17,413.24/= being one month pay in lieu of notice.
 - ii. The Honourable Court awards the Appellant Kshs. 208,958.88/=being compensation equivalent to twelve months' salary for wrongful termination.
 - iii. The Honourable Court awards the Appellant Kshs. 221,110.20/= on account of underpayments for at least three years of service.



- iv. The Honourable Court awards the Appellant Kshs. 8,400.00/= being unremitted NSSF deductions.
- v. The Honourable Court awards the Appellant Kshs. 60,27660/= being accumulated severance pay for the five years worked.
- vi. The Honourable Court awards the Appellant Kshs. 362,195.39/= being compensation for unpaid overtime worked.
- vii. The Honourable Court awards the Appellant Kshs. 108,147.60/= being compensation for unpaid public holidays worked.
- viii. The Honourable Court awards the Appellant Kshs. 353,937.60/= being compensation for unpaid rest days worked.
- ix. The Honourable Court awards the Appellant Kshs. 3,300.00/=being compensation for leave travelling allowance.
- x. The Honourable Court awards the Appellant interest on the total.
- xi. Cost of this Appeal to be borne by the Respondent.

Grounds of the Appeal

2. The Honourable Magistrate erred in law by proceeding under the wrong principles of Employment and Labour Laws.
3. The Honourable Magistrate erred in law by failing to properly consider sections 9, 10, 20 and 74 of the [Employment Act](#) that touch on the responsibility of the Employer to keep and produce employment records. The learned Magistrate placed the burden of production of employment records on the Appellant despite the fact that the Respondent was in possession and the custodian of job attendance time sheets, pay slips, payment registers, leave request records, statutory compliance certificates and other records but failed to file the same before court.
4. The Honourable Magistrate erred in his analysis of the evidence by failing to consider the Claimant's testimony and statement in response to the respondent's reply dated 17th March 2023, thereby arriving at an erroneous conclusion.
5. The Honourable Magistrate erred both in law and fact by failing to properly evaluate the evidence presented before the Court by the Appellant through his testimony and statement in response to the respondent's reply dated 17th March 2023, which challenged the Respondent's response, witness statement and documents. The learned Magistrate arrived at an erroneous conclusion by finding that the Respondent's testimony proceeded unchallenged, while the same was challenged by the Appellant through his testimony and written statement of response.
6. The Honourable Magistrate erred both in law and fact by failing to evaluate the evidence presented to him that shows that the Respondent business was struggling financially and that it was not able to make salary payments to its employees as such it was only logical for the Respondent to down size his work force; however, the Respondent failed to follow the redundancy procedures.
7. The Honourable Magistrate erred both in law and fact by failing to make an award in favour of the Appellant for the sum of Kshs. 208,958.88/= ostensibly on account of compensation equivalent to twelve months' salary for unfair or unlawful termination. The Appellant was terminated for demanding his unpaid salary arrears for the months of March to May of the year 2022. The Appellant



was orally terminated; he was never communicated to on when to resume work or recalled back to work.

8. The Honourable Magistrate erred both in law and fact by failing to properly evaluate the evidence presented before court by the Appellant through his testimony and statement in response to respondent reply dated 17th March 2023 that challenged the Respondents averments that the Appellant was granted 42 days annual leave, that he applied for but he chose to leave employment. The Appellant challenged this allegation of desertion and testified of never receiving any communication to resume work from the Respondent.
9. The Honourable Magistrate erred both in law and fact by failing to make an award in favour of the Appellant for the sum of Kshs. 17,413.24/= ostensibly on account of one month pay in lieu of notice for unfair and /or wrongful dismissal or unlawful termination despite the fact that it was the Respondents conduct that led to the termination of the employment relationship. The Appellant was never issued any twenty-eight (28) days' termination notice by the Respondent.
10. The Honourable Magistrate erred both in law and fact in failing to make an award in favour of the Appellant for the sum of Kshs. 221,110.20/= on account of underpayments despite the overwhelming evidence and testimony by the Appellant that he worked as a night watchman at a monthly salary of Kshs.9,000/=which was later increased to Kshs.11,000/=.
11. The Honourable Magistrate erred in law by failing to consider the regulation of wages (general) (amendment) order 2018 which stipulates a minimum monthly salary of Kshs. 15,141.95/=exclusive of housing allowance for night watchman. The learned magistrate failed to appreciate the fact that the Respondent exploited the Appellants services by setting a salary below the required minimum salary as per the provisions of the law as such the law of estoppel cannot be applicable where there is a statutory provision to deny the Appellant his underpaid salary dues. The learned magistrate further failed to appreciate the fact that the law was promulgate to prevent exploitation of workers in certain sectors as such his decision promotes and encourages exploitation of workers.
12. The Honourable Magistrate erred both in law and fact in failing to make an award in favour of the Appellant for the sum of Kshs. 362,195.39/= on account of overtime hours worked despite the overwhelming evidence and testimony by the Appellant that he worked a twelve (12) hours daily shift that started at 6.00 pm up until 6.00 am. The terms and conditions of employment being claimed by the Appellant of working a twelve (12) hours daily shift was never disputed by the Respondent nor was it an issue in dispute.
13. The Honourable Magistrate erred both in law and fact by failing to evaluate the evidence and the Appellant testimony that he reported to worked at 6.00 pm up until 6.00 am but was never compensated for overtime worked. The Appellant worked for four overtime hours each day. The Learned magistrate erred in fact and law by placing a higher burden of proof on the Appellant/ Claimant to prove that he used to proceed on overtime or has unpaid overtime days when it was clear that the Respondent kept all the job attendance and time sheet records.
14. The Honourable Magistrate erred both in law and fact by failing to find that the Appellant was never issued with any pay slip that could have indicate the various deconsolidated benefits that was offered to the Appellant as such arriving to a wrong conclusion of the awards the Appellant was entitled to.
15. The Honourable Magistrate erred both in law and fact in failing to make an award in favour of the Appellant for the sum of Kshs. 108,147.60/= on account of unpaid public holidays worked despite the overwhelming evidence and testimony in support of the Appellant's claim. The fact that the Respondent provided security services during public holidays was never in dispute. The Respondent



also never disputed the Appellant's claim that he reported to work during public holidays. The Public holidays he testified as having worked include: Huduma day, Idd, Madaraka, Mashujaa day, Labour Day, Easter holidays, Christmas, Jamhuri day Diwali and New Year's Eve. It was the Appellant's testimony that he was never compensated for working during public holidays.

16. The Honourable Magistrate erred both in law and fact in failing to make an award in favour of the Appellant for the sum of Kshs. 353,937.60/= on account of rest days worked despite the overwhelming evidence and testimony in support of the Appellant's claim that he was never offered any four days every month as rest days. The Respondent also never disputed the Appellant claim that he was never granted any rest days. The Appellant was in law entitled to be compensated for every rest day worked.
17. The Honourable Magistrate erred both in law and fact in failing to make an award in favour of the Appellant for the sum of Kshs. 60,276.60/= on account of severance pay despite the fact that the Appellant had worked for the Respondent for five years and six months. The learned magistrate never addressed the issue of severance pay despite the appellant claiming for the same. The learned Magistrate further failed to appreciate the fact that the Respondent failed to follow procedures laid down for declaring an employee redundant.
18. The Honourable Magistrate erred both in law and fact in failing to make an award in favour of the Appellant for the sum of Kshs. 8,400.00/= on account of unremitted NSSF deductions despite the overwhelming evidence and testimony in support of the Appellant's claim that the same was never remitted.
19. The Honourable Magistrate erred in law and fact by failing to apply the law and appreciate the correct evidence adduced and tendered in Court.
20. The Honourable Magistrate misdirected himself in his analysis, evaluation, interpretation and assessment of the entire evidence tendered by the Appellant/Claimant and thus arriving at a wrong, erroneous and unjust conclusion and judgment.
21. The learned Magistrate erred in law in basing part of his decision on extraneous factors.
22. Part of the decision is contrary to law and a misapprehension of the law.

Background to the Appeal

23. The Appellant filed a claim against the Respondent vide a memorandum of claim dated the 22nd of August 2022 seeking the following orders:
 - a. A declaration that the termination by the Respondent was unlawful, malicious, and contrary to legal procedure.
 - b. A declaration that the Claimant's right to fair labour practices has been breached.
 - c. Maximum compensation for wrongful termination.
 - d. Special damages.
 - i. Unpaid Salary Kshs. 41,908.70
 - ii. One month's pay in lieu of notice Kshs. 17,413.24
 - iii. Underpayments Kshs. 221,110.20
 - iv. Damages for wrongful dismissal Kshs. 208,958.88



- v. Unremitted NSSF deductions Kshs. 8,400.00
- vi. Severance Kshs. 60,276.60
- vii. Unpaid amount for leave not taken Kshs. 52,239.72
- viii. Leave travelling allowance Kshs. 3,300.00
- ix. Unpaid public holidays Kshs. 108,147.60
- x. Rest days Kshs. 353,937.60
- xi. Overtime Kshs. 362,195.39
- xii. Housing allowance Kshs. 81,766.53
- e. Interest on the total.
- f. Certificate of Service.
- g. Costs of the cause.
- h. Any further relief this Honourable Court may deem fit and just to award under the circumstances.

(see pages 13-21 of the ROA dated the 10th of February 2025)

24. The Appellant also filed his verifying affidavit, list of witnesses, witness statement and list of documents all dated the 22nd of August 2022. He also filed a Supplementary List of Documents dated 17th March 2022 (pages 20-58 of ROA).
25. The claim was opposed by the Respondent who entered appearance and filed a response to the statement of claim dated 28th February 2023 (pages 60-63 of ROA). They also filed a list of witnesses (pages 64-65 of ROA); witness statement of Mercy Bonareri (pages 66-68 of ROA); and list of documents (page 69-73 of ROA), all dated 28th February 2023.
26. In reply to the response to statement of claim, the Appellant filed a Response dated 17th March 2023.
27. The Claimant's/Appellant's case was heard on the 29th of August 2023, where the Claimant testified in the case relying on his witness statement, produced his documents, and was cross-examined by counsel for the Appellant, Mr. Okonjo (pages 170-171 of ROA).
28. Counsel for the Respondent elected not to call a witness, but indicated that they wished to rely on the Respondent's response, witness statement and produce their documents. Counsel for the Appellant did not object to the production of documents (pages 172 of ROA).
29. The parties took directions on filing of written submissions after the hearing. The parties complied.
30. The Trial Magistrate Court delivered its judgment on the 30th of April 2024 partially allowing the Claimant's claim and awarding him the sum of Kshs. 835,380/- made up of accrued leave days for 8 years, service pay and house allowance (Judgment at pages 157-175 of ROA).

Determination

31. The appeal was canvassed by way of written submissions. The parties complied.
32. This being a first appellate court, it was held in *Selle v Associated Motor Boat Co.* [1968] EA 123 that:-
"The appellate court is not bound necessarily to accept the findings of fact by the court below. An



appeal to the Court of Appeal from a trial by the High Court is by way of a retrial and the principles upon which the Court of Appeal acts are that the court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in this respect. In particular the court is not bound necessarily to follow the trial Judge's findings of fact if it appears either that he has clearly failed on some point to take account of particular circumstances or probabilities materially to estimate the evidence or if the impression based on the demeanor of a witness is inconsistent with the evidence in the case generally."

33. Further in on principles for appeal decisions in *Mbogo V Shah* [1968] EA Page 93 De Lestang V.P (As He Then Was) Observed At Page 94:

"I think it is well settled that this court will not interfere with the exercise of its discretion by an inferior court unless it is satisfied that its decision is clearly wrong, because it has misdirected itself or because it has acted on matters on which it should not have acted or because it has failed to take into consideration matters which it should have taken into consideration and in doing so arrived at a wrong conclusion."

Issues for determination

34. In his submissions dated 2nd April 2025, the Appellant identified the following issues for determination:
- i. Whether the Respondent's written statement proceeded unchallenged.
 - ii. Whether the Appellant was entitled to the reliefs sought.
 - iii. Whether the Appellant is entitled to costs of the claim and interest from the date of filing the suit.
35. On their part, the Respondent identified the following issues for determination in their submissions dated 5th May 2025:
- i. Whether the Honourable Magistrate erred in law by proceeding under the wrong principles of employment and labour laws.
 - ii. Whether the Respondent's statement proceeded unchallenged.
 - iii. Whether the Appellant's Record of Appeal is incompetent, bad in law and fatally defective.
 - iv. Whether the Appellant is entitled to the reliefs sought in the Memorandum of Appeal.
 - v. Who should bear the costs of the Appeal.
36. It is the court's considered opinion that the issues for determination in the appeal are as follows:
- i. Whether the Respondent's witness statement proceeded unchallenged.
 - ii. Whether the Appellant was unfairly terminated from employment
 - iii. Whether the Appellant is entitled to the reliefs sought.

Whether the Respondent's statement proceeded unchallenged.

37. I have reviewed the court proceedings in the lower court of 29th August 2023. After the Claimant/Appellant had testified, counsel for the Respondent, Mr. Okonjo, pronounced thus "We wish to rely



on responses, witness statements and documents. We call no witness. We close our case.” Counsel for the Claimant/Appellant, Mr. Magonda, responded “I will not object to adoption of documents.”

38. A plain reading of the above proceedings indicates that the Respondents’ witness statement and documents were adopted as their evidence, by consent of the parties. In the absence of cross-examination, the averments contained in the statement remained unchallenged. It was upto the trial court to weigh the relevance and weight to attach to the said defence.

Whether the Appellant was unfairly terminated from employment

39. The law on unfair termination is well settled in Kenya. Unfair termination is defined under Section 45 of the Employment Act 2007 as follows: “(2)A termination of employment by an employer is unfair if the employer fails to prove—

- a. that the reason for the termination is valid;
- b. that the reason for the termination is a fair reason—
 - (i) related to the employees conduct, capacity or compatibility; or
 - (ii) based on the operational requirements of the employer; and
- (c) that the employment was terminated in accordance with fair procedure.”

40. The existence of substantive justification and fair procedure in a termination of employment comprises two-prong test for unfair termination. procedural and sustentative fairness. The aforementioned test was applied in the case of Walter Ogal Anuro –v- Teachers Service Commission (2013) eKLR where the Court held that:

“... For a termination of employment to pass the fairness test, there must be both substantive justification and procedural fairness. Substantive justification has to do with establishment of a valid reason for the termination while procedural fairness addresses the procedure adopted by the employer to effect the termination.”

41. Under Section 47 (5) of the Act, the burden of proof is stated as follows-

“(5) For any complaint of unfair termination of employment or wrongful dismissal the burden of proving that an unfair termination of employment or wrongful dismissal has occurred shall rest on the employee, while the burden of justifying the grounds for the termination of employment or wrongful dismissal shall rest on the employer.”

42. Once a Claimant has discharged his or her burden of proof, Section 47 (5) shifts the burden to the employer to prove that they had valid and fair reasons for the termination. This is in line with Section 43 of the Employment Act 2007 which provides that:

“Proof of reason for termination

- (1) In any claim arising out of termination of a contract, the employer shall be required to prove the reason or reasons for the termination, and where the employer fails to do so, the termination shall be deemed to have been unfair within the meaning of section 45.



- (2) The reason or reasons for termination of a contract are the matters that the employer at the time of termination of the contract genuinely believed to exist, and which caused the employer to terminate the services of the employee.”
43. Other than the reason for termination Section 45 (2) imposes on the employer an additional burden of proving that the procedure followed during the termination was fair. It provides:
- “(2) A termination of employment by an employer is unfair if the employer fails to prove—
- (a) that the reason for the termination is valid;
 - (b) that the reason for the termination is a fair reason—
 - (i) related to the employees conduct, capacity or compatibility; or
 - (ii) based on the operational requirements of the employer; and
 - (c) that the employment was terminated in accordance with fair procedure.”
44. Fair procedure is contextualized under the Section 41 of the Act to mean that the employer must 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, the employer must hear and consider any representations which the employee make, and the employer must consider those representations while making a final decision.
45. It is not in dispute that the Claimant/Appellant was an employee of the Respondent from 28th November 2016. Both parties admitted to this in their respective witness statements at pages 23-25 and 66-68 of the Record of Appeal respectively.
46. The parties differ on the date and manner of separation. The Claimant/Appellant’s case was that on 16th May 2022, he reported to work at Tumaini House. He was summoned to the Respondent’s office where the operations manager informed him that his employment was being terminated for the reason that the Respondent had decided to reduce the number of employees. Curiously, the Claimant, during his oral testimony, stated that his employment was terminated since he had asked to be paid his benefits. Further, despite initially claiming that the Respondent had stated that it intended to reduce the number of employees, he did not call any of his former colleagues to corroborate his account of events.
47. On the Respondent’s part, their case was that the Claimant applied for 42 days’ leave on 16th May 2022. He was expected back on 5th July 2022, but he never returned. The Respondent produced a leave form which was supposedly signed by the Claimant/Appellant to support their case. The claimant denied having signed the Leave Form. The court noted it was the same pen that recorded details of the leave application and the administration part and signed (copy of Leave form produced at page 73 of the Record of Appeal). The court applying naked eye noted a semblance in the signature in the leave form and that of the claimant under his witness statement dated 22nd August 2022(at page 25 of ROA)
48. Did the Claimant establish a prima facie case that he was unfairly terminated under Section 47 (5) of the Act? The court found that defence was to effect that the claimant absconded work after proceeding



on leave for 42 days (leave form at page 73 of ROA) in letter to labour officer dated 29th July 2022 the respondent stated that the claimant was to resume duty on 5th July 2022 but chose to leave employment. That he did not report back (the letter to labour at page 72 of the ROA). The leave form was produced by consent. The court on the reason advanced of absconding, established from the letter dated 29th July 2022 to labour the employer did not disclose efforts towards reaching the appellant to return to work. Under section 74 of the Employment Act the employer had duty to keep employee records which ought to have included the appellant's phone number and address. There was no effort made to notify the appellant that his employment was being terminated for reason absconding. It is now settled jurisprudence that in the case of reason of termination of absconding the employer must take steps towards termination of the employment according to section 41 of the Employment Act. This was not done. In *Simon Mbithi Mbane v Inter Security Services Ltd* [2018] eKLR it was held that: -“An allegation that an employee has absconded duties calls upon an employer to reasonably demonstrate the efforts were made to contact such an employee without success.” There are numerous other authorities of the court to the same effect. In the upshot, the court finds the trial court erred in finding no case of unfair termination and is set aside. The court in place holds that the termination was unfair.

Whether the Appellant is entitled to the reliefs sought.

49. The Appellant sought for the following orders in the suit.
- i. A declaration that the termination by the Respondent was unlawful, malicious, and contrary to legal procedure.
 - j. A declaration that the Claimant's right to fair labour practices has been breached.
 - k. Maximum compensation for wrongful termination.
 - l. Special damages.
 - xiii. Unpaid Salary Kshs. 41,908.70
 - xiv. One month's pay in lieu of notice Kshs. 17,413.24
 - xv. Underpayments Kshs. 221,110.20
 - xvi. Damages for wrongful dismissal Kshs. 208,958.88
 - xvii. Unremitted NSSF deductions Kshs. 8,400.00
 - xviii. Severance Kshs. 60,276.60
 - xix. Unpaid amount for leave not taken Kshs. 52,239.72
 - xx. Leave travelling allowance Kshs. 3,300.00
 - xxi. Unpaid public holidays Kshs. 108,147.60
 - xxii. Rest days Kshs. 353,937.60
 - xxiii. Overtime Kshs. 362,195.39
 - xxiv. Housing allowance Kshs. 81,766.53
 - m. Interest on the total.
 - n. Certificate of Service.



- o. Costs of the cause.
- p. Any further relief this Honourable Court may deem fit and just to award under the circumstances.

(see pages 13-21 of the ROA dated the 10th of February 2025)

- 50. The court looked into various decisions of the court on award of unfair termination under section 49 in similar circumstances. (see *Wilson Kibande Abai v Kenya Tents Limited* [2019] eKLR and *Obonyo v Kibos Sugar & Allied Industries* [2024] KEELRC 1392 (KLR) where the court awarded compensation of 10 months for unfair termination on basis of absconding). The claimant had worked for slightly over 5 years. He was not paid salary for 3 months and kept on asking for the same in vain an indication of frustration by the employer. He had no prior disciplinary issues. Taking the foregoing to account the court awards compensation the equivalent of 5 months gross salary.
- 51. Notice pay of 1 months salary is awarded for lack of procedural fairness.
- 52. The claim for unremitted NSSF deductions fails. The court upholds the decisions relied on by the trial court.
- 53. On the issue of overtime and public holidays the Claimant/Appellant submitted that he adduced evidence that he worked from 6 am to 6 pm every day including weekends and public holidays. The court held in the case of *James Orwaru Nyaundi vs Kilgoris Klassic Sacco Limited* [2022] e KLR as follows:-

“78. The Claim for overtime and public holidays worked compensation has just been thrown to Court. This Court has incessantly urged that this practice must come to a stop. It is not enough for a Claimant to just give figures to court, asserting that he or she is entitled to them, cross her or his fingers hoping that the Respondent does not place before Court documents, and as a consequence of the failure say “behold the claim is proved, the employer has not tendered in evidence any documents.” The Claimant must if she or he has to succeed in the Claim, be specific on the days when he worked overtime, the specific public holidays, when he worked and wasn’t paid for.” In the instant case the Claimant/Appellant did not specify, in his pleadings or in his evidence tendered before this Court, which particular days he worked overtime, and on public holidays. For this reason, the claims for overtime, public holidays, and rest days fail. The claims for rest allowance and leave travelling allowance lack a basis in law or in contract. The reasoning by the trial court was legally sound. I find no basis to disturb the findings (*Mbogo v Shah*).

- 54. The Appellant prayed for underpayment of wages, which are anchored in Section 48 of the Labour Institutions Act and The Regulations of Wages (General) Order 1982 to wit: ‘ 3. Basic minimum wage
- (1) No person to whom this Order applies shall be employed at a basic minimum wage less favourable to him than that which is applicable to him under the First or Second Schedule, having regard to his age and to the circumstances of his employment by reference to columns 2, 3 and 4 thereof and to the nature of his occupation, as listed in column 1 thereof to be determined by reference to the definitions contained in the Third Schedule.” The claim for underpayment is statutorily anchored and was not disputed. The same is granted as prayed being supported by the 2018 Minimum (General)Wages Orders.



55. Housing allowance – the same is allowed as the minimum wages order is without housing allowance which is payable at rate of 15% and Regulations Wages Orders. ‘Regulation 4. Housing allowance

An employee on a monthly contract who is not provided with free housing accommodation by his employer shall, in addition to the basic minimum wage prescribed in the First or Second Schedule, be paid housing allowance equal to fifteen per cent of his basic minimum wage.” The claim for housing allowance is allowed as prayed.

56. The claims for leave and leave allowance is declined as the court upheld the leave of 42 days’s form. The claim of severance had no basis as this was not a case of redundancy.

Conclusion

57. In the upshot, the appeal is allowed. The Judgment and Decree of the Honourable S.A. Opande (PM) delivered at Nairobi on the 30th of April, 2024 in MCELRC No. E1482 of 2022 is set aside and substituted as follows-

- a. The termination is held as unfair
 - b. Notice pay of Kshs 17413.24
 - c. Compensation for unfair termination equivalent of 5 months gross salary granted for Kshs. 87,066.20
 - d. Underpaid salary- Kshs. 221,110.20
 - e. Unpaid housing allowance Kshs. 81,766.53
 - f. Total sum of Kshs 449,264.87(b to e above) awarded with interest at court rate from date of judgment
 - g. Costs of the suit.
58. Cost of the appeal awarded to the appellant.
59. Stay of 30 days granted.
60. It is so ordered.

DATED, SIGNED, AND DELIVERED VIRTUALLY AT MACHAKOS THIS 20TH DAY OF JUNE 2025.

J.W. KELI,

JUDGE.

In the presence of:

Court Assistant: Otieno

Appellant – Magonda

Respondent: Nelima h/b Okonjo

