



**Maubi v Rural Electrification and Renewable Energy Corporation (REREC)
(Cause E672 of 2022) [2025] KEELRC 1737 (KLR) (13 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1737 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E672 OF 2022**

**SC RUTTO, J
JUNE 13, 2025**

BETWEEN

COLLINS MAUBI CLAIMANT

AND

**RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION
(REREC) RESPONDENT**

RULING

1. Vide a judgment delivered on 15th November 2024, this Court found in favour of the Claimant/Applicant in the following manner;
 - a. A declaration that the termination of the Claimant's employment was procedurally unfair.
 - b. The Claimant is awarded compensatory damages in the sum of Kshs 497,100.00 which sum is equivalent to three (3) months of his gross salary.
 - c. Interest shall apply on the amount in (b) at court rates from the date of Judgment until payment in full.
 - d. The Claimant shall also have the costs of the suit.
2. Consequent to the Court's judgment, the Claimant filed the instant Notice of Motion dated 6th December 2024, seeking the following orders: -
 - a. Spent
 - b. This Honourable Court be pleased to review and set aside its judgment of 15th November 2024, awarding Kshs 497,100.00 in compensatory damages to the Applicant.
 - c. That this Honourable Court be pleased to award the Applicant Kshs 772,800 in compensatory damages equivalent to three months' gross salary for unfair termination.



- d. Costs be in the cause.
 - e. Any other order this Honourable Court will deem fit in the circumstances.
3. The Application is premised on the grounds appearing on its face and the Affidavit of Collins Maubi, the Claimant herein. Grounds in support of the Motion are that at the time of his employment, the Claimant was earning a gross salary of Kshs.207,750/= inclusive of basic salary, housing allowance and commuter allowance. The Respondent further reviewed the Claimant's salary on 27th June 2017, upon redesignation and harmonization of grades. Subsequently, he was earning a gross salary of Kshs. 215,700/=.
 4. That the Court, upon hearing of evidence adduced by parties herein and in a judgment delivered on 15th November, 2024 declared the Claimant's termination from employment was procedurally unfair. That in its disposition, the Court awarded the Applicant Kshs.497,100.00 in compensatory damages which the Court equated to three (3) months of the Claimant's gross salary.
 5. It is further averred that the award by the Court was made in error, as the Claimant's gross monthly salary at the time of exit from the Respondent's organization had gradually increased to Ksh. 257,600.00 thus the award ought to have been Ksh.772,800.00.
 6. In response to the Notice of Motion, the Respondent filed Grounds of Opposition dated 12th February 2025, in which it contends that the Claimant has not met the threshold to be granted an order for review under Rule 74 of the Employment and Labour Relations Court (Procedure) Rules in that;
 - a. He has not demonstrated any mistake or error apparent on the face of the record. The error alleged by the Claimant is a matter of evidence that requires the Court to reopen the matter and test the evidence.
 - b. The Claimant has introduced new evidence in its application which was not produced during the trial. An application for review on grounds of an error apparent on the face of the record cannot raise new issues or additional evidence.
 - c. The Claimant has not demonstrated any other sufficient reason to justify the exercise of the Court's power for review.
 7. The Respondent further contends that by producing additional evidence, the Claimant seeks to reopen the matter and for the court to re-appraise the evidence presented. That this is not a matter for review.
 8. The Respondent further filed a Replying Affidavit sworn on 11th March 2025 by Sharon Tugee, its Corporation Secretary and Manager Legal Services. Ms. Tugee avers that the Claimant was employed by the Respondent as an accountant by an appointment letter dated 4th August 2016 and his employment confirmed by a letter dated 24th August 2016. That by a letter dated 27th June 2017, the Claimant was informed that following a recategorization of the Respondent, his position was upgraded to Senior Accountant.
 9. Ms. Tugee deposes that the Claimant's basic salary was Kshs 165,700/= and that the Court rightly relied on the said figure in the computation of damages.



Analysis and Determination

10. The Court has considered the Notice of Motion, the Respondent's Grounds of Opposition and Replying Affidavit and has identified the main issue for determination as being whether the Claimant has satisfied the requirements for the grant of an order for Review.
11. Rule 74 of the Employment and Labour Relations Court (Procedure) Rules, 2024 is very explicit that the Court can only review its orders if the following grounds exist: -
 - a. if there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made;
 - b. on account of some mistake or error apparent on the face of the record;
 - c. if the judgment or ruling requires clarification; or
 - d. for any other sufficient reason.
12. Through the instant Notice of Motion, the Claimant has asked the Court to review and set aside its Judgment with respect to compensatory damages in which he was awarded the sum of Kshs. 497,100.00.
13. The basis of the Application is that at the time of the Claimant's exit from employment, his gross salary was Kshs. 257,600.00 hence the award ought to have been Kshs. 772,800.00.
14. The record bears that vide a letter dated 27th June 2017, the Claimant was redesignated as a Senior Accountant, hence his basic salary rose to Kshs. 165,700.00 with his house allowance being Kshs. 40,000.00 and his commuter allowance, Kshs. 10,000.00.
15. It is therefore evident that the Court did not take into account the Claimant's house and commuter allowance in computing his compensatory damages. This is bearing in mind that the compensatory damages were awarded based on the Claimant's gross salary and not his basic salary. Accordingly, the Court finds that there is an error apparent on the face of the record, hence the Notice of Motion by the Claimant has satisfied the threshold established under Rule 74(1) of this Court's Rules.
16. It is however not clear to the Court how the Claimant arrived at the figure of Kshs. 257,600.00, which he now claims was his last gross salary. For this reason, the Court will rely on the Claimant's gross salary as appearing on his letter dated 27th June 2017, which was admitted as evidence during the hearing.
17. To this end and in the interest of justice, the Claimant's Application dated 6th December 2024 is allowed and the Court's final orders as per paragraph (b) in the judgment delivered on 15th November 2024, are hereby reviewed to the extent that the Claimant's compensatory damages is tabulated at Kshs. 647,100.00.
18. Each party shall bear its own costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF JUNE 2025.

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STELLA RUTTO

JUDGE

In the presence of:



Mr. Wambui for the Claimant/Applicant

Ms. Saina instructed by Mr. Makori for the Respondent

Millicent Court Assistant

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

