



**Maube v Exotica Restaurant Limited (Cause 929 of 2018)
[2024] KEELRC 281 (KLR) (15 February 2024) (Judgment)**

Neutral citation: [2024] KEELRC 281 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 929 OF 2018
MN NDUMA, J
FEBRUARY 15, 2024**

BETWEEN

FRANCIS WANYONYI MAUBE CLAIMANT

AND

EXOTICA RESTAURANT LIMITED RESPONDENT

JUDGMENT

1. The Claimant filed suit on 12th June 2018 against the respondent seeking damages for unlawful termination of employment and payment of one months' salary in lieu of notice. Though the respondent filed a statement of response and counterclaim dated 17th July 2018, the respondent did not attend the hearing of the suit so the matter proceeded as an undefended suit.
2. The claimant adopted a witness statement filed on 12th June 2018 as his evidence in chief. He told court that he was employed by the respondent on 5th March 2000 as a cook at a monthly salary of Kshs 27,000 per month and was issued a letter of appointment.
3. The claimant said that he served the respondent diligently and with loyalty until 12th December 2017, a period of about 18 years when the respondent terminated his services without giving him any reason for the termination. That the claimant was not paid any terminal benefits upon termination.
4. The claimant said he demanded his benefits in vain until he went to Kituo Cha Sheria who issued a demand notice to the respondent. That the respondent did not heed the notice and the suit was filed. The claimant prays to be awarded as prayed.

Determination

5. The claimant has tendered sufficient evidence to demonstrate that he had worked for the respondent as a cook for about 18 years. That on 12th December 2017 the respondent unlawfully and unfairly



terminated the employment of the claimant without notice and without paying him salary in lieu of notice. The court awards the claimant Kshs 27,000 in lieu of one months' notice.

6. The court has found that the claimant is entitled to compensation in terms of section 49(1) c &(4) of the *Employment Act* 2007. The court has considered the long service the claimant gave the respondent without blemish. That the claimant did not contribute to the unlawful termination. The claimant was not paid any compensation or terminal benefits upon termination and has suffered loss and damage.
7. Consequently, considering the above and the case of *Elizabeth Kioko v Beyene Haire Ward, Salina Transporters Ltd* (2014) eKLR the court awards the claimant the equivalent of 12 months' salary in the sum of Kshs 324,000/= in compensation for the unlawful and unfair termination of employment.
8. In the final analysis the court enters judgment in favour of the claimant against the respondent as follow:
 - a. Kshs 324,000/= in compensation
 - b. Kshs 27,000/= in lieu of notice
Total award Kshs 351,000/=
 - c. Interest at court rates from date of judgment till payment in full
 - d. Costs of the suit.

DATED AT NAIROBI THIS 15TH DAY OF FEBRUARY 2024

MATHEWS NDERI NDUMA

JUDGE

Appearance:

Mr. Francis Wanyonyi for claimant

Mr. Ekale, court assistant

