



**Kinuthia v Insta-Pumps Engineering Limited (Cause 541 of 2019)  
[2024] KEELRC 2673 (KLR) (31 October 2024) (Judgment)**

Neutral citation: [2024] KEELRC 2673 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 541 OF 2019  
J RIKA, J  
OCTOBER 31, 2024**

**BETWEEN**

**SIMON GAKURI KINUTHIA ..... CLAIMANT**

**AND**

**INSTA-PUMPS ENGINEERING LIMITED ..... RESPONDENT**

**JUDGMENT**

1. The Claimant filed his Statement of Claim on 20<sup>th</sup> August 2019.
2. He states that he was employed by the Respondent as a Sales Engineer on 2<sup>nd</sup> October 2015. He worked until 31<sup>st</sup> August 2016, when the Respondent dismissed him, without justifiable cause. His last gross monthly salary, was Kshs. 92,000.
3. He was denied salary for 6 months, and was not issued notice on termination.
4. He prays for: -
  - a. Declaration that termination was unfair
  - b. 12 months' salary in compensation for unfair termination at Kshs. 1,104,000.
  - c. Salary arrears of 6 months at Kshs. 552,000.
  - d. 3 months' notice at Kshs. 276,000.  
Total ...Kshs. 1,932,000.
  - e. Any other suitable relief.
  - f. Interest.
  - g. Costs.



5. The Respondent entered appearance through the Law Firm of Kamotho Njomo. There was however, no Statement of Response filed. On 28<sup>th</sup> July 2023, the Respondent's Advocate applied for leave to cease acting for the Respondent. The order was granted. Hearing was scheduled for 20<sup>th</sup> June 2024. The Claimant filed an affidavit of service, indicating that the Respondent was served the hearing notice in person. There was no attendance on the part of the Respondent, and the Claimant gave evidence and rested his case on 20<sup>th</sup> June 2024.
6. He adopted his Witness Statement and 2 Documents on record. The Documents include the letter of appointment, dated 2<sup>nd</sup> October 2015, and the demand letter issued before action.

**The Court Finds : -**

7. In the absence of any evidence from the Respondent, the Claim stands un-opposed.
8. The letter of appointment exhibited by the Claimant, establishes that he was employed by the Respondent, in the position of Sales Engineer. The terms and conditions of service outlined in the contract are not contested. It is not contested that the Respondent dismissed the Claimant, and that dismissal was not based on valid reasons. There is no dispute that the Claimant was owed arrears of salary of 6 months.
9. The Claimant worked for 10 months. It was not shown that he caused, or contributed, to the circumstances leading to termination. He did not inform the Court if he mitigated loss of employment, by securing alternative employment. He did not justify his prayer for compensation equivalent of a maximum of 12 months' salary, while he worked for a lesser period of 10 months. He is granted 5 months' salary in compensation for unfair termination at Kshs. 460,000.
10. Other prayers are granted as prayed.

It is ordered: -

- a. It is declared that termination was unfair.
- b. The Respondent shall pay to the Claimant, equivalent of 5 months' salary in compensation for unfair termination at Kshs. 460,000, arrears of salary of 6 months at Kshs. 552,000 and notice of 3 months at Kshs. 276,000 – total Kshs. 1,288,000.
- c. Certificate of Service to issue.
- d. Costs to the Claimant.
- e. Interest allowed at the rate of 14% per annum, from the date of Judgment, till payment is made in full.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS 2020, THIS 31<sup>ST</sup> DAY OF OCTOBER 2024.**

**JAMES RIKA**

**JUDGE**

