



**Kenya Union of Domestic, Hotels, Educational Institutions and Hospital
Workers v Game on Solutions (K) Limited (Cause E081 of 2021)
[2024] KEELRC 2790 (KLR) (14 November 2024) (Judgment)**

Neutral citation: [2024] KEELRC 2790 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE E081 OF 2021
M MBARŪ, J
NOVEMBER 14, 2024**

BETWEEN
**KENYA UNION OF DOMESTIC, HOTELS, EDUCATIONAL INSTITUTIONS
AND HOSPITAL WORKERS CLAIMANT**
AND
GAME ON SOLUTIONS (K) LIMITED RESPONDENT

JUDGMENT

1. The claimant, KUDHEIHA Workers, is representing 24 grievants. The issue in dispute is the wrongful and unfair termination of employment following a redundancy and lockout.
2. The claimant is registered as a trade union under the provisions of the *Labour Relations Act*. It represents employees in domestic, hotels, educational institutions, and hospitals. The respondent is in the hospitality and gaming industry.
3. The claimant and the respondent have a Recognition Agreement.
4. The grievants were employed by the respondent on different dates and positions. On 5 May 2019, the respondent wrote to the branch secretary of the claimant, informing the union of the closure of business, hence terminating the employment of the grievants on account of redundancy. There was no notice to the labour office before the wrongful and unlawful action. This violated Sections 40, 43, 78, 77 and 76 of the *Employment Act* and Regulation 15 of the Regulation of Wages Conditions of Employment (Hotels and Catering Trade) Order.
5. The claim is that the respondent's actions are in gross violation of Articles 41 and 47 of *the Constitution* on fair labour practices. This is also in violation of Sections 5, 40, 43, 45, and 46 of the *Employment Act*, which prohibits discrimination against any employee. There was wrongful and unfair termination of employment.



6. The claim is that the respondent refused to pay the grievants' terminal dues, including their salaries, allowances and service gratuity, due under the parties' contractual obligations.

7. The claimant is seeking payment for each grievant as follows;

1. Geoffrey Silali Titi

Date of employment 1st November 2013

Occupation: Security

Basic Salary; Kshs. 14,420.00

House Allowance; Kshs. 2,163.00

Date of Termination; 8th May, 2019

Duration in Service; 5 years & 6 months.

Claims

i. 2 months' pay in lieu of notice x 16,583.00 = Kshs. 33,166.00

ii. 1 month's salary notification x 16,583.00 = Kshs. 16,583.00

iii. Severance pay at 15 days x 5 years x 16,583 = Kshs. 41, 457.50

iv. 12 months' salary compensation x 16,583 = Kshs. 198,996

2. Teresia Akinyi Otieno

Date of employment 1st November 2013

Occupation: Dealer

Basic Salary; Kshs. 14,783.00

House Allowance; Kshs; 2,217.00

Date of Termination; 8th May, 2019

Duration in Service; 5 years & 6 months.

Claims

i. 2 months' pay in lieu of notice x 17,000.00 = Kshs. 34,000.00

ii. 1 month's salary notification x 17,000.00 = Kshs. 17,000.00

iii. Severance pay at 15 days x 5 years x 17,000 = Kshs. 42,500.00

iv. Leave for 2 years x 17,000.00 = Kshs. 34, 000.00

v. 12 months' salary compensation x 16,583 = Kshs. 204,000.00

3. Emmanuel Zuma

Date of employment; 1st November, 2013

Occupation: Cleaner

Basic salary; Kshs. 12,927.00

House Allowance; Kshs. 1,939.00



Date of Termination; 8th May, 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x14,866.00 = Kshs. 29,732.00
- ii. 1 month's salary notification x 14,866.00 = Kshs. 14,866.00
- iii. Leave for 1-year x 14,866.00 = Kshs. 14,866.00
- iv. Severance pay at 15 days x5 years x14,866= Kshs.37,165.00
- v. 12 months' salary compensation x14,866 = Kshs.178,392.00

4. Eunice Akoko

Date of employment 5th September 2017

Occupation: Waitress

Basic salary; Kshs. 12,927.00

House Allowance; Kshs. 1,939.00

Date of Termination; 8th May, 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x16,583.00 = Kshs. 33,166.00
- ii. 1 month's salary notification x 16,583.00 = Kshs. 16,583.00
- iii. Severance pay at 15 days x5 years x16,583 =Kshs.41,457.50
- iv. 12 months' salary compensation x 16,583 = Kshs. 198,996

5. Francis Maina Manani

Date of employment 1st February 2014

Occupation: Supervisor

Basic salary; Kshs. 17,391.00

House Allowance; Kshs 2,609.00

Date of Termination 8th May 2019

Duration in Service 4 years & 2 months.

Claims

- i. 1 month's pay in lieu of notice x 20,000.00 =Kshs. 20,000,00
- ii. 1 month's salary notification x 20,000.00 = Kshs. 20,000.00
- iii. Severance pay at 15 days x4 years x 20,000 =Kshs. 40,000,00
- iv. 12 months' salary compensation x20,000 = Kshs.240,000.00



- v. 1 year leave for 2018 x 20,000.00 = Kshs. 20,000.00
6. Hesborn Mungai Otorai
 Date of employment 1st June 2015
 Occupation: Shot Attendant
 Basic Salary; Kshs. 15,652.00
 House Allowance; Kshs. 2,348.00
 Date of Termination 8th May 2019
 Duration in Service 5 years & 8 months.
 Claims
- i. 2 months' pay in lieu of notice x18,000.00 = Kshs. 36,000.00
 ii. 1 month's salary notification x 18,000.00 = Kshs. 18,000.00
 iii. Severance pay at 15 days x5 years x 18,000 = Kshs.45,000.00
 iv. 12 months' salary compensation x18,000 =Kshs.216,000,00
 v. 1 year leave for 2018 x 18,000.00 = Kshs. 18,000.00
7. Hesbon Ndumbu
 Date of employment 1st February 2014
 Occupation: Dealer
 Basic salary; Kshs. 14,783.00
 House Allowance; Kshs. 2,217.00
 Date of Termination 8th May 2019
 Duration in Service 5 years & 2 months.
 Claims
- i. 2 months' pay in lieu of notice x 17,000.00 = Kshs.34,000.00
 ii. 1 month's salary notification x 20,000.00 = Kshs. 17,000.00
 iii. Severance pay at 15 days x5 years x17,000 =Kshs.42,000.00
 iv. 12 months' salary compensation x17,000 =Kshs. 204,000.00
 v. 1 year leave for 17,000.00 = Kshs.17, 000.00
8. Iqbal Kazungu Kipoonyo
 Date of employment 1st November 2013
 Occupation: Cleaner
 Basic salary; Kshs. 12,927.00
 House Allowance; Kshs. 1,939.00
 Date of Termination 8th May 2019



Duration in Service 5 years & 6 months.

Claims

- i. 1.2 months' pay in lieu of notice x14,866.00=Kshs.29,732.00
- ii. Months' salary notification x 14,866.00 = Kshs. 29,732.00
- iii. Severance pay at 15 days x5 years x14,866= Kshs.37,165.00
- iv. 12 months' salary compensation x 14,866 =Kshs.178,392.00
- v. year leave for 2018 x 14,866.00 = Kshs. 14, 866.00

9. Jared O. Getuma

Date of employment 1st June 2015

Occupation: Cleaner

Basic Salary; Kshs. 11,739.00

House Allowance; Kshs. 1,761.00

Date of Termination 8th May 2019

Duration in Service 5 years & 8 months.

Claims

- i. 2 months' pay in lieu of notice x 13,500.00 =Kshs. 27,000.00
- ii. 1 month's salary notification x 13,500.00 = Kshs. 13,500.00
- iii. Severance pay at 15 days x5 years x13,500 =Kshs.33,750.00
- iv. 12 months' salary compensation x13,500 =Kshs. 162,000.00
- v. 1 year leave for 2018 x 13,500.00 = Kshs. 13,500.00

10. Alan Jimson Mwamuzi Tole

Date of employment 1st November 2013

Occupation: Cleaner

Basic Salary; Kshs. 13,960.00

House Allowance; Kshs. 2,094.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 16,054.00 =Kshs. 32,108.00
- ii. 1 month's salary notification x 16,054.00 – Kshs. 16,054.00
- iii. Leave for 1-year x 14,866.00 = Kshs. 16,054.00



- iv. Severance pay at 15 days x5 years x16,054 =Kshs.40,135.00
 - v. 12 months' salary compensation x 14,866 Kshs. 192,648.00
11. Riziki Katana Kilachu
- Date of employment 1st November 2013
- Occupation: Cleaner
- Basic salary; Kshs. 12,927.00
- House Allowance; Kshs. 1,939.00
- Date of Termination 8th May 2019
- Duration in Service 5 years & 6 months.
- Claims
- i. months' pay in lieu of notice x 14,866.00 = Kshs. 29,732.00
 - ii. 1 month's salary notification x 14,866.00 = Kshs. 14,866.00
 - iii. Leave for 1-year x 14,866.00 = Kshs. 14,866.00
 - iv. Severance pay at 15 days x5 years x14,866 =Kshs.37,165.00
 - v. 12 months' salary compensation x 14,866 =Kshs.178,392.00
12. Kennedy Wanyonyi Lusameh
- Date of employment 1st June 2015
- Occupation: Head Security
- Basic Salary; Kshs. 15,652.00
- House Allowance Kshs. 2,348.00
- Date of Termination 8th May 2019
- Duration in Service 5 years & 8 months.
- Claims
- i. 2 months' pay in lieu of notice x 18,000.00 = Kshs.36,000.00
 - ii. 1 month's salary notification x 18,000.00 = Kshs. 18,000.00
 - iii. Severance pay at 15 days x5 years x18,000 =Kshs.45,000.00
 - iv. 12 months' salary compensation x 18,000 =Kshs.216,000.00
 - v. 1 Year leave for 2018 x 18,000.00 = Kshs. 18,000.00
13. Remmy Kitsao Karisa
- Date of employment 1st November 2013
- Occupation: Security
- Basic Salary; Kshs. 14,420.00



House Allowance Kshs. 2,163.00

Date of Termination 8th May 2019

Duration in Service 5 years & 8 months.

Claims

- i. 2 months' pay in lieu of notice x 16,583.00 =Kshs. 33,166.00
- ii. 1 month's salary notification x 16,583.00 = Kshs. 16,583.00
- iii. Severance pay at 15 days x5 years x16,583 =Kshs.41,457.00
- iv. 12 months' salary compensation x 16,583 =Kshs.198,996.00
- v. 1 year leave for 2018 x 16,583.00 = Kshs. 16, 583.00

14. Lavenda Magomere Ingasiani

Date of employment 1st January 2015

Occupation: Waitress

Basic salary; Kshs. 13,961.00

House Allowance; Kshs. 2,094.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 16,055 = Kshs. 32,110.00
- ii. 1 months' salary notification x 16,055.00 = Kshs. 16,055.00
- iii. Severance pay at 15 days x5 years x16,055 =Kshs.40,137.50
- (iv).12 months' salary compensation x 16,055 = Kshs. 192,660.00
- (v). leave for one year 2018 x 16,055.00 = Kshs. 16,055.00

15. Bakari Matano Ramtu

Date of employment 1st November 2013

Occupation: Cook

Basic Salary; Kshs. 14,788.00

House Allowance; Kshs. 2,218.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 17,006 = Kshs. 34,012.00



- ii. 1 month's salary notification x 17,006.00 = Kshs. 17,006.00
 - iii. Severance pay at 15 days x 5 years x 17,006 = Kshs. 42,515.00
 - iv. 12 months' salary compensation x 17,006 = Kshs. 204,072.00
 - v. Leave for one year 2018 x 17,006.00 = Kshs. 17,006.00
16. Nyamvula Moses Lenga
- Date of employment 5th September 2017
- Occupation: Cleaner
- Basic Salary; Kshs. 12,927.00
- House Allowance; Kshs. 1,939.00
- Date of Termination 8th May 2019
- Duration in Service 5 years & 6 months.
- Claims
- i. 2 months' pay in lieu of notice x 16,583.00 = Kshs. 33,166.00
 - ii. 1 months' salary notification x 16,583.00 = Kshs. 16,583.00
 - iii. Severance pay at 15 days x 5 years x 16,583 = Kshs. 41,457.50
 - iv. 12 months' salary compensation x 16,583 = Kshs. 198,996
 - v. Leave for one year 2018 x 16,583 = Kshs. 16,583.00
17. Noel Righa Mwakio
- Date of employment 5th September 2017
- Occupation: Cleaner
- Basic salary; Kshs. 12,927.00
- House Allowance; Kshs. 1,939.00
- Date of Termination 8th May 2019
- Duration in Service 5 years & 6 months.
- Claims
- i. 2 months' pay in lieu of notice x 16,583.00 = Kshs. 33,166.00
 - ii. 1 month's salary notification x 16,583.00 = Kshs. 16,583.00
 - iii. Severance pay at 15 days x 5 years x 16,583 = Kshs. 41,457.50
 - iv. 12 months' salary compensation x 16,583 = Kshs. 198,996
 - v. Leave for one year 2018 x 16,583 = Kshs. 16,583.00
18. Norah Fiona Mbotela
- Date of employment 1st November 2013



Occupation: Cashier

Basic salary; Kshs. 28,197.00

House Allowance; Kshs. 4,375.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 32,572.00 =Kshs. 65,144.00
- ii. 1 month's salary notification x 32,572.00 = Kshs. 32,572.00
- iii. Severance pay at 15 days x5 years x32,572 =Kshs.81,430.00
- iv. 12 months' salary compensation x 32,572 =Kshs.390,864.00
- v. Leave for one year 2018 x 16,583 = Kshs. 32, 572.00

19. Rose Adhiambo Nyakachunga

Date of employment 1st November 2013

Occupation: Cashier

Basic Salary; Kshs. 29,169.00

House Allowance; Kshs. 4,375.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 33,544.00= Kshs. 67,088.00
- ii. 1 months' salary notification x 33,544.00 = Kshs. 33,544.00
- iii. Severance pay at 15 days x5 years x33,544 =Kshs.83,860.00
- iv. 12 months' salary compensation x33,544 = Kshs.402,528.00
- v. Leave for one year 2018 x 33,544.00 = Kshs. 33, 544.00

20. Sharon Akinyi Ochieng

Date of employment 1st July 2013

Occupation: Waitress

Basic salary; Kshs. 12,927.00

House Allowance; Kshs. 1,939.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 16,583.00 = Kshs.33,166.00



- ii. 1 month's salary notification x 16,583.00 = Kshs. 16,583.00
- iii. Severance pay at 15 days x 5 years x 16,583 = Kshs. 41,457.50
- iv. 12 months' salary compensation x 16,583 = Kshs. 198,996
- v. Leave for one year 2018 x 16,583 = Kshs. 16,583.00

21. Simon Lewela Mwambamba

Date of employment 5th September 2017

Occupation: Cook

Basic salary; Kshs. 14,788.00

House Allowance; Kshs. 1,939.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 16,583.00 = Kshs. 33,166.00
- ii. 1 month's salary notification x 16,583.00 = Kshs. 16,583.00
- iii. Severance pay at 15 days x 5 years x 16,583 = Kshs. 41,457.50
- iv. 12 months' salary compensation x 16,583 = Kshs. 198,996
- v. Leave for one year 2018 x 16,583 = Kshs. 16,583.00

22. Harrison Leonard Karisa

Date of employment 1st February 2014

Occupation: Barman

Basic Salary; Kshs. 13,960.00

House Allowance; Kshs. 2,094.00

Date of Termination 8th May 2019

Duration in Service 5 years & 4 months.

Claims

- i. 2 months' pay in lieu of notice x 16,054.00 = Kshs. 32,108.00
- ii. 1 month's salary notification x 16,583.00 = Kshs. 16,054.00
- iii. Severance pay at 15 days x 5 years x 16,054 = Kshs. 40,135.00
- iv. 12 months' salary compensation x 16,054 = Kshs. 192,648.00
- v. Leave for two year 2018 x 16,054.00 = Kshs. 32,108.00

23. Vallentine Onyango Oyugi

Date of employment 14th September 2015



Occupation: Security

Basic Salary; Kshs. 13,961.00

House Allowance; Kshs. 2,094.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 16,055.00 = Kshs.32,110.00
- ii. 1 month's salary notification x 16,055.00 = Kshs. 16,055.00
- iii. Severance pay at 15 days x5 years x16,055 =Kshs.40,137.50
- iv. 12 months' salary compensation x16,055 =Kshs. 192,660.00
- v. Leave for one year 2018 x 16,055 = Kshs. 16, 055.00

24. Shilah Wairimu

Date of employment 1st November 2013

Occupation: Cashier

Basic salary; Kshs. 29,169.00

House Allowance; Kshs. 4,375.00

Date of Termination 8th May 2019

Duration in Service 5 years & 6 months.

Claims

- i. 2 months' pay in lieu of notice x 33,544.00= Kshs. 67,088.00
- ii. 1 month's salary notification x 33,544.00 = Kshs. 33,544.00
- iii. Severance pay at 15 days x5 years x 33,544=Kshs.83,860.00
- iv. 12 months' salary compensation x 33,544 =Kshs.402,528.00
- v. Leave for one year 2018 x 33,544.00 = Kshs. 33, 544.00

8. The claimant is seeking the court to award the grievants as pleaded following unfair termination of employment and failure by the respondent to pay terminal dues. The claimant is seeking payment of costs.
9. In evidence, the claimant called Geoffrey Silali Titi, the 1st claimant who testified that he represents the grievants and the employer was the respondent. He was employed on 1st November 2013 as a security guard. The grievants were employed on different dates in different positions and were all terminated in their employment on the same day. The respondent wrote to their union, the claimant and indicated that they were closing the business. There was no payment of terminal dues which should have been awarded.
10. The respondent was served and entered an appearance on 24 November 2021.



11. A response was filed on 25 July 2022 comprising mere denials. That there was no termination of employment without notice, notice to show cause or notice to the claimant and that the grievants are not owed terminal dues amounting to Ksh.9,208,185.50 as alleged. The claim should be dismissed.
12. The respondent did not file work records as required under Sections 10(6) and (7) of the *Employment Act*.
13. Despite being invited to attend the hearing and proceedings, the respondent remained absent. No evidence was called.
14. At the close of the hearing, the claimant filed written submissions.
15. The claimant submitted that through a notice dated 5 May 2019, the respondent informed the claimant that there was redundancy. Despite this notice, the grievants were not paid terminal dues. This was contrary to fair labour practices prohibited under Articles 41 and 47 of *the Constitution*.
16. Under Section 40 of the *Employment Act*, before employment is terminated on account of redundancy, the employer should issue notice to the employee or make payment thereof as held in BIFU v Monarch Insurance Co. Limited Cause No.6 of 2007. The claims made should be awarded with costs.

Determination

17. Through generic notices dated 8 May 2019, the respondent notified all the grievants that their employment had been terminated on account of redundancy. The notice was taking effect on the same day.
18. In a notice dated 5 May 2019 received by the claimant on 8 May 2019, the respondent indicated that there would be the closure of business as of 5 May 2019. The reason was that;

... this is due to the business financial situation that has made it difficult to run the casino.
As a regrettable outcome of this, management has decided to shut down the casino.
19. All payments due to Game on Staff shall be responded to within 1 month. Advance payment of Ksh.10,000 will be issued to all staffs before 11th May 2019.
20. As indicated above, the respondent did not file any work records and did not attend during the hearing or call any witnesses.
21. Section 40 of the *Employment Act* allows for termination of employment due to operational reasons. Where an employer is faced with financial difficulties, such is a justified redundancy situation and hence, by operation of the law, termination of employment is allowed. However, Section 40 of the *Employment Act* gives the conditions that the employer must address. These conditions are mandatory;
 1. An employer shall not terminate a contract of service on account of redundancy unless the employer complies with the following conditions— ... (a) (b) (c) (d) (e) (f) (g) ...
22. The notice must be issued to the trade union and the labour officer in charge of the area of the reasons for, and the extent of, the redundancy not less than a month prior to the date of the intended date of termination on account of redundancy.
23. The employee(s) must be paid due leave days in cash and severance pay of at least 15 days for each full year worked. Under Section 40(1) (f) of the *Employment Act*, the employer has paid an employee declared redundant not less than one month's notice or one month's wages in lieu of notice.



24. In the case of *Thomas De La Rue (K) Ltd v David Opondo Omutelema* [2013] KECA 492 (KLR) the court held that although with respect to unionisable employees section 40 (1) (a) of the *Employment Act* requires at least one month's notice before the effective date of the redundancy, the Act allows parties, in a collective agreement, to agree on more favourable terms and such terms apply and take precedence.
25. In this case, notice was issued on the same day employment was due to terminate. There was no notice to the labour officer. This position is reiterated in the case of *Josephine M. Ndungu, Job Ireri, Billy Wellington Kinyua, Jane Wambui Gitau, Millicent Njoki Gitau, Hudson Lubanga Kadagi, Bwibo Adieri & Martin Anthony Njogu Kimemia v Plan International Inc* [2019] KEELRC 663 (KLR).
26. Upon the declaration of redundancy through notices required under Section 40(1)(a) and (b), the employer is allowed under Section 40(1)(f) to pay in lieu of notice as held in the case of *Cargill Kenya Limited v Mwaka & 3 others* [2021] KECA 115 (KLR).
27. In this case, upon notice dated 8 May 2019 to all the grievants that their employment would terminate on the same day, the respondent noted that each grievant would be paid;
 - a. Salary for days worked;
 - b. Salary arrears including March and April 2019;
 - c. One month in lieu of notice;
 - d. Overtime hours; and
 - e. Service pay equivalent to 14 days for each year worked.
28. Whereas the respondent filed a response, there are no work records to confirm how the terminal dues were paid.
29. From the notice dated 8 May 2019, the claimant filed this claim on 27 August 2021. A demand for payment of terminal dues was issued by the claimant but the respondent did not pay.
30. In the case of *Kenya Airways Limited v Aviation & Allied Workers Union Kenya & 3 others* [2014] eKLR the Court of Appeal held that even though the employer is allowed to terminate employment due to operational reasons, the affected employees must be paid their terminal dues as required under the provisions of Section 34, 45 and 49 of the *Employment Act*. Failure to make payment amounts to unfair termination of employment. The employees are justified in claiming compensation.
31. A redundancy should not be used to deny the employees their lawful terminal dues. Such conduct is tantamount to unfair termination of employment as held in *Kenya Union of Domestic Workers, Hotels, Educational Institutions, Hospitals and Allied Workers v Matuu Youth Polytechnic* [2024] KEELRC 1907 (KLR) and that;

... the record does not show that the Respondent complied with the procedure for termination of contract provided for either under section 40 or section 41 of the *Employment Act* before it terminated the Grievant's employment. As such, the Grievant is entitled to compensation for unfair termination of her employment.
32. In the case of *Ignas Karingo Mghona, Mathias Otonyo Sese, Miriam Chenye, Roseline Mghoi Kilio & Jennifer Mbinya Julius v Star of Hope International Foundation* [2016] KEELRC 1612 (KLR) and the case of *Emmanuel Limo Chang'oka v Plan International Kenya* [2022] KEELRC 119 (KLR), the



employer must justify the reasons leading to redundancy. In the absence of such a matter, termination of employment is unfair.

33. The work records required under Section 10(6) and (7) of the *Employment Act* would have clarified these facts. In the absence of the respondent, as the employer addressing such matter, the court finds that save for the lapse in addressing the redundancy procedures under Section 40, there was no due process, and hence compensation is due to the grievants.
34. In this case, the grievants are justified in their claims for compensation and in this case, each is awarded 6 months' pay.
35. Notice pay is claimed at one, two, or three months based on the employment duration for each grievant. The basis of the claimant is a collective agreement (CBA) which was not filed. A Recognition Agreement was filed, but no CBA is conferring the benefit of notice pay beyond the legal minimum of one month under Section 40(1) (f) of the *Employment Act*.
36. Each grievant is awarded notice pay at one month of the last gross wage paid.
37. On the claim for leave, such is due and should have been paid in cash as required under Section 40(1) (e) of the *Employment Act*. Each grievant will be awarded as pleaded.
38. Severance pay is due at the rate of 15 days for every full year worked. In the notice terminating employment, the respondent offered to pay service pay.
39. There is no evidence of any service payment. Such payment is foundationally different from severance pay. What is due in this case is severance pay.
40. The claim for costs is on a good foundation. The claimant is a trade union, and costs are not regulated under the *Advocates Act*. The court allows costs at Ksh. 100,000.
41. Accordingly, the claim is hereby allowed against the respondent in the following terms;
 - a. There was wrongful and unfair termination of employment;
 - b. The grievants are awarded compensation at 6 months of the gross wage each;
 - c. Severance pay for 15 days for each full year worked;
 - d. One-month notice pay;
 - e. Leave pay as set out in the Memorandum of Claim;
 - f. Costs assessed at ksh.100,000 all-inclusive;
 - g. Each grievant is awarded the following;
 1. 6 months compensation;
 2. One-month notice pay;
 3. Severance for 15 days for each full year worked;
 4. Leave pay.
 - h. The claimant to tabulate the dues and submit for adoption on 18 December 2024 for the following grievants;
 1. Geoffrey Silali Titi.



2. Teresia Akinyi Otieno
3. Emmanuel Zuma
4. Eunice Akoko
5. Francis Maina Manani
6. Hesborn Mungai Otor
7. Hesborn Ndumbu
8. Iqbal Kazungu Kipoonyo
9. Jared O. Getuma
10. Alen Jimson Mwamuzi
11. Riziki Katana Kalachu
12. Kennedy Wanyonyi Lusameh
13. Remmy Kitsao Karisa
14. Lavenda Magomere Ingasiani
15. Bakari Matano Ramtu
16. Nyamvula Moses Lenga
17. Noel Righa Mwakio
18. Norah Fiona Mbotela
19. Rose Adhiambo Nyakachunga
20. Sharon Akinyi Ochieng
21. Simon Lewela Mwambamba
22. Vallentine Onyango Oyugi
23. Shilah Wairimu
24. Esther Wangare

DELIVERED VIA TEAMS VIRTUAL PLATFORM THIS 14TH DAY OF NOVEMBER 2024.

M. MBARŪ

JUDGE

