



**Mwamu v County Government of Kisumu (Cause 30 of 2020)
[2023] KEELRC 258 (KLR) (1 February 2023) (Judgment)**

Neutral citation: [2023] KEELRC 258 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
CAUSE 30 OF 2020
S RADIDO, J
FEBRUARY 1, 2023**

BETWEEN

JAMES AGGREY MWAMU CLAIMANT

AND

COUNTY GOVERNMENT OF KISUMU RESPONDENT

JUDGMENT

1. James Aggrey Mwamu (the Claimant) was appointed by the then Governor, County of Kisumu on or around 19 August 2016 to serve as a member of a task force to look into irregular and multiple allocation of public land within the County of Kisumu. The members of the task force thereafter elected the Claimant as chairperson.
2. The task force carried out the assignment and handed over its report to the Governor on 30 June 2017 (a copy of the report was also handed over to the current Governor on or around 21 August 2018).
3. On 5 May 2020, the Claimant sued the County Government of Kisumu (the Respondent) alleging breach of contract/statute (failure to pay allowances) amounting to Kshs 2,570,000/-.
4. Despite acknowledging service of Summons and copy of the Memorandum of Claim on 7 May 2020, the Respondent did not enter an appearance or file a Response.
5. The Cause, therefore, proceeded to formal proof on 6 December 2022. The Claimant testified and also filed submissions on 23 December 2022.
6. The Court has considered the pleadings, evidence and submissions.

Limitation

7. The task force handed over its report on or around 30 June 2017 and the Cause was filed on 5 May 2020.



8. Consequently, the statutory provision on limitation as prescribed by section 90 of the [Employment Act, 2007](#) is not implicated.

Allowances due to the Claimant

9. During the testimony, the Claimant admitted that he was paid Kshs 330,000/- out of the Kshs 1,800,000/- he was claiming as allowances due to him, leaving a balance of Kshs 1,470,000/-.
10. The Claimant produced a copy of the task force budget indicating that he was entitled to a daily allowance of Kshs 15,000/-.
11. The Respondent did not participate in the proceedings and, therefore, the Claimant's testimony that the task force took 120 days to conclude the task remained uncontroverted.
12. The Court consequently allows this head of the claim in the sum of Kshs 1,470,000/-.

Research Assistants

13. The Claimant also testified that he was entitled to and did hire 2 Research Assistants and that each of the Research Assistants was entitled to Kshs 240,000/- making a total of Kshs 480,000/-.
14. However, the Claimant did not provide any evidence to support the assertions that he hired 2 Research Assistants, or that he paid them any monies to give him the locus to claim the allowances on their behalf.
15. The Claimant did not even disclose the names of the Research Assistants.
16. This head of the claim is rejected.

Administrative Assistants

17. The Claimant equally failed to place before the Court any evidence that he hired 2 Administrative Assistants. He also did not provide a legal basis for purporting to sue on behalf of the 2 Administrative Assistants.
18. Relief sought is declined.

Fuel/fuel allowance

19. The Claimant did not provide any evidence that he purchased any fuel in furtherance of his role in the task force, and the Court finds this head of the claim without merit.

Conclusion and Orders

20. Considering the above, the Claimant only succeeds to the extent that the Court finds him entitled to and the Court awards him Kshs 1,470,000/-.
21. The other heads of claim are dismissed.
22. The Claimant to have interest on the award from the date of filing suit, together with costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 1ST DAY OF FEBRUARY, 2023.

RADIDO STEPHEN, MCI Arb

JUDGE



Appearances

For Claimant Mr Omondi instructed by Mwamu & Co. Advocates

Respondent did not participate

Court Assistant Chrispo Aura

