



REPUBLIC OF KENYA



KENYA LAW
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**Mutisya v Machakos County Assembly Service Board (Cause 4 of 2018)
[2023] KEELRC 1553 (KLR) (21 June 2023) (Quantum Judgment)**

Neutral citation: [2023] KEELRC 1553 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS
CAUSE 4 OF 2018
MA ONYANGO, J
JUNE 21, 2023**

BETWEEN

NELLY ITUMBI MUTISYA CLAIMANT

AND

MACHAKOS COUNTY ASSEMBLY SERVICE BOARD RESPONDENT

QUANTUM JUDGMENT

1. The judgment in this suit was delivered on October 14, 2022. In the judgment the court pronounced itself as follows:

"117. From the foregoing, I make the claimants the following orders:

- i.
- ii.
- iii. Gratuity is only payable for the months which were not paid for by the respondent, the claimants are awarded gratuity for the rest of the period. The claimants are therefore awarded gratuity for the months of November and December 2017 and January and February 2018.
- vi.
- v. The Claimants are awarded pay in lieu of leave as provided in the letters of appointment.
- vi.
- vii.



- viii. I award the claimants one month's salary in lieu of notice in line with the provisions of sections 49 of the *Employment Act* as read with section 35 and 36 of the Act.
- ix. In summary, the claimants are awarded salary arrears, leave earned and not taken, gratuity for the period that was not paid and one month's salary in lieu of notice.
- x. The respondent will pay the claimants costs taking into account the fact that the suits were resolved through a test suit.

118. Parties are directed to compute the decretal sum in line with this judgment for purposes of final judgment.”

- 2. The claimants' submissions on assessment of quantum based on court's judgment was filed on November 4, 2022. From the court record it is apparent that the respondent did not file its submissions on the assessment of quantum as directed.
- 3. I have considered the quantum filed on behalf of the claimants together with the submissions in support thereof dated October 14, 2022. Below is the final judgment of the court:



| Claimants in cause numbers | Salary arrears | Leave earned and not taken | Gratuity | Salary in lieu of notice | Total |
|---|----------------|----------------------------|----------|--------------------------|---------|
| Cluster A | Kshs | Kshs | Kshs | Kshs | Kshs |
| Comprised of Machakos ELRC No 3, 4, 8, 10, 14, 23, 24, 25, 27, 32, 35, 36, 37, 46, 47, 48, 49, 66, 67, 76, 77, 82, 83, 84, 85, 93, 94, 95, 96, 104, 107, 108 all of 2018 and ELRC No 9 and 10 of 2020 | 102,000 | 68,000 | 8,500 | 17,000 | 195,500 |
| Cluster B | Kshs | Kshs | Kshs | Kshs | Kshs |
| Comprised of Machakos ELRC No 9, 11, 12, 13, 15, 16, 17, 18, 19, 20, 28, 29, 30, 21, 33, 45, 56, 57, 58, 61, 63, 68, 69, 80, 86, 87, 88, 90, 91, 105 of 2018 and ELRC No 6 of 2020 | 150,000 | 100,000 | 12,500 | 25,000 | 287,500 |
| Cluster C | Kshs | Kshs | Kshs | Kshs | Kshs |
| Comprised of Machakos ELRC No 6, 21, 22, 34, 38, 39, 40, 41, 42, 43, 44, 50, 51, | 78,000 | 52,000 | 6,500 | 13,000 | 149,500 |



| | | | | | |
|--|----------|---------|---------|---------|----------|
| 52, 53, 54, 55, 64, 65, 70, 70, 71, 73, 74, 75, 78, 97, 98, 99, 100, 101, 102 of 2018 and ELRC No 8 and 11 of 2020 | | | | | |
| Cluster D | Kshs | Kshs | Kshs | Kshs | Kshs |
| Comprised of Machakos No 7, 26, 72, 79, 81, 89, 92 and 106 of 2018 and ELRC No 7 of 2020 Mary Mutini Mutua | 102, 000 | 51, 000 | 8, 500 | 17, 000 | 178, 500 |
| Muthusi Ndolo | 102, 000 | 34, 000 | 8, 500 | 17, 000 | 161, 500 |
| Mary Nthakye Matata | 78, 000 | 13, 000 | 6, 500 | 13, 000 | 110, 500 |
| John Masika Mbondo | 102, 000 | 34, 000 | 8, 500 | 17, 000 | 178, 550 |
| Phidelis Ndunge Samuel | 102, 000 | 34, 000 | 8, 500 | 17, 000 | 161, 500 |
| David Mutua Mukiti | Nil | 13, 000 | Nil | Nil | 13, 000 |
| Denis Mutie Ndolo | Nil | 50, 000 | Nil | Nil | 50, 000 |
| David Mulia Munywoko | Nil | 50, 000 | Nil | Nil | 50, 000 |
| Mary Nzula Mutua | 150, 000 | 50, 000 | 12, 500 | 25, 000 | 237, 500 |



4. Each of the claimants in cluster A is awarded Kshs 195, 500
5. Each of the claimants in cluster B is awarded Kshs 287, 500
6. Each of the claimants in cluster C is awarded Kshs 149, 500
7. Each of the claimants in cluster D is awarded the amount against the name as tabulated in the table.
8. Costs are as awarded in the judgment.
9. Interest shall accrue from date of judgment.

DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 21ST DAY OF JUNE, 2023.

MAUREEN ONYANGO

JUDGE

