



Sauke v Rainbow Room Foundation (Employment and Labour Relations Cause E024 of 2022) [2023] KEELRC 2056 (KLR) (27 July 2023) (Judgment)

Neutral citation: [2023] KEELRC 2056 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT BUNGOMA
EMPLOYMENT AND LABOUR RELATIONS CAUSE E024 OF 2022**

**JW KELI, J
JULY 27, 2023**

BETWEEN

KENNETH OLIWA SAUKE CLAIMANT

AND

RAINBOW ROOM FOUNDATION RESPONDENT

JUDGMENT

1. The Claimant vide statement of claim dated September 2, 2022 sought various reliefs against the respondent alleging discrimination for non-award of 10% salary increment as done to other staff, illegal salary cut, wrongful and unfair termination of contract, declaration of violation of rights and compensation under various claims.
2. In support of the claim the claimant produced documents under list of Claimant's documents dated September 2, 2022.
3. The Claimant further filed and relied on his witness statement dated September 2, 2022. The Claimant filed a further witness statement by Robert Wesonga dated November 14, 2022.

Response

4. The Claim was opposed by Respondent vide response dated 27th January, 2023 and filed in court on 31st January 2023. In addition, the Respondent filed witness statement of Aggrey Otieno Opiyo dated 27th January 2023.

Response to the defence

5. The Claimant on the 9th February 2023 filed reply to the response.



Hearing

Claimant's case

6. The Claimant's case was heard on the 23rd February 2023, where he testified on oath and was cross – examined by counsel for the respondent. The case was marked part-heard due to the documentation challenge with continued cross-examination proceedings on 23rd March, 2023. CW2 was Robert Wesonga who testified on oath for the Claimant on 23rd March 2023. The claimant alleged that he was dismissed unlawfully and unfairly and discriminated for failure to be included in the 10% increment for other employees after 6 months of pay cut; that his salary was deducted illegally for 9 months and the employer imposed unfair deductions. It was also the claimant's case he was entitled to service pay and notice pay among other terminal dues which had not been released even as per the termination letter.

Defence Case

7. The defence case was heard on the 23rd March 2023 with its witness Aggrey Otieno(DW) testifying on oath. DW adopted his witness statement dated 27th January 2023 as defense evidence in chief. DW produced the respondent's exhibits 1 to 21 under list of documents dated 27th January 2023. DW was cross-examined by the claimant. The defendant denied the claim for discrimination and of unfair termination stating the termination was on effluxion of time. The respondent denied the reliefs sought.

Written Submissions

8. The Claimant's written submissions drawn by Kenneth Oliwa Sauke (In person) were dated 6th April 2023 and received in court on the 11th April 2023. The Respondent's written submissions drawn by Prof. Ben Sihanya & Co. Advocates were dated 30th May 2023 and received in court 31st May, 2023 together with the authorities relied on.

Determination

Issues for determination

9. The Claimant addressed the following issues in his written submissions:-
 - a. Whether the Respondent's action of increasing salaries (annual increment) for other staff by 10% in January 2021 and leaving out the Claimant violated the Claimant's right to non-discrimination, fair labour practices and fair administrative action breaching the claimant's constitutional rights under Articles 28,41,47 and Section 5(2) of the *Employment Act*.
 - b. Whether the Respondent wrongfully deducted Kshs 52,320 of the Claimant's salary for 9 months, (from January -September 2021), which was effected without consultation and mutual agreement violating Clause 7.1 of his employment contract with the Respondent that reads..Conditions of service may be amended or added from time to time in consultation with employees., exhibit(Kos. 1) page 15 of the claim , thus breaching the signed contractual agreement and violating section 10(5) of the *Employment Act*.
 - c. Whether the Claimant's employment contract with the respondent was terminated, wrongfully, unfairly and was not procedural, contrary to sections 35,36,38,41,43,45,47 and 51 of the *Employment Act* and Article 41 and 47 of the *Constitution* read together with Section 4 and 6 of the *Fair Administrative Action Act, 2015*.



- d. Whether the Claimant's fundamental rights were violated contrary to Article 25(a) and Article 28 of the Kenyan Constitution 2010.
 - e. Whether the Claimant had pending leave days.
 - f. Whether the Claimant qualified for award of service pay as per Section 35(5) of the Employment Act.
 - g. Whether there was misappropriation of the respondent's funds as alleged.
10. The Respondent in its submissions addressed the following issues:-
- a. Whether the claimant's employment contract was unfairly terminated by the Respondent.
 - b. Whether the Claimant's involvement with Busia Action Centre breached employment contract.
 - c. Whether the Claimant caused Respondent loss of funds and, if in the affirmative, whether any such funds are recoverable from the Claimant's dues , if any.
 - d. Whether the Claimant is entitled to reliefs sought.

Determination

11. The court having perused the pleadings by the parties and their submissions was of the considered opinion that the issues placed before the court by the parties for determination of the dispute were follows:-
- i. Whether there was discrimination of the claimant for failure to get increment with other employees
 - ii. Whether the Claimant's salary was illegally deducted for 9 months
 - iii. Whether the claimant was unlawfully and unfairly terminated.
 - iv. Whether the Claimant was entitled to reliefs sought.

Issue I). Whether there was discrimination of the claimant for failure to get increment with other employees

Claimant's Case

12. The claimant submits that annual increment was applicable to all respondent's employees as per its policy handbook page 8 and was determined by the executive director based on budget just as it was when in 2020 all employees received 9% increment. That the claimant and another staff Hilda were left out and his efforts to harmonise the increment was termed as misappropriation and Kshs 73,248 deducted from his terminal dues. That Hilda on exit was paid all her dues including 1 year service pay and when it came to his time to exit the employer proposed ½ month for each year worked. He claims this was direct discrimination under section 5 of the Employment Act and Article 27 of the Constitution. The Claimant relied on Court of Appeal decision in Barclays Bank of Kenya Ltd v Gladys Muthoni & 20 others 2018, eKLR where discrimination was defined to mean unfair treatment., failure to treat all persons equally where no reasonable distinction can be found between those favoured and those unfavoured. In Law Society of Kenya v Attorney General and COTU Petition No 4 of 2019 where the Supreme Court held discrimination entails the unjust or prejudicial treatment of different categories of people in the same circumstances. The claimant for the failure to get the 10% increment as the



other employees then sought damages of Ksh. 2,500,000/- for discrimination and relied on decisions in *Olepajeta Ranching Limited v David Wanjiru Muhoro* (2017)eKLR and other related decisions on employment discrimination.

Response submissions

13. DW in his witness statement paragraph 12 stated the claimant arbitrary increased his salary by 10% between April 2021 and September 2021. In its submissions on the claim of discrimination based on the increase of salary for other employees to exclusion of the claimant and Hilda, the respondent submits that the *Employment Act* did not define discrimination and relied on the definition in Article 1 *Convention No. (111) Concerning Discrimination in respect of Employment and Occupation (1958)* which defines discrimination as, ‘any distinction, exclusive or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin which has the effect or nullifying or impairing equality of opportunity in treatment in employment or occupation.’ That section 5 of the *Employment Act* outlaws discrimination whether direct or indirect in terms and condition of employment. That differential treatment of persons based on different factors such as pay grade, responsibility or job level are not necessarily discrimination relying on decision of the Indian Supreme Court in *State of Kerala & Another v N.M. Thomas & Others* 1976 AIR 490 where the court opined: ‘the question of unequal treatment does not arise between persons governed by different conditions and circumstances. Equality means parity of treatment under parity of conditions.’
14. The respondent further submits that the claimant did not prove how he was discriminated against. That the claimant relied on discrimination as stated in *Barclays Bank of Kenya Ltd v Gladys Muthoni & 20 others* (2018)e KLR where the Court of Appeal bench of 3 cited decision in *Olpejeta Ranching limited v David Wanjau Muhoro* and went ahead to dismiss the respondent’s claim for racial discrimination on wage parity grounds. The respondent submits that the claimant did not discharge his burden to prove the claim for discrimination as required under section 107 of the *Evidence Act* and further as stated by the Supreme Court of Kenya in *Samson Gwer & 5 others v Kenya Medical Research institute & 3 others* (2020)e KLR on burden of proof on allegation of discrimination where it observed: ‘it is a timeless rule of the common law tradition $\frac{3}{4}$ Kenya’s juristic heritage $\frac{3}{4}$ and one of fair and pragmatic conception, that the party making an averment in validation of a claim, is always the one to establish the plain veracity of the claim.’ That the claimant never provided evidence of wage disparity with employee performing work of equal value.

Decision

15. The court holds that increment of salary is individualized even under the cited page 8 of the Handbook manual. The claimant was the executive director. No other staff compared to him whether in salary or did same job for discrimination to be alleged as per authority in *Olepajeta Ranching Limited v David Wanjiru Muhoro* (2017)e KLR. Increment of salary is individual and at discretion of the employer as held by my brother Rika in *Denis Wamalwa Sifuna v African Line Terminal & Logistics Ltd* [2020] eKLR that, ‘24. Whereas the Respondent did not have justification in deducting from the Claimant’s salary to recover alleged loss, it was within its discretion to award the Claimant pay increment.’ The court finds no discrimination in the failure to award the 10% increment to the Claimant whose terms of engagement were not in parity with the other employees.

Issue II). Whether the Claimant’s salary was illegally deducted for 9 months

16. The Claimant submits that his contract of employment clause 7.1 amendments of conditions of employment read: ‘...conditions of service may be amended or added to time to time in consultation with employees.’ That consultation was not done after lapse of the consent he signed



on the July 27, 2020 which expired on the December 31, 2020 as read together with section 17 of the *Employment Act* to wit: ‘17(1) Subject to this Act, an employer shall pay the entire amount of the wages earned by or payable to an employee in respect of work done by the employee in pursuance of a contract of service directly, in the currency of Kenya—’. That section 19 of the Act prescribes permissible deductions and Covid 19 pay cut was not such deduction. That the internal memo on the pay cut was for 6 months.(exhibit Kos 2 and 3 pages 17 and 18 of the claim).That he advised the respondent on the same and his advice was ignored (Exhibit Kos 5 page 22 and 23 of the claim). That the illegal pay cut without consultation was for 9 months.

Defence Case

17. The respondent submits that it informed the employees vide memorandum dated 28th June 2020 the salary cuts would effect on 1st July 2020 and remain in force until 31st December 2020 after which the situation will be reviewed. That the decision was to save jobs and interests of all parties. That in January 2021 review was done at 10% and left out the claimant and 1 other employee on basis that the financial circumstances would not allow salary increment of the claimant who earned 43% of total wage bill and that the salary increment was desired to cushion the lower cadre employees. That the term review meant the situation could worsen and there could be further cuts, situation would remain constant and or the situation would improve for salary increment.

Decision on Illegal Pay Cut Claim

18. The Respondent’s defence was that the memorandum of June 28, 2020 was merely indicating and not binding in stating “ continue for a period of six (6) months after which we will review the situation”. That this was not a binding commitment to revert to pre- June 28, 2020 salary scale. The review meant terms could change depending on the situation for worse or improvement or remain the same.
19. The court in interpretation of employment contracts where the terms are ambiguous, the ambiguous contract terms, report or document will be interpreted in favour of the employee. This is because documents and contracts of employment are normally drawn by the employer. This method of interpretation is called the doctrine of contra proferentem (loosely translated to mean guilty of the drafter). The doctrine requires resolution of ambiguity in favour of the party that did not draft the terms. See paragraph 16 of my judgment in Bungoma ELRC No 17 of 2017 (Consolidated) *Kennedy Kangaya Isiundu and 2 others v West Kenya Sugar Company Limited* (UR) delivered on 27/4/2023) where I reinstated the doctrine thus:-

‘Where an employment contract is ambiguous, it will be construed most strongly against the party preparing it or employing the words concerning which doubt arises. This rule applies to contracts prepared by the employer, or by the employer’s representative such as his or her advocates. This is called the doctrine of contra proferentem (loosely translated to mean guilty of the drafter), which requires resolution of ambiguity in favour of the party that did not draft the term. In other words, when an employee signs off on an ambiguous employment contract prepared by the employer, the court will usually apply the interpretation that favours the employee.’

20. In the memorandum of 28th June 2020 by the Board Chair of the Respondent, it was stated all staff were to take a pay cut with effect from July 1, 2020 and stated “ Thus shall be in a graduated scale according to each one’s pay.details will be communicated in individual Letters. This will continue for a period of six (6) months until 31.12.2020 after which we will review the situation.” The individual letter to



the Claimant was dated 25th June 2020. The letter made reference to the memo dated 28th June 2020. It stated gross pay cut of 30% and downgrade of medical cover. The letter had a clause to wit:-

“To confirm that you accept these temporary changes to your employment terms and conditions. Please sign and return the form below to me”.(emphasis given)

The claimant signed in acceptance of the salary cut review.

21. The court noted the letter to the claimant referred to the memorandum of 25th June 2020 and indicated the pay cut was temporary. Since the employer took the position that the 6 months was not binding the court then termed the clause as ambiguous and interpreted it in favour of the employee who it finds relying on the said 6 months accepted the pay cut. The court then holds the acceptance of pay cut was for 6 months and on expiry of that period the claimant was entitled to his full contract salary of Kshs 174,400.00 or to be consulted for accepted of further cut. The Claimant is thus entitled to refund of any pay cut beyond the accepted 6 months. Thus 9 months January to September 2021 9x(174000-122800) Kshs 470,880/-. The amount to factor in the alleged improper increment of Kshs 73,248 paid to the claimant. Thus the award for the 9 months pay cut is award for salary Kshs 470,880 less Kshs 73,248 Total award refund of illegal pay cut of Kshs 397,632.00

Issue III). Whether the Claimant Was Unlawfully and Unfairly Terminated.

22. The court in determination of the issue was guided by the provisions of section 45 of the Employment Act which states:-

‘Unfair termination 45(1) No employer shall terminate the employment of an employee unfairly. (2) A termination of employment by an employer is unfair if the employer fails to prove—

- (a) that the reason for the termination is valid;
- (b) that the reason for the termination is a fair reason—
 - (i) related to the employee’s conduct, capacity or compatibility; or
 - (ii) based on the operational requirements of the employer; and
- (c) that the employment was terminated in accordance with fair procedure.”

23. The Two thresholds are then to be determined being substantial fairness in terms of reasons being valid under Section 43 of the Employment Act and Procedural fairness under Section 41 of the Act.

Claimant’s case.

24. The Claimant submits that the respondent admitted that his initial 3 years’ renewable contract commenced on 5th November 2018 and was thus expected to lapse on 4th November 2021. That it was depressing and intimidating to be served with the letter dated 30th September, 2021 while on duty as usual which indicated, was a notice of non-renewal of contract terminating his services and citing reason of termination to be conflict of business. That he was not given right of reply. That he had 1 month and 5 days remaining and expected renewal of contract and yet under the letter he was to be paid 23 days in October. That other than photos of website under design there was no evidence of registration of the said business as stated by the letter by the Registrar of Societies dated 19th December 2022 (R-exhibit 20 page 62) and that there was no prove of existence of the alleged conflict.



25. The claimant further submits that his right to procedural fairness before termination under section 41 of the Employment Act was violated and stated the procedure was mandatory as held in *Pius Machafu Isindu v Lavington Security Guards Limited (2017)e KLR* and other related decisions which the court looked into. The claimant further stated he was not paid a single cent on the contract termination.

Defence Case

26. On the reasons for termination the respondent submits that from the pleadings and exhibits produced the claimant worked for Busia action center which too relied on donor funding while in their employment. That in absence of evidence on the claimant having played minimum role in day to day running of the Busia Action center they could not assume the role played by the claimant. That there was contradiction between the claimant and CW2 Wesonga who described the claimant as a volunteer while the claimant stated he was a founder member of the center who attended meetings over the weekends only. They submit that the claimant failed to prove in court that their letter of September 30, 2021 was a termination letter hence failed to prove he was entitled to declaration of unfair termination. That the letter though not mandatory informed the claimant his contract was coming to an end.

Decision

Substantial and Procedural Fairness

27. The Claimant was issued with the letter titled non- renewal of contract dated 30th September 2021 and which stated termination of service effective same day. The letter stated the contract was dated 24th October 2018 and was to expire on 23rd October 2021 and that the management had made a decision not to renew his employment contract. The said letter further referred to clause 7 (7.6) of the employment contract which states that

“for the duration of your employment with Rainbow Room Foundation, you undertake not to engage directly or indirectly in any capacity, in any business venture competitive or in conflict with the business of Rainbow Room Foundation or that of its customers”.

The management stated it had been made aware of the claimant’s dealings outside the company which will eventually raise conflict of interest . The letter discontinued service of the claimant on the same day and the claimant led uncontroverted evidence he was required to vacate premises immediately by DW.

28. The Respondent attached a brochure with photo and name of the Claimant reflected as director. Section 43 provides for validity of reasons for determination of employment to be proved by the employer. The reasons must exist at the time of termination. The defence produced documents at pages 55 to 62 of their bundle. There was a letter dated 19th December, 2022 by the Registrar of Societies addressed to Pro. Sihanya, counsel for defence, to extend that Busia Action Center was not registered under the Societies Act. There was no evidence before court to prove the allegation of existence of a business in which the claimant was involved in which was in connection with the Respondent. There was no investigation report prior to the dismissal. The claimant was not asked to show cause. No witness was called by the respondent to prove the reason. The letter by the Registrar of Societies was to the effect that the said entity was not registered. The court doubts unregistered entity would have got money from donors and in any case there was no evidence to that effect before court. The claimant was not given opportunity to respond to the allegation which was raised in same letter of termination of same day. The court holds the process of termination coined as notice of non -renewal was thus unlawful and unfair.



29. It was not in dispute there was no notice to show cause and the claimant had not been informed of the reason the Respondent contemplated the termination of contract as required under section 41 of the *Employment Act*, which is mandatory in nature. Indeed the letter stated his involvement with the center would eventually lead to conflict of interest. That means at the time of termination the employer had no evidence of the conflict. The contract of the claimant was dated 29th October 2019. There is a clause on the effective date thus “ effective 5th November 2018 for a period of 3 years pending successful annual performance”. Parties are bound by their contracts and the court cannot re-write the contract. Further the court holds there is no automatic renewal of the contract as submitted by the claimant as restated in the decision in *Transparency International- Kenya v Omondi* (Civil Appeal No 81 of 2018)(2023)KECA 174(KLR) (Delivered on 17/07/2023) where the court in allowing appeal against legitimate expectation of renewal of contract upheld its own decision as follows: ‘The Court of Appeal decision in Registered Trustees of the *Presbyterian Church of East Africa & another v Ruth Gathoni Ngoto* [2017] eKLR lends credence to our holding, where the court pronounced itself, thus:“ 29. Bearing the foregoing in mind, we note that fixed term contract carries no rights, obligations, or expectations beyond the date of expiry. Accordingly, any claim based after the expiry of the respondent’s contract ought not to have been maintained. This is in relation to the salary of the months 5th of April up to May,2010. Similarly, since the respondent’s contract came to an end by effluxion of time any claim for wrongful termination could not be maintained.”
30. I uphold the foregoing decisions of the Court of Appeal and find no basis for the expectation for the renewal. In the instant claim, I find there was wrongful termination as the letter titled non-renewal was a termination of contract before its expiry on account of conflict. Thus the notice of non-renewal could have been valid if it had referred to the contract only. The notice terminated the contract before the expiry of 3 years being 4th November 2012 and not 23rd October 2021. Further no other reason was given for the immediate termination beside effluxion of time bringing the process to the requirement of section 41 of the *Employment Act*. The court holds the letter of 30th September 2021 was a termination notice and unlawful.
31. Consequently, the termination coined as non-renewal of contract held by the claimant was unfair and unlawful. The procedural process under section 41 of the *Employment Act* is mandatory as held by the court of Appeal in *Pius Machafu Isindu v Lavington Security Guards Limited* [2017] eKLR where the court observed in paragraph 13:-
- ‘13. There can be no doubt that the Act, which was enacted in 2007, places heavy legal obligations on employers in matters of summary dismissal for breach of employment contract and unfair termination involving breach of statutory law. The employer must prove the reasons for termination/dismissal (section 43); prove the reasons are valid and fair (section 45); prove that the grounds are justified (section 47 (5), amongst other provisions. A mandatory and elaborate process is then set up under section 41 requiring notification and hearing before termination.’
- The termination was thus unlawful and unfair.
32. The period remaining of the claimant’s contract to expiry was one month and 4 days. Section 49 of the *Employment Act* obliges the court to take into consideration the remaining period of service. The court then considers compensation of one month salary notice pay and the equivalent of 1 month compensation for the unfair termination as adequate compensation for the unfair termination of contract.



Issue IV). Whether the Claimant is Entitled to Relief Sought.

Illegal Pay Cut

33. I held the claim did not meet the threshold of discrimination on increment of salary. I held that the claimant's salary was illegally and wrongly deducted on expiry of 6 months of deductions and thus was entitled to full salary for the nine months. That the nine months payment would factor in the increment that the claimant awarded himself of 10%. The same is awarded at Kshs 470,880 minus 73,248 total Kshs 397,632.00.

Discrimination Compensation .

34. I did not find evidence of discrimination or of any other rights of the claimant outside fair labour practices violated by the Respondent.

Compensation for Unlawful and Unfair Termination

35. I awarded Notice pay of one month Salary of Kshs 174,400/- and compensation equivalent to one month's salary on service pay, of Kshs 174,400.

Service Pay

36. The termination letter referred to 3 years' service pay. The Claimant led evidence including evidence of CW2 who stated he had been paid service pay at rate of 1 month for each year serviced. The respondent states that the NSSF having been paid the offer to pay service pay was gratuitous and relied on section 35(6) of the *Employment Act*. The court finds it was an established practice of the employer to pay service pay as further demonstrated in their termination letter. The payment of NSSF then is overtaken by the practice of the employer which was further coded in the letter titled non- renewal which the court found was a termination letter. DW also told the court the final dues were as per letter dated 30th September 2022. Without further evidence the court finds service pay is 15 days per year served. (section 35 (5) of the *Employment Act*). The Service Pay is awarded at 15 days for 3 years served as per letter dated 30th September 2021. Thus $174,400 \times 15 / 30 \times 3 =$ Kshs 261,600/-.

Annual leave

37. There was evidence before court and the claimant admitted he took leave in the year 2020. The Claimant claimed for annual leave for 18 days for 2021. There was no evidence he took the leave and the employer did not produce records as expected under Section 74 of *Employment Act* of outstanding or taken leave days. The court finds the claim of 18 days leave was not controverted by the respondent. The same is awarded as prayed for Kshs 104, 640/-.

Alleged misappropriation of funds

38. DW led evidence that the claimant handed over to him, they went through the statements and there was no issue noted. That when the claimant left following the immediate termination he embarked on an audit of checking out statements and documents following which he found misappropriation of total of Kshs 331,872/- . The court found the claimant wrote to the Respondent and stated:-

‘I give you the decree to deduct the same alleged cash which amounting to Kshs 331,872/- from my final dues and any other deduction you may deem as per *Employment Act* 19. “ deduction of wages”.



The court finds that DW issued the said termination letter and took over the claimant's office after hand over with no issues of misappropriation raised. No Misappropriation Of Funds was raised in the termination letter and no such issue of the alleged audit or verification of minutes was raised. The court finds the conduct of the respondent amounted to unfair labour practice as the exercise was done when the Claimant was no longer an employee of the respondent and in his absence. Deduction of wages under Section 19 of the Employment is on an employee. The audit was done after the termination and without hearing the claimant. The letter cited to justify the decision was not out of free will and the claimant appeared to the court to have been desperate to access final dues. The court finds and holds the entire exercise of verification of books and transactions after the claimant was terminated had no effect on his final dues and amounted to unfairness. The court finds the act of auditing books after termination of the claimant was also an afterthought as the claimant was not accused of misappropriation at the time of termination. The alleged audit did not concern the claimant and cannot affect his terminal dues. Consequently the claimant is awarded his total dues as stated above.

Conclusion

39. In the upshot the court held that the claimant's employment termination was unlawful and unfair. The court enters judgement for the claimant against the respondent as follows:-

1. A declaration is issued that the notice of non- renewal was a termination letter and the termination of the contract of employment of the claimant was unlawful and unfair.
2. Award of deducted salary for 9 months from January to September 2021 for total Kshs 470,880/- less Kshs 73,748/- which the claimant awarded as increment. Total award for the deductions Kshs 397,632.00/-.
3. Prorated untaken Annual leave in 2021 compensation awarded for 18 days for Kshs 104,640/-.
4. Notice pay of Kshs 174,400/-
5. Service pay for 3 years awarded for Kshs 261,600
6. Compensation for unfair termination equivalent of 1 month salary Kshs 174,000/- Total awards Kshs 1,112,272/- with interest at court rate from date of Judgement
- (7) Costs to claim to be paid by the respondent.
- (8) Certificate of service to issue under section 51 of the *Employment Act*.

40 Right of appeal in 30 days.

41 It is so Ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 27TH DAY OF JULY 2023.

JEMIMAH KELI

JUDGE

In The Presence Of: -

Court Assistant: Brenda

Claimant :- In Person Present

Respondent: Prof. Sihanya appearing with Mr. Maloba



Respondent

We seek for stay of 60 days as the respondent is an ngo and for proceedings.

Claimant

60 days is unjustified. I know they have funds. I do not have a job.

Court Order.

Stay of 45 days is granted, the respondent to be availed typed and certified copies of proceedings as well as the judgment and decree.

It is so ordered.

JEMIMAH KELI

JUDGE

JULY 27, 2023

