



**Transport Workers Union v Classic Pelican Sacco (Cause 1265 of 2016)  
[2023] KEELRC 2291 (KLR) (28 September 2023) (Judgment)**

Neutral citation: [2023] KEELRC 2291 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1265 OF 2016  
MN NDUMA, J  
SEPTEMBER 28, 2023**

**BETWEEN**

**TRANSPORT WORKERS UNION ..... CLAIMANT**

**AND**

**CLASSIC PELICAN SACCO ..... RESPONDENT**

**JUDGMENT**

1. The suit was filed on 29/6/2016 by the claimant seeking the following reliefs:-
  - (a) Payment of terminal benefits including:-
    - (i) One month notice payment Kshs.9,000.
    - (ii) Unpaid wages for 27 months from March, 2013 to May, 2015 - Kshs.243,000.
    - (iii) 15 days wages for June, 2015 -Kshs.4,500.
    - (iv) Payment in lieu of two annual leave days – 12,600.
    - (v) Service gratuity for two years completed service - Kshs.9,000.
    - (vi) Refund of Kshs.10,000 paid to the employer as condition for reinstatement.
    - (vii) Certificate of Service.
2. The suit was not defended. The claimant, C.W.1 relied on witness statement dated 19/4/2016 as his evidence in Chief. He told Court that he was employed by the respondent on 25/1/2012 as a Bus Conductor at a monthly salary of Kshs.7,000 and in addition a daily safari allowance of Kshs.800 while on duty.
3. That the respondent did not pay the consolidated salary of Kshs.7,000 but instead in March, 2013, respondent deconsolidated safari allowance of Kshs.800 to 500 and Kshs.300 to be paid daily at the



end of the month at Kshs.9,000. That the respondent did not pay the accumulated salary. That on 15/6/2015, the claimant was locked out of employment on allegations that he did not meet the daily target of Kshs.10,000. The respondent required the claimant to pay Kshs.10,000 before he was re-employed which the claimant did. The respondent has failed and/or neglected to reinstate the claimant to his work. The claimant prays to be awarded as set out in the Statement of Claim in the sum of Kshs.288,100.

4. The claimant reported the dispute to the Union. The Union wrote to the respondent but they have failed to reinstate the claimant nor pay his terminal benefits.
5. A dispute was reported to the Ministry of Labour for Conciliation. The Conciliator made a report dated 16/2/2016 in which he found that the claimant absconded work after collecting Kshs.10,000 and that his employment was not terminated. The Conciliator did not lay any basis for his findings in the report. The Court does not find the report credible and therefore disregards the same.
6. The respondent having failed to defend the suit despite service, the Court enters judgment in favour of the claimant against the respondent as set out in the Statement of Claim and the evidence adduced by the claimant in the sum of Kshs.288,100.
7. The sum of Kshs.288,100 is payable with interest at Court rates from date of judgment till payment in full. The respondent to provide the claimant with a Certificate of Service within 30 days of the judgment. The respondent to pay the costs of the suit.

**DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 28TH DAY OF SEPTEMBER, 2023.**

**MATHEWS N. NDUMA**

**JUDGE**

Appearance

Mr. Ndege for claimant

Ekale: Court Assistant

