



**Kenya Union of Commercial Food and Allied Workers v Molturesh  
Loitoktok Water and Sanitation Company & another (Cause 1528 of 2018)  
[2023] KEELRC 2181 (KLR) (21 September 2023) (Quantum Judgment)**

Neutral citation: [2023] KEELRC 2181 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1528 OF 2018  
MA ONYANGO, J  
SEPTEMBER 21, 2023**

**BETWEEN**

**KENYA UNION OF COMMERCIAL FOOD AND ALLIED  
WORKERS ..... CLAIMANT**

**AND**

**MOLTURESH LOITOKTOK WATER AND SANITATION COMPANY .... 1<sup>ST</sup>  
RESPONDENT**

**NATIONAL WATER CONSERVATION AND PIPELINE CORPORATION .... 2<sup>ND</sup>  
RESPONDENT**

**QUANTUM JUDGMENT**

1. Judgment in this suit was delivered on April 23, 2020 in favour of the Claimant on behalf of the grievants as follows:

The claimant prayed for unconditional reinstatement of the grievants. Taking into account the numbers involved, the time that has lapsed and the circumstances leading to the termination of their employment which was financial challenges of the 1<sup>st</sup> respondent, reinstatement would be inappropriate in the present case.

I will thus award the alternative prayers. I thus award as follows: That the 1<sup>st</sup> respondent —

- i. Pays the affected employees the entire amount of their wages earned or payable to the employees and of all allowances due to them as have not been paid (calculation to be with assistance of the local Labour Officer) and adopted by this Court at a later date.



- ii. Pays the grievants all terminal benefits including Notice pay, staff pension scheme, leave due, service pay and other benefits due as per CBA as shall be calculated by the parties and confirmed by the County Labour Officer.
  - iii. In addition, I award each grievant 12 months' salary as compensation. In awarding maximum compensation, I have taken into account the fact that it is the 1<sup>st</sup> respondent who caused the circumstances leading to the dismissals and further that most of the grievants had worked for long periods of time, some of them having been transferred from National Water Conservation and Pipeline Corporation.
  - iv. The 1<sup>st</sup> respondent shall pay claimant's costs in the sum of Ksh 100,000/=
- No orders are made against the 2<sup>nd</sup> respondent who was released from liability by the claimant."

2. The parties were thereafter unable to agree on the amount payable even with assistance of the County Labour Officer. The court therefore directed them to each file their tabulation together with submissions to justify the same.
3. According to the Claimant, the total amount payable is Ksh 157,331,253.50 while according to the Respondent the amount payable is Ksh 50,203,200.63.
4. From the computation filed, it is clear that both parties used very different criteria to arrive at the figures they have submitted.
5. The Respondent for example used net figures when the Judgment does not state so. The Claimant has on the other hand included items that were not awarded in the Judgment.
6. The Respondent filed a total of 11 volumes but none of them have a title or explanatory notes to enable the court appreciate what is contained in the said documents.
7. From the judgment, what is payable to the employees is constituted of the following:
  - i. Unpaid salary and allowances from April to September 13, 2018.
  - ii. Salary arrears from June, 2013 to January, 2014.
  - iii. 12 months' salary compensation
  - iv. Pay in lieu of outstanding annual leave
  - v. Pay in lieu of notice
  - vi. Pension / service pay
8. I have considered the tabulation by both parties and find that the following is the correct tabulation:
  - i. Unpaid salary and allowances from June 2013 to January 2014  
The amount payable under this head is Kshs 10,509,720 as per Claimant's Table 'E' in tabulation dated February 9, 2021.
  - ii. Salary arrears



The Respondent further did not pay wages for February 2018, April, 2018, June 2018, July 2018, August 2018, and 13 days in September, 2018 which amounts to Kshs 17, 130,873.38 as per Claimants Table 'F' in tabulation dated February 9, 2021.

iii. 12 months' salary compensation

The amount due under this head is Kshs 31,625,859.24 as per Claimant's tabulation in Appendix III(b) at page 34 of Claimant's submissions dated May 26, 2023.

iv. Pay in lieu of outstanding annual leave

The amount payable under this head is Kshs 1347135.64 based on Article 16.1 of CBA

v. Pay in lieu of notice

The amount payable under this head is Kshs 1,631,483.00 as per Claimant's tabulation in Appendix III(b) at page 34 of Claimant's submissions dated May 26, 2023.

vi. Pension/service pay

The amount payable under this head pursuant to Article 9.4 of CBA is Kshs 27,740,068.73.

vii. Refund of money deducted but not remitted

The Respondent is further required to refund all the monies deducted and not remitted in respect of statutory and other lawful deductions including NSSF, loan repayments to banks and cooperative societies, welfare and pension as part of terminal dues. According to the Claimant the deductions other than NSSF and pension, amounts to Kshs 5,258,176.60 while NSSF and pension are kshs 136,400 and Kshs 61,951,536.89 respectively.

9. Judgment is therefore entered for the Claimant against the Respondent in the total sum of Ksh 157,331,253.48.

10. Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET**

**ON THIS 21ST DAY OF SEPTEMBER, 2023**

**MAUREEN ONYANGO**

**JUDGE**

