



Gathondeka v Attorney General (Ministry of Defence) & another (Cause 983 of 2014) [2023] KEELRC 3393 (KLR) (19 December 2023) (Ruling)

Neutral citation: [2023] KEELRC 3393 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 983 OF 2014
AN MWAURE, J
DECEMBER 19, 2023**

BETWEEN

BARTHOLOMEW MWAURA GATHONDEKA CLAIMANT

AND

**THE HON ATTORNEY GENERAL (MINISTRY OF DEFENCE) 1ST
RESPONDENT**

**MINISTRY OF LABOUR NATIONAL INDUSTRIAL TRAINING
SCHEME 2ND RESPONDENT**

RULING

1. The honourable court delivered its judgment dated 5th August 2023.
2. The court was not clear what the claimant's salary was and now the parties are in agreement that the monthly salary of the claimant at the time of expiry of his employment was kshs 21,304/-.
3. The retirement dues from 1st April 2014 to 30th June 2017 as agreed by the parties is kshs 199,676/-. There is also house allowance arrears which amounts to kshs 11,676/-. The total due to the claimant therefore is kshs 822,505/-.
 - a. 121,228/- underpaid salary from April 2014 to December 2015 and January 2015 to March 2015.
 - b. 95,040/- Underpaid salary from April 2015 to April 2016.
 - c. 143,040/- Underpaid salary for May 2016 to April 2017
 - d. 23,840/- underpaid salary for May & June 2017
 - e. 228,000/- House allowance



- f. 199,676/- Retirement benefits from 1st April 2014 to 30th June 2017
- g. 11,676/- House allowance arrears is kshs 11,676/-
- h. Costs to the claimant.
- i. Interest is awarded at court rates from date of this judgment till full payment.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 19TH DAY OF DECEMBER, 2023.

ANNA NGIBUINI MWAURE

JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

