



**Wahome v Dhanush Infotech Ltd (Cause 1559 of 2018)
[2023] KEELRC 3259 (KLR) (7 December 2023) (Judgment)**

Neutral citation: [2023] KEELRC 3259 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1559 OF 2018
B ONGAYA, J
DECEMBER 7, 2023**

BETWEEN

LEAH W MBURU WAHOME CLAIMANT

AND

DHANUSH INFOTECH LTD RESPONDENT

JUDGMENT

1. The claimant filed the memorandum of claim on 27.11.2018 through Webale B & Associate Advocates. The claimant prayed for judgment against the respondent for:
 - a. A finding that the termination of the claimant's employment was unfair and unlawful
 - b. Compensation in the sum of Two Million three hundred fifty-three thousand two hundred fifty (Kshs 2,353,250/=) or its Kenyan equivalent as more particularly set out in paragraph 18 of the memorandum of claim.
 - c. Interest on (b) above at court rates from the date of termination until payment in full.
 - d. Certificate of service
 - e. Costs of the proceedings and interest thereon at court rates from the date of judgment until payment in full.
2. The respondent never entered appearance in the matter.
3. The claimant's case was that she was employed by the respondent on 07.05.2013 as an Assistant Manager – Human Resource at a monthly salary of Kshs 115,000/=.
4. The claimant states that to appreciate her hard work, the respondent reviewed her salary to Kshs 172,000/= effective 01.04.2016.



5. In her salary review letter, the respondent informed the claimant that she would be paid the said new salary from the month of May 2016 with the arrears for the month of April 2016 being paid within a period of three months.
6. On 18.10.2016 the claimant was issued with a termination letter advising her that her services stood terminated with effect from 17.11.2016. However, the letter did not give reasons for the same.
7. It is the claimant's case that for the period of approximately three and half years that she was employed by the respondent, she carried out her work diligently and never received complaints from the respondent about the performance of her duties.
8. The claimant stated that she was not given opportunity to respond to any allegations or reasons that formed the basis for termination of her services.
9. Upon application by counsel for the claimant, the Court ordered that the suit be determined on the basis of the pleadings and documents filed for the claimant.
10. The Claimant filed her submissions. The court has considered the case and makes finding as follows.
11. To answer the 1st preliminary issue, the Court returns that the memorandum of claim and the summons to enter appearance appear not to have been served as there is no affidavit of service on record. In particular, on 05.12.2018, the claimant was granted leave to serve the application and summons through the Star Newspaper once within 14 days. The Court returns that the summons has lapsed and there is no proper suit before the Court for determination.

In conclusion the suit is hereby dismissed with no orders on costs.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS THURSDAY 7TH DECEMBER, 2023.

BYRAM ONGAYA

PRINCIPAL JUDGE

