



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NUMBER E602 OF 2021**

**BETWEEN**

**EDMUND MAKHULU.....CLAIMANT**

**VERSUS**

**1. CIPLA KENYA LIMITED**

**2. IMPERIAL MANAGED SOLUTIONS EAST AFRICA LIMITED.....RESPONDENTS**

**RULING**

1. The Claimant filed an Application dated 27<sup>th</sup> July 2021 under Certificate of Urgency. He seeks orders that the decision by the Respondent terminating his contract of employment is stayed; that the decision is quashed; the Claimant is reinstated as Regional Brand Manager; and the Respondent is compelled to produce copy of their Human Resource Policies and Procedural Manual.

2. The Application is founded on the Affidavit of the Claimant of even date.

3. The Application is opposed through a Replying Affidavit of Muthoni Njeru, Human Resource Business Partner of the 1<sup>st</sup> Respondent, sworn on 9<sup>th</sup> September 2021.

4. It was agreed by the Parties that the Application is prosecuted and considered through written submissions. Parties have confirmed filing and exchange of those submissions.

**The Court Finds: -**

5. The Claimant prays through his Statement of Claim, for orders of declaration that termination is unfair and unlawful; decision to terminate his contract is quashed; and in the alternative, he is paid compensatory damages.

6. There is no convincing reason shown, why the same orders should be granted through an Interlocutory Application.

7. If a decision to terminate a contract, is quashed at an interlocutory stage, what is left to try? What would the final orders be founded on?

8. The orders sought through the Application are substantive in nature. The Claimant ought to focus of prosecution of the Claim, and allow the Respondent an opportunity to justify termination, as required under Section 43 and 47[5] of the Employment Act. It would assist the Claimant's cause, if he would focus on the Main Claim.

9. The Application has the effect of premature trial of the main issues. It also eats into the time the Court would be within its temporal jurisdiction, in considering the remedy of reinstatement.

10. If there is any document the Claimant needs the Respondents to produce, let the Claimant issue a Notice to Produce, and pursue the matter on pre-trial conferencing.

**IT IS ORDERED: -**

**a. The Application dated 27<sup>th</sup> July 2021 filed by the Claimant is declined.**

**b. Costs in the cause.**

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER MINISTRY OF HEALTH AND JUDICIARY COVID-19**

**GUIDELINES THIS 25<sup>TH</sup> DAY OF FEBRUARY, 2022**

**JAMES RIKA**

**JUDGE**