



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**CAUSE NO. E042 OF 2021**

**HUMPREY OKUKU NAKITARI .....CLAIMANT**

**VERSUS**

**COUNTY GOVERNMENT OF KISUMU .....1<sup>st</sup> RESPONDENT**

**COUNTY SECRETARY, COUNTY OF KISUMU .....2<sup>nd</sup> RESPONDENT**

**JUDGMENT**

1. Humphrey Okuku Nakitari (the Claimant) was appointed as the County Secretary, County of Kisumu, on or around 25 February 2013 (on deployment from the Transition Authority).
2. On 8 December 2016, the Claimant requested to be allowed to vacate office by 7 February 2017.
3. On 27 July 2017, the County Government released the Claimant back to the national government.
4. The Claimant thereafter asked the County Government to be paid his terminal dues on 27 September 2017.
5. In a response dated 30 October 2017, the County Government informed the Claimant that the request would not be honoured as he had continued to draw this salary from the original employer and that the County Government had only been paying him top-up allowances.
6. The Claimant made another plea for the dues, and on 11 September 2020, the County Government informed him the initial stance would be maintained.
7. The Claimant then made a formal demand followed by the instant suit on 31 May 2021.
8. In the Statement of claim, the Claimant sought gratuity amounting to Kshs 4,320,000/-.
9. Despite service of Notice of summons and the Statement of Claim, the Respondents did not file a Response (affidavit of service filed on 23 November 2021 attested to the acknowledgement of service by the office of the County Attorney).
10. Consequently, the Cause proceeded to formal proof on 31 January 2022. The Claimant testified.
11. Among the document produced by the Claimant was an appointment letter dated 8 May 2013, wherein the monthly remuneration was set at Kshs 300,000/-.
12. The letter also provided for a 30% gratuity for the period worked.
13. Although the Claimant's document suggests that the Respondents were not paying him a salary, the Court has no option but to find in his favour since his evidence was not controverted or rebutted.
14. The failure to defend the Cause must squarely lie in the office of the County Attorney in June 2021.

**Conclusion and Orders**

15. The Court enters judgment for the Claimant in the sum of Kshs 4,320,000/-.

16. Claimant to have costs on half-scale since the Cause was not defended.

**DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 20TH DAY OF APRIL 2022.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

**APPEARANCES**

**FOR CLAIMANT AMONDI & CO. ADVOCATES**

**RESPONDENTS DID NOT APPEAR**

**COURT ASSISTANT CHRISPO AURA**