



**Bhassar v Kensalt Limited (Cause 1416 of 2018)
[2022] KEELRC 4080 (KLR) (29 September 2022) (Ruling)**

Neutral citation: [2022] KEELRC 4080 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1416 OF 2018
J RIKA, J
SEPTEMBER 29, 2022**

BETWEEN

NISHA NILESHBHAI BHASSAR CLAIMANT

AND

KENSALT LIMITED RESPONDENT

RULING

1. judgment was delivered in favour of the claimant, on March 11, 2022. The claimant was awarded terminal benefits and compensation for unfair termination, at Kshs 6,886,113, costs, interest and certificate of service.
2. The respondent filed a notice of appeal dated March 15, 2022, and lodged on June 16, 2022.
3. The respondent filed an application dated March 23, 2022, seeking an order of stay of execution pending appeal. The application is based on the affidavit of Bipin Mavji Vaghjiani, Administration Manager, sworn on March 23, 2022, and further affidavit sworn on July 4, 2022.
4. It is opposed through the claimant's affidavit sworn on June 20, 2022.
5. The respondent exhibits its draft memorandum of appeal. Proceedings of the trial court have been certified and supplied.
6. The draft memorandum of appeal, indicates appeal is mainly on the conclusion of the court that termination was unfair, and on award of compensation, and house allowance. It is argued that the award of compensation equivalent of 12 months' salary was manifestly high.
7. The draft memorandum of appeal does not touch on notice, annual leave, and certificate of service. It is acknowledged that there was a concession made by the respondent's advocates, during the hearing, that the claimant was not taken through a disciplinary hearing.



8. In granting the respondent an order of stay of execution, the factors in paragraphs 6 and 7, above must be taken into account.

It is ordered: -

- a. An order of stay of execution of decree and judgment, pending appeal, is granted on the following conditions-
 - I. The respondent shall forthwith pay to the claimant annual leave at Kshs 223,667, notice at Kshs 328,241, and salary for August 2018 at Kshs 164,120.
 - II. The respondent shall forthwith pay to the claimant $\frac{1}{4}$ the amount awarded in compensation at Kshs 984,723.
 - III. In total the respondent shall forthwith pay to the claimant a sum of Kshs 1,700,751 pending hearing and determination of the appeal.
 - IV. Certificate of service to be released to the claimant forthwith.
- b. The said amount to be paid within 7 days of this ruling, in default execution to proceed for the full decretal sum.
- c. No order on the costs of the application.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI,
UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 29TH
DAY OF SEPTEMBER, 2022**

JAMES RIKA

JUDGE

