



**Wanjare v Catholic University of East Africa (Cause 461 of 2017)
[2022] KEELRC 12983 (KLR) (26 October 2022) (Judgment)**

Neutral citation: [2022] KEELRC 12983 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
CAUSE 461 OF 2017
S RADIDO, J
OCTOBER 26, 2022**

BETWEEN

JOSHUA WANJARE CLAIMANT

AND

CATHOLIC UNIVERSITY OF EAST AFRICA RESPONDENT

JUDGMENT

1. Dr Joshua Wanjere (the claimant) was employed by the Catholic University of East Africa (the respondent) as a part-time lecturer at its Kisumu campus around August 2015. The appointment was to lapse in December 2015.
2. The respondent renewed the contract up to July 2017.
3. Through a letter dated November 22, 2016, the respondent informed part-time lecturers that arrears of claims would be paid within 3 weeks.
4. The respondent did not pay, and the claimant sent a demand to the respondent on July 20, 2017.
5. The respondent responded on July 31, 2017, indicating that it had cash flow challenges and was planning to settle the outstanding arrears.
6. The respondent did not keep its word, and the claimant moved to court on December 21, 2017, alleging breach of contract and seeking Kshs 1,055,900/- and Kshs 351,966.67, stated to be damages for loss of income.
7. The respondent filed a statement of defence on March 3, 2020, and the claimant filed a rejoinder on May 15, 2020.
8. On August 13, 2021, the court referred the parties to mediation, and a partial mediation agreement was filed on January 19, 2022.



9. In the agreement, the respondent acknowledged owing the claimant Kshs 1,012,650/-, leaving in dispute a sum of Kshs 762,650/-.
10. On March 8, 2022, the court directed the parties to file records to establish whether there were outstanding arrears (the respondent had insisted that it had paid all arrears). The claimant filed copies of his bank and mpesa statements on March 15, 2022. The respondent did not file any further documents.
11. The cause was heard on June 20, 2022. The claimant and a Human Resource Manager with the respondent testified.
12. The claimant filed his submissions on August 22, 2022 (should have been filed/served before August 19, 2022).
13. The respondent's submissions were not on record by the agreed timeline of September 30, 2022).
14. The court has considered the pleadings, evidence, and submissions.
15. The claimant testified that as at the time of the hearing, the respondent owed him Kshs 789,900/- (Kshs 250,000/- was paid as part of the mediation). He produced copies of his bank and mpesa statements.
16. The respondent had asserted that it had made certain payments to the claimant.
17. The court gave it time to produce records such as bank or mpesa statements to demonstrate the payments. It did not produce the documents before the court.
18. The respondent's witness admitted that the claimant (and others) were owed salary arrears and that, due to financial constraints, it had not been able to make payments as falling due.
19. Equally, the respondent had not, in the response to the demand letter, disputed owing the claimant Kshs 1,055,900/- (as of that time).
20. The court will therefore find in favour of the claimant.
21. The respondent contributed significantly to the delay in expeditiously determining the cause. It did not file a response until two and a half years after being served.
22. The court will therefore award the claimant interest.

Conclusion and Orders

23. The court finds the respondent in breach of contract and awards the claimant:
 - i. Kshs 789,900/-
24. The award to attract interest at court rates from December 21, 2017 until complete payment.
25. The claimant to have costs.

DELIVERED VIRTUALLY FROM VOI, DATED AND SIGNED ON THIS 26TH DAY OF OCTOBER, 2022.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For claimant Ms Achieng instructed by Owiti, Otieno & Ragot Advocates



For respondent Mr Obara instructed by Muthoga Gaturu & Co Advocates

Court Assistant Chrispo Aura

