



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA**

**AT NYERI**

**CAUSE NO. 5 OF 2015**

**(Before D.K.N.Marete)**

**RHODA NJERI KIGURU.....CLAIMANT**

**VERSUS**

**KIAMBAA DAIRY FARMERS**

**CO-OPERATIVE SOCIETY.....RESPONDENT**

**RULING**

This is an application dated 18th November, 2020 and comes out as follows;

- i) *THAT this honourable court do adopt the court of Appeal judgment varying the judgment of this court.*
- ii) *THAT this court do authorize the decree of this court to be amended accordingly to abide the terms of the court of appeal judgment.*
- iii) *THAT costs be in the cause.*

The application is grounded as follows;

- i) *THAT Upon appeal by the Respondent the Court of Appeal varied the award on damages retaining the other awards.*
- ii) *THAT There is need to amend this court's decree to abide the judgment of the court of appeal.*

The application is not defended. The Respondent did not even appear in its hearings in court, despite service. This is perhaps due to its essential nature, it is self-leading.

The Respondent/Applicants case is that the Court of Appeal in its judgment dated 16th October, 2018 has reviewed this court's judgment by reducing the award to two (2) months salary as compensation for unlawful termination of employment, without interfering with other awards made therein.

This application therefore comes in to seek an amendment of the decree of court to effect this reality. It is not opposed, despite service.

This is a straight forward matter. It does not call for any debate whatsoever. Not unless it comes out in the future, which is not the case, or known as we stand.

I am therefore inclined to allow the application and order relief as follows;

- i) That the Court of Appeal judgment varying relief in this cause be and is hereby adopted.
- ii) That this court do and hereby authorize the decree of this court to be amended to abide the terms of the Court of Appeal judgment.

iii) That the costs of this cause shall be borne by the Claimant/Applicant.

**Dated and delivered at Nyeri this 25th day of February 2021.**

**D.K.Njagi Marete**

**JUDGE**

Appearances

1. Mr.Upendo holding brief for Mr.Namada instructed by Namada & Company Advocates for the Claimant/Applicant
2. No appearance for the Respondent.