



**REPUBLIC OF KENYA**

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

**CAUSE NO. E012 OF 2020**

**PETER PATRICK MUSUYA FURAHA.....CLAIMANT**

**VERSUS**

**KENYA POWER & LIGHTING COMPANY PLC.....RESPONDENT**

**RULING**

1. Peter Patrick Musuya Furaha (the applicant) was dismissed through a letter dated 2 September 2020 by the Kenya Power & Lighting Co PLC (the Respondent). The applicant appealed against the dismissal on 23 September 2020.
2. On 19 October 2020, the applicant instituted legal proceedings against the Respondent, alleging that he was entitled to continued payment of monthly salary until the determination of the appeal.
3. Filed at the same time was a Motion under a certificate of urgency seeking orders:
  - (i) ...
  - (ii) THAT pending the *inter-partes* hearing and determination of this application, this Honourable Court be pleased to order that the Claimant/Applicant is entitled to the monthly salary and medical cover entitlement dues for September 2020 and the months that follow thereafter up to the time the appeal vide the Applicant's letter dated 2<sup>nd</sup> September 2020 referenced as KPI/5A/2A/2/FURAHA/53155/DNN/dl is heard and determined.
  - (iii) THAT pending the hearing and determination of the main suit, this Honourable Court be pleased to order that the Claimant/Applicant is entitled to the monthly salary and medical cover entitlement dues for September 2020 and the months that follow thereafter up to the time the appeal vide the Applicant's letter dated 2<sup>nd</sup> September 2020 referenced as KPI/5A/2A/2/FURAHA/53155/DNN/dl is heard and determined.
  - (iv) THAT the costs to and incidental to this application be provided for.
4. On 15 December 2020, the Court directed the parties to file and exchange affidavits and submissions ahead of Ruling today.
5. The applicant filed his submissions on 21 December 2020, while the Respondent filed a further affidavit and submissions on 12 January 2021.
6. The Court has considered the Motion, affidavits and submissions.
7. A dismissal, whether fair or not, brings to an end the employment contract. With the end of the relationship, none of the parties owes the other any obligation(s) as to the continued payment of remuneration pending an appeal unless the contract in place provided for such an obligation.
8. Since the contract between the parties herein ended on 4 September 2020, the Respondent has no obligation, and the applicant did not demonstrate that the Respondent should fulfil any obligations under the ended contract.
9. The Court finds the Motion dated 12 October 2020 without merit, and it is dismissed with costs.

**Delivered through Microsoft teams, dated and signed in Nairobi on this 7<sup>th</sup> day of April 2021.**

**Radido Stephen, MCI Arb**

**Judge**

**Appearances**

For applicant	Ndalila & Co. Advocates
For Respondent	Kiruki & Kayika Advocates
Court Assistant	Chrispo Aura