



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI**  
**PETITION NO.14 OF 2015**

**PETER MWENDWA KALIKI .....PETITIONER**

**VERSUS**

**THE PUBLIC SERVICE COMMISSION OF KENYA.....1<sup>ST</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL.....2<sup>ND</sup> RESPONDENT**

**RULING**

The respondents filed application dated 24<sup>th</sup> February, 2021 under Rule 33(1) (c) of the Employment and Labour Relations Court (Procedure) Rules (the Court Rules) and seeking for orders that;

*The judgement delivered on 11<sup>th</sup> October, 2016 be reviewed with a view to clarify the provisions of the judgement at paragraph 44 with regard to the issue of when the interest starts accruing in relation to the statutory deductions.*

*The court do grant any other order it deems just and appropriate in the circumstances.*

The application is supported by the affidavit of Christine Oyugi and on the grounds that judgement was delivered on 11<sup>th</sup> October, 2016 and need clarification at paragraph 44 on the issue of statutory deductions on the award and whether interest on the award starts accruing before or after statutory deductions. Such clarification is important to enable the respondent comply with the judgement.

Ms Oyugi avers that the petitioner was awarded Ksh.342, 243 less statutory deductions attracting interest at court rate at 12% and until payment in full. Such terms were unclear on whether the said interest accrues on the award before or after statutory deductions.

There was no reply or attendance by the petitioner.

Determination

Under Rule 33 of the Court Rules a party is allowed to seek for a review, clarification of the orders of the court or where there exists a good cause to justify a review, correction of clarification.

The respondents are seeking for a clarification of the judgement herein with regard to when the interest starts accruing in relation to the statutory deductions.

Paragraph 44 of the judgement, the court held that;

44. Accordingly award the petitioner as follows;

1. ...
2. ...
3. ...
4. 1 month salary in lieu of leave not taken in year ...

**Total awarded 342,342/= Less statutory deductions**

5. Costs of this suit.
6. The above amount to attract interest at court rates with effect from the date of this judgement.

From the orders cited above, statutory deductions arise from the total award of the court. Pursuant to section 49 (2) of the Employment Act, 2007 all payments made to an employee are subject to statutory deductions.

The judgement at paragraph 44 hence speaks for itself. For emphasis, on the total award of ksh.342,342 such is to be subjected to statutory deduction and under further costs as taxed and total dues payable to the petitioner are to attract interests at court rates

**Total due = Ksh.342, 342**

**Less statutory deductions Ksh.xxx amount;**

**Plus costs;**

**Total dues.**

Total dues attract interests at court rates from the date of judgement being 11<sup>th</sup> October, 2016.

**Accordingly, the above shall apply with regard to application dated 24<sup>th</sup> February, 2021. No orders on costs.**

Delivered in open court at Nairobi this 13<sup>th</sup> day of May, 2021.

**M. MBARU**

**JUDGE**

In the presence of:

Court Assistant: Okodoi

..... and .....