



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT UASIN GISHU**

**COURT NAME: ELDORET LAW COURT**

**CASE NUMBER: ELRC.C/7/2019**

**CITATION: PAUL MBOGO JUMA VS POST HARVEST SOLUTION LTD**

**JUDGMENT**

**REPUBLIC OF KENYA**

**EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET**

**CAUSE NO 7 OF 2019**

**PAUL MBOGO JUMA.....CLAIMANT**

**VERSUS**

**POST HARVEST SOLUTIONS LIMITED**

**RICHARD DOKAN.....RESPONDENT**

**JUDGEMENT**

The Claimant pleaded that he was employed by the respondent on 15th March, 2016 as a manager at a consolidated monthly salary of Kshs. 100,000/=. He worked until 20th March, 2016 when according to him the respondent unlawfully terminated his services on account of redundancy. According to him the termination was in contravention of section 40 of the Employment Act. Further upon termination, the respondent failed and or ignored to pay him his terminal dues.

According to the Claimant, the termination was unfair because the respondent never granted the Claimant a hearing or explain to the Claimant in an under stable manner the reason for termination. Further there was no constitution before and during the retrenchment exercise. The Claimant therefore doubted the genuineness of the alleged redundancy.

From the record, the respondent although on some occasions was represented by Counsel did not file any response to the claim and was on many occasions absent when the matter came up for mention or hearing. This was also the case when the matter came up for hearing on 14th April, 2021. The same therefore proceeded in absence of the respondent.

The Claimant in his evidence in chief stated that he was employed by the respondent on 15th March, 2016 and left on 30th March 2017. He was not issued with any termination letter. He was further not issued any termination of notice or pay in lieu. It was further his evidence that he never went on leave during the period he worked.

As observed earlier, the matter proceeded undefended hence the Court did not have the benefit listening to the respondent's defence. The Court will therefore award the prayers sought but modified as follows: -

One month's salary in lieu of notice 100,000 Leave dues 80,769 Severance pay 57,692 8 months' salary as compensation for unfair termination 800,000 Total 1,038,461 Costs of the suit.

Items (i) –(iv) shall be subject to taxes and statutory dedications.

Claim for salary arrears will not be granted since though pleaded the Claimant never led any evidence in that regard.

It is so ordered.

**DATED AT ELDORET THIS 11TH DAY OF JUNE, 2021**

**SIGNED BY: HON. JUSTICE J. N. ABUODHA**

**THE JUDICIARY OF KENYA.**

**ELDORET ELRC**

**EMPLOYMENT AND LABOUR RELATIONS COURT**

**DATE:**

**2021-06-11**

**10:06:24+03**