



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT KISUMU

CAUSE NO. 185 OF 2016

JENIPHER ANYANGO AGUNGA

CLAIMANT

v

SOUTH NYANZA TEACHERS CO-OPERATIVE

SAVINGS AND CREDIT SOCIETY LTD

1st RESPONDENT

CHAIRMAN, SONYACO

2nd RESPONDENT

BOARD MEMBERS, SONYACO

3rd RESPONDENT

RULING

1. On 20 April 2021, the parties herein entered into a consent (was adopted by the Court) resolving the Cause save for the question of costs which was reserved for the Court's determination upon submissions.
2. The Claimant filed her submissions on the question of costs on 26 April 2021, while the Respondents filed their submissions on 8 July 2021 (should have been filed by 27 June 2021).
3. Under the Civil Procedure Act, costs follow the event.
4. However, under section 12(4) of the Employment and Labour Relations Act, the Court is enjoined subject to the Rules to make such orders as to costs as the Court considers just.
5. The Claimant herein was seeking monies that had accrued to her in the course of employment, including arrears of salaries, co-operative shares, refund of deductions and *ex-gratia* payment.
6. The heads of claim were in the nature of special damages and had accrued by 2016, when the Claimant moved the Court.
7. The Respondents only conceded to the claim some 4 years after the commencement of the litigation.
8. Within that time, inflation and the cost price index has changed.
9. In the circumstances, it is the Court's view that it would be just to award the Claimant costs, which, if not agreed mutually by the parties within 30 days, should be subjected to taxation.
10. Costs in the Cause.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 6TH DAY OF OCTOBER 2021.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Olel, Onyango, Ingutiah Advocates LLP

For Respondent Otieno, Yogo, Ojuro & Co. Advocates

Court Assistant Chrispo Aura