



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT NAIROBI
PETITION NUMBER 22 OF 2017

BETWEEN

NAOMI CONNIE LUSITCHE.....PETITIONER

VERSUS

BARCLAYS BANK OF KENYA LIMITED.....RESPONDENT

RULING

1. Judgment was delivered in favour of the Petitioner on 23rd July 2021. It was declared that termination by the Respondent, of the Petitioner's contract of employment, was unfair. She was awarded 8 ½ months' gross monthly salary at Kshs. 5,950,000 in compensation for unfair termination, and notice pay at Kshs. 700,000 –total Kshs. 6,650,000.
2. The Respondent has filed an Application for stay of execution pending Appeal, dated 3rd August 2021. It is founded on the Affidavit of Respondent's Head of Employee Relations and Wellness department, Vaslas Odhiambo, sworn on 30th July 2021.
3. The Application is opposed through an Affidavit sworn by the Petitioner Naomi Connie Lusitche, on 9th September 2021.
4. It was agreed by the Parties that the Application is considered and determined on the strength of their Affidavits and Submissions. The Application was last mentioned in Court on 15th October 2021, when Parties confirmed the filing of their Submissions. The ruling was scheduled for 16th December 2021 but is ready for delivery on the date indicated below, as notified to the Parties.
5. The Court has studied these Affidavits, Submissions and various Judicial Authorities which have been availed by the Parties.
6. Ultimately, the common thread in these Judicial Authorities, is that a Respondent's right of appeal should always be weighed against a successful Petitioner's / Claimant's right to enjoy the fruits of her litigation. In exercising its discretion, the Court grants the following **orders**: -

a. Execution of Judgment and Decree issued in the Petition is stayed pending Appeal, on condition-

I. That, the Respondent pays to the Petitioner the amount granted as notice pay at Kshs. 700,000.

II. That, the Respondent pays to the Petitioner, 1/3 of the amount granted as compensation for unfair termination at Kshs. 1,983,333.

III. That, the balance of Kshs. 3,966,667 be deposited in an interest-earning joint bank account, in the names of the Petitioner's and Respondent's Advocates.

IV. That, these conditions shall be met by the Respondent within 14 days from the date the ruling is released to the Parties, in default the orders shall be deemed to have lapsed, and the Petitioner at liberty to execute for the full decree.

b. The Court [No.6] Secretary to ensure certified Court Proceedings and Judgment are ready for collection by the Parties, within the same period of 14 days.

c. No order on the costs.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 9TH DAY OF NOVEMBER 2021.

JAMES RIKA

JUDGE