



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT BUNGOMA

MISC. NO. 2 OF 2018

[Formerly Bungoma High Court Misc. NO. 13 of 2016]

PHANICE NEKESA WANGWE.....CLAIMANT

VERSUS

KENYA NATIONAL UNION OF TEACHERS (KNUT).....RESPONDENT

JUDGMENT

1. The claimant was employed by the respondent from 1986 up to the year 2008 as a secretary at the Bungoma Branch Office. The claimant earned Kshs. 65,970 per month.
2. As from June 2008, up to October 2010 the claimant was transferred to Bungoma South office following sub-division. The claimant was not paid any salary by the Bungoma South Office between 2008 to 2010. The claimant reported the matter to the National head office who directed the Bungoma South Branch to pay the claimant. The claimant was not paid and instead received a letter of termination.
3. The claimant submitted documents in support of her claim including a complaint dated 23rd April 2019 to the secretary General, KNUT for the unpaid salary from November 2008. By then she had not received six (6) months salary.
4. The suit was filed on 19th January 2011 at Bungoma High Court and was subsequently transferred to this court. The claimant prays for payment of Kshs. 2,312,873 being arrear salary and general damages for unlawful termination of employment.
5. The respondent did not call any witness to rebut the sworn testimony by the claimant. The respondent however cross examined the claimant and closed the defence case without tendering any evidence in rebuttal.
6. The claimant has proved the particulars of claim on a balance of probabilities that she was not paid salary for the period November 2008 up to 27th October 2010 when her employment was terminated.
7. The court finds that the claim for arrear salary in the sum of Kshs. 2,312.873 owed to the claimant by the respondent has been proved on a balance of probabilities. The court awards the claimant accordingly.
8. However, the claimant has failed to sufficiently prove that the termination of her employment was unlawful and unfair. The claim for award of general damages is thus rejected by the court.
9. Judgment is entered in favour of the claimant against the respondent for a sum of Kshs. 2,312,873 being unpaid arrear salary. The award is payable with interest at court rates from date of filing suit till payment in full. The respondent to pay costs of the suit.

Judgment Dated, Signed and delivered this 29th day of January, 2020

Mathews N. Nduma

Judge

Appearances

Claimant in person.

M/S Wakholi for Respondent.

Chrispo – Court clerk.