



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT KISUMU

CAUSE NO. 2 OF 2019

(Before Hon. Justice Mathews N. Nduma)

ALBERT AKI MALONGO.....CLAIMANT/APPLICANT

VERSUS

CHEMELIL SUGAR COMPANY.....RESPONDENT

RULING

1. Application dated 13th September 2019 seeks for orders that:

(a) This matter is certified as urgent and be dispensed with on priority basis.

(b) This Honourable court is pleased to enter judgment against the respondent on its admission, for sums of three million, nine hundred and thirty five thousand, three hundred and fifty four shillings (Kshs. 3,935,354), being the Applicant/claimant's unpaid salary for 5 months and 22 days, 3months unpaid salary in lieu of notice and gratuity payment at the rate of 31% of annual basic salary for 1 year and 10 months.

(c) Interest at the court's rate is awarded on the sums in order (2) above.

(d) Costs for the application are awarded to the Applicant.

2. The application is grounded on an admission by the respondent in paragraph 15 of the Statement of Response to the statement of claim filed on 19th March 2019 in response to the contents of paragraph 22 as read with prayer (ii) of the statement of claim in which the claimant sought payment of unpaid salary for five (5) months and 22 days; 3 months salary in lieu of notice and gratuity payment calculated at the rate of 31% of the annual basic salary for 1 year and 10 months served by the claimant.

3. The application is under Sections 1, 1A and 3A of the Civil Procedure Act and Order 13 rule 2; Order 36 rule 5 and Order 51 rule 1 thereof.

4. The court has carefully considered the contents of paragraphs 22 and prayer (ii) of the statement of claim and the response of the respondent in paragraph 15 of the statement of response and is satisfied that the respondent has unequivocally admitted that it owes the claimant the aforesaid arrear salary; three months salary in lieu of notice and gratuity calculated at the rate of 31% of the annual basic salary for one year and ten months.

5. That it is therefore unnecessary for these items to proceed to trial.

6. Accordingly, judgment is entered in favour of the claimant as against the respondent as follows:

(a) Respondent to pay the claimant a sum of Kshs. 3,935,354 in respect of unpaid salary for 5 months and 22 days; 3 months unpaid salary in lieu of notice and gratuity payment calculated at the rate of 31% of annual basic salary for 1 year and 10 months.

(b) Interest at court rates from date of filing suit till payment in full.

(c) The suit to proceed to trial in respect of the undetermined claims.

(d) Costs in the cause.

Ruling Dated, Signed and delivered this 13th day of February, 2020

Mathews N. Nduma

Judge

Appearances

M/S Aki for Claimant/Applicant.

Mr. Ojuro for Respondent.

Chrispo – Court Clerk