



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 650 OF 2020

DR. STEPHEN GACHIE MACHARIA.....CLAIMANT

-VERSUS-

THE REGISTERED TRUSTEES OF

THE SISTERS OF MERCY (KENYA)

T/A "MATER MISERICORDIAE HOSPITAL.....RESPONDENT

RULING

1. The Claimant seeks through an Application dated 14th October 2020, to have among other orders, an order setting aside the letter of termination dated 29th September 2020. Termination was on account of redundancy.
2. He also seeks an order of reinstatement.
3. The Application is supported by Claimant's Affidavit, sworn on 14th October 2020.
4. It was argued on 11th December 2020, in the absence of Counsel for the Respondent, who explained later in a letter to the Court, that he thought hearing would proceed virtually. The Court allowed the Respondent to file Submissions, in light of the default.
5. The Respondent relies also, on the Affidavit of its Legal Services Manager Everlyn M. Maina, sworn on 9th November 2020.

The Court Finds:-

6. The orders sought – setting aside of the letter of termination and reinstatement are substantive orders, which are best considered upon full trial.
7. If the Claimant establishes on full trial that the Claim is merited, he can have the remedy of reinstatement with back pay.
8. There is no exceptional circumstances shown by the Claimant, warranting reinstatement based on Affidavit evidence.

IT IS ORDERED

- (a) The Application dated 4th October 2020 filed by the Claimant is declined.
- (b) The Claim shall be processed for full hearing.
- (c) No order on the costs.

Dated, Signed and Delivered in Open Court at Nairobi this 11th day of December, 2020

James Rika

Judge