



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
CAUSE NO. 177 OF 2013

(Before Hon. Justice Hellen S. Wasilwa on 25th June, 2019)

JOSEPHINE WAITHERA KIBOICLAIMANT/RESPONDENT

VERSUS

CHARLESTON TRAVEL LIMITEDRESPONDENT/APPLICANT

RULING

1. The Application before Court is the one dated 19.3.2019 filed by the Respondent/Applicants herein and filed under Certificate of Urgency through a Notice of Motion application pursuant to Section 1a, 1b, 3a and Section 80 of the Civil Procedure Act CAP 21 of the Laws of Kenya, Order 45 of the Civil Procedure Rules 2010 and all other enabling provisions.

2. The Applicant sought the following orders:-

1. "Spent

2. Spent

3. *The Honourable Court be pleased to review paragraph 20 sub paragraph 4 of its Judgment where the Court erroneously computed 8 months' salary as compensation as opposed to 5 months' salary that was awarded.*

4. *This Honourable Court do issue such other orders as the Court may deem just and expedient.*

5. *Costs of this application be in the cause".*

3. The Application was based on the following grounds:-

(i) ***THAT** on the 18th December 2018 the Employment and Labour Relations Court (Honourable Lady Justice Hellen Wasilwa) entered judgment in favour of the Claimant for Kshs.826,467/= together with costs of the suit plus interest.*

(ii) ***THAT** there exists an apparent error on the face of the judgement on paragraph 20 sub-paragraph 4.*

(iii) ***THAT** the error appears to be a clerical as the judgment reads that the Claimant is awarded '5 months' salary as compensation for unlawful dismissal.' The Court however goes on to compute the same as 8 x 77,000=616,000/=.*

(iv) ***THAT** consequently, the Applicant is unable to ascertain the true intentions of the Court as to the actual figure it intended to award.*

(v) ***THAT** there is a risk that the Claimant will execute against the Respondent using an erroneous decretal figure.*

(vi) ***THAT** this application therefore seeks a stay of execution of the said judgment and the resultant decree pending hearing and determination of this Application inter- partes.*

(vii) ***THAT** the Applicant stands to suffer substantial loss if the execution of the said execution is not stayed.*

(viii) THAT unless a temporary order for stay of execution is issued, this review will be rendered nugatory.

4. The main ground for the application is an error as evidenced in the judgement paragraph 20(4) where the Court pronounced itself that 5 months salary was awarded but calculated at 8 months salary.
5. The Respondent in his replying affidavit indicate that only the Court can ascertain the actual figure in regard to this discrepancy.
6. I do agree that there is an error on the record as the typed judgement indicate the error.
7. I have looked at my hand writing judgement where I clearly indicated that the compensation was 8 months salary as compensation but in typing judgement there was an error where 5 was substituted with 8. This is an innocent mistake which I admit warrants review.
8. I therefore correct my judgement at paragraph 20(4) to read as follows:-

“8 months salary as compensation for unlawful dismissal = 8 x 77,000 = 616,000

TOTAL = 826,467”

9. The rest of the judgement remains unaffected. There will be no order as to costs on this application.

Dated and delivered in open Court this 25th day of June, 2019.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Wakhisa holding brief Mumia for Applicants – Present

Kinyua Njagi & Company Advocates for Respondent – Absent