



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT AT MOMBASA**

**CAUSE NUMBER 14 OF 2014**

**BETWEEN**

**MDOE MKALA .....CLAIMANT**

**VERSUS**

**G4S KENYA LIMITED .....RESPONDENT**

*Rika J*

*Court Assistant: Benjamin Kombe*

*Thabit, Wampy & Kitonga Advocates for the Claimant*

*Cootow & Associates, Advocates for the Respondent*

**JUDGMENT**

1. The Claimant was employed by the Respondent as a Driver in the year 1998. His last salary was Kshs. 13,652 monthly. He was charged alongside other Employees of the Respondent, with the offence of stealing, at Mombasa Chief Magistrate's Court Criminal Case Number 2454 of 2011. Their respective contracts of employment were terminated by the Respondent, upon arraignment in Court, in August 2011. The Employees were acquitted on 9<sup>th</sup> October 2012.
2. They subsequently filed separate Claims for unfair termination against the Respondent.
3. The Claimant presented the Claim herein on 30<sup>th</sup> January 2014. He prays for compensation for unfair termination, terminal benefits, costs, interest and any other suitable relief.
4. His Co-Employee and Co-Accused, Julius Shikanda Mwakha, filed his Claim, registered as Industrial Court at Mombasa Cause Number 398 of 2013.
5. In a Judgment dated 3<sup>rd</sup> October 2014, the Court granted Mwakha 1 month salary in lieu of notice and equivalent of 6 months' salary in compensation for unfair termination- total Kshs. 105,997. He was also granted, costs and interest.
6. On 7<sup>th</sup> February 2018, the Parties in the instant Claim brought Judgment in the previous Claim to the attention of the Court. They informed the Court they were discussing settlement based on the existing Judgment. However, they were not able to settle.
7. On 5<sup>th</sup> December 2018, the Court ordered that the Claim is determined under Rule 21 of the E&LRC [Procedure] Rules 2016. It was directed if there was any reason for this Court to depart from the existing Judgment, the Parties should address such reason in their Closing Submissions.
8. They confirmed filing of Submissions on 4<sup>th</sup> February 2019.
9. There is nothing in the Closing Submissions, which would persuade the Court to depart from the findings and conclusion arrived at in the earlier Judgment.
10. The Employees were similarly situated, and there is no reason, why the Parties were not able to settle this matter out of Court, the earlier Claim having been determined 5 years ago.

IT IS ORDERED:-

*a) It is declared termination was unfair.*

*b) The Respondent shall pay to the Claimant 1 month salary in lieu of notice at Kshs. 13,652 and equivalent of 6 months' salary in compensation for unfair termination at Kshs. 177,476.*

*c) Costs to the Claimant.*

*d) Interest granted at 14% per annum from the date of Judgment till payment is made in full.*

**Dated and delivered at Mombasa this 13<sup>th</sup> day of June 2019.**

**James Rika**

**Judge**