



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**

**EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET**

**MISCELLANEOUS CIVIL CASE NO. 338 OF 2017**

**STEPHEN LIMO.....PLAINTIFF**

**VERSUS**

**THE BOARD MANAGEMENT**

**ST. CECILIA GIRLS SECONDARY SCHOOL.....DEFENDANTS**

**J U D G E M E N T**

1. The Claimant stated that he was employed on 1<sup>st</sup> March, 2015 as a Security guard and that he was suspended on 5<sup>th</sup> March, 2016. His salary at the time of suspension was Kshs. 7,000/= per month.
2. According to the Claimant on 4<sup>th</sup> March, 2015 he was on day duties and it was opening day. At 9:00 a.m he was called to the office and told students would be arriving from 10:00 am and that they were to be held until they reach 50 then he calls for directions. He did so and called then he was told to send five students to the staff room. He brought them and was asked to assist in signing and collection of school fees. They worked until 1:00 pm and broke away for lunch. From lunch it was raining but they continued working from the Veranda until evening. He later on left for home and came back the next day with no problem.
3. On Friday when reported he found his colleague at the gate but when he saw him he locked the gate from inside and called him to the security window and gave him a letter. It was a suspension letter. He was accused that on 4<sup>th</sup> March, 2016 a mobile phone belonging to one of the teachers whose name was not disclosed to him was lost and he was the suspect. He was escorted to his house and a search conducted but no phone was found. The teacher who claimed his phone was stolen was Mr. Wandera and he was among those who searched his house.
4. According to him he took his household things and was escorted to the main gate and ordered never to return to the school. He was later told the phone allegedly stolen had been found. He reported the issue to the Labour office for intervention but the school requested for the case to be handled internally. He went to the school and was told the suspension had been lifted as he would be paid his salary for the time he was on suspension. He was paid 3 months' salary and was told to wait for deployment letter while waiting he was served with a letter of desertion of duties and given 24 hours to respond which he did saying he was waiting for deployment letter.
5. In cross-examination the Claimant stated that he had never been called before the Board of Management but was called by the Chairman and the principal and told the same had been resolved by the BOM, that he should resume duties. He further stated that he was never told the day to collect his deployment letter.
6. The Claimant further said the security at the school was good and that he used to work with about 4 guards and that there were no Kenya police Reservists at the school. He denied refusing to work as a grounds man. He admitted seeing the contract but was told he would size one when he reported.
7. The respondent suspended the Claimant on allegation of suspicion of stealing a phone. The phone was later found and the Claimant exonerated. The respondent offered to reinstate him but on other duties but according to him, he never got any letter of redeployment. The respondent has claimed the Claimant deserted duties but did not file any response to the claim or offer any evidence to show the Claimant deserted duties.
8. To this extent the Claimant's allegation on unfair termination remained uncontroverted the Court therefore orders compensation for unfair termination of employment and other statutory terminal benefits as follows: -

**Kshs.**

(a) Six months' salary for unfair termination Of service. 42,000

(b) One-month salary on lieu of notice 7,000

**49,000**

(c) Costs of the suit

9. It is so ordered.

Dated at Eldoret this            day of            2019

**Abuodha Jorum Nelson**

**Judge**

Delivered this 28th day of November 2019

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha J. N.**

**Judge**