



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF

KENYA AT NAIROBI

CAUSE NUMBER 771 OF 2015

PAULINE SOILA.....CLAIMANT

VERSUS

HEIFER INTERNATIONAL KENYA.....RESPONDENT

JUDGEMENT

1. In her memorandum of claim filed on 8th May, 2015 the claimant averred that she was employed by the respondent as a Social Development Officer from 19th May, 2008 on renewable contractual terms. Her initial monthly salary was stated as Kshs 40,990/= which was improved to Kshs 62,056.80 by the time her services were terminated.
2. According to the claimant, there was continuity of her services from the date she was employed hence there was reasonable expectation of continuous renewal of employment. The claimant further pleaded that on 10th April, 2014 she received a letter from the respondent that was entitled extension of contract and notice to terminate contract. In the letter, she was informed that her contract was being extended for one and half months and the extension would also serve as notice.
3. According to the claimant, this was unfair termination of her contract because the contract had a renewal clause and that she had served the respondent continuously for a period of six years on same terms thus rendering the aspect of the respondent calling her employment as fixed term a nullity.
4. The respondent on its part did not deny employing the claimant as alleged save that her engagement was for a fixed term being a two year contract starting on 19th May, 2008. According to the respondent, it was provided in clause 3 of the contract that it could be renewed on mutual agreement. The respondent averred that the claimant's contract naturally expired and was terminated in accordance with its terms.
5. The respondent further pleaded that whereas the claimant's contract was renewed on the same terms and salary adjusted over the years, the respondent denied that this extension created a reasonable expectation of continuous renewal of her employment.
6. The initial contract entered into by the parties on 5th June, 2008 gave the duration of the contract as two years with possibility of renewal on mutual agreement. The contract further provided that it could be terminated by four weeks notice or pay in lieu thereof. This contract was renewed twice thereafter. The first renewal was for a further two years while the second renewal was for one and a half months. The latter renewal was also to serve as a notice of intention to terminate contract.
7. Parties are bound by their contract especially where the same is reduced in writing. The court will only interfere where such contract is contrary to law and or statute or tainted with immorality or fraud.
8. The contract between the parties herein was a two year contract renewable by mutual agreement. That is to say, parties could discuss and agree on the renewal and the terms and conditions of such renewal. The second renewal which also served as notice of termination of contract was signed by the claimant as an acknowledgment that she understood the terms and conditions spelt out in the extension of contract. The claimant therefore cannot be heard to claim that she reasonably expected her contract to continue for a longer period than the one she signed for.
9. A person in a fixed term contract of employment enters such contract with the knowledge that it will expire through effluxion of time. It was therefore erroneous for the claimant to aver that she was entitled to continuous renewals.
10. The court in the circumstances finds the claimant's claim without merit and dismiss the same with costs.
11. It is so ordered.

Dated at Nairobi this 9th day of February, 2018

Abuodha J. N.

Judge

Delivered this 9th day of February, 2018

In the presence of:-

.....for the Claimant

.....for the Respondent

Abuodha J. N.

Judge