



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
CAUSE NO. 414 OF 2012

DAVID MUTAVA MULWA.....CLAIMANT

VERSUS

**AFRICAN MEDICAL AND
RESEARCH FOUNDATION.....RESPONDENT**

RULING

By motion dated 15th February, 2017 the Respondent sought a review of the court’s ruling delivered on 3rd February, 2017 with respect to the provisions of clause 19 of the Service Agreement dated 27th day of September, 2002 to the extent that the word “exceptional” referenced at paragraph 11 thereof is substituted with words “exception of”.

This application was brought under Rule 33 of the court rules which empowers the court to review its judgment, rulings and orders on grounds among others, on account of some mistake or error apparent on the face of the record.

The court has compared clause 19 of the service Agreement dated 27th September, 2002 attached to the claimants memorandum of claim filed on 14th March, 2012 and the one attached to the instant application and it would seem clear that the correct wording of that clause in paraphrase reads as follows;

“In the event AMREF initiates termination of the contract before it’s expiry or decides not to review the contract on the grounds that your job ceases to exist in AMREF due to no fault of your own, and in exception of cases of resignation..”

This wording is completely different from the version reproduced in the ruling delivered on 3rd February, 2017 which erroneously lifted the words “in exceptional cases” instead of “in exception of cases”. This led to the conclusion the court reached in it’s ruling of 3rd February, 2017.

This is clear case which merits review with the consequence that the application dated 15th February, 2017 is hereby allowed with no order as to costs.

Dated at Nairobi this 2nd day of March 2018

Abuodha J. N.

Judge

Delivered at Nairobi this 2nd day of March 2018

In the presence of:-

..... for the claimant

..... for the Respondent

Abuodha J. N.

Judge