



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1690 OF 2011

(Before Hon. Justice Mathews Nderi Nduma)

KENYA UNION OF COMMERCIAL, FOOD AND

ALLIED WORKERS' UNION.....CLAIMANT

-Versus-

KAPA OIL REFINERIES LIMITED.....RESPONDENT

RULING

The applicant seeks review of the judgment of the court delivered on 20th December 2016 on the grounds that there are apparent errors on the face of record. The application is grounded on Rule 33 of the Employment and Labour Relations Court (Procedure) Rules 2016.

The court is satisfied that there are apparent errors on the face of the judgment of court as follows: -

Julius Kasyoka

a. The court correctly stated that the grievant had worked from February 1995 to July 2010 but erroneously stated that it was a period of over **five years** instead of stating that it was period of over **15 years**. This lead the court to award the claimant compensation of equivalent of five (5) months salary instead of awarding the equivalent of ten (10) months' salary as it did with the 2nd grievant.

Accordingly, the court reviews the compensation from the equivalent of five (5) months' salary to the equivalent of ten (10) months salary in the sum of Kshs. (10,650 x 10) = Kshs.106,500/=.

b. The court awarded two (2) months salary in lieu of notice instead of three (3) months' salary in lieu of notice and therefore the award of **Kshs.21,300/=** is varied to **Kshs.31,950/=**.

c. The grievant worked indeed for fifteen (15) years and is awarded gratuity in the sum of Kshs.159,750/=.

d. The grievant was correctly awarded 15 days' salary for the month of July 2010 in the sum of Kshs.5,325/=.

Total award is Kshs. 303,525.00 /=-.

Thathi Mwanga (deceased) – 2nd grievant

a. The court correctly awarded the grievant the equivalent of ten (10) months' salary as compensation in the sum of Kshs.101,000/=.

He had served 9 years and 9 months.

b. The court awarded the grievant three months in lieu of notice instead of two months applicable with respect of employees who had not served 10 years' service. The notice pay is reviewed from **30,300** to **20,200**.

c. The grievant worked for 9 years completed service and is awarded Kshs.90,000.

d. The court correctly awarded 15 days arrear salary in the sum of Kshs.5,826.92/=.

Total award is Kshs.217,026.92/=

Interest was not pleaded and the award was erroneously made. Judgment is reviewed to remove the award of interest.

Costs to abide the outcome.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 18TH DAY OF APRIL 2018

MATHEWS NDERI NDUMA

JUDGE

Appearance:

Mrs Kanyiri for respondent/applicant

Mr Nyumbe for respondent

Ann Njung'e: Court Clerk