



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE. NO. 1999 OF 2017

CYRUS MWANGI MAINA.....CLAIMANT

VERSUS

STECOL CORPORATION LIMITED.....RESPONDENT

JUDGMENT

Introduction

1. This is a claim for employment terminal benefits plus a certificate of service. The respondent never entered appearance despite being served with Court summons and as such, the suit proceeded by way of formal proof on 17.4.2018.

Claimant's Cases

2. The claimant testified that he was employed by the respondent as a Casual Labourer at a construction site earning Kshs.17,500 per month. He worked for one year and in July 2017 he was terminated without any prior notice or being given any reason or any chance to say anything.

Thereafter he went to the respondents office for several days but he was not given any audience.

3. He later reported the matter to the Labour office and the respondent was invited to a meeting on 24.7.2017 but she defaulted. She was again invited to another meeting 1.8.2017 but again she defaulted. As a result he instructed a lawyer to serve a demand notice after which he brought this suit in person.

4. He produced NSSF and NHIF statements, letter from the labour officer and Demand letter as exhibits to support his claim. He concluded by urging the Court to grant the reliefs outlined in his suit.

Analysis and Determination

5. The Claimant has produced NSSF statement showing that the respondent was his employer. The respondent has not filed defence to the claim and as such, the Court finds on a balance of probability he was indeed the employee for the respondent. The only issues for determination herein is whether the claimant is entitled to the reliefs sought.

6. The claimant prays for declaration that he is entitled to terminal dues and compensatory dues as pleaded and outlined in the statement of claim. The reliefs sought are:

- (a) Terminal benefits
- (b) Leave pay for one year @ Kshs.17,500
- (c) Untaken 11 public holidays worked in one year being Kshs.12,833
- (d) One month salary in lieu of Notice Kshs.17500.

7. The claim for "terminal benefits" and "public holidays" worked have not been particularized and they are dismissed. However the claim for leave and one month salary in lieu of notice is granted save that the leave the award is:

Kshs.17,500 x 21/26 = Kshs.14,134.60

The claimant is also granted the prayer for certificate of service as provided by section 51 of the Act.

Conclusion and Disposition

8. For the reasons stated herein above, I enter Judgment for the claimant as against the respondent in the sum of Kshs.31,634.60 plus costs and interest from the date of filing suit. The award will be paid subject to the relevant statutory deduction. He will also be issued with certificate of service.

Dated, Signed and Delivered in Open Court at Nairobi this 19th day of June, 2018

ONESMUS N. MAKAU

JUDGE