



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT MOMBASA

CAUSE NUMBER 725 OF 2015

BETWEEN

KENYA PETROLEUM OIL WORKERS UNION.....CLAIMANT

VERSUS

INSPECTORATE EAST AFRICA LIMITED.....RESPONDENT

RULING

1. Judgment was delivered in this dispute, in favour of the Claimant, on 29th September 2017. The orders granted are as follows:-

a) Termination was based on valid redundancy reason, but flawed on procedure.

b) The Respondent shall pay to the Grievants:-equivalent of 6 months' gross salary each in compensation for unfair termination; 1 month gross salary as notice pay; house allowance for a period of 6 months at 15% of the basic salary; and 21 days' gross salary as annual leave pay.

c) No order on the cost.

2. Parties were not able to agree on the figures resulting from order [b] above. The Respondent holds the total payable, which has been paid, is **Kshs. 1,039,325**. The Claimant holds the total amount payable is **Kshs. 1,210,552**. It is submitted by the Claimant that the Respondent owes the Grievants **Kshs. 171,227**.

3. The Court shall not go into the arguments made by the Parties in support of their respective figures, but shall only revisit its Judgment and give an interpretation.

4. There are 5 Grievants on whose behalf the Claim is made. They are:-

a. Boniface Mireri.

b. Wycliffe Ogolla.

c. James Muye.

d. Benard Mbevi.

e. Chrispus Mukutano.

5. Their basic monthly salaries, as of the date of termination, and based on pay slips and payroll records availed to the Court by the Parties, are as follows:-

a. Boniface Mireri....Kshs. 23,760.

b. Wycliffe Ogolla....Kshs. 23,760.

c. James Muye....Kshs. 23,760.

d. Benard Mbevi....Kshs. 20,000.

e. Chrispus Mukutano Kshs. 27,500.

6. 15% of the basic salary as house allowance translates to the following:-

a. Boniface Mireri 15% of Kshs. 23,760 = Kshs. 3,564.

b. Wycliffe Ogolla.... 15% of Kshs. 23,760 = Kshs. 3,564.

c. James Muye....15% of Kshs. 23,760 = Kshs. 3,564.

d. Benard Mbevi..... 15% of Kshs. 20,000 = Kshs. 3,000.

e. Chrispus Mukutano.....15% of Kshs. 27,500 = Kshs. 4,125.

7. Arrears of house rent allowance for 6 months add up as follows:-

a. Boniface Mireri... Kshs. 3,564 x 6 = Kshs. 21,384.

b. Wycliffe Ogolla... Kshs. 3,564 x 6 = Kshs. 21,384.

c. James Muye.... Kshs. 3,564 x 6 = Kshs. 21,384.

d. Benard Mbevi.... Kshs. 3,000 x 6 = Kshs. 18,000.

e. Chrispus Mukutano.... Kshs. 4,125 x 6 = Kshs. 24,750.

Total...Kshs...106,902.

8. The gross salaries are as shown below:-

a. Boniface Mireri... Kshs. 23,760 + Kshs. 3,564 = Kshs. 27,324.

b. Wycliffe Ogolla...Kshs. 23,760 + Kshs. 3,564 = Kshs. 27,324.

c. James Muye... Kshs. 23,760 + Kshs. 3,564 = Kshs. 27,324.

d. Benard Mbevi...Kshs. 20,000 + Kshs. 3,000 = Kshs. 23,000.

e. Chrispus Mukutano.... Kshs. 27,500 + Kshs. 4,125= Kshs. 31,625.

9. Equivalent of 6 months' gross salary in compensation for unfair termination, which has nothing to do with the order on payment of arrears of house allowance, works out as follows:-

a. Boniface Mireri...Kshs. 27,324 x 6 months = Kshs. 163,944.

b. Wycliffe Ogolla....Kshs. 27,324 x 6 months = Kshs. 163,944.

c. James Muye....Kshs. 27,324 x 6 months = Kshs. 163,944.

d. Benard Mbevi....Kshs. 23,000 x 6 = Kshs. 138,000.

e. Chrispus Mukutano....Kshs. 31,625 x 6 = Kshs. 189,750.

Total compensation....Kshs. 819,582

10. 1 month salary in lieu of notice is computed as follows:-

a. Boniface MireriKshs. 27,324.

b. Wycliffe Ogolla Kshs. 27,324.

c. James Muye Kshs. 27,324.

d. Benard Mbevi....Kshs. 23,000.

e. Chrispus Mukutano....Kshs. 31,625.

Total notice pay....Kshs. 136,567.

11. 21 days' gross salary in annual leave pay is as shown below:-

a. Boniface Mireri...Kshs. 27,324 divide by 26 working days = daily rate of Kshs. 1,050 x 21 days of annual leave = Kshs. 22,069.

b. Wycliffe Ogolla... Kshs. 22,069.

c. James Muye... Kshs. 22,069

d. Bernard Mbevi...Kshs. 23,000 divide by 26 working days = Kshs.884 x 21 days = Kshs. 18,576.

e. Chrispus Mukutano... Kshs. 31,625 divide by 26 working days = Kshs. 1,216 x 21 = Kshs. 25,543.

Total annual leave pay.... Kshs. 110,326

12. The total amount payable should therefore be:-

I. Compensation Kshs. 819,582.

II. Notice pay.... Kshs. 136,567.

III. House allowance....Kshs. 106,902.

IV. Annual leave pay.... Kshs. 110,326.

Total decree... Kshs. 1,173,377.

13. The Respondent has paid to the Claimant a sum of Kshs. 1,039,325. There is a balance of Kshs. 134,052.

IN SUM, IT IS ORDERED:-

a) The Respondent shall pay to the Claimant the balance of Kshs. 134,052 within 7 days of this ruling, in default execution to issue.

b) No order on the costs.

Dated and delivered at Mombasa this 6th day of July 2018.

James Rika

Judge