



**REPUBLIC OF KENYA**

**EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI**

**CAUSE NO. 1640 OF 2013**

**KHAMISI ABDALLA NGONYO.....CLAIMANT**

**VERSUS**

**STEELMAKERS LIMITED.....RESPONDENT**

**JUDGEMENT**

1. The claimant averred that he was employed as a machine operator by the respondent in 2006 and was later promoted to a supervisor. His monthly salary at the time of termination was Kshs 9,400/=.

2. On 26<sup>th</sup> August, 2011 he claimed he went over his duties as usual.

By about 7:40 am he had finished recruiting new employees when the manager Mr Namhau called him to his office and issued him with a suspension letter. He was accused of soliciting bribes from the new recruits. On 8<sup>th</sup> November, 2011 after the conclusion of investigations he was issued with a dismissal letter. The claimant complained that before the dismissal he was never called to give his side of the story. He further complained that upon dismissal the respondent never paid him his terminal dues.

3. The respondent on its part denied the claimant discharged his duties and accused him of several acts of corruption. The respondent further averred that the claimant was summoned by the Human Resource Head where the allegations were explained to him and was given opportunity to be heard before dismissal.

4. At the trial both sides repeated the averments in their pleading hence need to reproduce there oral testimony. The claimant was suspended on 26<sup>th</sup> August, 2011 on allegations of bribery. The suspension was stated to be pending investigations. On 8<sup>th</sup> November, 2011 he was issued with a letter of summary dismissal. The letter informed him that the allegations of bribery against him had been confirmed.

5. There was no material on record that once the allegations of bribery were confirmed the claimant was called to a disciplinary hearing where he was confronted with the evidence and his reactions sought. This is an essential requirement under the Employment Act and failure to observe this leads to the termination or dismissal being deemed unfair.

6. The court therefore so finds and awards the claimant as follows

a. One month' salary in lieu of notice	19,400
b. Salary for August, September and October	58,200
c. Salary for 8 days in November	5,173
d. Accrued leave for one year	19,400
e. Six months salary as compensation for Unfair dismissal	<u>116,400</u>

**218,573**

f. Items (a) to (e) shall be subject to taxes and statutory deductions.

g. Costs of the suit.

7. It is so ordered.

**Dated at Nairobi this 6<sup>th</sup> day of July, 2018**

**ABUODHA J. N.**

**JUDGE**

**Delivered this 6<sup>th</sup> day of July, 2018**

**ABUODHA J. N.**

**JUDGE**