



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

CAUSE NO 364 OF 2017

JAMES KETTA.....CLAIMANT

VS

QUALITY INSPECTORS LIMITED.....RESPONDENT

JUDGMENT

Introduction

1. The Claimant's claim brought by a Memorandum of Claim dated 27th April 2017 and filed in court on 9th May 2017 is for payment of salary arrears. In spite of due service, the Respondent did not file any reply.
2. The matter therefore proceeded by way of formal proof.

The Claimant's Case

3. The Claimant pleads that he was employed by the Respondent in the position of Marketing Assistant effective September 2011. He rose to the position of Branch Manager, Mombasa in which he earned a monthly salary of Kshs. 46,500.
4. The Claimant claims that from November 2015 until April 2017, the Respondent failed to pay his monthly salary. In addition, the Respondent did not remit his National Social Security Fund (NSSF) dues for the period running from May 2016 until April 2017, totaling to Kshs. 4,800.
5. The Claimant therefore claims the following:
 - a) Kshs. 837,000 being unpaid salary from November 2015 until April 2017;
 - b) Kshs. 4,800 being unremitted NSSF contributions from May 2016 until April 2017;
 - c) A declaration that he is still an employee of the Respondent;
 - d) Costs plus interest.

Findings and Determination

6. The Claimant claims unpaid salaries from November 2015 until April 2017. The Claimant's letter of appointment dated 28th July 2011 states that his salary was to be paid directly into his bank account. According to bank statements produced by the Claimant, the last salary was paid to the Claimant in the month of October 2015.
7. The Respondent did not defend the claim in spite of due service. The Court therefore finds that the claim for unpaid salary has been proved and consequently allows it.
8. Regarding the claim for unremitted NSSF dues, the only thing to say is that any such dues would be payable to NSSF and not to the Claimant. The claim thereon is therefore declined. The Claimant himself told the Court that he stopped working for the Respondent in June 2017. The prayer for a declaration that he is still an employee of the Respondent is therefore rejected.
9. In the end, I enter judgment in favour of the Claimant and against the Respondent in the sum of Kshs.837,000 being unpaid salary from November 2015 until April 2017.

10. This amount will attract interest from the date of filing suit until payment in full.

11. The Claimant will have the costs of the case.

12. Orders accordingly.

DATED SIGNED AND DELIVERED AT MOMBASA THIS 20TH DAY OF SEPTEMBER 2018

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JUDGE

Appearance:

Mr. Mathare for the Claimant

No appearance for the Respondent