



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 396 OF 2015

(Before Hon. Justice Mathews N. Nduma)

1. JACKSON OMONDI ANYANGO

2. DENNIS AMADIVA.....CLAIMANTS

VERSUS

G4S SECURITY SERVICES (K) LTD.....RESPONDENT

RULING

1. Hon. Lady Justice Maureen Onyango, delivered a Judgment dated 8th June, 2017 in which the court awarded terminal benefits and compensation to the Claimants/Applicant but made no order as to costs.

2. In the Memorandum of Claim filed on 6th November, the Claimant prayed for costs. The Hon. Judge did not make any finding at all on this prayer.

3. Rule 29(1) of the Employment & Labour Relations Court (Procedure) Rules 2016 provides –

“(1)The court shall be guided by section 12(4) of the employment and Labour Relations Court Act, and the Advocates (Remuneration) order in awarding costs.

(2) The court may order reasonable reimbursements of money spent by litigants in the course of litigation.”

4. Section 12(4) of the Employment and Labour Relations Court Act, Cap 234 B Laws of Kenya, provides –

“In proceedings under this Act, the court may, subject to the rules, make such orders as to costs as the court considers just.”

5. From the foregoing, the court has a discretion to make such orders as to costs as it deems just.

6. In exercise of that discretion, the court must act judiciously and provide reasons for not granting costs or reasonable reimbursements where they have been specifically prayed for.

7. In the present case, the court overlooked that item though it was specifically prayed for.

8. An application for review under Rule 33(1) (b), that is to say –

“On account of some mistake or error apparent on the face of the record”

Is appropriate in the circumstances of this case.

9. *It is a well decided principle, to be found in the Civil Procedure Act, that costs follow the event.*

10. *Accordingly, the court reviews the judgment of the court to provide for an award of costs against the Respondent in favour of the two Claimants.*

Ruling Dated, Signed and delivered this 11th day of October, 2018

Mathews N. Nduma

Judge

Appearances

Mwakio, Kirwa for Claimants/Applicant

Hamilton Harrison & Mathews for Respondent

Chrispo – Court Clerk