



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF**

**KENYA AT NAIROBI**

**CAUSE NO 1099 OF 2018**

**ALICE ANYANGO OGUMA.....CLAIMANT**

**VERSUS**

**NAIROBI GYMKHANA.....RESPONDENT**

**RULING**

1. In the Notice of Motion dated 29<sup>th</sup> June, 2018 the claimant sought an order for reinstatement pending the hearing and determination of the claim.
2. The application was brought on the grounds among others that the claimant was unfairly dismissed for overcharging a respondent's member for wine and that the said shortage was eventually deducted from the claimant's salary for May 2018. The claimant further complained that the grounds upon which she was dismissed were not in tandem with the accusations in the summary dismissal letter.
3. In the main claim, the claimant seeks reinstatement and in the alternative payment in lieu of notice for termination and one year's salary as compensation for unfair termination.
4. Reinstatement is akin to mandatory injunction. The court will only order interlocutory reinstatement in exceptional cases. In a proper case, the order ought to be made upon full hearing of the claim and not on contested affidavit evidence which has not been subjected to cross examination. It is the courts view that no exceptional circumstances have been demonstrated by the claimant to warrant the granting of a reinstatement order at the interlocutory stage.
5. The application is therefore found without merit and is hereby dismissed with costs.
6. It is so ordered.

Dated at Nairobi this 30<sup>th</sup> day of November, 2018

**Abuodha Jorum Nelson**

**Judge**

Delivered this 30<sup>th</sup> day of November, 2018

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.