



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

CAUSE NUMBER 606 OF 2017

BETWEEN

1. MUNGA MICHAEL MRIPHE

2. PHELISTER MUPA TSUMA.....CLAIMANTS

VERSUS

CHANIA CLEANERS LIMITED.....RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

Otieno Asewe & Company Advocates for the Claimants

No appearance for the Respondent

JUDGMENT

1. The 2 Claimants filed their joint Statement of Claim, on 27th July 2017. The 1st Claimant states he was employed by the Respondent, on 1st May 2014 as a Steward. He earned a monthly wage of Kshs. 10,106 as of the date of termination. The 2nd Claimant was employed as a Cleaner in July 2015. Her last monthly wage was Kshs. 10,106. They were both summarily dismissed by the Respondent, on 21st September 2016. The Respondent alleged there were numerous complaints made against the Claimants, by Respondent's Clients. The Claimants were alleged to be underperformers. These allegations were without foundation, and were meant as mere excuses to justify termination. The Claimants were not heard. There was no notice of termination. They were not paid terminal dues. They pray for Judgment against the Respondent in the following terms:-

1ST CLAIMANT, MUNGA MICHAEL MRIPHE

- 1 month salary in lieu of notice at Kshs. 11,622.
- House allowance for 32 months at Kshs. 48,512.
- Annual leave pay at Kshs. 18,744.
- 12 months' salary in compensation for unfair termination at Kshs. 139,464.

Total...Kshs. 218,342.

2ND CLAIMANT, PHELISTER MUPA TSUMA

- 1 month salary in lieu of notice at Kshs. 11,622.
- House allowance for 15 months at Kshs. 22,740.
- Annual leave pay at Kshs. 9,387.
- 12 months' salary in compensation for unfair termination at Kshs. 139,464.

Total...Kshs. 183,213.

2. In total, the Claimants pray for Kshs. 401,555 ; declaration that termination was unfair; certificate of service to issue; costs; interest; and any other relief the Court deems fit to award.

3. The Respondent did not file anything in response, or attend Court at any time. There are Affidavits of Service on record, indicating the Respondent was served with Court Processes on different occasions.

4. The Claimants were heard on formal proof, on 25th July 2018. They restated details of their employment contracts and history, with the Respondent, as outlined in their Pleadings and Witness Statements. They adopted as exhibits, the following documents in support of the Claim:-

- Copies of their national identity cards.
- Letters of demand issued upon the Respondent before institution of the Claim.
- Dismissal letters.
- N.S.S.F Statements of Account, giving details of employment.
- 1st Claimant's pay slips.
- 1st Claimant's contract.

The Court Finds:-

5. The Pleadings, Evidence, Documents and Submissions placed on record by the Claimants, are unchallenged.

6. They establish that the Claimants were employed by the Respondent in the roles stated in the Pleadings. Their respective contracts were terminated by the Respondent. No notice issued. No valid reason, or reasons, justifying termination can be read from the record.

7. The Claimants were not paid terminal benefits. Computation shown in the Statement of Claim is undisputed. It appears to the Court to be well-founded in fact and law.

8. In sum, the Court is persuaded in the absence of the Respondent, that the Claimants have established their Claim, to the standards required.

IT IS ORDERED:-

a) It is declared termination was unfair.

b) The Respondent shall pay to the Claimants, a total sum of Kshs. 401,555 in terminal benefits and compensation, as detailed at paragraph 1 of this Judgment.

c) Certificate of Service to issue.

d) Costs to the Claimants.

e) Interest allowed at 14% per annum from the date of Judgment till payment is made in full.

Dated and delivered at Mombasa this 23rd day of November, 2018 .

James Rika

Judge