

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT

AT KISUMU

CAUSE NO. 369 OF 2018

(Before Hon. Justice Rika)

KENYA UNION OF SUGAR

PLANTATION AND ALLIED WORKERS.....CLAIMANT

=VERSUS=

WEST KENYA SUGAR COMPANY LIMITED.....RESPONDENT

RULING

The Claimant prays in the Application filed on 31st October 2018, for reinstatement of the Grievant Peter Umbuku Muyaka, to the position of Electrician, by the Respondent Company.

The Grievant was dismissed through a letter of summary dismissal dated 18th October 2018, after a disciplinary hearing process.

Rule 17 (10) of the Employment & Labour Relations Court (Procedure) Rules 2016 states:-

“Notwithstanding anything contained in this Rule, the court shall not grant any ex parte order that reinstates into employment an employee whose services have been terminated.”

This Rule prohibits, in mandatory terms, the court from giving ex parte orders of reinstatement. The court cannot therefore grant the Claimant’s Application ex-parte.

IT IS ORDERED:-

- a. The Application shall be served upon the Employer/Respondent.
- b. Respondent shall, within 7 days of service, file and serve its Replying Affidavit and/or Grounds of Opposition.
- c. Thereafter parties to take a mutually convenient date for hearing, before the Hon. Justice Nderi.

Ruling Dated, Signed and Delivered this 5th day of November, 2018 in Open Court at Kisumu.

Mr. Akhonya, Branch Secretary of Union

J.Rika

Judge