



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 569 OF 2014**

**(Before Hon. Justice Hellen S. Wasilwa on 6<sup>th</sup> December, 2018)**

**MESHACK GETUYA.....CLAIMANT**

**VERSUS**

**MILICONS COMPANY LIMITED .....RESPONDENT**

**JUDGEMENT**

1. The Claimant herein filed his Memorandum of Claim on 7.4.2014 alleging unlawful termination of his employment and failure by the Respondent to pay him his terminal benefits including overtime earned.
2. The Claimant's case is that he was employed by the Respondent on 10/1/2013 as a General Laborer at a salary of 12,450/=. He avers that he worked upto 31/12/2013. He avers that on 31/12/2013, the Respondents told him that work had reduced and so the work force was going to be reduced. They wrote him a letter to that effect which letter he did not produce in Court. He opted to report to the Labour office.
3. He contends that this action was taken by the Respondent after he complained of being underpaid and working for long hours.
4. The Respondents were called by the Labour Officer and they refused to respond.
5. The Claimant avers that he was unfairly terminated because he was not issued with any notice and he was never allowed to go on leave.
6. In cross-examination, the Claimant stated that he was doing causal work as allocated at a site in Parliament. He avers that they signed documents at the time of payment. He states that he worked for 1 year.
7. The Respondents had filed their defence but on the day allocated for hearing of the defence case on 4/10/2018, they did not turn up. This Court therefore considered the Respondent's case closed. In the circumstances, the Claimant's case remained uncontroverted.
8. The Claimant's claim is for payment of 1 month's salary in lieu of notice, annual leave and underpayment of wages, house allowance and overtime pay.
9. I do find that the Claimant is indeed entitled to the following prayers as prayed:-

**1. 1 month's salary in lieu of notice = 12,450/=.**

**2. 1 year leave Kshs.12,450/=.**

**3. House allowance = 15% x 12,450 x 12 = 22,410/=.**

**4. Overtime pay = 7,182.6/=**

**5. 6 months' salary as compensation for unlawful termination = 6 x 12,450 = 74,700/=.**

**Total = 116,742.6/=**

**6. Issuance of a Certificate of Service.**

**7. The Respondent will pay costs of this suit plus interest at Court rates with effect from the date of this judgement.**

**Dated and delivered in open Court this 6<sup>th</sup> day of December, 2018.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

No appearance for Parties