



REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR  
RELATIONS COURT AT MOMBASA  
CAUSE NUMBER 431 OF 2015

**BETWEEN**

JOHN BUSULA LIBASIA.....  
CLAIMANT

**VERSUS**

J.C.B VENTURES LTD.....  
RESPONDENT

*Rika J*

*Court Assistant: Benjamin Kombe*

*Kitonga O. Kiiva Advocate for the Claimant*

*No appearance for the Respondent*

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JUDGMENT

1. The Claimant filed his Statement of Claim on 1<sup>st</sup> July 2015. He states he was employed as a Casual Labourer by the Respondent, in February 2010. He earned Kshs. 300 per day, the equivalent of Kshs. 9,000 monthly. He reported to work as usual, on 9<sup>th</sup> April 2013. The Respondent told him he was no longer needed. He was told he did not have skills. All skilled Employees were offered fresh contracts. He was not paid his terminal dues. He feels termination was unfair and unlawful, and prays for Judgment against the Respondent for:-

- a) 1 month salary in lieu of notice at Kshs. 9,000.
- b) Service pay at 15 days' salary for every complete year of service, at Kshs. 13,500.
- c) Annual leave for 3 years worked at Kshs. 27,500.
- d) Certificate of Service to issue.
- e) 12 months' salary in compensation for unfair termination at Kshs. 108,000.

In total, the monetary Claim stands at Kshs. 158,000. The Claimant also prays for declaration that termination was unfair, costs and interest.

2. There is an Affidavit of Service filed by Court Process Server, Timothy Kiringi Kitsao, showing the Respondent was served with Summons and Statement of Claim. The Respondent filed nothing in response, and failed to attend Court on Mention. The Claimant was heard by way of formal proof, on 27<sup>th</sup> July 2017.

**The Court Finds:-**

3. The Claim is unopposed.

4. The Court is satisfied the Claimant was employed by the Respondent, on terms and conditions of service stated in his Pleadings, Witness Statement, and Evidence before Court. He was unfairly dismissed by the Respondent. There was no valid reason shown for the decision. He was denied terminal dues. Termination did not conform with the minimum standards of fairness under Section 41, 43 and 45 of the Employment Act 2007.

IT IS ORDERED:-

***a) It is declared termination was unfair.***

***b) The Respondent shall pay to the Claimant terminal benefits and compensation as particularized under paragraph 12 of the Statement of Claim, totaled Kshs. 158,000.***

***c) Certificate of Service to issue.***

***d) Costs to the Claimant.***

***e) Interest granted at 14% per annum from the date of termination till payment in full.***

Dated and delivered at Mombasa this 28<sup>th</sup> day of July 2017.

James Rika

Judge