



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI

PETITION NO. 65 OF 2014

(Formerly Petition No. 472 of 2013)

MWAKAI KIKONDE SIO PETITIONER

VERSUS

THE KENYA UTALII COLLEGE 1ST RESPONDENT

THE HON. ATTORNEY GENERAL 2ND RESPONDENT

Mr. Ouma for petitioner

Mr. Gichuru for 1st respondent

JUDGMENT ON COMPUTATION

1. In its Judgment delivered on 19th June 2015, the court in paragraph 40 (IV) directed the 1st respondent to pay the petitioner equivalent of twelve (12) months gross salary as compensation for the violations of the petitioner's rights.
2. Further, the court directed the 1st respondent to compute the said award and serve the petitioner within thirty (30) days. The petitioner was to confirm the computation with fourteen (14) days and notify the court for it to consider and finalise the matter.
3. The award is payable with interest at court rates from date of Judgment till payment in full.
4. The respondent did not comply with the Judgment of the court by computing the award within thirty (30) days or at all.
5. The claimant proceeded to compute the equivalent of twelve (12) months gross salary on 24th August 2015, based on the claimant's last payslip from the 1st respondent for September 2003 of (Kshs.745,002.70 x 12 = Kshs. 8,940,024.00). the payslip was attached to the computation. The said computation was filed in court.
6. The respondent belatedly purports to dispute the said computation on the basis of a letter dated 21ST April 2004 titled "*terminal dues/pension dues*" submitted to the court during the trial to contend that the claimant earned a gross monthly salary of Kshs.309,990 as at the time of dismissal and was therefore

entitled to equivalent of twelve (12) months salary in the sum of Kshs.3,719,880.

7. The court had asked the parties to compute the award because the parties had not provided the gross salary the claimant earned as at the time of his termination.

8. A close perusal of the payslip for the month of September 2003, indicates that in that particular month, the claimant was paid over/passage allowance in the sum of Kshs. 405,000; arrear salary in the sum of Kshs.45,000 and overseas passage in the sum of Kshs.45,000.

9. These payments were not proved to be part of the petitioner’s regular monthly emoluments.

10. For these reasons we accept the gross monthly salary of Kshs. 309,990 provided by the employer and award the petitioner Kshs. 3,719,880.00 being the equivalent of twelve (12) months gross salary payable to the claimant as at the time of termination.

11. The award is payable with interest at court rates from date of Judgment till payment in full.

Dated and Signed at Nairobi this 18th day of August, 2017.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE

Dated, Delivered and Signed at Nairobi this 18th day of August, 2017.

JORAM NELSON ABUODHA

JUDGE

Delivered in the presence of:

.....
.....
.....
.....
.....