



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU**  
**CAUSE NO. 492 OF 2014**

**PETER MICHIRA**

**CLAIMANT**

v

**NATIONAL CEREALS & PRODUCE BOARD    RESPONDENT**

**RULING**

1. In a judgment delivered on 28 April 2017, the Court dismissed an unfair termination of employment claim presented by the Claimant, but nevertheless awarded him Kshs 1,391,827/70, being his and the Respondent's contributions towards the Staff Savings Scheme.
2. In the same judgment, the Court denied the Claimant costs.
3. Both parties, uncharacteristically filed applications seeking review.

**Claimant's application dated 22 June 2017**

4. The Claimant sought review of the order denying him costs on the ground that he had filed his submissions within the agreed timelines.
5. The Claimant's application is not only misguided but misplaced because paragraph 39 of the judgment gave the reasons for denying him costs as the *failure to serve his submissions upon the Respondent* and not *failure to file within the set timelines*.
6. The Court therefore dismisses the Claimant's application with costs to the Respondent.

**Respondent's review application**

7. For the Respondent, review was sought on the ground that it erroneously understood and admitted in its submissions that the *Staff Provident Fund* and *Staff Savings Scheme* were the same.
8. It was urged that since the Claimant had exhausted his *Staff Savings Scheme* contributions (statement was attached to the application), it would be tantamount to unjust enrichment to pay him twice.
9. This Court can review its judgment on sufficient cause being shown.
10. Paying the Claimant contributions from the *Staff Savings Scheme* twice would not only be unjust enrichment but legally unconscionable.
11. No wonder, the Claimant did not file any response to the review application by the Respondent.

12. The Court would allow the application for review, and review the judgment dated 28 April 2017 and substitute the order awarding Kshs 1,391,827/20 with an order declining the head of relief.

13. Costs of the Respondent's application in the Cause.

**Delivered, dated and signed in Nakuru on this 8<sup>th</sup> day of December 2017.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimant Mr. Wekhomba instructed by J.K. Kimani & Co. Advocates

For Respondent Mr. Lutta instructed by Lutta & Co. Advocates

Court Assistants Nixon/Martin