



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF**  
**KENYA AT NAIROBI**  
**CAUSE NUMBER 1142 OF 2015**

**JULIANA MUSENGYA MICHAEL.....CLAIMANT**

**VERSUS**

**RIFT VALLEY RAILWAYS (KENYA) LTD.....RESPONDENT**

**JUDGEMENT**

1. The claimant averred that she was employed by the respondent on 20<sup>th</sup> October, 2006 as a Assistant Station Master Grade RG9. She worked faithfully and diligently upto 23<sup>rd</sup> May, 2014 when she claimed her employment was unlawfully terminated by the respondent on the accusation that she signaled the driver of locomotive 9313 while at the station cabin contrary to standing instructions which required Station Master to meet locomotive at the stop board and driver required to sign the Bar line book before moving past the stop board and as a result locomotive 9313 and locomotive 6255 has an averted collision.
2. She further pleaded that disciplinary proceedings were conducted on 18<sup>th</sup> February, 2014 and she gave her defence but the respondent went ahead and terminated her services. According to her, no averted collision took place as alleged.
3. The respondent on its part pleaded that the claimant was its employee and her responsibilities included ensuring safe working of trains at all times through correct working of all signals and recording of when trains working signals or messages are sent or received in the appropriate train register book.
4. According to the respondent, the claimant performed her duties negligently in breach of operational regulations and employment contract. The respondent further pleaded that on 10<sup>th</sup> February, 2014 an incident occurred in which locomotive 6255 was at stunting neck whilst locomotive 9313 was at the bar line. The claimant was the Station Master on duty on the material day. Investigations established that the claimant signaled locomotive 9313 past sop board before stopping the stunting movement contrary to the standard operating procedure.
5. The respondent pleaded that following the incident, the claimant was issued with a show cause letter highlighting the allegations against her. The claimant responded to the show cause and was thereafter invited to attend a disciplinary hearing on 18<sup>th</sup> February, 2014. The claimant was further informed that she was free to choose a representative to accompany her. At the trial only the claimant attended and gave evidence. The respondent though served never attended court for the hearing.
6. In her oral evidence she stated that she told the driver of locomotive number 9313 to stop but the driver did not stop. The driver also did not sign the bar line book. It was further her evidence that the Yard

