



**REPUBLIC OF KENYA**

**EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**CAUSE NO. 794 OF 2014**

**(Before Hon. Lady Justice Hellen S. Wasilwa on 25<sup>th</sup> January 2016)**

**ELIZABETH MUTINDI .....CLAIMANT**

**VERSUS**

**FOURTEEN FLOWERS LIMITED .....RESPONDENT**

**JUDGMENT OF THE COURT**

1. The Claimant herein filed her Memorandum of Claim on 14/5/2014 through the firm of Namada & Company Advocates alleging unfair dismissal from employment and non-payment of terminal dues and compensatory damages.
2. It is the Claimant case that she was employed by the Respondent in June 2000 as a general worker and later on promoted to the position of storekeeper. The Claimant avers that throughout her period of employment, she worked with due diligence, without blemish and to the satisfaction of the Respondent. Her last work salary was computed at 5,200/= per month.
3. The Claimant avers that on 14/4/2012, she reported to work as usual and worked upto 10 am when the Respondent's officer called Mrs. Anna told her that she had instructions from the Respondent's Director to order her to leave the company premises immediately as she has been dismissed from the Respondents employment. No reasons and/or explanations were given for that action.
4. The Claimant avers that she had never been issued with any appointment letter and neither was she given a dismissal letter but she used to sign in and out of the muster roll as she worked and was also signing or being paid her salary.
5. The Claimant avers that she was not given any notice before the dismissal or any hearing. She wants the Court to order her paid damages for unlawful dismissal, one months salary in lieu of notice, service/gratuity calculated at 15 days salary for each completed year of service being 12 years and house allowance for the entire duration of service. She also seeks payment for untaken and unpaid leave for 12 years.
6. Claimant produced her NSSF registration card to show that on 13/8/2001 she was registered as an NSSF contributor and an employee of the Respondent.
7. The Respondents were served with summons and Memorandum of claim in this case on 21/7/2014 but they failed to enter appearance or file a defence. The Respondents were equally served with a hearing notice but they also failed to attend. This Cause therefore proceeded exparte.

8. Having considered the evidence and submissions of Claimant, I do find that there was an employment relationship between the Claimant and Respondent as evidenced from the NSSF card produced by the Claimant.
9. It is not clear the nature nor the terms of this relationship as the Claimant was never given any appointment letter and the Respondent failed to defend the claim.
10. I find the Claimant has established her case on a balance of probabilities and I award her as follows:

1. *1 months salary in lieu of notice = 5,200/=.*
2. *House allowance for the duration of employment = 11 years x 12 months x 15/100 of 5,200/= 102,960/=*
3. *Damages for unlawful termination equivalent to 12 months salary = 62,400/=.*

**TOTAL = 170,560/=**

4. *The Claimant is also entitled to issuance of a Certificate of Service.*
5. *Respondents will pay costs of this suit.*

Read in open Court this 25<sup>th</sup> day of January, 2016.

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

No appearance for Claimant

No appearance for Respondent