



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 478 OF 2014

EMMANUEL BUNDE ACHIENG.....CLAIMANT

VERSUS

ZITRON LIMITED.....RESPONDENT

JUDGMENT

1. By a memorandum of claim filed on 25th March, 2014, the claimant averred that he was employed by the respondent as a security officer through written contract dated 17th August, 2011 and worked until 30th August, 2013 when he was dismissed on allegations of gross misconduct. He contested reasons for his dismissal as wrongful and unfair through his advocate but the respondent rejected the same.
2. The claimant therefore sought from the Court an order for the payment of his terminal dues as well as compensation for unfair dismissal.
3. The respondent entered appearance on 3rd November, 2014 through Otieno Arum & Company but did not file a memorandum of response. After several adjournments on the part of the respondent and coupled by the fact that no memorandum of response to the claim was ever filed, this matter proceeded ex parte.
4. The claimant in his testimony before Court stated that he was employed in August, 2011 at monthly salary of Kshs.25,000/= and that he was terminated on 30th August, 2013 for refusing to attend a security meeting. He denied the accusation and stated that he was the one who organized the meeting but on the material day he was unwell and informed the respondent that he would not be able to attend the meeting. He produced in support a medical attendance sheet.
5. The matter not having been defended by the respondent, the claimant's allegations remain largely uncontroverted. If it be true as the claimant avers, that he was unable to attend the meeting for reason that he was unwell, then it would be unreasonable to dismiss him on that ground more so when he had a medial attendance sheet to show he was unwell.
6. The Court therefore finds that the claimant's termination was on invalid and or unjustifiable reasons hence unfair.
7. The Court awards him as follows:-

Kshs.

- a. One month's salary in lieu of notice.....25,000.00
 - b. Salary for August, 2013.....25,000.00
 - c. Service pay at the rate of 15 days salary for
 each complete year of service.....25,000.00
 - d. Six month's salary as compensation for
 unfair dismissal.....150,000.00
- 225,000.00

e. Costs of the suit.

8. It is so ordered.

Dated at Nairobi this 19th day of February 2016

Abuodha J. N.

Judge

Delivered this 19th day of February 2016

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge