



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 1048 OF 2014

REGINA NDULU KYALO.....CLAIMANT

VERSUS

KEITT EXPORTERS LIMITED.....RESPONDENT

JUDGMENT

1. This cause proceeded as an undefended cause after the Court became persuaded that the respondent though served, neither filed any appearance nor a response to the claim.
2. In the memorandum of claim dated 24th June, 2014 the claimant avers that she was employed by the respondent as a general worker from January 2011 at a daily wage of Kshs.500/=. She worked until 5th October, 2013 when her supervisor, one Mrs. Mary Nduku informed her that the management had decided to dismiss her because there was work shortage. She contends among others that no notice of dismissal on account of shortage of work was issued to her area labour officer and that no hearing ever took place. The claimant therefore sought an order for compensation from the Court on account of what she felt was wrongful dismissal and unfair termination of services.
3. In her evidence in chief she reiterated the averments in the memorandum of claim and confirmed that the supervisor called some of them out including her and informed them that she had been instructed to reduce the workforce due to reduction of work. According to her, they were never paid their terminal dues and that during the period they worked, they never went on leave and that they were never paid overtime.
4. As stated here before, this matter proceeded as undefended hence the Court is disadvantaged by not having had the benefit of hearing the respondent's version of events. However, from the brief testimony offered from the claimant, it would appear that the claimant was declared redundant and that her complaint is that the redundancy was done contrary to procedure laid down in the Employment Act. The respondent did not controvert this allegation hence the Court can only go by what the claimant has stated.
5. Improper declaration of redundancy amounts to wrongful dismissal and unfair termination of employment hence the remedies available for wrongful dismissal and unfair termination are applicable.
6. The claimant though was on daily wage, she had worked for the respondent for an aggregate period exceeding one month hence the termination of her services could only be done as if she was a regular

employee.

7. The Court therefore awards her as follows:- Kshs.

- a. One month's salary in lieu of notice.....
.....15,000.00
- b. Pay in lieu of leave.....
.....30,000.00
- c. Severance pay at the rate of 15 days wages for each complete year of
service.....15,000.00
- d. Six months salary as compensation for unfair termination of services.....
90,000.00

150,000.00

8. The award shall be subject to taxes and applicable statutory deductions

9. It is so ordered.

Dated at Nairobi this 5th 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