



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI

CAUSE NUMBER 1902 OF 2013

JAMES MBALIKA KYUVI.....CLAIMANT

VERSUS

MAHESH SHAH1ST RESPONDENT

RELCON POWER SYSTEMS LTD.....2ND RESPONDENT

JUDGMENT

1. The claimant chose to adopt his memorandum of claim as filed and left the Court to decide the dispute.
2. The respondent though served never filed any appearance or defence.
3. The claimant avers that he was employed by the respondent as an ungraded artisan from 22nd June, 2012 until 2nd October, 2013 at a daily wage of 450/=. He states that his services were terminated without notice and or payment of his terminal dues. He further complained that no reason was given for the termination of his services. The claimant therefore prayed that the Court finds that the termination of his services was wrongful and unlawful and order the respondent to compensate him.
4. By the time the respondent allegedly terminated the claimant's services, he had worked for approximately 10 months. By virtue of section 37 of the Employment Act, his services could only be terminated as a regular worker by giving him one month's notice and that the respondent had to assign a reason for terminating his services.
5. Regarding leave, the claimant had not qualified for leave since he had only worked for approximately 10 months.
6. The claimant attached a weekly labour card in one of which his daily rate was stated as Kshs.450 as averred in his memorandum of claim. The wages order for 2013 attached as part of the claimants documents in support of the claim placed daily wage at Kshs.634.85 for an ungraded artisan which the claimant claimed he was. This therefore meant the claimant was underpaid by approximately Kshs.185/= per for the period he worked for the respondent.
7. The Court therefore awards the claimant as follows:-

Kshs.

- a. One month's pay in lieu of notice.....19,050.00
- b. Underpayment for 10 months
(19,050 – 13,500 x 10).....55,500.00
- c. 3 months salary as compensation for unfair dismissal.....57,150.00
- 131,700.00
- d. Costs

8. It is so ordered.

Dated at Nairobi this 26th day of February 2016

Abuodha J. N.

Judge

Delivered this 18th day of March 2016

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge