



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT MOMBASA
CAUSE NUMBER 206 OF 2014

BETWEEN

- 1. RICHARD MASASI OKWOYO**
- 2. CLIFFORD MASONGO ONCHAGA**
- 3. CHARLES MATWETE BEGI**
- 4. NAFTAL MOMANYI ORANDO CLAIMANTS**

VERSUS

- 1. COASTECH LIMITED**
- 2. COMPOSOL LIMITED RESPONDENT**

Rika J

Court Assistant: Benjamin Kombe

Ms. Maina Advocate instructed by Marende Birir & Company Advocates for the Claimants

No appearance for the Respondents

ISSUE IN DISPUTE: TERMINAL DUES AND DAMAGES

AWARD

[Rule 27 [1] [a] of the Industrial Court [Procedure] Rules 2010]

1. The Claimants filed their Statement of Claim, on the 14th April 2014. They state they were initially employed in various capacities by the 1st Respondent Engineering Company, on diverse years. The 2nd Respondent is a successor Employer, having been registered by the Directors of the 1st Respondent in the year 2012. The Claimants all resigned in 2013, after the Employer failed to meet their monthly salaries. They claim:-

A. RICHARD MASASI OKWOYO

- a. Salary arrears.... Kshs. 91,000
- b. Severance..... Kshs. 32,500
- c. Annual leave pay Kshs. 40,000

Total Kshs. 163,000

B. CLIFFORD MASONGO ONCHAGA

- a. Salary arrearsKshs. 70,000
- b. Severance Kshs. 25,000
- c. Annual leaveKshs. 25,000

Total..... Kshs. 120,000

C. CHARLES MATWETE BEGI

- a. Salary arrearsKshs. 120,000
- b. Severance Kshs..... Kshs. 7,500

Total Kshs. 127,500

D. NAFTAL MOMANYI ORANDO

- a. Salary arrears Kshs. 105,000
- b. Arrears of casual work done..... Kshs. 13,000

TotalKshs. 118,000

The Claimants also pray for damages, costs and any other suitable relief.

2. The Respondents were served through substituted service, but did not enter appearance, file any response, or participate in the proceedings. Counsel for the Claimants adopted the Statement of Claim, Witness Statements, Documents and Submissions on record.

The Court Finds:-

3. It is not disputed that the Claimants were all employed by the two Respondent Companies. They left employment on resignation in September 2013, aggrieved by the non-payment of their monthly dues.

4. In response to demand letters issued by the Claimants' Advocates, the Respondents acknowledged the Claimants were their Employees. The Respondents' letter in reply concedes also, that the Claimants were owed 'some salary arrears.' The Respondents indicated they were in consultation with the Labour Office, and would amicably settle the dispute. There was no settlement, compelling the Claimants to approach the Court.

4. The material provided by the Claimants is unchallenged. The letters from the Respondents partially admit the claims. The Court is satisfied the Claimants have established their claims satisfactorily. The item stated to be severance pay should however read, and is amended to read 'service pay.' IT IS ORDERED:-

- a. ***The Claimants shall be paid by the Respondents the sums particularized in paragraph 1 above.***
- b. ***The total amount of Kshs. 528,500 shall be paid to the Claimants by the Respondents within 30 days of the delivery of this Award.***
- c. ***The claim for damages has not been established and is declined.***
- d. ***The Principal amount to attract an interest rate of 14% p.a. from the date of the delivery of this Award, if the principal amount remains unpaid at the end of the 30 days.***

e. *Costs to the Claimants.*

Dated and delivered at Mombasa this 4th day of March, 2016

James Rika

Judge