



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS**  
**COURT AT NAIROBI**  
**CAUSE NO 1917 OF 2013**

**JACKLINE LUKAMIKA MUCHI.....CLAIMANT**

*Versus*

**MOHAMMED TAHIR.....RESPONDENT**

Mr Makori for Claimant/Applicant

Mr Solonka for Respondent

**RULING**

1. The Claimant/Applicant filed an application to review the Judgment of the court delivered on 31<sup>st</sup> July, 2015.
2. An Application for review of a Judgment of the court may only be brought citing grounds set out under Rule 32 of the Employment and Labour Relations Court (Procedure) Rules 2010.
3. In the Application by the Applicant it is not stated on which specific grounds the application for review has been brought.
4. Instead the Claimant/Applicant asks the court to re-assess paragraphs 13, 14, 16, 17, 18 and 20 of the Judgment on the basis that no concrete evidence at all pointed to her misconduct due to lack of documentary or oral evidence against the Claimant/Applicant before the court during hearing.
5. The Claimant/Applicant further states that the recommended minimum wage as at the year 2013, of a house servant was Kshs.9,750.95 and so paragraph 15 of the Judgment should be reviewed.
6. The Claimant urges the court to find that she was dismissed for insisting to be paid the basic minimum wage.
7. The application is opposed by the Respondent by a Response to the Memorandum for Review filed on 5<sup>th</sup> October, 2015.
8. The Respondent states that no permissible grounds for review of a Judgment of the court have been disclosed in the application as provided under Rule 32(1) of the Employment and Labour Relations Court (procedure) Rules 2010 which provides, “a person who is aggrieved by a decree or an order of the court may apply for a review of the award, judgement or ruling;

- a. if there is a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made or,
- b. On account of some mistake or error apparent on the face of the record
- c. On account of the award, judgment or ruling being in breach of any written law
- d. If the award, the judgment or ruling requires clarification
- e. For any other sufficient reasons”.

### **Determination**

9. Upon a careful consideration of the application, reply to the Memorandum for Review and the submissions by the parties, and having considered the Judgment delivered on 31<sup>st</sup> July, 2015, the court is satisfied that the Claimant/Applicant has not disclosed in her application any permissible grounds for the review of the court’s judgment as provided under Rule 32(1) of the Employment and Labour Relations (Procedure) Rule 2010.

10. The Application lacks merit and the same is dismissed with no order as to costs.

**Dated and delivered in Nairobi this 15<sup>th</sup> day of April 2016.**

**MATHEWS N. NDUMA**

**PRINCIPAL JUDGE**