



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT AT NAIROBI
CAUSE NO 918 OF 2014
ALEX KIDAGI CLAIMANT

Versus

JONATHAN PETROL STATION LIMITED RESPONDENT

Mr. Muhada for claimant

JUDGMENT

1. The suit was brought vide a memorandum of claim on 30th May 2014. The claimant seeks;
 - a. a declaration that the claimant's dismissal from the respondent's employment was unfair, unprocedural and unlawful;
 - b. One month's salary in lieu of notice in the sum of Kshs.11,49.00;
 - c. Unpaid salary for 13 months 18 days worked in the sum Kshs.158,426.40;
 - d. Payment in lieu of leave days not taken Kshs.65,234.40;
 - e. House allowance reimbursement Kshs.167,745.60.
 - f. Compensation for unfair termination Kshs.1349,788.00
 - g. Payment for redundancy Kshs.46,956.00;
 - h. Costs of the suit.
2. The suit is undefended. The respondent was served with the memorandum of claim dated 23rd May 2015 and a notice of summons dated 4th June 2014 on 16th June 2014 by Mr. Alex Kidogi at the respondent's place of business at Birika along the Kiserian- Isinya Road. service was done on one Mr. Isaac Nderitu, the manager of the petrol station.
3. The matter proceeded to formal proof and the claimant filed written submissions in support of the case.
4. The court finds that the particulars of claim set out in paragraphs 3, 4, 5, 6, 7, 11, 12 13, 16 of the memorandum of claim have been proved on a balance of probabilities. Accordingly the claimant is entitled to payment of;
 - a. one month's salary in lieu of notice in the sum of Kshs.11,549.00;
 - b. unpaid salary for 13 months in the sum of Kshs. 158,426.40;
 - c. payment in lieu of untaken leave days in the sum of Kshs.65,234.40; and
 - d. severance pay in the sum of Kshs.46,956.00.

5. It is evident that the claimant's employment was terminated for operational reasons the petrol station having closed down for lack of fuel supply.
6. The claimant therefore became redundant there being no work to do.
7. The terminal benefits awarded above are in terms of section 40 of the Employment Act, 2007.
8. The claim for compensation for unlawful termination of employment has not been proved and the same is dismissed.
9. In the final analysis, the claimant is awarded as against the respondent;
 - a. Kshs. 282,265.80 terminal benefits;
 - b. interest at court rates from date of filing suit till payment in full;
 - c. costs of the suit;
 - d. certificate of service

Dated and delivered at Nairobi this 6th day of May, 2016.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE