



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NUMBER 41 OF 2015**

**HADIJAH CHERUTO LINDA HAMISI.....CLAIMANT**

**VERSUS**

**INSTITUTE OF CERTIFIED PUBLIC ACCOUNTS OF KENYA.....RESPONDENT**

**JUDGMENT**

1. This cause proceeded as an undefended once the Court became satisfied that the respondent though entered appearance did not file a defence within stipulated or reasonable time.
2. The claimant averred that she was employed as an intern librarian for an aggregate period of 6 months. Upon completion of the internship, the respondent requested her to continue as a librarian until June, 2014 when the respondent terminated her services without any reason or justification.
3. Under section 2 of the Employment Act an employee is defined to mean a person employed for wages or a salary and includes an apprentice and indentured learner. The various letters of offer for internship issued to the claimant provided that she would be assigned duties which would be allocated to her from time to time by the Value Addition Services and other departments in the division.
4. The letters read together with the one dated 28<sup>th</sup> March, 2014 yields as reasonable the meaning that the claimant as an intern was assigned duties of a librarian.
5. The claimant however neither averred that she was a student of librarianship nor that by the time she claims to have been hired as a librarian on permanent basis, she had the requisite qualifications. The issue of underpayments cannot therefore arise. Further the claimant did not exhibit any evidence to show the alleged salary payable to librarians by the respondents to justify the claim for underpayment.
6. The Court is however in the dark whether the respondent in terminating the claimant's services gave a reason for doing so or followed due process as stipulated in the Employment Act. The Court only has the claimant's side of the story that she was terminated either for no reason or invalid reasons and in doing so, no due process was followed as required by the Employment Act.
7. The Court therefore awards her one month's salary in lieu of notice and six month's salary for unfair termination of services.
8. That is to say the Court awards the claimant Kshs.56,000/=. The claimant shall further have costs of the suit.

9. It is so ordered.

Dated at Nairobi this 3<sup>rd</sup> day of June 2016

**Abuodha Jorum Nelson**

**Judge**

Delivered this 3<sup>rd</sup> day of June 2016

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha Jorum Nelson**

**Judge**