



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT MOMBASA
CAUSE NUMBER 204 OF 2013

BETWEEN

EDWARD NYANGE NYAMBU CLAIMANT

VERSUS

KASSAM HAULIERS LIMITED..... RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

Odhiambo S.E. & Company Advocates for the Claimant

Makasembo Makonyango & Company Advocates for the Respondent

ISSUE IN DISPUTE: UNFAIR AND UNLAWFUL TERMINATION

AWARD

1.This matter shares a similar history with the *Court's Cause Number 205 of 2016 between Thomas Mghanga Wandoe v. Kassam Hauliers Limited*. The Court shall not therefore dwell on the issues in dispute herein, and adopts the findings in the Wandoe Cause, in so far as they are relevant to the Cause herein.

2.The Claimant herein filed his Statement of Claim on the 16th July 2013. He was employed by the Respondent as a Mechanic in April 2010. He earned a monthly salary of Kshs. 15,000. He worked until 20th February 2013, when the Respondent terminated his contract of employment, without cause or notice.

3. He holds termination was unfair and seeks orders against the Respondent for: terminal dues at Kshs. 21,350; 1 month salary in lieu of notice at Kshs. 15,000; and 12 months' salary in compensation for unfair termination at Kshs. 180,000- total Kshs. 216,250. He prays for a declaration that termination was unfair; he is issued Certificate of Service; and granted costs with interest.

4. The Court finds the Respondent did not attend Court for the hearing of its case. The Statement of Response on record is the same in tone and tenor, as the Statement in the Wandoe Case. It is a general denial. The Respondent has not discharged its obligation under Sections 41, 43 and 45 of the Employment

Act 2007.

5. The Claim is allowed except for the prayer for terminal dues, which is declined on the grounds stated in the Wandoe Case.

IN SUM, IT IS ORDERED:-

a) Termination was unfair

b) The Respondent shall pay to the Claimant compensation the equivalent of 12 months' salary at Kshs. 180,000; and 1 month salary in lieu of notice at Kshs. 15,000- total Kshs. 195,000.

c) Certificate of Service to issue.

d) Costs to the Claimant.

e) Interest granted to the Claimant at 14% from the date of delivery of the Award.

Dated and delivered at Mombasa this 23rd day of September 2016.

James Rika

Judge