



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 1850 OF 2014

LYDIA WACUKA KARIUKI.....CLAIMANT

VERSUS

UNGA FARM CARE (E.A) LTD.....RESPONDENT

JUDGMENT

1. The claimant herein averred that she was employed by the respondent on 20th March, 2000 and worked until 15th October, 2012 when the respondent issued her with a notice of termination of employment to take effect on 15th January, 2013. She complained that the respondent did not assign any reason for terminating her services. She further averred that the respondent had never accused her of underperformance, poor service delivery or gross misconduct or any offence whatsoever.

2. The respondent on the other had contended that the termination of claimants' services was lawful fair and in accordance with the appointment letter. The respondent further averred that claimant was paid all her terminal dues upon termination of her services.

3. The issue in this suit is quite straight forward which is whether the respondent when invoking the termination clause in the employment contract was bound to give reasons for doing so. Section 45 of the Employment Act deals with unfair termination. It requires that a reason be given and that the reason must be valid and related to employees conduct, capacity or based on the operational requirements of the employer. What this implies is that whereas a contract of employment provides for a termination clause, the same cannot be simply invoked without assigning any reason. If this happens, the termination will be deemed unfair.

4. In the circumstances the Court finds that the claimants claim is merited and hereby awards her six months salary as compensation for unfair termination of services. The claimant shall further have costs of the suit.

5. It is so ordered.

Dated at Nairobi this 2nd day of September 2016

Abuodha Jorum Nelson

Judge

Delivered this 2nd day of September 2016

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha Jorum Nelson

Judge