



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 1929 OF 2014

PETER NZIOKA MWEU.....CLAIMANT

VERSUS

NEW VISA PLACE LTD..... RESPONDENT

JUDGMENT

1. By memorandum of claim filed on 30th October, 2014, the claimant averred that he was employed by the respondent as a Chef on a monthly salary of Kshs.13,000/= per month.
2. He worked until 30th October, 2013 when he averred that the respondent terminated his services without any just cause and without any notice. The claimant further averred that upon termination the respondent never paid him his terminal dues.
3. The claimant complained further that during the period of his employment he never proceeded on annual leave.
4. The claimant consequently sought from the Court an order for compensation directed to the respondent for wrongful dismissal and unfair termination of his services.
5. The respondent neither filed any response to the claim nor attended Court at the hearing to cross-examine the claimant.
6. In his testimony in Court, the claimant repeated the averments in the claim and added there was road construction which affected the respondent's business.
7. The claimant attached with his memorandum of claim a letter dated 16th December, 2013 which certified that the claimant worked for the respondent as a chef from January, 2004 to October, 2003. In the letter the respondent commended the claimant as a team player, punctual, and interacted with his colleagues. The letter further recommended him to any prospective employer.
8. The matter though not defended seems to have been a case of redundancy or loss of work due to fall in business performance. The claimant himself stated that the road construction around the respondent's business premises interfered with the flow of customers.
9. The mere absence of the respondent in the proceedings does not automatically make the claimant's averments wholly reliable.

10. The Court in the circumstances regards the claimant's separation from his employment as wrongful declaration of redundancy and hereby orders that he be compensated as follows:-

Kshs

- (a) One month's salary in lieu of notice.....13,000.00
 - (b) Salary for the month of October.....13,000.00
 - (c) Severance pay at the rate of 15 days salary for each complete year of service.....81,250.00
 - (d) Four months salary for unfair termination
of services.....52,000.00
- 159,250.00

(e) Costs of the suit.

11. 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