



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT MOMBASA
CAUSE NUMBER 344 OF 2015

BETWEEN

SYLVIA BINDO MPITA.....CLAIMANT

VERSUS

CAREER DIRECTIONS [K] LIMITED.....RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

Oluga & Company Advocates for the Claimant

Githinji & Koki Advocates for the Respondent

JUDGMENT

1. The Claimant filed her Statement of Claim, on the 28th May 2015. She states she was employed by the Respondent Outsourcing Company as a General Labourer, and assigned duty at the Respondent's Client Company La Farge, the year 2007. She was based at Bamburi, Mombasa. She was summarily dismissed in June 2012. She was not given notice of termination. She was not told the reasons for the decision. She feels termination was unfair and unlawful, and seeks the following orders against the Respondent:-

- a) 1 month salary in lieu of notice at Kshs. 5,495.
- b) Annual leave pay for 5 years at Kshs. 13,737.
- c) Gratuity for 5 years at Kshs. 13,737.
- d) 12 months' salary in compensation for unfair termination at Kshs. 65,940.

Total at Kshs. 98,910.

- e) Costs.

d) Any other suitable reliefs.

2. The Respondent was served with the Summons initiating the Claim, and subsequently with Notices on Mention and Hearing. There was Appearance entered through Advocates, but no Statement of Response was filed. The Respondent did not attend Court for the hearing scheduled for 29th June 2016. The proceedings closed on the 29th June 2016, and the Decision of the Court reserved for the 14th October 2016.

3. The Claimant adopted her Pleadings, Witness Statement and Documents on record. She restated the contents of her Statement of Claim, as encapsulated at paragraph 1 of this Judgment. There is no need for the Court to retell those contents here.

4. Based on the unchallenged evidence given by the Claimant, *the Court Finds:-*

i. The Claimant was employed by the Respondent Outsourcing Company, and assigned general work at La Farge Company, based in Bamburi, Mombasa County.

ii. She worked from 2007 to June 2012, when she was summarily dismissed by the Respondent.

iii. She earned Kshs. 5,495 per month, as of the date of dismissal.

iv. No notice of termination issued from the Respondent, and no reasons in justifying termination were given by the Respondent as required under Section 43 and 45 of the Employment Act 2007.

v. No aspect of the Claim is challenged, improbable, irregular, or contrary to the law.

vi. The Court is satisfied the prayers sought are merited and orders:-

a. Termination was unfair.

b. The Respondent shall pay to the Claimant the sum of Kshs. 98,910, as particularized in paragraph 1 of this Judgment.

c. Costs to the Claimant.

Dated and delivered at Mombasa this 14th day of October 2016.

James Rika

Judge