



REPUBLIC OF KENYA  
IN THE EMPLOYMENT & LABOUR RELATIONS COURT  
AT MOMBASA  
CAUSE NO. 830 OF 2016

**BETWEEN**

SYLVESTER JUMA OKUMU.....CLAIMANT

**VERSUS**

NATIONAL TRANSPORT AND SAFETY AUTHORITY.....RESPONDENT

**RULING**

1. The Claimant filed his Statement of Claim, on 24<sup>th</sup> October 2016. He states he was employed by the Respondent as an Assistant Motor Vehicle Inspector. He was summarily dismissed by the Respondent on 9<sup>th</sup> August 2016. He challenges summary dismissal, and seeks to be reinstated, or compensated.
2. He filed an Application under Certificate of Urgency on 24<sup>th</sup> October 2016. He prays for interim reinstatement, or for an order prohibiting the Respondent from recruiting and filling the position of Assistant Motor Vehicle Inspector.
3. The Application was served upon the Respondent. No Replying Affidavit, or Grounds of Opposition, was filed. The Claimant argued his Application ex-parte, on 18<sup>th</sup> November 2016.

***The Court Finds:-***

4. As stated in this Court's ***Cause No. 556 of 2014 between Moses Sammy Ponda v. Imarika Sacco***, reinstatement is a substantive remedy. It should be considered upon hearing the Parties in full.
5. Where reinstatement is sought at an interlocutory stage, and the Respondent does not file any Replying Affidavit and/or Grounds of Opposition, the Court would have no basis to decline interim reinstatement. In this Case, as in the Case of *Sammy Ponda*, the Respondent has filed nothing. The Respondent has not shown any prima facie justification, for its decision to summarily dismiss the Claimant. While the Court does not encourage interim reinstatement, the Court must have some factual and legal grounds, in declining a prayer for interim reinstatement.

**IT IS ORDERED:-**

***a) Pending hearing and determination of the Claim, the Claimant is reinstated to the position of Assistant Motor Vehicle Inspector.***

***b) Costs in the Cause.***

**Dated and delivered at Mombasa this 13<sup>th</sup> day of December, 2016.**

**James Rika**

**Judge**