



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 117 OF 2013

JAMES K. KAMAU.....CLAIMANT

VERSUS

CITY COUNCIL OF NAIROBI.....RESPONDENT

JUDGMENT

1. The claimant seeks from this Court an award of Kshs.498,500 as compensation for what he deems as unlawful and unfair termination of his services.
2. In his memorandum of claim filed before this Court on 29th January, 2013, he avers that he was employed by the respondent around 2nd November, 1979 and served in various capacities within the Social Services and Housing Department of the respondent. However on 7th July, 2006, the respondent wrongfully and unfairly dismissed him from service.
3. The minutes of the joint staff meeting held on 9th June, 2009 and attached to the claimants memorandum of claim show that his case was deliberated upon between the management of the respondent and his union. He was accused of absconding duty and consequently removed from the payroll on 1st October, 2002. The claimant was further accused of participating in the 2002 general elections yet he had not resigned from the respondent thereby breaching terms and conditions of service of the respondent. The respondent's department under which the claimant worked therefore recommended his dismissal from service. This recommendation was disputed by the claimants union who argued that there was no evidence that the claimant vied for a position in 2002 general election. The Joint Staff Committee therefore resolved to recommend to the Finance Committee that the claimant be reinstated to service and the period he was away be treated as unpaid leave.
4. Minute number 37 of the Joint Staff Committee meeting of 8th June, 2010; resolved further that the resolution of the Joint Staff Committee of 9th June, 2009 be implemented. These resolutions were however never implemented.
5. From the circumstances above, it would seem the claimant's services were terminated based on invalid reasons as can be discerned from the minutes of the Joint Staff Meeting of 9th June 2009. Where an employee's services has been unjustifiably terminated this Court has power to order compensation as provided in the contract of employment read together with the Employment Act.

6. The Court therefore awards the claimant as follows:-

Kshs.

- (a) One month's salary in lieu of notice.....12,000.00
 - (b) Rest days.....204,570.00
 - (c) Six months' salary for unfair
 termination of services.....72,000.00
- 288,570.00

7. The claimant shall have costs of the suit.

8. The respondent shall further issue the claimant with a certificate of service.

Dated at Nairobi this 6th day of March 2015

Abuodha J. N.

Judge

Delivered this 6th day of March 2015

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge