

REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT OF KENYA

AT NAIROBI

CAUSE NO. 344 OF 2010

CECILIA MUTHONI NJOROGE CLAIMANT

VERSUS

NAIROBI STOCK EXCHANGE RESPONDENT

M/S Muyai for Claimant / Applicant

Mr. Karungo for Respondent

RULING

1. The Applicant sought review of the judgment of the Court delivered on 31st October 2014 in terms of **Rule 32** of the Industrial Court (Procedure) Rules, 2010 as follows;
 - i. the Court substitutes the award of one month salary in lieu of notice in the sum of Kshs.292,593.87 with an award of three (3) months' salary in lieu of notice in the sum of Kshs.877,781.61; and
 - ii. award payment of Kshs.397,927.66 in lieu of leave days not taken.
2. The Respondent filed a Replying Affidavit sworn on 13th April 2015.
3. The basis for the Application is that the Court overlooked a provision in the letter of appointment attached to the Memorandum of Claim dated 21st March 2011 and marked (CMN 1(a)) which provides in Clause I that "*the contract may be terminated at any time by either party giving the other three months' notice of termination in writing.*"
4. The prayer for payment of three months' salary in lieu of notice is paragraph 20 (b) of the Memorandum of Claim.
5. This was clearly an oversight by the Court and therefore, the Court substitutes the award of payment of one month salary in lieu of notice in the sum of Kshs.292,593 with an award of three months' salary in lieu of notice in the sum of Kshs.877,781.61.
6. With regard to the issue of payment in lieu of leave, the same was not pleaded in the Memorandum of Claim. There is no basis to review the judgment of the Court in this respect.

Dated and Delivered at Nairobi this 27th day of May, 2015.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE