



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI

CAUSE NO. 1982 OF 2013

BANKING, INSURANCE & FINANCE UNION (KENYA) CLAIMANT

VERSUS

CO-OPERATIVE BANK OF KENYA LTD RESPONDENT

JUDGEMENT

Mwaura Ngage instructed by BIFU for the Claimant

Ms Cherono instructed by Muthaura Mugambi Ayugi & Njonjo Advocates for the Respondent

1. The issue in dispute is the wrongful dismissal from employment of the grievant, Samuel C Njoroge.

2. The claimant, Banking, Insurance and Finance Union (Kenya), BIFU, is a Trade union representing employees in the finance sector while the Respondent is a commercial bank and a member of the Kenya bankers Association (KBA) which has a Recognition Agreement with the claimants to regulate terms and conditions of employment in the banking industry. The Claimant therefore filed the claim on 10th December 2013 and the Respondent filed their defence on the 29th April 2014 and admitted that the Claimant was their former employee who was dismissed in terms of section 44(3) of the Employment Act and therefore denied the claim of wrongful dismissal. Both parties were heard in evidence with the Claimant supporting his case and the Respondent called Simon Mureithi Maina. At the close of the hearing, both parties filed their written submissions.

Claimant's case

3. The Claimant stated that the Grievant was employed by the Respondent as a Graduate Clerk on 17th June 2010 and was confirmed into permanent and pensionable terms on 28th December 2010. He was moved and worked in various departments at mariakani Branch as Teller, Accounts opening, business development officer and was on training as ATM custodian at the time of his dismissal. The Grievant was suspended on 21st December 2013 on the reason of cash shortage of 531,000.00 at his branch; on 4th January 2013 he was issued with a show cause letter and then invited before the disciplinary committee where he was denied time to contact the Claimant as his union and later on 21st January 2013, he was dismissed from employment. The Grievant lodged an appeal against the dismissal on 5th February 2013 and sine, no response has been received.

4. The Claimant reported the matter to the minister where a conciliator was appointed and based on the dispute a recommendation was made that the Grievant had not committed any misconduct and his

dismissal should be reduced into normal termination but the Respondent refused to implement necessitating the suit herein.

5. The Claimant also stated that in this matter, the Grievant reported the loss of kshs.576, 000.00 to the Respondent as required of him by the ATM operations manual when he noted the discrepancy. The Grievant was a dual ATM operator on training where he was allocated the duty to service cassettes with 500/- notes while his counterpart serviced the one with 1000/- notes to enable him siphoned some money. Upon noting the difference, the co-custodian admitted the difference and paid back the cash to the respondents. The admission related to the co-custodian taking out cash on 13th and 21st November 2012 and the bank accounts were recorded as having balanced which was confirmed by the branch operations manager. The operating manager Nancy Kikorei admitted that the Grievant reported theft of cash by his co-custodian and that she also exaggerated the bank balances on 11th December 2012 so as to cheat. All the cash stolen was paid back and to victimise the Grievant was an act of discrimination and nepotism as the operations manager and the co-custodian were retained by the Respondent while the Grievant was dismissed.

6. The Claimant thus stated that the Grievant acted as a whistle-blower but got victimised by his seniors. In the dismissal of the grievant, due process was not followed that violated section 43 and 41 of the Employment Act. The Claimant is seeking that the dismissal of the Grievant be held unlawful and wrongful and that he be reinstated back to his position without loss of benefits and that the Grievant be paid all his pecuniary dues lost to this wrongful dismissal as well as any other remedy the Court may deem fit to grant.

7. In his evidence, the Grievant stated that he resides at Ol Kalau and is currently furthering his studies as he is jobless since he was dismissed by the respondent. Before joining the Respondent he worked at NIC Bank. Kenya Commercial Bank and the Respondent was his third employer from June 2010. He was promoted through the ranks to become the ATM custodian and business development officer at Mariakani Branch. The custodian role is held by 2 people and in his case he was paired with Jacob Kalama Mwachinga (Jacob).

8. On 11th December 2012 when the Grievant was loading the ATM he noticed some discrepancy in one machine and noted there was an anomaly made by his co-custodian, Jacob. He reported to the supervisor the Operations manager where Jacob admitted that he had taken the missing cash. There were 2 ATM machine No. 198 and 199 and while loading ATM o. 198 the Grievant noted the missing cash. Having worked in the branch for over 3 years the Grievant was conversant with all the procedures and processes required of his duties as an ATM custodian. The noted cash difference was kshs.576, 000.00 in the 1000/- lot operated by Jacob.

9. Upon report of the cash difference to the operations manager, she called Jacob in her office and the Grievant was advised to proceed with other duties. In the evening when the balances are supposed to be recorded, Jacob took over the roles but failed to record the difference based on the missing cash. The Grievant learnt later that Jacob had promised the operations manager that he was to return the missing cash on 13th December 2012 as the next day was a public holiday.

10. On 13th December 2012, the balance sheet difference was kshs.531, 000.00 since Jacob had made a deposit of kshs.45, 000.00 that morning. This was confirmed by the operations manager, by signing to confirm the balance difference was kshs.531, 000.00. There are however alternations at the end to indicate that the defence was kshs.3, 677.00 and a shortage of kshs.576, 000. In this case the account was not balancing as the difference with regard to the sum of kshs.576, 000.00 arose on 11th December 2012 and the actual difference on 13th December 2012 was kshs.531, 000.00 as kshs.45, 000.00 had been paid of the missing cash. 11. The operations manager did inform the branch manager of the cash differences where Jacob promised to pay the difference by 15th December 2012. However no action was taken against Jacob by the Respondent as he sourced for the cash on 17th December 2012 and paid from contributions of his family members with some deposits coming through Nancy's account. The branch manager then did a cash check and all books were balancing by 17th December 2012. Jacob then

proceeded on his leave and the Grievant took over duties of Chief Teller.

12. The Grievant also gave evidence that on 22nd December 2012 he got a letter of suspension from the manager claiming for loss from ATM No. 198 at kshs.536, 000.00. This was followed by a letter to show cause as to why disciplinary action should not be taken over the loss. He was then invited to the disciplinary committee on the grounds that there was loss of Kshs.636, 000.00 where there was a new cash difference between the amounts stated in the letter of suspension and the show cause letter which difference was not explained. After the hearing, in February 2013 the Grievant received his letter of dismissal. He lodged his appeal but this has not been addressed.

13. During the disciplinary hearing, there was a union official from Upper Hill branch but the Grievant was not allowed time to discuss his case with him of a choice of whom to represent him. Had this choice been granted, the Grievant would have taken somebody who was conversant with his case from the branch. Upon dismissal, the union reported the dispute to the Minister but the Respondent refused to follow the recommendations.

14. In this case the Grievant testified that his dismissal was wrongful and unfair as there was no due process, the bank officers interfered with the investigations to cover up and this ended up in the unfair dismissal. He is seeking reinstatement and payment of damages and payment of losses incurred due to the wrongful dismissal.

Respondent's case

15. The Respondent in defence stated that the Grievant was their employee at Mariakani branch and was trained as a teller and custodian, which training was undertaken when he took up the two roles in the Respondent bank. On 13th December 2012 the operations manager at the branch undertook a surprise check and found ATM Number 198 with cash shortage of Kshs.576, 000.00 while the Grievant was the custodian of ATM Number 198 and 199 together with a co-custodian. The Grievant indicated that he got to know of the shortage on 12th November 2012 but upon investigations it emerged that he knew as of 11th December 2012. The Grievant indicated that he was willing to pay the money and proceeded to apply for a loan to repay despite his indication that he had not taken the money.

16. The Respondent also stated that the Grievant was suspended following ATM cash shortage of kshs.636, 000.00 vide letter dated 21st December 2012 to pave way for investigations. The basis of the suspension was because the Grievant was a co-custodian of ATM Number 198. On 31st December 2012 the Grievant was asked to explain his actions culminating in the loss of Kshs.636, 000.00 and to show because why disciplinary action should not be taken against him in terms and the applicable collective agreement. In defence, the Grievant did not deny that he was a co-custodian; he admitted there was a loss of kshs.636, 000.00 on ATM number 198 of which he failed to account for but alluded to signing the ATM reconciliation which was erroneous as there was a difference and he was party to the loss of Kshs.636, 000.00. The Grievant also failed to adhere to operating manual on dual custody while loading cash to ATM number 198 thus exposing the Respondent to loss and concealed cash difference. Based on investigations and defence made the Grievant was called for disciplinary hearing on 18th January 2013 where a decision was taken that he should be dismissed which was effected on 21st January 2013. No appeal was made and thus the Grievant was paid his terminal dues.

17. The Respondent has counter-claimed for the loss of kshs.636, 000.00 that was lost in ATM number 198 on the grounds that the Grievant had admitted the missing sum and also applied for a loan so as to repay the same. The conduct of the Grievant upon discovery of the loss was suspicious and thus a claim for the payment of kshs.636, 000.00 owed to the Respondent by the claimant.

18. In evidence, the Respondent called Samuel Mureithi Maina, the Employee Relations Manager of the respondent. He testified that in December 2012, the Respondent received reports from the operations manager of cash loss at the Mariakani branch. Investigators were sent and for security reasons, the Grievant was suspended as he was the co-custodian to ATM number 198 as he admitted taking the

money. The investigations report also recommended that the Grievant should show cause for failing to report the loss when he noted on 11th December 2012 and thus he participated in the loss of Respondent property. The Grievant also admitted that he was willing to repay the money and he applied for a loan to assist his co-custodian to pay for the loss. The Claimant was subjected to a disciplinary hearing in the presence of a union representative and the committee recommended that he should be dismissed. At the hearing the Grievant submitted that his co-custodian had confessed to him that he took the cash to start a business but was not able to return the money.

19. In cross-examination the witness confirmed that he never met the Grievant personally and acted based on the investigations report. That between 11th December 2012 to 17th December 2012 Jacob was given time to pay the cash difference. On the counter-claim, the witness admitted that the Respondent has since received all the lost money from Jacob. The figures reported missing on 13th December 2012 were Kshs.531, 000.00 but the letter of suspension and show cause show different amounts without any explanation.

20. The witness also confirmed to the Court that Jacob has since been terminated after paying the sum of kshs.636, 000.00. This was paid by 13th to 17th December 2012. Based on Jacob's statement, he admitted having taken Kshs.520, 000.00 and then kshs.116, 000.00 all being kshs.636, 000.00. The link to the Grievant is because he was a co-custodian and the counter-claim is based on breach of trust and exposure of the Respondent to loss.

Submissions

21. The Claimant submitted that this is a case of wrongful dismissal and the remedy sought is that of reinstatement and compensation of the grievant. The basis of the Claimant is that the Grievant was unprocedurally terminated for no good cause when he reported missing cash which he had discovered in the course of his work as a co-custodian of ATM number 198. The report was made to a supervisor; the operations manager who based on the information followed up with the other co-custodian and caused him to pay back for the loss. Based on evidence, the subject co-custodian to the Grievant has since been terminated and the operations manager who is key to matters raised in the suit was never called on the role played in the alleged loss of funds.

22. The Claimant also submitted that there is no basis for the counter-claim of the Respondent as the lost funds have since been recovered from Jacob and in any case there was no proof as to how the Respondent arrived at the figures of kshs.636,000.00 that was a change from 576,000.00 that was reported by the grievant. The loan taken by the Grievant was in November 2012 way before the alleged loss of funds and he stated that this was a development loan and was never used to help Jacob repay for the admitted siphoned funds.

23. At the time of dismissal, there was no valid reason to justify the same and to base the same on the misconduct of a co-custodian erroneous. The Claimant is seeking that the Grievant should be reinstated back to his position without loss of benefits noting his age and the wrongful dismissal. That the Grievant should also receive compensation as he has suffered socially, economically and psychologically. The Claimant relied on the cases of **Banking Insurance & Finance Union (K) versus Co-operative Bank of Kenya, Cause No. 271 of 2012** where the Court held that the Grievant had been victimised for bringing the issue of theft to the knowledge of the respondent. Similarly in **Banking Insurance & Finance Union (K) versus Nawiri Sacco Society Ltd, Cause No. 29 of 2014 (Nakuru)**, the Court ordered a restatement of the Grievant noting the circumstances of his termination.

24. The Respondent on their part submitted that the Grievant summary dismissal arose after the Respondent carried out a surprise check at ATM number 198 and discovered a shortage of Kshs.576, 000.00 of which he was a custodian. Investigations conducted revealed that the Grievant facilitated the potential loss of Kshs.636, 000.00. The Grievant knew of the loss on 12th November 2012 but reported on 11th December 2012 contrary to laid down procedures that he had been trained about way in advance. This was contrary to the collective agreement and the policy guidelines at his disposal. Upon

investigations, the Grievant was suspended, issued with show cause and his case heard in the presence of a union official. At the hearing it was established that the Grievant held a combination and password to the ATMs while Jacob held the key and the two had to work together. The Grievant could not tell when the money went missing but admitted that Jacob confessed to him that he had taken the money. There was no explanation on the long-time taken to do a report of the missing cash and based on laid down procedures for such lapse, the Grievant was held as having conspired with the co-custodian for the loss of Kshs.636,000.00.

25. The Respondent also submitted that upon dismissal, the Grievant did not file an appeal and all his terminal dues were paid in full. He was found negligent and Respondent lost Kshs.576, 000.00 and the total difference of kshs.636, 000.00 could not be explained. The dismissal was lawful and the Respondent has proved this is not a case of unfair dismissal as under section 47(5) of the Employment Act. The Respondent conducted investigations prior to the dismissal where the Grievant was found culpable. The Grievant failed to use the ATM user manual thus fundamentally failing to comply with laid down procedures.

26. On the remedy sought, the Respondent submitted that this cannot be granted as the Grievant contravened laid down procedures of the Respondent and exposed the bank to losses. The relief for compensation for pecuniary loss lacks merit and should be dismissed. The Respondent relied on **Noel George Khaemba versus Wanandege Housing Co-operative Society Ltd [2013] eKLR**.

Determination

Whether the summary dismissal was fair or not;

Whether the remedies sought can be granted.

27. The question of whether this is a case of unfair termination or wrongful dismissal is set out under the provisions of section 47 of the Employment Act thus at paragraph (5);

(5) For any complaint of unfair termination of employment or wrongful dismissal the burden of proving that an unfair termination of employment or wrongful dismissal has occurred shall rest on the employee, while the burden of justifying the grounds for the termination of employment or wrongful dismissal shall rest on the employer.

28. On the one part the law sets out the incidence of burden of prove placed on each party and particularly where an employee claims he was summarily dismissed, the burden in on him to prove such. Other part the employer takes the burden or ensuring that the employee is notified and heard before a decision of dismissal is taken, what is now accepted in labour relations as procedural fairness outlined under section 41 of the Employment Act. This duty that procedural fairness has been complied with is placed upon the employer in law and for fair labour relations under Article 41 of the Constitution.

29. Beyond the requirement for procedural fairness, the subject dismissal must find basis in the reasons for the same as laid out under sections 43 and 45 of the Employment Act. The employer must give reasons for the dismissal and apart from taking up such duty to given reasons; the law further requires that such reasons must be valid and fair. The burden is then on the employer to demonstrate that it acted in accordance with the tenets of justice and equity in each case of dismissal. This then forms the basis of the Court assessing the substantive fairness accorded to the employee.

30. In this case, the Grievant testified that on 11th December 2012 he noted missing cash from ATM number 198, he asked the co-custodian as he had noticed suspicious behaviour and when he failed to address the situation, he proceeded and reported to the operations manager who called Jacob [the co-custodial] to her officer where they held discussions but asked the Grievant to proceed to his duty station. The report was not addressed and while making reconciliations at close of business, the operations manager had made alternations to the reporting sheet so as to cover Jacob. Jacob then admitted to having taken some cash from the 1000/- lot that he was loading to the ATM number 198 and promised to pay

back and it was agreed with the operations manager that this was to be done on 13th December 2012 as the next day was a public holiday.

31. This far, the grievant, as a co-custodian reported the shortage of Kshs.576, 000.00 on his own motion and this was not discovered from a surprise check as the Respondent alleged. Where such surprise check was done, it was upon the grievants report. On the basis of the report made to a supervisor, the operations manager, the matter was thus escalated by the Grievant from himself and his discovery to the next level of authority. How the supervisor handled the case upon the report, the Grievant remained the witness to the loss.

It is not lost to the Court that the evidence of the Grievant with regard to measures taken by the operations manager and the co-custodian Jacob on how the shortage was recovered is not challenged by the respondent. On 13th December 2012, Jacob deposited kshs.45, 000.00 and on or before 17th December 2012, both his relatives and the operations manager paid up the remaining balance.

32. I take notice that the Respondent is a banking institution. As such, there are daily cash returns, reconciliations and so often, audits. The easiest thing to confirm the transactions spanning from 12th November 2012 when the Grievant is alleged to have noted shortages in the ATM transactions until the 17th December 2012 when the shortages were addressed is to produce these financial records particular the audit reports. For the Respondent to state that they were exposed to loss and cannot trust the Grievant is neither here nor there. Upon submission by the Grievant that he reported the shortage to his supervisor on 11th December 2012 and no action was taken on his report until 13th December 2012 so as to facilitate Jacob to make deposits, then the burden of proving that indeed shortage was running from 12 November 2012 up and until the surprise check on 13th December 2012 shifted to the respondent. The records, reports and the financial audits are in the custody and possession of the Respondent and not the grievant. The duty and burden of prove placed on the Grievant under section 47 having been addressed through his evidence, the Respondent thus was left with the duty to controvert the same by demonstrating that indeed they had a valid and just cause for the action taken against the grievant. Nothing would have demonstrated this better than the financial records for the subject period. There is absolutely no reason as to why Ms Nancy Kirorei and Jacob kalama were never called in evidence or in the alternative the audit report covering the subject period, November and December 2012 were never produced.

33. On the summary dismissal, in his evidence, the revenant testified that he was suspended on 21st December 2012 on the reasons that, ‘...*Suspension from duty – ATM No.198 cash shortage of Kshs.531,000.00*’ that due to the shortage of Kshs.531,000.00 investigations were to be conducted. On 31st December 2012 a further communication on *Disciplinary Inquiry – embezzlement of kshs.636,000.00 from ATM No.198 of Mariakani Branch* was sent to the Grievant on the grounds that;

1. *Between 23rd November 2012 and 13th December 2012, you failed to account for kshs.636, 000.00 which had been entrusted on you by the bank and which you noted that it was missing from ATM No 198 after being taken to your co-custodian for personal use without authority. You also concealed the cash difference on 11th December 2012 by indicating on the ATM reconciliation form that the ATM had a difference of Kshs.7,000.00 whereas the actual difference was Kshs.636,000.00 contrary to the provisions of the operations manual*
2. ...

34. This then became the show cause letter issued to the grievant. While the suspension letter indicated that there was a shortage of kshs.531, 000.00, the show cause letter introduced a new aspect of Kshs.636, 000.00. In the response given by the Grievant dated 4th January 2013, he notes the following;

He discovered a difference of Kshs.576, 000.00 on 11th December 2012 at close of business;

He reported to the operations manager who confirmed this difference and also called the other co-custodian Jacob;

On 13th December 2012 the difference was confirmed to be kshs.576, 000.00 by the operations manager; and

The co-custodian committed to repay the money which he did on 17th December 2012.

35. Had these details been carefully analysed, the Respondent should have noted the huge differences in the figures indicated in the letter of suspension, the letter of show cause and the responses given by the grievant. This goes back to the finance and audit reports of the respondent. This should have clarified the position.

36. The requirement for procedural fairness in a serious case as the Grievant faced is that an employer should give the employee what charges the employer is contemplating using to dismiss the employee. This has the legal basis on the right to be informed of ones charges to be able to give ones defence. Once this right is established, the employee should be given time to prepare his defence and be heard in his defence and in a case of summary dismissal like the Grievant was faced with, there is an obligation on the employer to hear and consider the defences given by the employee before making the decision of the sanction to grant that of summary dismissal.

37. The provisions of section 41 of the Employment Act are not mechanical. The provisions therein relate to an employer giving an employee a fair and honest chance to be heard in his defence. The law envision a scenario where an employee who is faced with allegations of misconduct, poor performance or incapacity being given a fair chance to state his case before a panel that is constituted by the employer but such an employee must be accompanied by a union represented and or a fellow colleague of his choice. The law is framed very carefully here;

41. (1) Subject to section 42 (1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation.

38. To break it down further, the above section with regard to representation has two parts;

First, *the employee shall be entitled to have another employee* of his choice present during the hearing of his case and when making his explanation as to his actions; OR

Second, *the employee shall be entitled to have a shop floor union representative* of his choice during the hearing.

39. The operative words here being the *choice* of the *representative* to be present. It is upon the employee, as the right-holder to make the *choice* of his *representative* to be present during *his* hearing at a disciplinary committee. The *choice* made cannot be negated by the employer where for expediency; an employer opts to make the choice for and on behalf of the subject employee. To do so is to engage in conflict of interest as the right-holder retains the right to make his choices at all time during the hearing of his case. So fundamental is such a right to choose one's representative that once interfere red with, the resulting outcome of any deliberations, decisions or judgement made in the presence of the employer's choice of who to represent the employee is subject to challenge. It does not matter that the only available shop floor union representative is away or the one present is known to the employee, the *right to choose* as to who to be present is held by the right-holder – the employee.

40. In this case therefore, looking at the facts the Court is left with no doubt that the entire process of suspending, show cause and hearing of the grievants case was a sham. It cannot be that the employee who reported a malpractice is the one who ended up losing his job through summary dismissal. The procedures put in place by the Respondent should have had checks and balances so as to detect any anomaly had the shortage of cash commenced on 22nd November 2012. The Respondent allegations that the report of the

shortage was on 12th November 2012 has no basis; the report so made is not indicated as having been written or oral. Where it was written, this is not attached to the defence or made available to the court. Where this was done orally, it is not noted as to who this was reported to. I find the allegation that the branch manager corroborated the report information far-fetched. In any event, there is no evidence as to what the Respondent did upon such report by the Claimant as of 12th November 2012. What the Respondent did with such serious matters regarding fraud is only left to imagination.

41. The loan application form by the Claimant was received by the Respondent on 12th November 2012 and was disbursed on 23rd November 2012. I find no evidence to link the shortage that the Grievant reported on 11th December 2012 to his loan application and the repayments made by Jacob. Such link is far-fetched. Where the Grievant admitted taking the money, no such evidence has been submitted.

42. The resultant effect of the analysis above is that this is a case of procedural unfairness boldly so and also the reasons for the summary dismissal lacks justification thus being substantively unfair. Neither can find basis under the provisions of section 45 and 47 of the Employment Act. This is further compounded by the violations to section 41 of the Employment Act. This ended up being a wrongful dismissal.

43. To thus claim a refund of Kshs.636, 000.00 from the grievant, on the face of the procedural lapses in his case is going too far from the issue. The amount of Kshs.636, 000.00 has no evidence as to how it was arrived at nor does it have the justification in law or fact. Equally to claim that the Grievant exposed the Respondent to loss is not demonstrated at all. What is evident is that, in his efforts to protect the respondent, the Grievant got victimised. This cannot be sanctioned by this Court by confirming the counter-claim and it is hereby dismissed.

Remedies.

44. The Claimant was emphatic in the claim, evidence and in submissions that they claim for reinstatement and payment of compensation for pecuniary loss to the grievant. On the finding of the Court that there was substantive and procedural unfairness, I find no reason why the grievants should not be reinstated back to his position with the respondent. In making this order, I have in context the provisions of section 49 (4) of the Employment Act, the conduct of the Respondent in addressing the case at hand, and more fundamentally the fact that the Claimant reported the dispute to the Minister immediately and when advised to resolve the same, the Respondent was adamant and stuck to their position not mindful of the potential damage caused to the Grievant in his tender age and growth in career in the sector. There is no prior report of misconduct on the grievant's record and I take note that the Respondent is a national entity with wings spread throughout the country where they can deploy the Grievant in any of their branches.

In conclusion therefore, the counter-claim herein is dismissed and judgement entered for the Claimant against the Respondent for;

- a. **A declaration that the dismissal of the Grievant was unfair and is hereby set aside;**
- b. **The grievant, Samuel Chege Njoroge is reinstated to his former position as Graduate Clerk/ATM Custodian without any loss of his employment benefits or seniority in service;**
- c. **The Grievant shall be paid by the Respondent all salaries and allowances dues from 21st January 2013 to this day, the 19th of May 2010;**
- d. **The amounts payable under (c) above be paid on or before the 31st May 2015;**
- e. **The grievant, Samuel Chege Njoroge to report to the Respondent Managing Director/Chief Executive Officer on 2nd June 2015 for deployment in any branch other than Mariakani Branch;**
- f. **The Grievant shall remain in the employ of the respondent, the past record with regard to this case now removed unless otherwise lawfully removed any other cause;**
- g. **The Respondent shall pay costs herein to the claimant.**

Delivered in open Court , dated and signed in Nairobi on this 19th day of May 2015.

M. MBARU

JUDGE

In the presence of

Lilian Njenga: Court Assistant

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