



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

OF KENYA AT NYERI

CAUSE NO. 8 OF 2015

RUTH KWAMBOKA

MACHORA.....CLAIMANT

-VERSUS-

**ARCHDIOCESE OF NYERI TRUSTEES REGISTERED CONSOLATA MATHARI
HOSPITAL.....RESPONDENT**

(Before Hon. Justice Byram Ongaya on Friday 8th May, 2015)

JUDGMENT

The Claimant Ruth Kwamboka Machora filed the statement of claim on 23.01.2015 through Gori, Ombongi & Company Advocates. The claimant served the statement of claim and the summons upon the respondent. The respondent entered appearance on 04.03.2015 through D. Mutahi & Associate Advocates but did not file a response to the statement of claim.

The suit was fixed for hearing on 07.05.2015 and despite service of the hearing notice within the time ordered by the court, the respondent and the respondent's advocate did not attend the court for the hearing. The court ordered the hearing to proceed exparte and the claimant testified to support her claim.

The claimant's prayer against the respondent is for judgment for:

- a) Gratuity amounting to Kshs.82,898.80.**
- b) Costs of the suit.**
- c) Interest on (a) and)b) above.**

The only issue for determination in this suit is whether the claimant is entitled to the prayers made in the statement of claim.

The claimant testified that she was employed by the respondent as a clinical officer on renewable 2 year contract. One of the fixed 2 year contracts ran from January 2008 to January 2010. Clause 4(e) of the contract provided thus "Gratuity will be paid by the employer at 15% of the employee's basic salary per month at the end of the contract." It was the claimant's case that she was not paid the agreed gratuity for the said 2 years.

The claimant's advocates wrote a demand notice on 22.9.2014 but the respondent did not reply.

The respondent has not opposed the claimant's claim and prayers and the court finds that the claimant has established her claim. She is entitled to the remedies as prayed for.

In conclusion, judgment is entered for the claimant against the respondent for:

(a) The respondent to pay the claimant Kshs.82,898.80 being gratuity by 1.06.2015 in default interest at court rates to be payable thereon from 4.01.2012 till full and final payment.

(b) The respondent to pay the claimant's costs of the suit.

Signed, dated and delivered in court at **Nyeri** this **Friday, 8th May, 2015**.

BYRAM ONGAYA

JUDGE