



REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT AT MOMBASA

CAUSE NUMBER 242 OF 2014

**BETWEEN**

KENYA UNION OF DOMESTIC, HOTELS, EDUCATIONAL  
INSTITUTIONS AND HOSPITAL WORKERS ..... CLAIMANT

**VERSUS**

PWANI UNIVERSITY..... RESPONDENT

*Rika J*

*Court Assistant: Benjamin Kombe*

*Mr. Alex Thuita, Industrial Relations Officer, for the Claimant*

*Mrs. Mwangi Advocate instructed by Lawrence Mungai & Company Advocates for the Respondent*

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ISSUE IN DISPUTE: DISMISSAL OF A SHOP STEWARD ON THE GROUND OF INVOLVEMENT  
IN A STRIKE

**AWARD**

[Rule 27 [1] [a] of the Industrial Court [Procedure] Rules 2010]

1. The Claimant Union represents Non- Teaching Staff in a variety of Educational Institutions, among them, the Pwani University which is based at the Coastal Resort City of Mombasa Kenya. On 17<sup>th</sup> March 2014, the Unionisable Employees of the Respondent were involved in a strike action, called by the Claimant Union, to press the Respondent to provide financial statement on the allocation and payment of salaries and house rent allowances, granted under the Parties' Collective Bargaining Agreement for the period 2010/2012.

2. The strike ended on 19<sup>th</sup> March 2014, after the Parties struck a return-to-work deal. Mr. Sheth Oluoch Ochanda, working as a Water Technician and Plumber for the Respondent, and who served as the Shop Steward, was suspended and subsequently dismissed after the strike. The Claimant states its Shop Steward was victimized for participating in the strike. The Respondent disputes this, holding that its decision against the Shop Steward was based on the Shop Steward's involvement in acts of gross misconduct during the strike. This is the genesis of the dispute.

3. In the Statement of Claim filed on 27<sup>th</sup> May 2014, the Claimant alleges the Respondent victimized the Grievant Shop Steward by unfairly dismissing him; and acted in contempt of the return-to-work deal. The Claimant seeks the following orders:-

- a) The Respondent to reinstate the Grievant unconditionally without loss of benefits and privileges; in the alternative;
- b) The Respondent to pay to the Grievant the full terminal benefits and maximum compensation the equivalent of 12 months' salary;
- c) The Respondent be compelled to respect the return-to- work deal, and desist from victimization of the Claimant's Members; and
- d) Any other suitable reliefs together with costs.

4. The Respondent filed its Statement of Response on 19<sup>th</sup> June 2014. It is agreed the Grievant was employed by the Respondent on 22<sup>nd</sup> July 2010 as a Water Technician / Plumber. The Respondent terminated the Grievant's services with effect from 15<sup>th</sup> April 2014. Its decision was valid and fair. The Grievant was, after a disciplinary hearing, found guilty of impeding access to a vital University Installation. Termination was based on the CBA between the Parties, the Employment Act 2007 and was valid and fairly carried out. The Respondent prays for dismissal of the Claim with costs.

5. The Grievant testified on 20<sup>th</sup> November 2014 and 17<sup>th</sup> December 2014 when he closed his case. The Respondent called 4 Witnesses: Mr. Sheth Odhiambo Otieno, a Plumber working for the Respondent; Mr. Peter Karanja, Head of Water and Sanitation at the Institution; Mr. Patrick Safari, Head of Security; and Ms. Betty Saleri, the Human Resources Officer. All of them gave evidence on 17<sup>th</sup> December 2014 when the hearing closed. Parties confirmed the filing of their Closing Submissions at the last mention in Court on the 19<sup>th</sup> March 2015.

6. Mr. Ochanda testified the Staff received a Strike Notice from their Union General Secretary, dated 27<sup>th</sup> February 2014. The strike was scheduled to commence on the 17<sup>th</sup> March 2014. The Grievant was the Shop Steward. His role was to articulate the policies of the Claimant.

7. The Grievant woke up early on the 17<sup>th</sup> March 2014. He gathered the Union Members, prayed and joined Members of the other Union UASU [representing teaching staff], who had started their own strike earlier, in chanting and demanding the Employer addresses their grievance. The grievance was about money released to the University, which remained unpaid to the Staff.

8. Mr. Ochanda did not have any tools belonging to the Respondent, during the strike. He did not keep custody of the Respondent's keys during the strike. He did not sign anywhere that he had taken the keys. On 18<sup>th</sup> March 2014, he was summoned by the Head of his Section Mr. Karanja, and asked why he had not opened the water pump. He answered he could not open because of the strike, and had not in any event, carried the keys. Karanja then ordered Ochanda's colleague, Mr. Odhiambo to open the pump.

9. The Grievant received information that Karanja had reported to the Authorities that the Grievant had destroyed the pump. The Grievant called Karanja, who denied having knowledge of such information. There were reports that the University had closed indefinitely. However, on 19<sup>th</sup> March 2014, the Parties reached a return-to –work deal. Clause 6 of the deal, attached to the Statement of Claim, states no Employee would be victimized for participating in the strike.

10. Ochanda advised Members to resume duties. They did so. All, including the Grievant, resumed duty on 20<sup>th</sup> March 2014.

11. The Grievant was immediately issued with the suspension letter dated 20<sup>th</sup> March 2014- annexure 4

of the Claim. The CBA required the letter to be copied to the Branch Secretary; it was not. Ochanda was the only official of the Claimant placed on suspension.

12. He was called to a disciplinary hearing on the 15<sup>th</sup> April 2014. He notified his Union's Branch Secretary Mr. Osere. Mr. Osere was not allowed to attend the disciplinary hearing. There were 4 charges against the Grievant. He denied all of them, and was heard. He was asked to go out and wait for the verdict. No one called him for the verdict.

13. The Vice- Chancellor approached the Grievant and told the Grievant the allegations made against the Grievant were groundless. The Vice-Chancellor advised Ochanda to appeal in an apologetic manner, and all would be okay. The Grievant did not take that advice, because he felt he had done no wrong.

14. The decision was not formally communicated to the Grievant. Trade Union representatives were not in the meeting when the decision was made. Branch representative Mr. Osere was excused when the decision was made. The Grievant received the letter of termination dated 16<sup>th</sup> April 2014. The letter reached him on 22<sup>nd</sup> April 2014. He was found guilty of impeding access to a vital University Installation. He appealed the decision.

15. The Grievant got the impression that his case was predetermined. Everybody was on strike. The Grievant was discriminated against. The return-to- work agreement on non-victimization was violated. He presented his Statement of Claim seeking redress. He was called for the hearing of the Appeal, after he served the Court Summons. He felt the Appeal had been overtaken by events and did not pursue the Appeal. The Grievant prays for reinstatement. He prays for terminal dues, compensation and costs in the alternative.

16. Questioned by the Advocate for the Respondent, Ochanda testified about 200 Members participated in the strike. He was the only one suspended. He was discriminatively treated, because he led the strike. He was accused of impeding access to a vital installation.

17. It is not true that he withheld the keys to the pump, because he was on strike. His duty was to maintain water lines and supply. He had the keys between 12<sup>th</sup> and 15<sup>th</sup> April 2014. He did not recollect when he returned the keys. Section Head Karanja asked the Grievant to open the pump. He did not ask the Grievant to hand over the keys.

18. The Grievant felt Karanja was testing whether the Grievant was ready to work. The keys were normally stored in a box. They would not directly be handed over from one Employee to the other. On 16<sup>th</sup> April 2014, the Grievant did not have the keys. Odhiambo had them. Odhiambo opened the pump. The Grievant was issued the notice to appear before the disciplinary panel. He was heard. He was not accompanied by a Trade Union representative or Co-employee of his choice. He was not availed the Investigation Report. The charges were specified in the notice. The Grievant gave evidence as did Karanja, at the hearing.

19. He did not mention in his pleadings, that the Vice- Chancellor advised him the allegations were baseless, and that the Grievant should apologize on appeal to be let free. The Grievant was asked at the hearing, if he had threatened staff through mobile phone short text messages during the strike. He denied that he threatened any Employee. He however conceded he sent messages to his Members, but would not recall the contents of the messages. Ochanda clarified on redirection that the charges relating to threatening of Members were dropped at the hearing, and are not relevant in the proceedings herein.

20. Mr. Sheth Odhiambo Otieno told the Court the Grievant was his colleague in the same water department at the University. Odhiambo was on duty on 18<sup>th</sup> March 2014. He went to the reception to get the keys, so as to enable him switch on the pump. The Guard at the reception looked for the keys; she could not trace them. She said the Grievant had picked the keys on 17<sup>th</sup> March 2014 in the evening, and did not return them.

21. Employees were not allowed to go home with the keys. They would return the keys to the reception at the end of the day; they would pick the keys at 7.00 a.m. on the following day. The Grievant took both keys for the pump at 7.00 p.m. on the 17<sup>th</sup> March 2014. Odhiambo asked the Grievant to hand the keys over to him, in the morning of 18<sup>th</sup> March 2014, at 8.00 a.m. Ochanda replied, “*today, even those offices should not open.*” He refused to hand over the keys.

22. Odhiambo received a call from Karanja, informing Odhiambo there was water shortage in the Kitchen. The Grievant was asked to hand over the keys by Karanja; he declined to hand over the keys to both Odhiambo and Karanja. Odhiambo did not know what action was taken against the Grievant

23. Odhiambo told the Court on cross-examination that he is a Member of the Claimant Union, and was also on strike on the 18<sup>th</sup> March 2014. Strike, means the Employee downs all his working tools. Odhiambo took supply of water as an essential service. He therefore went in the morning of 18<sup>th</sup> March 2014, to ensure water was supplied. Odhiambo was of the view water shortage would have given rise to another strike- by the Students. The Guard would note down when an Employee took the keys. There was no document in Court showing the Grievant took the keys. Odhiambo emphasized on redirection that it was not the intention of the Strikers to deny the University an essential service through the strike action.

24. Karanja stated he was called by the University Kitchen on 18<sup>th</sup> March 2014, and told water supply was low. He was the Grievant’s Supervisor. He called Odhiambo, the duty Technician. Odhiambo told Karanja the keys were in the custody of the Grievant, who had refused to hand them over to Odhiambo. Karanja approached the Grievant. The Grievant persisted in his refusal. He said he was on strike.

25. There was no dispute if that the Grievant had the keys. He had taken the 2 keys from the Guards at the reception on the day preceding the strike. Karanja and his team were compelled to use a stick to switch on the pump; the attempt failed. It was noticed by Karanja and his team that the earth-wire to the pump was loose. Other wires were hanging loose. They had been cut. Karanja reported this to the Deputy Vice-Chancellor. The Deputy Vice- Chancellor called the Grievant. The Grievant did not take his call. Mr. Safari of the Security Section was called. He did not have spare keys. Security advised the padlock to the pump house be broken. This was done, electricians called in, repaired the pump and restored water supply.

26. Karanja confirmed he too was a Member of the Union. Employees were on strike. 3 Unions- KUSU, UASU and KUDHEIHA- were involved in the action. KUSU and UASU had advised their Members not to interfere with essential services. The Grievant did not dispute custody of the keys. Investigations were carried out. Karanja attended the disciplinary hearing. He did not know if the Report was produced at the hearing. Pictures of the damaged wires were taken. The Witness was not able to say if these were presented before the Court. There was a CCTV camera in the reception area, but not in the pump house.

27. Safari oversaw security of installations, and security and safety of Students and Staff. He interacted with the Grievant for more than 1 year. Safari is a Member of KUSU. On 18<sup>th</sup> March 2014, Members were on strike. KUSU advised Members not to interfere with essential services. There was a shortage of water. Karanja suggested to Safari there was something wrong with the water pump. Safari learnt the Grievant had refused to release the keys to the pump. The padlock had to be broken. Electrical wires had been damaged. Electricians were called in to repair the pump and water supply was restored. Safari was present when this was done. He interviewed other Witnesses such as Karanja, Odhiambo and Oluoch. The damage to the pump was done to sabotage the University. Students were becoming restive due to water shortage. Safari handed over the matter to the Deputy Vice- Chancellor.

28. Safari did not visit the reception to confirm who had the keys, he testified on cross-examination. He did not ask the Grievant to record a Statement. Karanja confirmed the Grievant had the keys. There was no register recording the movement of the keys. The matter was not reported to the Police; it was referred to the disciplinary committee.

29. Saleri testified the Grievant impeded access to the water pump. He was suspended. He was informed

about the suspension in the office of the Deputy Vice-Chancellor. The Union Branch Chairman and Secretary were present. Ochanda was invited to a disciplinary hearing. He attended in the company of Branch Secretary Mr. Osere. The Vice-Chancellor, the Council Member, Deputy Vice-Chancellor, Chairman and Secretary KUDHEIHA Branch were in attendance. The panel was constituted as per the CBA. The Grievant was taken through all the charges. Committee deliberated. The Grievant was found guilty of impeding access to the pump house. He was granted a fair hearing. The decision was communicated to him, and he was advised of his right to appeal. He appealed on 23<sup>rd</sup> April 2014. The Respondent constituted the Appeals Board. The Grievant instead withdrew the Appeal and came to Court.

30. Saleri confirmed on cross-examination that the Grievant did not have any warnings before termination. His conduct and performance were good, save that his probationary period had been extended. The CBA required the letter of suspension to be copied to the Branch Secretary. This was not done. Mr. Osere was excused from the disciplinary hearing. He left voluntarily. Ochanda was a Shop Steward. He was not given the Investigation Report. Claimant's Officials were asked to walk out during the decision making. They could not be part of the decision making. The Grievant agreed he had the keys on 18<sup>th</sup> March 2014. Saleri testified on redirection that the Union Officials role was to defend their Member; they were not to be part of the decision-making. The Grievant never denied he had the keys. The Respondent prays for the dismissal of the Claim

*The Court Finds:-*

31. Should a Shop Steward engaged in leading a strike, be subjected to disciplinary proceedings and sanctions, as a consequence of taking part, or leading that strike? This is the fundamental question arising from this Claim.

32. The basic facts are that the Grievant was employed by the Respondent University as a Water Technician. The Grievant was responsible for maintenance of the water facilities and ensuring the constant supply of the water to the Institution. He worked under the Head of Department Peter Karanja. Among his departmental colleagues was Sheth Odhiambo Otieno.

33. It is not in dispute that the Grievant was serving as the Shop Steward, the voice of the Claimant Union at the shop floor level, articulating and implementing the policies and programmes of the Claimant Union at Pwani University. There was a strike at the University. There is no question about the legality of the strike; it was a protected strike within the meaning of Section 76 of the Labour Relations Act No 14 of 2007, involving 3 Trade Unions with a presence at the Pwani University, among them KUSU, UASU and the Claimant Union KUDHEIHA. The Grievant subscribed to KUDHEIHA.

34. International Labour Organization Convention 135, concerning the Protection and Facilities to be afforded to Workers Representatives in Undertakings, requires Workers Representatives, shall enjoy effective protection against any act prejudicial to them, including dismissals, based on their activities as Workers' Representatives, in so far as they act in conformity with the existing laws or collective agreements.

35. Article 41 [2] [c] of our Constitution grants all Persons the right to participate in the activities and programmes of their Trade Union. Article 41 [2] [d] grants the right of every Person to strike.

36. Under Section 76 of the Labour Relations Act, every Person has the right to participate in a protected strike. Section 76 [3] provides that an Employee shall not be dismissed for taking part in a protected strike. Section 46 [f] of the Employment Act 2007 states that participation in a lawful strike, is not a fair reason for dismissal or the imposition of a disciplinary penalty.

37. The right to strike, however, is not an unlimited right. ILO Convention 135 requires the activities of the Workers Representatives, to enjoy the special protection of the law, must be in conformity with the existing laws or collective agreements. This limitation is replicated under Section 79 of the Labour Relations Act. An Employee engaged in an unlawful activity, even during a protected strike, does not enjoy the protection of the law. They are subject to disciplinary proceedings and sanctions.

38. The law recognizes that Shop Stewards have special rights. Their role is to assist Employees at the shop floor level in grievance and disciplinary hearings. Section 41 of the Employment Act 2007, requires for instance, that an Employee is accompanied by a shop floor Trade Union Representative to a disciplinary hearing. Shop Stewards as seen above are the eyes, ears and mouths of the Trade Union. They monitor and report any of the Employer's contraventions of the law to the appropriate authorities. They are allowed to have time off with full pay during working hours, in discharging their role as Workers' Representatives.

39. Employers must therefore not victimize the Shop Stewards for discharging their mandates. In dismissing a Shop Steward, most laws and labour agreements require the Employer consults the Trade Union, to avoid industrial unrest that may arise from such dismissals.

40. In the South African case ***EPPWAWU & Others v. Metrofile [Pty] Ltd [2002] ZACC 30; [2004] 2 BLLR 103 [LAC]***, the Court examined the purpose of the strike action, and the conduct of Employees during the strike, concluding that:-

*“The purpose of a protected strike is to enable Employees engage in a form of power play with the Employer, with a view to influencing the Employer into offering better conditions of employment. What this entails in practice, is that Employees are entitled to withdraw their labour, and also engage in pickets in furtherance of their strike action. What is clear however, is that the right to strike is not a license to engage in misconduct.”*

Employees, and this includes the dual role-playing Shop Stewards, must therefore restrict themselves to legitimate activities. Employers on the other hand, and Courts for that matter, must only tolerate legitimate activities. Employers retain the right to take disciplinary action and mete out appropriate disciplinary sanctions against deviant Employee behaviour on display during the strike action.

41. The evidence by the Respondent against the Grievant was this: the Grievant took custody of the pump house keys on the night of 17<sup>th</sup> March 2014, the day preceding the strike action. He did not take the keys to open the Pump House. He took them to cripple the water supply by denying other Technicians who were willing to render limited labour to their Employer during the strike. He refused with the keys, even when asked by Karanja and Odhiambo to surrender the keys. The Respondent was compelled to break into the Pump House. The electrical cabling had been deliberately damaged, damage Karanja attributed to the Grievant. The evidence of fellow Technician Mr. Odhiambo and the Head of Department Mr. Karanja was that their respective Trade Unions had instructed them not to interfere with essential services during the strike. Odhiambo and Karanja though on strike, were ready to open the water pump, to ensure Students and the Varsity Community, remained supplied with the commodity during the strike. Odhiambo was graphic in his evidence, stating the strikers were not to deny the Varsity Community water during the strike. *“We had to quench our thirst after the strike,”* testified Odhiambo.

42. The Grievant's position was that he did not have the keys. He had them on 12<sup>th</sup> March 2014 and 15<sup>th</sup> March 2014. He could not remember, when cross-examined, when he returned the keys. He did not take the keys on 17<sup>th</sup> March 2014 as alleged by the Respondent. There was no register recording the movement of the keys.

43. Weighing the evidence of the Grievant against that of the Respondents' Witnesses, the Court is convinced and finds that the Grievant took the keys into his custody on the night of 17<sup>th</sup> March 2014. He was not forthright in his evidence, not even on the time after 15<sup>th</sup> March 2014, when he returned the keys. He took the keys on 17<sup>th</sup> March 2014, ostensibly because in his view, a strike means one downs his working tools, including the keys to a vital installation. Rather than down the keys however, the Grievant picked the keys from the reception on the evening of 17<sup>th</sup> March 2014, and retained them during the strike. In the period when he had the keys, the pump was cannibalized, with electric cables disconnected and damaged to disable water supply.

44. The Grievant engaged in unlawful conduct during the strike, unbecoming of a Trade Union Shop

Steward, and unacceptable even of an ordinary Employee. He placed himself outside the legal protection available to Shop Stewards against adverse actions taken by Employers during strike.

45. Taking the keys away and retaining them, denied the Employer access to the water pump. Refusing to hand over the keys when requested to do so, amounted to insubordination. Participating in the damaging of the water pump was a criminal activity, and an employment offence. Both insubordination and involvement in criminal activity against the Employer or the Employer's property are offences under Section 44 [4] of the Employment Act, for which the Respondent would be entitled to take the summary dismissal decision, regardless of the Grievant's status as a Shop Steward.

46. The Employer, in dealing with Shop Stewards, is required to consider if the alleged misconduct is committed by the Shop Steward as an Employee, or is ancillary to the duties of a Shop Steward. This consideration stems from the dual nature at the workplace, of Shop Stewards.

47. The Court is satisfied the Respondent gave thought to this dualism. The Grievant was charged with 4 counts of gross misconduct. Among the allegations was that he called and threatened certain of his Members, if they took certain courses of action inconsistent with the intention of the Union in calling the strike. The SMS messages to Members may, in the view of the Court, have fallen within the collective mandate of the Shop Steward. It is not unusual for Members of a Trade, particularly the feint-hearted, to need some dose of cajoling from their Union Leaders, to participate fully in the strike. This therefore, was an activity ancillary to the duties of a Shop Steward over which, the Grievant was correctly acquitted.

48. Removal of the keys from the reception on 17<sup>th</sup> March 2014; retaining the keys when asked to hand them over to Odhiambo; refusing to open the pump house when asked to do so by Superiors; and participating in, or permitting, the damaging of the electrical wires in the pump house, were activities which amounted to gross misconduct and criminal offences. These activities were not ancillary to the Grievant's duties as a Shop Steward. The activities were not legitimate, and consistent with the ethos of a protected strike.

49. The Respondent had valid and fair ground, to summarily dismiss the Grievant. There was no victimization on the ground of Trade Union activities. The return-to-work deal was not disregarded by the Respondent. It was not, from the reading of the Court, a deal meant to absolve Employees who went beyond the bounds of legitimate trade unionism, embracing activities criminal in nature during the strike, from disciplinary proceedings and sanctions. Termination was valid under Section 43 and 45 of the Employment Act 2007.

50. Was the procedure fair? The Grievant was suspended on 20<sup>th</sup> March 2014. He was given 4 reasons for the suspension decision. He faults the suspension letter arguing that it was not copied to the Branch Secretary, in accordance with clause 8 [c] of the CBA. The letter was copied to the Branch Chairman. This is a minor procedural lapse, which was not shown by the Claimant Union, to have prejudiced the Grievant.

51. The other complaint relates to the Investigation Report. The Grievant testified he was not supplied with this. The position was not disputed by the Respondent. This was a significant flaw in the procedure. An Employee is entitled to have all documents relevant to his defence before and during the disciplinary hearing. The Investigation Report is central to the conduct of the defence. The Respondent accepts there was a Report pursuant to its investigation of the Grievant's conduct. No reason is given why it was not necessary to pass the Report on to the Grievant.

52. The Grievant was given specific charges in advance of the hearing; was notified of the hearing date; and his Trade Union Representatives were made aware of both suspension and hearing. The Branch Secretary attended the hearing in conformity with Section 41 of the Employment Act 2007. It was not necessary that the Branch Officials be present during the decision-making deliberations. Trade Union Officials do not attend disciplinary proceedings as part of the decision makers; they are there to defend their Member. Once the hearing is finished, they must, unless there is a provision in the Parties' collective agreement to the contrary, leave the room and leave the decision - making to the disciplinary panel. The

protest by the Claimant that its Officials were left out in decision making has no validity.

53. The Respondent advised the Grievant of his right of appeal, which the Grievant exercised through the letter dated 23<sup>rd</sup> April 2014. Before the Appeal could be heard, the Claimant presented this Claim to Court on 27<sup>th</sup> May 2014. The Court thought Parties should have exhausted this mechanism before coming to Court, and suspended hearing on 20<sup>th</sup> November 2014, remitting the matter to the Appeals Board of the Pwani University for hearing of the Appeal. The Respondent reported back to the Court on 17<sup>th</sup> December 2014 that it required more time to constitute the Board, as most Members were away for the yuletide break. The Claimant took the view that the Court Action was initiated under certificate of urgency, and was therefore not ready to have the matter further suspended to allow the hearing of the Appeal. Mr. Thuita applied, and the Court allowed the application, for the hearing to go on in Court, with the Appeal before the Appeals Board, deemed to have been withdrawn.

54. The Respondent discharged its responsibility in so far as the Grievant's opportunity to be heard on appeal was concerned. The Claimant opted not to exhaust the Appeal. In the view of the Court, except for the procedural infractions pointed out under paragraphs 50 and 51 of this Award, the Grievant was granted a fair hearing in accordance with the Employment Act and the CBA.

**55. *In redressing the procedural flaws shown above, the Court grants the Grievant 2 months' gross salary in compensation for unfair termination, under Section 49 of the Employment Act 2007 and Section 12 of the Industrial Court Act. The prayer for reinstatement is wholly un-deserved, as are the peripheral prayers listed on the Statement of Claim.***

IT IS ORDERED:-

***[a] Termination of the Grievant's contract of employment was based on fair and valid ground, but flawed on procedure;***

***[b] The Respondent shall, within 30 days of the reading of this Award, pay to the Grievant 2 months' gross salary in compensation for unfair termination; and***

***[c] Other prayers are rejected.***

Dated and delivered at Mombasa this 16<sup>th</sup> day of June 2015

James Rika

Judge