



**REPUBLIC OF KENYA**  
**EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA**

**AT NAIROBI**

**CAUSE NO. 867 OF 2011**

**(Before Hon. Justice Hellen S. Wasilwa on 20<sup>th</sup> August, 2015)**

**ANNA AWINJA..... CLAIMANT**

**VERSUS**

**RASHID ALI.....1<sup>ST</sup> RESPONDENT**

**ZAHRA RASHID.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. The application before court has been filed by the Claimant Applicant herein and is dated 1/7/2013 where the Applicant seeks order for review of this court's judgment delivered on 20/11/2012. The Applicant has averred that she seeks review of the court's judgment on the grounds that in the judgment awarded by court, the court failed to award her overtime pay and also failed to order her to be paid compensation for 12 months for wrongful termination and also an award for issuance of a Certificate of Service.
2. The Respondents opposed this application. They submitted that the application is devoid of merit and does not state under which rule it is brought. The Respondents also aver that there is no discovery of new evidence nor error on record. They submitted that the application is asking court to sit on its own judgment and that the only option is an appeal.
3. I have considered the averments of both parties. Rule 32 of the Industrial Court Procedure Rules 2010 states as follows:
  1. ***A person who is aggrieved by a decree or an order of the Court may apply for a review of the award, judgment or ruling:-***
    - a. ***if there is a discovery of new an important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made; or***
    - b. ***on account of some mistake or error apparent on the face of the record, or***
    - c. ***on account of the award, judgment or ruling being in breach of any written law; or***

d. *if the award, the judgment or ruling requires clarification; or*

e. *for any other sufficient reasons.*

4. It is apparent that review can be given in the above circumstances. In this case however therefore the Applicant has not established any of the above grounds to warrant review.

5. The Applicant's remedy is only in realm of an appeal and this court cannot sit on appeal on its own judgment. I find the application has no merit and I dismiss it accordingly with no order as to costs.

Read in open Court this 20<sup>th</sup> day of August, 2015

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Claimant in person

Mbugua holding brief for Rimui for Respondents