



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 986 OF 2012

AYUB AMAYI.....CLAIMANT

VERSUS

RIMCO COMMUNICATIONS.....RESPONDENT

JUDGMENT

1. By amended memorandum of claim filed on 27th March, 2014 the claimant averred that he was employed by the respondent at a salary of Kshs.5,000 per month and worked until January, 2009 when his services were terminated. He further averred that between 2005 and 2009 the respondent unlawfully withheld his salary.
2. The claimant therefore sought an order of the Court directed to the respondent to pay him Kshs.249,280 comprising of one month's salary in lieu of notice, salary arrears, leave pay and service among others.
3. The respondent in a brief statement of defence filed on 16th July, 2012 denied being indebted to the claimant and further that the claimant had similar cause pending before the Court being **L64 of 2011 Commissioner of Labour v. Rimco Communications Ltd.** The respondent further pleaded that it failed to attract business and informed the claimant that he was unable to remain in employment between the year 2004 and 2009.
4. On 16th July, 2015 when the matter came up for hearing only the claimant appeared and after persuading myself that service was proper, I proceed to hear the claim ex-parte.
5. The claimant stated he was employed by the respondent in 2004 as a guard and worked for two years. Later he was taken up as a fundi for CCTV. His starting salary was Kshs.5,000 but later improved to Kshs.10,000/=. In 2009 he worked for 3 months up to March. In April, he was informed that the respondent had a construction project and there were cashflow problems. He and his colleagues were never paid thereafter. The matter was reported to the Labour Office and the respondent appeared through a Mr. Mukulomba who promised to pay their dues within two weeks but this never happened. It was his evidence that he was never issued with any payslip nor was he aware if he was registered for NSSF.
6. The letter of appointment attached to the claim confirms the claimant was the respondent's employee initially at a salary of Kshs.5,000 which was improved to Kshs.10,000/=.

7. Although, the claimant claims unfair termination of services, his own evidence admits that the respondent was facing cashflow problems and they were unable to continue working. This matter proceeded ex parte hence the Court did not have the benefit of cross-examination of the claimant as well as listen to the respondent's evidence.

8. The Court will therefore award the claimant the prayers sought in the memorandum of claim since they are more or less consistent with awards made in cases of redundancy.

9. The Court therefore awards the claimant Kshs.143,530/= as prayed.

10. It is so ordered.

Dated at Nairobi this 30th day of October 2015

Abuodha J. N.

Judge

Delivered this 30th day of October 2015

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge