



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI

CAUSE NO.73 OF 2015

EDWARD MWANGI MUHIAH.....CLAIMANT

VERSUS

BOARD OF MANAGEMENT, KIAIRATHE SECONDARY SCHOOL.....RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday, 11th December, 2015)

JUDGMENT

The claimant filed the memorandum of claim on 05.05.2015 through Kirubi, Mwangi Ben & Company Advocates. The claimant prayed for judgment against the respondent for:

- a) Payment of Kshs. 397, 295.00 for terminal benefits being service pay of Kshs. 360, 000.00 for 18 years of service at monthly pay of Kshs. 20, 000.00, refund of travel and subsistence Kshs. 14, 500.00, and one month's special terminal leave Kshs. 22, 795.00.
- b) Interest from 31.03.2014 at court rates till full payment.
- c) Costs and interest of the suit.
- d) Any other or better relief the honourable court may deem fit to grant.

The respondent filed the memorandum of response on 24.06.2015 through F.O. Makori, Litigation Counsel, for the Attorney General. The respondent prayed for dismissal of the memorandum of claim with costs.

The parties agreed that the suit be determined on the basis of the pleadings, the documents on record and the written submissions.

The only issue for determination is whether the claimant is entitled to the prayers as pleaded.

It is not disputed that the claimant was employed 15.02.1996 and left employment on 31.03.2014. The court finds that he served for 18 complete years. As the salary adjustment has not been established to have approved the claimant's monthly pay to Kshs.20, 000.00 as pleaded in the memorandum of claim, the court finds that the correct last monthly pay was Kshs. 15, 897.00 making **Kshs. 286, 146.00** the correct service pay for 18 years and as was computed by the school in the letter dated 31.03.2015. The basis for one month special terminal leave has not been established and the prayer will fail. Similarly the basis for the claim of 2012 travel and subsistence services has not been established and the same will fail.

In conclusion judgment is entered for the parties for:

- a) The respondent to pay the claimant Kshs. 286, 146.00 for service pay.
- b) Kshs. 86, 146.00 will be paid by 01.02.2016 and thereafter the respondent to pay Kshs. 50, 000.00 by 15th day of every term effective 2nd term 2016 till full payment and in default of any one payment interest at court rates to be payable on all outstanding amount till full payment.
- c) Each party to bear own costs of the suit.

Signed, dated and delivered in court at **Nyeri** this **Friday, 11th December, 2015.**

BYRAM ONGAYA

JUDGE