

REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT OF KENYA AT NAKURU

CAUSE NO. 282 OF 2013

**KENYA NATIONAL PRIVATE SECURITY WORKERS
UNION..... CLAIMANT**

-VERSUS-

WELLS FARGO LIMITED.....RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday 28th February, 2014)

JUDGMENT

The claimant filed the memorandum of claim on 27.08.2013 on behalf of its member Athanus Mwinamo Khalili (the grievant). The claimant prayed for orders:

- 1. That the grievant be reinstated to his former employment and be paid his salaries for the period he has been out of employment.**
- 2. The costs of the suit.**

The respondent filed the memorandum of response on 23.10.2013.

The case was heard on 18.02.2014 when the grievant gave evidence to support his case. The respondent's witness was Stephen Kang'ethe, the respondent's Human Resource Manager.

The facts of this case are clear-cut.

The grievant was employed by the respondent on 15.01.2009 as a chase car driver and deployed to the respondent's Eldoret branch. The grievant in his testimony admitted that he was liable in causing motor vehicle traffic accidents on 11.01.2012 and 9.05.2012. The evidence shows that the claimant was accorded due process through the disciplinary committee and subsequently dismissed from employment on account of his admitted liability of occasioning the last of the accidents.

The court has considered the pleadings, evidence and the submissions. The court finds that the reason for termination was genuine and the claimant was terminated upon his own admission of poor performance. In view of the persistent and admitted poor performance, the court finds that the claimant is not entitled to the order of reinstatement as prayed for.

In conclusion, the claimant's suit is dismissed with costs.

Signed, dated and delivered in court at Nakuru this Friday, 28th February, 2014.

BYRAM ONGAYA

JUDGE