



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT AT NAIROBI**  
**CAUSE NUMBER 213 OF 2014**

**BETWEEN**

**MATHS TRADING COMPANY LIMITED.....CLAIMANT**

**VERSUS**

**CATHERINE MWIHAKI NGAMBI.....RESPONDENT**

**RULING**

The Employee Catherine Mwihaki Ngambi Filed a Claim on 19<sup>th</sup> December 2013, in which she seeks against the Respondent Employer for orders:-

- (a) That a permanent injunction restraining the Respondent from terminating the Claimant's employment based on the facts giving rise to this cause be issued.
- (b) Letter calling the claimant to disciplinary hearing be declared null and void.

The Statement of Claim was accompanied by an application seeking the same orders as in the Claim, on an interim basis.

The application came before the Court on 19<sup>th</sup> December 2013. The Court gave procedural directions on service and filing of the Replying Affidavit/Grounds of Opposition, and fixed the matter for 27<sup>th</sup> December 2013 before Justice Maureen Onyango.

On 27<sup>th</sup> December 2013, the Employee's Advocate prayed for an interim order, which was to prevent termination of the Employee's contract of employment, pending the hearing and determination of the Claim.

Mr. Ombanjo for the Employer told the Court that the Employer was served with the Court Order, so no disciplinary meeting took place. He sought 21 days to file a Replying Affidavit.

*The Court made the following Orders:-*

1. Employer granted leave to File the Replying Affidavit on or before 21<sup>st</sup> January 2014.
2. The Application be heard in Court 5 on 28<sup>th</sup> January 2014 *inter partes*.
3. Current *Status Quo* to obtain until the 28<sup>th</sup> January 2014.

When the Parties came on 28<sup>th</sup> January 2014, Mr. Ojijo for the Employer confirmed that a disciplinary process had taken place after 27<sup>th</sup> December 2013, and the Claimant's contract terminated.

The Court found this was in defiance of the Orders of *Status Quo* of 27<sup>th</sup> December 2013. The Court was clear on 27<sup>th</sup> December 2013 parties were to retain current *Status Quo*. Mr. Ombajo had submitted no disciplinary process had taken place after initial orders issued, and there can be no justification in misunderstanding of the orders of 27<sup>th</sup> December 2013.

The Court ordered the Employer to reinstate the Claimant until 4<sup>th</sup> March 2014. Instead, the Employer filed an application for Review of the Reinstatement Order.

The application has been canvassed today by Mr. Ombajo for the Employer, and Mr. Mukele for the Employee.

*Upon perusal of the record the Court finds and Orders:-*

- (a) The application for review has no merit and is declined;***
- (b) The employer is directed to comply with the Orders previously issued by this Court;***
- (c) Parties to proceed with the other hearing on 4<sup>th</sup> March 2014 as scheduled.***

Lastly, parties are advised to endeavor and fix the main claim for hearing on a priority basis. This Court does not ordinarily interfere with disciplinary processes at the Employment place, but all parties must defer to the Orders of the Court.

Dated and delivered at Nairobi this 25<sup>th</sup> day of February 2014

James Rika

Judge