



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA AT NAKURU

CAUSE NO. 189 OF 2013

[Formerly Cause No. 795 of 2012 at Nairobi]

PETER DEMBWA SUMBULIKA.....1ST CLAIMANT

SILAS BOR KIBET.....2ND CLAIMANT

-VERSUS-

CANKEN INTERNATIONAL.....RESPONDENT

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

JUDGMENT

The claimants filed their respective memorandum of claims on 10.05.2012. The first claimant prayed for judgment against the respondent for:

- a. **Pay in lieu of notice Kshs.8,234.00.**
- b. **Underpayment of wages Kshs.6,468.00.**
- c. **Service pay Kshs.19,000.00.**
- d. **12 months compensation for unlawful termination Kshs.98,808.00.**
- e. **Total claim being Kshs.155,122.00.**

The second claimant prayed for judgment against the respondent for:

- a. **Pay in lieu of notice Kshs.8,234.00.**
- b. **Underpayment of wages Kshs.6,468.00.**
- c. **Service pay of Kshs.14,251.00.**
- d. **Accrued leave days for 3 years Kshs.16,959.00.**
- e. **12 months salary compensation for unlawful termination Kshs.98,808.00.**
- f. **Total claim Kshs.144,720.00.**

The respondent appointed Mengich & Company Advocates who filed the notice of appointment on

17.07.2012. On 27.09.2013, the respondent filed the notice of change of advocates and appointed Magut Kirigo & Sang Advocates to act in place of their initially appointed Advocates. Despite service, the respondent did not file a memorandum of response. The case was fixed for hearing on 24.03.2014. The advocate for the respondent was in court on 17.12.2013 when the case was fixed for hearing but the advocate or the respondent did not attend court on the hearing date. The 1st claimant took the option that the case be determined on the basis of the pleadings and documents on record.

The court has considered the pleadings and the documents on record. In absence of a defence by the respondent, the court finds that the claimants have established their respective cases on a balance of probability and they are entitled as prayed for.

In conclusion, judgment is entered for the claimants against the respondent for:

- a. The respondent to pay the 1st claimant **Kshs.155,122.00** and the 2nd claimant **Kshs.144,720.00** by 1.05.2013 and in default, interest to run from the date of judgment till full payment.
- b. The respondent to pay the claimants' costs of the case fixed at **Kshs.50,000.00** by 1.05.2013 and in default, interest to run from the date of judgment till full payment.

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

BYRAM ONGAYA

JUDGE