

REPUBLIC OF KENYA

Industrial Court of Kenya

Cause 2124 of 2011

NAAMAN INIUCLAIMANT

Versus

TRUSTEES OF THE AGRICULTURAL SOCIETY OF KENYARESPONDENT

JUDGMENT

1. The Claimant has been paid all his dues. The only Claim the Court has seen that lies is the one relating to his termination. The Court finds that on the basis of the principle in the reported case of **Imenje v. Kenya National Co Ltd [1986] KLR 350** there is no basis for the retroactive dismissal. The months between 1st March 2007 and October 2007 are months during which the Claimant was entitled to pay. The terms of his contract did not offer him any provision for termination by way of retroactive application. If this was allowed he could as well have stated that he was backdating, say, a resignation to a date in 2007 during his suspension or before. That is untenable. His pay per month before taxes was Kshs. 94,999/- per his payslip exhibited. He is entitled to the sums below:-

1. Kshs. 759,992/- less the statutory deductions
 2. Costs
 3. Interest on the sum in 1) above from date of filing till payment in full.
2. The full judgment will be delivered on 8th May 2013 at 2.30 pm.

It is so ordered.

Dated and delivered at Nairobi this **29th** day of **April** 2013

Hon. Mr. Justice Nzioki wa Makau
Judge