



REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT OF KENYA AT NAKURU

CAUSE NO. 82 OF 2013

JARED M. MAKORI.....CLAIMANT

VERSUS

VALLEY BAKERS LIMITED.....RESPONDENT

JUDGMENT

The Claimant **Jared M. Makori** filed the memorandum of claim on 12.04.2013 through Ms B. W. Mathenge & Company Advocates. He prayed for judgment against the respondent for:

- (a) Payment of terminal benefits of Kshs.143,652/= as computed by the Labour Officer as per paragraph 9 in the statement of claim.**
- (b) The Court to make further orders as may deem fit to meet ends of justice.**
- (c) The respondent to pay costs of the claim.**

The respondent **Valley Bakers Limited** filed the reply to the statement of claim on 06.05.2013 through Sheth & Wathigo Advocates. The respondent prayed that the claim be dismissed with costs.

The case was heard today 30.07.2013. The Claimant gave evidence to support his case. The respondent's witness was its Human Resource Manager, Nancy Barongo. The respondent's evidence is that the Labour Officer's computation would be correct if only the Claimant was a salesman at the time of redundancy. The respondent's case is that the computation marked **App.3** of Kshs.40,039/= was based on the Claimant's position at redundancy time being that of a turnman.

The Claimant has testified that he was a salesman at redundancy time and he is entitled to the computation as per the Labour Officer's calculations. He has also admitted receiving Kshs.40,039/=.

I have considered evidence on record. The respondent's case is that the Claimant was an acting salesman between 1.11.2004 to 31.1.2005 as per letter of 18.11.2004. Hence, at termination on account of redundancy on 31.03.2011, he had reverted back as a turnman as he was never confirmed as a salesman.

However, **App.4** being the letter dated 19.11.2011 on the memorandum of reply shows that the Respondent received the Claimant's acknowledgement of outstanding distributorship balance as on 30th April, 2011 being Kshs.13,269/=. The Claimant signed as a salesman and the respondent acknowledged that position in computing the redundancy dues by deducting the Kshs.13,269/=.

Accordingly, to answer the question whether the Claimant was a salesman or turnman at redundancy time, the court finds that he was a salesman and he is entitled to final dues as computed by the Labour Officer less the Kshs.40,039/= received.

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

(a) The Claimant to be paid by the respondent Kshs.107,611/= by 1.9.2013 in default interest to be payable at court rates till full payment.

(b) The Claimant to be paid by the Respondent costs of the suit.

Signed, dated and delivered in court at **Nakuru** on **30th day of July, 2013** at 3.40 p.m. in presence of Mr. Kobe Advocate for the Respondent and Mr. Kariuki Advocate for Claimant.

BYRAM ONGAYA

JUDGE