



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT AT NAIROBI**

**Cause Number 705 Of 2011**

**BETWEEN**

**Zachariah Sambay.....**

..... **CLAIMANT**

**VERSUS**

**Narok University College.....**

.....**RESPONDENT**

***Rika J***

***CC. Leah Muthaka***

***Mr. Keya instructed by Wambua Kigamwa and Company Advocates for the Claimant***

***Mr. Lutta instructed by Lutta & Company Advocates for the Respondent***

**RULING**

Award in favour of the Claimant, was delivered in Court on 3<sup>rd</sup> May 2013. The Respondent was ordered to pay to the Claimant Kshs.577,752, in compensation, within 30 days of 3<sup>rd</sup> May 2013.

At the close of the 30 days, the Respondent filed an Application for Stay of Execution pending Appeal at the Court of Appeal. The Application is dated 3<sup>rd</sup> June 2013. The Notice of Appeal was filed on 16<sup>th</sup> May 2013.

The Application is supported by the Affidavit of Alfred Nyabochwa, Legal Officer, sworn on 3<sup>rd</sup> June 2013.

The Application is opposed. The Respondent filed Grounds of Opposition dated 11<sup>th</sup> June 2013. The Application was heard on 21<sup>st</sup> June 2013.

***The Court Finds and Orders:-***

1. The Award made in favour of the Claimant is for compensation, in the sum of Kshs.577,752, arising from a termination of employment which the Court declared to be unfair.
2. The principle that outweighs all other principles in considering an Application to Stay for Execution of a monetary Award of this nature, is that the Court must not deny or delay the Employees the enjoyment of their compensation.
3. The Applicant must show that there exists special circumstances to merit such delay or denial of execution. In this case, the Respondent has not demonstrated recondite legal grounds for appeal. It has not been shown that by paying Zacharia Sambay Kshs.577,752, the subject matter and the right of appeal will be defeated, and the Judgment of the Court of Appeal would be incapable of restoring Parties to the Status Quo.

*IT IS HEREBY ORDERED:-*

- (a) The Application for stay of Execution dated 3<sup>rd</sup> May 2013 is rejected.*
- (b) Interim Stay is vacated and the Claimant placed at liberty to execute the Award.*
- (c) No order on the costs.*

**Dated and delivered at Nairobi this 12<sup>th</sup> day of July 2013**

**James Rika**

**Judge**