



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Nguli & another v Manpower Networks Limited (Cause 1641 of 2017)
[2025] KEELRC 185 (KLR) (31 January 2025) (Judgment)**

Neutral citation: [2025] KEELRC 185 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1641 OF 2017
J RIKA, J
JANUARY 31, 2025**

BETWEEN

PATRICK NGULI 1ST CLAIMANT

JACOB YULU 2ND CLAIMANT

AND

MANPOWER NETWORKS LIMITED RESPONDENT

JUDGMENT

1. The Claimants filed their Statement of Claim, on 23rd August 2019.
2. The 1st Claimant states that, he was employed by the Respondent as a Loader on 1st October 2011, and the 2nd Claimant employed by the Respondent in the same position, on 7th September 2011.
3. They later became General Workers.
4. It was indicated at the beginning, that the Claimants were employed on 1-year contracts. They continued to work after the expiry of their contracts, until 28th June 2017, when they were informed by the Respondent that there was no more work for them.
5. They handed over all tools of work in their possession to the Respondent, cleared, but were not paid their terminal dues.
6. The 1st Claimant earned Kshs. 15,550 monthly, the 2nd Kshs. 16,500.
7. They pray for: -
 - 1st Claimant.
 - a. Severance pay at 15 days' salary for 5 ½ complete years of service at Kshs. 46,500.
 - b. Notice at Kshs. 15,550.



- c. Salary for June 2017 at Kshs. 15,550.
 - d. Off-duty days [66 months] at Kshs. 157,384.
 - e. 12 months' salary in compensation for unfair termination at Kshs. 198,000.
- Total... Kshs. 432,884.
- 2nd Claimant.
- a. Severance pay at 15 days' salary for 5 ½ complete years of service at Kshs. 49,500.
 - b. Notice at Kshs. 16,500.
 - c. Off-duty days [66 months] at Kshs. 167,538.
 - d. 12 months' salary in compensation for unfair termination at Kshs. 186,000.
- Total...Kshs. 409,416.
8. They amended the Statement of Claim on 4th October 2017, introducing prayers for house allowance in arrears, over a period of 66 months, at Kshs. 153,450 and Kshs. 163, 350 respectively. The total amounts payable, were revised to Kshs. 572,766 and 586,334 respectively.
 9. The Respondent filed its Statement of Response dated 2nd October 2017. It is the position of the Respondent that the Claimants were offered their terminal dues. They declined payment. They were summarily dismissed. They did not leave employment on redundancy. The Respondent prays for dismissal of the Claim with costs, and unnecessarily, prays the Court to restrain the Claimants from demanding terminal dues. The Statement of Response was amended on 17th October 2017, to reflect the amended figures claimed in the Claimant's amendments.
 10. The 2nd Claimant's case was struck on 21st November 2023, on the basis that he had been paid Kshs. 20,000 by the Respondent, and compromised his Claim, without the knowledge of his Advocate.
 11. The 1st Claimant gave evidence, and closed his case, on 21st November 2023. The Respondent's Operations Manager, James Tsuma, gave evidence on 4th April 2024, closing the hearing. The Claim was last mentioned before the Court on 5th November 2024.
 12. The 1st Claimant adopted his witness statement and documents [1-5], as his evidence-in-chief. He told the Court that he is a resident of Matuu, Machakos County. He is unemployed. He was asked by the Respondent to return his tools of work. There was no more work. He was not paid his terminal dues. On 4th April 2019 however, during the pendency of the Claim, he was called by one Lucy from the Respondent's Human Resource Office, and paid Kshs. 21,000. He did not, unlike his colleague, withdraw his Claim.
 13. Cross-examined, he told the Court that the Respondent had a commercial contract with Bamburi Limited. The Claimant used to load cement. He was paid Kshs. 8.00 per tonne of cement. Payment was varied. His salary as shown in the pay slips was varied. There is no pay slip showing the sum of Kshs. 15,550. He cleared in the year 2017, not 2012. He was paid Kshs. 21,000. He signed a form, indicating payment was final dues. His house had been locked for non-payment of rent. He had no option but to receive payment, and discharge the Respondent. He agreed it was full and final payment. He stated that he had no further claims against the Respondent whatsoever.
 14. Redirected, he told the Court that he signed discharge while the Claim was already in Court. He did not withdraw the Claim. Both Parties were aware that the Claim was pending before the Court.



15. The issues are whether the 1st Claimant's contract was unfairly terminated by the Respondent; whether he discharged the Respondent from further claims; and whether he is entitled to the remedies sought.

The Court Finds: -

16. The 1st Claimant was employed by the Respondent as Loader, and later as a General Worker. He worked for about 5 ½ years.
17. He concedes that he received Kshs. 21,000 from the Respondent, while the Claim was pending before the Court. He signed discharge, acknowledging that the payment was in full and final settlement.
18. He is represented by an Advocate, and ought to have consulted his Advocate, before he accepted payment of Kshs. 21,000 in full and final settlement, and before he executed discharge.
19. It is futile for him to submit that the Claim was still pending, when he executed discharge. The effect was that he compromised his Claim, by executing discharge. It is irrelevant that his house was locked, compelling him to accept what was offered. There is no evidence that his house was locked or that it being locked, had anything to do with execution discharge. He, in any event, should have consulted his Advocate, and would perhaps have received what was paid, on a without-prejudice basis. Having received Kshs. 21,000 as full and final payment behind his Advocate, and having discharged the Respondent, he prejudiced his Claim.
20. He ought to have been candid enough, and honoured his contractual obligations under the discharge, and withdrawn his Claim, as his colleague did.
21. The Court upholds the discharge executed between the 1st Claimant and the Respondent, and finds that this Claim has been settled. It would be a strain on judicial economy, for the Court to look into the first issue-whether termination was unfair.

It is Ordered: -

- a. The Claim shall be marked as settled, the 1st Claimant having received Kshs. 21,000 from the Respondent.
- b. No order on the costs.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 31ST DAY OF JANUARY 2025.

JAMES RIKA

JUDGE

