

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT AT NAIROBI
PETITION NO OF 2020

IN THE MATTER OF ARTICLE 19(1) and (2) OF THE CONSTITUTION
AND
IN THE MATTER OF ARTICLE 20(1) AND (2) OF THE CONSTITUTION
AND
IN THE MATTER OF ARTICLE 22(1) OF THE CONSTITUTION
AND
IN THE MATTER OF ARTICLE 25(a) OF THE CONSTITUTION
AND
IN THE MATTER OF ARTICLE 28 OF THE CONSTITUTIO
AND
IN THE MATTER OF ARTICLE 29(d) AND (f) OF THE CONSTITUTION
AND
IN THE MATTER OF ARTICLE 36 (1) OF THE CONSTITUTION
AND
IN THE MATTER OF ARTICLE 41(1) (2) a, b & c AND (5) OF THE
CONSTITUTION
AND
IN THE MATTER OF SECTIONS 40, 35(5), AND 45 OF THE EMPLOYMENT ACT
AND
IN THE MATTER OF SECTION 54 (1) OF THE LABOUR RELATIONS ACT, NO.14
OF 2007
AND IN THE MATTER OF UNFAIR, UNLAWFUL TERMINATION OF
EMPLOYEES OF MEDIAMAX NETWORK LIMITED.

KENYA UNION OF JOURNALISTS.....PETITIONER
VERSUS

MEDIAMAX NETWORK LIMITED.....RESPONDENT

KEN BOSIRE
JOAB MWAURA
CAROLINE MWANGI
CALEB RATEMO
ALBERT AMONYOLE
VICTOR OLOO
SHACKRI WACHA
DENNIS NYAMU
JAMES KARIUKI
NGETICH NEVOLLE
CHEROTICH TERER
ELIZABETH W.NJOROGE
CAROLINE NJENGA



..... INTERESTED PARTIES

NOTICE OF MOTION

*(Under Rule 17 of the Employment and Labour Relations Court Procedure Rules, Article 35(1)
(b) of the Constitution and all the enabling provisions of the law*

TAKE NOTICE that this Honourable Court will be moved on theday of2020 at 9.00 O'clock in the forenoon or so soon thereafter so as Counsel for the Claimant/ Applicant may be heard on an Application for orders:

1. That the application is certified urgent and interim orders granted ex parte in the first instance.
2. That pending hearing and determination of the Petition filed herewith this the Respondent be and is hereby ordered to immediately release to the Interested Parties salary arrears for the months of April, May and plus one months pay in lieu of termination Notice.
3. That in alternative to prayer 2, above, the Respondent be and is hereby ordered to furnish this Honourable Court with evidence of payment of the salaries for the months of April, May, June and one months pay in lieu of termination notice.
4. That the Respondent be and is hereby directed to furnish the Court and the Respondents Breakdown of the computation of purported redundancy package in respect of all the Interested Parties and all the employees terminated on 21st June 2020.
5. That the Respondent is directed to furnish the Honourable Court and the Petitioner with its Human Resource Policy/Manual and/or any other document that sets out the Respondents employment policies .
6. That the Respondent be and is hereby compelled to release to the Petitioner all the correspondences relating to the termination of the Interested Parties.
7. The costs of this application be provided for.
8. Any other and such orders as this Honourable Court may deem fit.

WHICH APPLICATION is based on the affidavit of **Erick Oduor**, annexed herewith, the grounds stated hereunder and other grounds to be adduced at the hearing hereof.

1. That on 21st June 2020, in a show of unbridled impunity and contempt to the fundamental human rights of its employees, the Respondent vide a text message sent out in the middle of the night, summarily terminated the Interested Parties Employment, in a process that was unfair, unlawful and outrightly inhumane.

2. That while terminating the Interested Parties contracts, the Respondent continued to withhold their salaries and all the lawful termination dues, which dues remain outstanding as at the date of this suit.
3. That the Petitioners case is that in terminating the Interested Parties the Respondent acted in breach of sections 35(5), 40 and 45 of the Employment Act, and in direct violation of Article 41(1) and (2) of the Constitution.
4. That the records and documentation hereby requested are exclusively held by the Respondent. The same are required for purposes of protection of the rights of the Interested Parties hence this application is brought under Article 35 (1) (b) of the Constitution as well as under the Inherent powers of this Honourable Court.
5. That the said documents are necessary for determination of the Petition filed herewith and for the ends of justice to be met.

Dated at Nairobi this 28th Day of July 2020



ODUOR IBRAHIM

ADVOCATE FOR THE PETITIONER

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NAIROBI

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