

## VERSUS

**NATIONAL MEDICAL STORES:.....DEFENDANT**

**BEFORE: HON. JUSTICE ESTA NAMBAYO**

25 JUDGEMENT

## Background to the suit

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and to auditors for investigation. Akiliafrica, the experts who set up the Navision system for the Defendant also made a report to the Defendants. The Defendant then summoned the Plaintiffs to appear before the Disciplinary Committee and thereafter the Defendant's Board terminated the Plaintiffs' contracts, hence this suit.

40 **Legal Representation**

Learned Counsel Ojambo Robert represents the Plaintiffs, while the Defendant was first represented by the late Dr. Joseph Byamugisha and then learned Counsel Esau Isingoma.

The following issues were framed for trial: -

- 45 1. Whether termination of the Plaintiffs' contracts of employment was lawful or unlawful?
2. Remedies available to the parties

**Issue No.1: Whether termination of the Plaintiffs' contracts of employment was lawful or unlawful?**

50 I will first look at the termination of the 1<sup>st</sup> Plaintiff, Kyeyune Jonah and then look at the rest of the Plaintiffs' termination jointly due to similarity of their evidence on this issue. The 2<sup>nd</sup> Plaintiff, Jennfer Apio Luande and the 10<sup>th</sup> Plaintiff, Abdalla Mboizi did not give evidence as this court was informed that Ms. Apio Luande lost interest in this case after settling her case with the Defendant and that the 10<sup>th</sup> Plaintiff passed on in the course of

55 trial.

**1. Termination of Kyeyune Jonah.**

**Evidence**

Kyeyune Jonah informed court that he was interdicted together with other employees on allegations of double delivery of drugs and the matter was referred to police for

60 investigations. That the Police report to the Defendant cleared all staff on interdiction but unfortunately, as his colleagues were called back to work, he was sent on leave effect March, 2007 for 28 days and yet his contract was expiring in April 2007. That on the 13<sup>th</sup> April 2007, while he was still on interdiction, the Defendant renewed his contract for 6 months and again served him with two letters; one extending his leave from 28 to 50

65 days and another extending his leave indefinitely and another letter dated 6<sup>th</sup> September, 2007, inviting him to appear before the Disciplinary Committee to answer allegations of double delivery of drugs. He appeared before the Committee as was required.

That in January, 2008, Mr. Kyeyune received a letter from the Defendant accusing him of failure to execute his duties as transport and logistics officer, leading to expiry of drugs in the store and was summoned to appear again before the Disciplinary Committee. Mr. Kyeyune said that this time round, by the time he was required to appear before the Board, his job had already been given away. He appeared all the same and did not hear from the Board until December, 2008 when he received a letter informing him that the Board had resolved that he would forfeit his terminal benefits. This is when he instructed his lawyers to sue the Defendant for;

- i. failure to follow the procedure laid out in the Defendant's Human Resource Manual to renew his contract,
- ii. sending him on indefinite leave which is not provided for in their Human Resource Manual, and;
- iii. that he was invited to appear before the Board when his job had already been given out, among other injustices.

### **Submissions**

Counsel for the Plaintiffs made a joint submission for all the Plaintiffs on this issue. He submitted that the Plaintiffs' employment contracts were summarily terminated without notice and/or lawful justification and that as such, the termination was unlawful. Counsel relied on the case of ***Stanbic Bank –v-Okou R. Constant CACA No.60 of 2020***, where court held that;

*“no contract shall be terminated without notice and that if the notice period was not given then unless the employee consents to payment in lieu of notice he/she is deemed to have been summarily terminated, in which case it automatically follows that the summary termination would have to be justified.”*

Counsel explained that in this case, the Plaintiffs were accused of involvement in multiple delivery of drugs, fraud and causing financial loss to the Defendant, but that when the Plaintiffs appeared before the Board, they rebutted the allegations.

Counsel emphasized that akiliafrica, the experts who put up the Navision system of the Defendant found that the auditors did not appreciate how the system operated and as such the audit report findings were erroneous. That this finding was made clear in the akiliafrica report to the Defendant and that on the basis of this finding, the Board re-instated the Plaintiffs to their jobs.

100 Counsel also relied on the case of ***Steven Wasika and Hellen Bitature –v- National Medical Stores HCCS No. 175 of 2009***, (arising out of the facts of this case), where this court found that there was no evidence from the recipient Health Centers to substantiate the audit report findings and that it would be wrong for court to consider the report findings as gospel truth.

105 In regard to the Defendant's Human Resource Manual, tendered in court as Exhibit p1, Counsel explained that under clause 12.6.1 at page 70, it is provided that an employee convicted of a criminal offence by a court of law shall be liable to termination from service or dismissal. That in this case, none of the Plaintiffs was convicted of any offence and therefore, their dismissal was irregular and unlawful.

110 Counsel further relied on Art. 28(3) (a) of the 1995 Constitution of Uganda and submitted that in this case, the Plaintiffs have not been found guilty and as such, termination of their employment without notice and without lawful justification was in breach of contract and unlawful.

#### **Defendant's submissions**

115 In reply, Counsel for the Defendant submitted that the Plaintiffs were lawfully dismissed from employment with the Defendant. He relied on the cases of ***Ebiju James –v- UMEME Ltd, Barclays Bank of Uganda Ltd –v- Godfrey Mubiru SCCA No.1 of 1998 and Shell Ltd –v- George Ndyabawe (2006) HCB***, where court noted that summary dismissal is justified when an employee, by his conduct shows that he has  
120 fundamentally broken the conduct of service.

Counsel explained that in this case, the Plaintiffs breached their terms of service and the Defendant's Board was left with no other option but to dismiss them based on the findings of the audit report.

In regard to the 1<sup>st</sup> Plaintiff, Kyeyune Jonah, Counsel submitted that Mr. Kyeyune is  
125 not entitled to any relief from the Defendant as he was lawfully dismissed after a fair hearing. He relied on S.66 of the Employment Act, 2006 and the case of ***Ebiju James –v- UMEME Ltd (supra)*** on a fair hearing.

On the ground of summary dismissal, Counsel submitted that the Defendant's finding was that the 1<sup>st</sup> Plaintiff's summary dismissal would have been justified given the  
130 substantial evidence that was brought against him in the audit report, had his contract

not expired. Counsel relied on the evidence of DW2, Nyende David, and explained that the auditor's report indicated that the 1<sup>st</sup> plaintiff should take responsibility for partial delivery of orders.

On the ground of improper renewal of his contract, Counsel explained that the 1<sup>st</sup> Plaintiff was not entitled to renewal of his contract for 4 years. That renewal of the 1<sup>st</sup> Plaintiff's contract was upon the Defendant's discretion as the appointing authority and that there is no provision under the Defendant's Human Resource Manual that the period of the renewed contract had to be the same as the previous contract. He relied on clause 2.6.1.1 of the Defendant's Human Resource Manual where it is provided that;

*"all contract employees shall be employed on contract terms of four years' renewable after appraisal of performance and ascertaining Employer's prior work record and work related development as depicted in the competence based bi- annual Appraisals and at the discretion of the appointing authority."*

On extension of the 1<sup>st</sup> Plaintiff's annual leave for 50 working days, Counsel submitted that it was a provision in the Human Resource Manual under clause 9.2.1.7 that annual leave may be accumulated up to a maximum of two years. He also relied on clauses 9.2.1.9, 9.2.1.1 and 9.2.1.5 and submitted that the Plaintiff was given his annual leave for the running year and the previous year. Counsel emphasized that the 1<sup>st</sup> Plaintiff's contract was lawfully terminated and as such, he has no claim against the Defendant.

## **Analysis**

***Section 2 of the Employment Act, 2006 states that;***

***"termination of employment"*** means the discharge of an employee from an employment at the initiative of the employer for justifiable reasons other than misconduct, such as, expiry of contract, attainment of retirement age, etc;

*That "termination" has the meaning given by section 65;*

**Under S.65 (1),** it is provided that termination shall be deemed to take place in the following instances—

*(a) where the contract of service is ended by the employer with notice;*

*(b) where the contract of service, being a contract for a fixed term or task, ends with the expiry of the specified term or the completion of the specified task and is not*

*renewed within a period of one week from the date of expiry on the same terms or terms not less favorable to the employee;*

*(c)where the contract of service is ended by the employee with or without notice, as a consequence of unreasonable conduct on the part of the employer towards the employee; and*

*(d)where the contract of service is ended by the employee, in circumstances where the employee has received notice of termination of the contract of service from the employer, but before the expiry of the notice*

**Section 68 (1) of the Employment Act, 2006, provides that;**

*"...in any claim arising out of termination, the employer shall prove the reason or reasons for dismissal and where the employer fails to do so, the dismissal shall be deemed to have been unfair within the meaning of section 71."*

***In the case of Barclays Bank –v- Godfrey Mubiru SCCA NO. 1 of 1998, Court held that;***

*"where the service contract is governed by a written agreement between the employer and employee, termination of the employment or services would depend on the terms of the contract and the law applicable."*

In this case, clause 2.6.1 of the Defendant's Human Resource Manual provides for **Nature of Appointments** and it states under **Paragraph 2.6.1.1** that;

*"all contract employees shall be employed on contract terms of four (4) years renewable after appraisal of performance and ascertaining Employee's prior work record and work related development as depicted in the competence based bi- annual Appraisals and at the discretion of the appointing authority." (underlining is mine for emphasis).*

My understanding of the above provision is that the contract term of all contract employees must be four years. This means that where the appointing authority decides to renew the contract of an employee after considering all other factors, the contract must be renewed for four years. I don't find the argument of Counsel for the Defendant convincing that there is no provision under the Defendant's Human Resource Manual that the period of the renewed contract had to be the same as the previous contract. The standard period of contacts set in the Defendant's Human Resource Manual is 4 years.

Exhibit K5 shows that when the 1<sup>st</sup> Plaintiff's contract expired on the 15<sup>th</sup> April, 2007, it was renewed for 6 (six) months. This is also confirmed by the 1<sup>st</sup> Plaintiff in his cross examination. There is no evidence on court record to show any other extension of the 1<sup>st</sup> Plaintiff's contract after the six months came to an end. I find that the renewal period of 6 months instead of 4 years contravened clause 2. 6.1.1 of the Defendant's Human Resource Manual and S.65 (1) (b) of the Employment Act, 2006 as the 1<sup>st</sup> Plaintiff's contract of service, which was supposed to run for 4 years was fixed for a shorter term of 6 months only instead of the contract period of 4 years stipulated in the Human Resource Manual and was not renewed at all thereafter to the detriment of the 1<sup>st</sup> Plaintiff.

Therefore, I would find that the Defendant's renewal of the 1<sup>st</sup> Plaintiff's contract for 6 months instead of the 4 years provided under the Defendant's Human Resource Manual amounted to unlawful termination of the 1<sup>st</sup> plaintiff's contract.

**Termination of the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 11<sup>th</sup> Plaintiffs' contracts.**

Evidence on record shows that while the above plaintiffs had running contracts with the Defendant, they were interdicted on the 5<sup>th</sup> November, 2007 to pave way for investigations into alleged fraudulent multiple delivery of drugs.

On the 14<sup>th</sup> December, 2007, the Secretary to the Board/ Ag. General Manager communicated to the Head of Human Resource that;

*"The 72<sup>nd</sup> Full Board Meeting sitting on the 13<sup>th</sup> December, 2007 reviewed their case and resolved to lift the interdictions. Accordingly, the said staff have been reinstated on full pay, with arrears. The purpose of this memo is to advise you of this Board Resolution and advise you to implement accordingly."* **(underlining is mine for emphasis).**

On the 10<sup>th</sup> December, 2008, the Plaintiffs' contract with the Defendants were terminated without notice.

Counsel for the Plaintiffs submitted that the Plaintiffs' contracts were terminated without notice and without lawful justification and that this amounted to breach of contract. He explained that the audit report that was the basis of the Plaintiffs' contract termination was contradicted by the akiliafrica, the experts who set up the Defendants Navision warehousing system and that it was also not tested in court as the Plaintiffs were not charged.

In reply, counsel for the Defendant submitted that the Plaintiffs were rightfully summarily dismissed following receipt of the final forensic report from the auditors, Johnson and Nyende. That each Plaintiff was found guilty of offences warranting summary dismissal from employment.

### **Analysis**

Clause 12.6.1 of the Defendant's Human Resource Manual provides that an Employee convicted of a criminal offence by a court of law shall be liable to termination from service or dismissal depending on the nature and gravity of the offence and his conduct record. Clause 12.6.2 of the Human Resource Manual provides that an Employee suspected to have committed an offence of a criminal nature against NMS that may warrant instituting legal proceedings shall be interdicted.

Under clause 12.6.3, it is provided that an employee convicted of a criminal offence committed against NMS shall be dismissed.

In this case, the Plaintiffs were interdicted on suspicion of fraudulent multiple delivery of drugs, an offence of a criminal nature, against the Defendant. This was in line with Clause 12.6.2 of the Defendant's Human Resource Manual. After their interdiction they were cleared by the Board and re-instated to their respective positions as investigations into their alleged misconduct continued. The Plaintiffs were not prosecuted in any court despite Police investigations and recommendations for prosecution by the Auditors. They were summoned to appear before the Disciplinary committee which they did.

On the 10th December, 2008, the Defendant terminated the Plaintiffs' contracts without any conviction by any court as required in their Human Resource Manual. The audit report that the Defendant relied on to terminate the Plaintiffs recommended for prosecution of the Plaintiffs under the Penal Code Act, which the Defendant failed and or refused to do. In the case of ***Stanbic Bank –v- Kiyemba Mutale SCCA 2 of 2010***, court noted, among others that; 'in terminating or dismissing the employee, the employer must have reason for such a decision.'

In the Supreme Court decision of ***Hilda Musinguzi –v- Stanbic Bank (U) Ltd SCCA No. 05/2016***, Justice Mwangutsya JSC, (as he then was) held that: -

"... the right of the employer to terminate a contract cannot be fettered by the Court so long as the procedure for termination is followed to ensure that no employee's contract



*is terminated at the whims of the employer and if it were to happen the employee would be entitled to compensation...” (underlining is mine for emphasis)*

**Article 4 of the Termination of Employment Convention No. 158/1982** provides that; “*The employment of a worker should not be “terminated unless there is valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertakings, establishment or service.”*

In this case, there was no conviction against the Plaintiffs as required under Clause 12.6.1 of the Defendant’s Human Resource Manual before termination of their employment. The audit report that the Defendant depended on to terminate the Plaintiffs recommended for prosecution under the Penal Code Act which the Defendant did not do. It was wrong for the Defendant to terminate Plaintiffs’ employment based on the audit report with following the audit recommendation of prosecution under the penal code Act. The Defendant’s failure to prosecute the Plaintiffs before termination contravened clause 12.6.1 of the Human Resource Manual.

Therefore, I would find that the Defendant had no basis for terminating the Plaintiffs’ employment and as such, its termination of the Plaintiffs’ employment was unlawful.

## **Remedies**

### **Submissions for the 1<sup>st</sup> Plaintiff**

Counsel submitted that the testimony of the 1<sup>st</sup> Plaintiff in regard to his unpaid salary of Ugshs. 13,324,810/- was not disputed and as such he is entitled to the amount claimed. He relied on the case of ***Spencon Services Ltd –v-Ogwal Tom CACA No. 41 of 2004 KALR [2005] page 427 & 432***, where the court of Appeal relied on the case of ***Habre International Co. Ltd –v- Ephraim Alarakaraka Kassam and others SCCA No. 4 of 1999***, where it was held that: -

*“where the opponent has failed to avail himself of the opportunity to put his essential and material case in cross examination, it must follow that he believed that the testimony given could not be disputed at all.”*

Counsel also submitted that the 1<sup>st</sup> Plaintiff is entitled to interest on his unpaid salary. He relied on the case of ***Begumisa Financial Services Ltd –v- General Moulding Ltd & Anor [2007] KALR 118***, where it was noted that;

“An award on interest is discretionary. It seems to me that the basis of an award of interest is that the Defendant has kept the Plaintiff out of his money and the Defendant has had the use of it himself so he ought to compensate the Plaintiff accordingly.”

Counsel further submitted that in the same case of **Begumisa, (supra)**, Court noted, while relying on the case of **Mukisa Biscuit Manufacturing Co. Ltd –v- West End Distributors Ltd. (No.2)**, that;

“the principle appears clearly, I think, in judgement of this court in **Prem Lata –v- Mbuya [1965] EA 592**, that was concerning damages for personal injuries. The principle that emerges is that where a person is entitled to a liquidated amount or to specific goods and has been deprived of them through the wrongful act of another person, he should be awarded interest from the date of filing the suit”;

and that still in the **Begumisa case**, while relying on the case of **JK Patel –v- Spear Motors Ltd**, Court noted that;

“the time when the amount claimed was due is the date from which interest should be awarded. In the instant case, that date was the last time when the parties agreed on the total balance due\_\_\_\_\_”.

He explained that in this case, the 1<sup>st</sup> Plaintiff is entitled to Ugshs. 49,968,038/- as interest on his unpaid salary of Ugshs. 13,324,810 at a bank rate of 25% per annum from 2008 (almost 15 yrs ago) when this case was filed in court.

On the ground of gratuity, Counsel explained that the Defendant did not pay the 1<sup>st</sup> plaintiff 50% of his gratuity in respect of the original contract of employment amounting to Ugshs. 22,652,176/- which ended in April, 2007. He referred this court to page 40 of the Human Resource Manual and submitted that interest on gratuity per annum from 2008 (15 years since the filing of this case in court) at a bank rate of 25% would amount to Ugshs. 84,945,060/- on the 1<sup>st</sup> contract and the due gratuity being Ugshs. 22,652,176/- On gratuity for the 2<sup>nd</sup> contract, Counsel relied on Clause 13.10 at page 79 of the Defendant’s Human Resource Manual and submitted that the 1<sup>st</sup> Plaintiff is entitled to Ugshs. 6,662,400/- and Ugshs. 24,984,000/- as interest on the gratuity for the 2<sup>nd</sup> contract for the 15 years.

Counsel further submitted that the 1<sup>st</sup> plaintiff is entitled to one month’s pay in lieu of notice amounting to Ugshs. 2,664,962/-, leave pay for the period of May, 2007 to February 2008 amounting to Ugshs. 1,492,378/- leave encashment of 1,695,884, airtime allowance

of 800,000/- and balance of Christmas bonus of Ugshs. 300,000/-, severance allowance of 13,324,810/- and general damages of 30,000,000/- and aggravated damages of Ugshs. 100,000,000/-.

### **Submissions for the Defendant**

320 In reply, Counsel for the Defendant submitted that the Plaintiffs are not entitled to any of the remedies sought before this court as they were never wrongfully terminated and/or dismissed. Counsel submitted on each remedy claimed by the Plaintiffs. I will first look at his submission on special damages.

### **Special damages.**

325 Counsel submitted that the relief of special damages is not tenable in the circumstances of this case and would not be paid. He relied on the case of ***Issa Baluku –v- SBI INT Holdings (U) Ltd HCCS No. 792 of 2005*** where court held that;

“an employee whose contract of employment contains a provision of termination notice, is terminated prematurely or illegally, cannot maintain a claim to be compensated for the  
330 remainder of the years or period when he or she would have retired. Similarly, claims of holidays, leave, lunch allowances and the like which the unlawfully dismissed employee would have enjoyed had the dismissal not occurred are merely speculative and thus not claimable in law.”

On the ground of gratuity for the period worked, payment in lieu of notice and 50%  
335 balance of salary payable for the time the Plaintiffs were interdicted, Counsel submitted that the claimed reliefs are not sustainable in the circumstances.

### **Severance allowance**

Counsel relied on S. 87 of the Employment Act, 2006 which provides for severance allowance and submitted that in this case, the plaintiffs’ claim is unlawful termination and  
340 not unlawful dismissal and as such they cannot claim for severance allowance. He relied on the case of ***UDB –v- Florence Mufumba CACA No. 241 of 2015*** where court stated that;

“in the circumstances, S. 87 of the Employment Act which gives instances where severance package is due is inapplicable to a cause of action of unlawful or wrongful termination as  
345 in this case.”

## General Damages

Counsel submitted that general damages are not sustainable as there was no evidence adduced in the circumstances of this case showing inconvenience suffered by the Plaintiffs. That the Plaintiff filed this suit in court even before the Board could deliver the decision regarding the disciplinary proceedings brought against them. He relied on the case of ***Ebiju James –v- UMEME Limited (supra)*** where court noted that;

*“it follows therefore, that general damages are awarded to an employee whose employment has been unlawfully terminated, if that employee proves facts that call upon courts disapproval of the employers conduct in terminating the services of the employee.”*

Counsel submitted that in this case, the Plaintiffs have not presented any evidence to show that court disapproves the Defendant’s conduct in summarily terminating their employment.

## Aggravated damages

Counsel explained that only the 1<sup>st</sup> Plaintiff pleaded for aggravated damages. He submitted that the rest of the plaintiffs cannot be awarded what they did not plead for. He relied on the cases ***National Medical Stores –v- Rosie Naikoba CACA No. 173 of 2013*** and ***Ms. Fang Min –v- Belex Tours and Travel Limited Consolidated with Crane Bank Limited –v Belex Tours and Travel Limited*** where court stated that a party cannot be granted a relief which it has not claimed in the plaint or claim.

Counsel submitted that even if the Plaintiffs had included a claim of aggravated damages, this court should be guided by the case of ***Uganda Development Bank –v- Florence Mufumba CACA No. 241 of 2015*** where it was noted that;

*“the court may award more than nominal measure of damages by taking into account the defendant’s motives or conduct and such damages may be either aggravated damages which are compensatory in that they compensate the victim of a wrong for mental distress, or injury or feelings, in circumstances in which the injury has been caused or increased by the manner in which the defendant committed the wrong.... In Hulsbary’s laws of England fourth Edition Vol. 12 at paragraph 1114, it is written that aggravated damages in tort are where damages are ‘at large.’ In such cases, the court takes into account the Defendant’s motives, conduct and manner of committing the tort which may have injured the proper feeling of dignity and pride of the plaintiff.”*

Counsel submitted that in this case, there was no improper conduct on behalf of the Defendant. That the Defendant chose to only investigate the matter to its logical conclusion and at all times attempted to follow the law and procedure and as such, the aggravated damages claimed by the Plaintiffs are not justifiable as there is no evidence of high handed conduct by the Defendant.

### **Interest**

Counsel explained that the Plaintiffs did not plead for interest on special damages from the date of filing the suit until payment in full. That paragraph 7 (d) seeks for interest on special damages from the date of judgement until payment in full and not from the date of filing the suit.

Counsel submitted that since the Plaintiffs did not amend their pleadings, it would be erroneous for this court to award them interest as prayed for and further that the amounts prayed for in interest are excessive and should not be entertained by this court. He relied on the case of ***UDB-v- Florence Mufumbe (supra)*** where the Court of Appeal found that interest at 25% was excessive.

### **Analysis**

#### **Remedies for the 1<sup>st</sup> Plaintiff**

#### **Special Damages**

The 1<sup>st</sup> plaintiff in his evidence claimed for salary, gratuity on the 1<sup>st</sup> contract, interest on gratuity, one months' pay in lieu of notice, leave entitlement for 2007, leave encashment, severance pay, airtime allowance, balance on Christmas bonus, gratuity due to unlawful termination of the 2<sup>nd</sup> contract all amounting to Ushs. 78,107,704, General Damages of Ushs. 30,000,000/- and aggravated damages by virtue of the Defendant's conduct to him.

**Salmoud LJ stated in - *Decro - wall International SA - v -Practitioners in Marketing Ltd. [1971] 1 WLR 361* that: -**

*"If a master in breach of contract, refused to employ the servant, it is trite law that the contract will not be specifically enforced. As I hope I made plain in the Denmark Production case [1969] 1 QB 699, the only result is that the servant albeit he has been prevented from rendering services by the master's breach, cannot recover remuneration under the contract, because he has not earned it. He has not rendered the services for which remuneration is payable. His only money claim is for damages for being wrongfully prevented from earning his remuneration. And like anyone else claiming damages for*

*breach of contract, he is under a duty to take reasonable step to minimize the loss he has suffered through the breach. He must do his best to find suitable alternative employment. If he does not do so, he prejudices his claim for damages....” (underlining is for emphasis)*

415 My understanding of the above holding applied to the facts of this case would be that the 1<sup>st</sup> Plaintiff cannot claim what he would have earned and all the related entitlements like airtime and Christmas bonus which were not yet earned up to the end of the contract.

The best he can do is to claim for damages for the loss that he was made to suffer. It is my understanding, however, that the 1<sup>st</sup> Plaintiff has a right to claim for what he had  
420 already earned but was not yet paid to him by the time of the unlawful termination of his employment.

Indeed, under clause 13.10.1 of the Defendant’s Human Resource Manual, it is provided that any employee whose services have been terminated, or one who has resigned, shall without prejudice to all the provisions of Section 10, be entitled to the following terminal  
425 benefits: -

- (a) One month’s notice or cash payment in lieu of notice
- (b) Accrued salary up to the last day of duty
- (c) Cash payment in lieu of any outstanding entitlements
- (d) Gratuity accrued up to the last day of duty

#### 430 **Leave pay**

Clause 7.7.1 of the Defendants Human Resource Manual provides that an employee proceeding on approved annual leave shall be entitled to leave allowance.

Under Clause 7.7.2, the employee is paid one month’s gross salary leave allowance once in every leave year when proceeding for leave.

435 Under clause 9.2.1.1 of the Human Resource Manual, top management and middle management employees shall be entitled to twenty - five (25) working days of leave annually and other employees twenty –two (22) working days of leave.

Clause 9.2.1.5 provides for carrying forward leave and accumulating leave. Under clause 9.2.1.7, annual leave may be accumulated up to a maximum of 2 years.

440 In this case, exhibit K6 dated 18<sup>th</sup> May, 2007 in respect of ‘extension of leave’ states that the 1<sup>st</sup> Plaintiff was given leave of 50 working days and not 28 as earlier stated. This would mean that the 1<sup>st</sup> Plaintiff was a top or middle manager and had accumulated leave for

two years. His leave entitlement would therefore be his salary for two months. There is no evidence that this allowance was paid to him. Therefore, his leave allowance for the two years would be his two months' salary which amounts to Ugshs. 5,329,924/- (five million three hundred twenty-nine thousand, nine hundred twenty-four shillings only).

#### **Payment in lieu of notice**

***In the case of Bank of Uganda –v- Betty Tinkamanyire, SCCA No. 12 of 2007, Tsekooko JSC (as he then was) held that:***

*“...in my opinion where any contract of employment, like the present, stipulates that a party may terminate it by giving notice of a specified period, such contract can be terminated by giving the stipulated notice for the period, in default of such notice by the employer, the employee is entitled to receive payment in lieu of notice and where no period for notice is stipulated, compensation will be awarded for reasonable notice which should have been given depending on the nature and duration of employment...”*

There is no evidence that the Defendant gave notice to the 1<sup>st</sup> plaintiff.

Therefore, the 1<sup>st</sup> Plaintiff would be entitled to cash in lieu of notice which is equivalent to his one month's salary amounting to Ugshs. 2,664,962/- (two million six hundred sixty-four thousand nine hundred sixty-two shillings only).

Under clause 13.10.1 (b) the 1<sup>st</sup> Plaintiff is entitled to his accrued salary up to the last day of duty. The plaintiff informed court in his evidence that he was paid salary up to September, 2007 and yet the contract extension was ending in October 2007. Counsel in his submissions informed court that the 1<sup>st</sup> Plaintiff was entitled to salary up to the 5<sup>th</sup> February 2008. I have not found basis for the claim from November, 2007 up to February, 2008 when the 6<sup>th</sup> months contract was ending on 16<sup>th</sup> October, 2007. I would award the 1<sup>st</sup> Plaintiff his salary for October, 2007 amounting to Ugshs. 2,664,962/- (two million six hundred sixty-four thousand nine hundred sixty-two shillings only) which is his last day of duty under the extended 6 months' contract.

The 1<sup>st</sup> Plaintiff's cash payments in lieu of any outstanding entitlements include airtime allowance of Ugshs. 800,000/- and Christmas bonus of Ugshs. 300,000/- All these fall under paragraph (c) of Clause 13.10.1 of the Defendant's Human Resource Manual.

475 **Severance pay**

I have looked at the evidence on record and the submissions of Counsel for the parties. I have also looked at the case of **UDB –v- Florence Mufumba CACA No. 241 of 2015 at page 49** where Madrama, JA (as he then was) noted that;

480 *“S.87 of the Employment Act which gives the instances where severance package is due is inapplicable to a cause of action of unlawful or wrongful termination”*

This decision is binding on this court. I would find therefore, that the 1<sup>st</sup> Plaintiff does not qualify for severance pay.

**Gratuity**

The 1<sup>st</sup> Plaintiff’s first contract ended on the 15<sup>th</sup> April 2007. The second contract extended  
485 for 6 months ended on the 15<sup>th</sup> October, 2007. Under clause 13.10.1 (d) of the Defendant’s Human Resource Manual, the 1<sup>st</sup> Plaintiff is entitled to gratuity.

Under clause 7.5.1 of the Human Resource Manual, it is provided that all employees shall be paid a gratuity at the end of their contract at 25% of their gross pay for the period of their contracts. In this case the 1<sup>st</sup> plaintiff claimed for an outstanding balance of Ugshs.  
490 22,652,176/- of his gratuity in regard to the 1<sup>st</sup> contract. I find no reason to doubt him bearing in mind the Defendants communication in exhibit K15.

On the second contract, gross pay for the period of the contract is salary per month multiplied by the period of 6 months multiplied by 25% =  
2,664,962 X 6 X 25/100 = 3,997,443 (three million nine hundred ninety- seven thousand  
495 four hundred forty -three shillings only).

**General Damages**

Counsel for the 1<sup>st</sup> plaintiff prayed for general damages amounting to Ugshs. 30,000,000/- for inconveniences caused by breach of contract. Evidence on record shows that police cleared the 1<sup>st</sup> Plaintiff from criminal prosecution and akiliafrica, the experts who set up  
500 the Navision system informed the Defendant in their report that the auditors did not appreciate how the system operated. In my view, this should have been enough caution to restrain the Defendant from unlawfully terminating the 1<sup>st</sup> plaintiff’s contract. I agree with counsel that the 1<sup>st</sup> Plaintiff suffered inconvenience and embarrassment as a result of the improper termination. I find Ushs. 10,000,000/- reasonable as general damages.

505



### **Aggravated damages**

In *Fredrick J. K. Zaabwe –v- Orient Bank & Others, SCCA No. 4 of 2006*, court noted that;

510 “Aggravated damages are “extra compensation to a plaintiff for injury to his feelings and dignity caused by the manner in which the defendant acted.”

In *Obongo –v- Kisumu Council [1971] EA 91*, at page 96, SPRY, V.P noted, in regard to aggravated damages that;

515 “... It is well established that when damages are at large and a court is making a general award, it may take into account factors such as malice or arrogance on the part of the defendant and this injury suffered by the plaintiff, as, for example, by causing him humiliation or distress. Damages enhanced on account of such aggravation are regarded as still being essentially compensatory in nature.”

In this case, I have already pointed out that the Police and the experts who put up the  
520 Navision system cleared the 1<sup>st</sup> Plaintiff in their findings but the Defendant chose to proceed against him. They summoned the 1<sup>st</sup> Plaintiff to appear for disciplinary action after they had replaced him with another person and went ahead to deny him his terminal benefits provided for under clause 13.10.1 of the Human Resource Manual for a long time and yet they were aware that the Human Resource Manual gives him his benefits at  
525 termination of employment. It would appear the Defendant had ulterior motives to frustrate the 1<sup>st</sup> Plaintiff.

I find that the Defendant’s actions to the 1<sup>st</sup> Plaintiff were laced with malice, high handedness and arrogance which caused additional distress and injury to the 1<sup>st</sup> Plaintiff’s feelings. I find an award of Ugshs. 5,000,000/- reasonable as aggravated damages.

### 530 **Interest**

The law governing award of interest is settled under section 26(2) CPA which provides as follows;

535 “Where and in so far as a decree is for the payment of money, the court may, in the decree, order interest at such rate as the court deems reasonable to be paid on the principal sum adjudged from the date of the suit to the date of the decree, in addition to any interest adjudged to such principal sum for any period prior to the institution of the suit, with further interest at such rate as the court deems reasonable on the aggregate

*sum so adjudged from the date of the decree to the date of payment or to such earlier date as the court thinks fit ”*

540 In ***Omunyokol Akol Johnson –v- Attorney General [2012] UGSC 4***, the question of when interest rate would commence was considered and Odoki, JSC, (as he then was) stated as follows;

*‘It is well settled that the award of interest is in the discretion of the Court. The determination of the rate of interest is also in the discretion of the Court. I think it is also*  
545 *trite law that for special damages the interest is awarded from the date of the loss, and interest on general damages is to be awarded from the date of judgment. In the present case, the respondent has conceded that the trial judge erred in awarding interest on general damages from the date of dismissal. It does appear to me that the error was caused by the trial judge in lumping special damages together with general damages. The*  
550 *appellant never pleaded or prayed for such a high interest. Therefore, the trial judge should have awarded the appellant interest on general damages at the Court rate from the date of judgment. The rate of interest of 20% should have been have been awarded on special damages from the date of interdiction or dismissal till payment in full.’”*

In 2020, in the case of ***UDB –v- Florence Mufumba (supra)***, Madrama, JA (as he then  
555 was) found interest rate at 20% excessive. He gave interest rate at 18%. It is now about 4 years since that decision was made. Taking into account the lapse of time and inflation, I would award interest at 20% from 2008, the time of filing this suit, until payment in full on the total sum of the special damages amounting to Ugshs. 38,409,467/= broken down as follows: -

- 560 1. Leave allowance for 2 years at 5,329,924/- (five million three hundred twenty-nine thousand, nine hundred twenty-four shillings only)
2. Payment in lieu of notice at 2,664,962/- (two million six hundred sixty -four thousand nine hundred sixty-two shillings only)
3. Outstanding amount on gratuity at 22,652,176/- (twenty-two million six hundred  
565 fifty-two thousand one hundred seventy -six shillings only)
4. Gratuity on the second contract which lasted only 6 (six) months at 3,997,443 (three million nine hundred ninety- seven thousand four hundred forty -three shillings only)
5. Unpaid salary for the month of October, 2007 at 2,664,962/-

6. Unpaid entitlements at Uganda Shs. 800,000+300000 =1,100,000/-

Interest calculated on each item of the special damages by Counsel for the 1<sup>st</sup> Plaintiff would amount to multiple taxation of interest on a single item which is not right. Therefore, interest is awarded at 20% per annum from the date of filing this suit until payment in full on the total sum of the approved special damages of Ugshs. 38,409,467/=

On the General damages, interest is awarded at 8% per annum from the date of judgement until payment in full.

Interest on aggravated damages is awarded at 8% per annum from the date of judgement until payment in full.

#### **Remedies for the 3<sup>rd</sup> Plaintiff – Simon Peter Daka**

Counsel for the Plaintiffs submitted that the 3<sup>rd</sup> Plaintiff is entitled to unpaid salary of Ugshs. 5,282,342 interest on unpaid salary at 25% amounting to 1,320,586 per year and Ugshs. 19,808,790/- for the 15 years, Unpaid gratuity on the original contract amounting to Ugshs. 12,325,464/- and interest at a rate of 25% per annum amounting to 3,081,366 and totaling Ugshs. 46,220,490/- gratuity on the renewed contract ending 2010 for one year amounting to 10,563,000/= interest on gratuity per annum for 15 years amounting to 39,611,250/-, notice in lieu of termination amounting to 7,043,122/- interest on notice at 25% for 15 years amounting to 26,411,715, leave pay amounting to 1,027,122/- and for 15 years amounting to 15,406,830/- leave encashment of 11,871,930 interest on leave encashment at 25% per annum amounting to 2,967,983/-and 44,519,745 for the 15 years., Christmas bonus of 150,000/- interest on Christmas bonus of at 37,500 and 562,000/- for the 15 years severance pay of 19,164,960/- interest on severance pay at 4,791,240 and 71,868,600/- for the 15 years, general damages at 30,000,000/- aggravated damages at 60,000,000/-and interest on both general and aggravated damages from the date of judgement until payment in full. All together amount claimed for the 3<sup>rd</sup> Plaintiff is Ugshs. 425, 630,726/-

In reply, Counsel for the Defendant submitted that the Defendant's Board dismissed the Plaintiffs after it conducted thorough and comprehensive investigations regarding their involvement in the fraudulent multiple delivery of drugs and as such, they are not entitled to any of the reliefs claimed. Counsel made specific submissions on each claim as follows;

### **Special damages**

Counsel submitted that the reliefs claimed as leave pay, leave encashment, airtime allowance Christmas bonus and balance on gratuity are not sustainable under the law. He  
605 relied on the case of ***Issa Baluku –v- SBI INT Holdings (U) Ltd HCCS No. 792 of 2005 where Kasule, J (as he then was) noted that;***

*“an employee whose contract of employment contains a provision of termination notice, is terminated prematurely or illegally, cannot maintain a claim to be compensated for the remainder of the years or period when he or she would have retired. Similarly,  
610 claims of holidays, leave, lunch allowances and the like which the lawfully dismissed employee would have enjoyed had the dismissal not occurred, are merely speculative and thus not claimable in law.”*

### **Severance Allowance**

On this ground, Counsel relied on S. 87 of the Employment Act and the case of ***UDB –v- Florence Mufumba Civil Appeal No. 241 of 2015*** where court stated that;  
615

*“In the circumstances, S.87 of the Employment Act which gives instances where severance package is due is inapplicable to a cause of action of unlawful or wrongful termination as in this case.”*

He explained that since the plaintiffs have claimed for unlawful termination of their  
620 employment, they cannot claim for severance pay.

### **Gratuity**

Counsel submitted that the Plaintiffs cannot claim gratuity as they were summarily dismissed after the disciplinary committee hearing which found them guilty.

### **General damages**

On this ground, Counsel relied on the case of ***Ebiju James –v- UMEME Limited (supra)***  
625 where court held that;

*“it follows that general damages are awarded to an employee, whose employment has been unlawfully terminated, if that employee proves facts that call upon courts disapproval of the employers conduct in terminating the services of the employee.”*

He explained that in this case, the Plaintiffs have not led any evidence to show that court  
630 should disapprove the Defendant’s conduct in summarily dismissing them or terminating their employment as they pleaded in the plaint. That at all times, the Defendant acted

with diligence in investigating serious allegations of misconduct against the plaintiffs and gave them fair hearings prior to arriving at a decision to dismiss them.

635 Counsel submitted that there was no inconvenience suffered by the Plaintiffs. That the Plaintiffs filed this case in court even before investigations were completed and before they appeared for disciplinary proceedings.

### **Aggravated damages**

640 Counsel submitted that only the 1<sup>st</sup> Plaintiff claimed for aggravated damages. He relied on the case of ***National Medical stores –v- Rosie Naikoba CA No. 173 of 2013*** where an award of aggravated damages that had not been pleaded in the plaint but awarded was reversed. He also relied on the case of Ms. ***Fang Min –v- Belex Tours and Travel Limited Consolidated Crane Bank Limited –v- Belex Tours and Travel Limited and Order 7 rule 1(g) of the Civil Procedure Rules*** which all emphasize the principle that;  
645 *‘a party cannot be granted a relief which it has not claimed in the plaint or claim.’*

Further to the above, Counsel submitted that even if the Plaintiffs had pleaded for aggravated damages, the same would not be awarded in this case. He relied on the case of ***Uganda Development Bank –v- Florence Mufumba (supra)*** where Madrama, JA (as he then was) noted that;

650 *“In Hulsbury’s Laws of England fourth edition Volume 12 at paragraph 1114, it is written that aggravated damages in tort are where damages are ‘at large’. In such cases the court takes into account the defendant’s motives, conduct and manner of committing the tort which may have injured the proper feelings of dignity and pride of the plaintiff.”*

Counsel submitted that in this case, there was no improper conduct by the Defendant warranting award of aggravated damages to the Plaintiffs. He explained that the  
655 allegations brought against the Plaintiffs concerning fraud relating to multiple delivery of drugs required significant investigations which was coordinated by multiple Governmental agencies. That there was no calculated effort to injure the Plaintiffs in any way. That the Defendant at all times during its investigations followed the law and procedure and as  
660 such, it should not be castigated for following the law and the procedure.

Counsel emphasized that the Plaintiffs have not shown any evidence of high handedness by the Defendant. He prayed that this court finds that the Plaintiffs are not entitled to any of the reliefs claimed.

665 **Analysis**

Like the 1<sup>st</sup> Plaintiff, all Plaintiffs are entitled to remedies as specifically provided under Clause 13.10.1 of the Defendant's Human Resource Manual which provides for terminal benefits as follows: -

670 *'Any Employee whose services have been terminated, or one who has resigned, shall without prejudice to all the provisions of S. 10, be entitled to the following terminal benefits: -*

- (a) One month's notice or cash payment in lieu of notice*
- (b) Accrued salary up to the last day of duty*
- (c) Cash payment in lieu of any outstanding entitlements*
- 675 *(d) Gratuity accrued up to the last day of duty'*

In this case therefore, all that I have to do is to evaluate entitlements for each of the plaintiffs in respect of the above remedies first and then look at the other claims.

**3<sup>rd</sup> Plaintiff**

**Accrued salary up to the last day of duty**

680 Counsel for the plaintiffs submitted that the 3<sup>rd</sup> plaintiff had unpaid salary for 3 months running from November 2007, December, 2007 and January, 2008 amounting to 5,282,342/- He explained that the Defendant has not presented any evidence to rebut this claim.

I have looked at the court record; I find no evidence rebutting this claim. I therefore allow  
685 the claimed amount as accrued salary up to the last day of duty under Clause 13.10.1 (b) of the Defendant's Human Resource Manual.

**Gratuity**

The 3<sup>rd</sup> Plaintiff's gratuity claimed is Ugshs. 12,325,464/- which I do hereby award under paragraph (d) of the above Clause. Balance on gratuity on the renewed contract  
690 amounting to 10,563,000/- is also awarded as claimed.

I also award him leave pay of Ugshs. 3,521,561/- under paragraph (c) of Clause 13.10.1 and clause 7.7.2 of the Defendant's Human Resource Manual. I have not found basis for the claim and meaning of leave encashment.

Under paragraph (a) of Clause 13.10.1, the 3<sup>rd</sup> Plaintiff is entitled to one month's pay in  
695 lieu of notice and not two months as submitted by Counsel for the Plaintiffs. I would therefore award the Plaintiff Ugshs. 3,521,561/-

Airtime and Christmas bonus are also awarded at 150,000 each under paragraph (c) of Clause 13.10.1.

The remedy of severance pay is not available to the 3<sup>rd</sup> Plaintiff and the rest of the Plaintiffs (see the case of *UDB –v- Florence Mufumbe (supra)*).

In total therefore, the 3<sup>rd</sup> Plaintiff is awarded Ugshs. 35,513,367/= as special damages.

### **General damages**

The 3<sup>rd</sup> Plaintiff prayed for general damages of 30,000,000/-. I find Ushs. 10,000,000/- reasonable as general damages for unlawful termination of his employment.

The 3<sup>rd</sup> Plaintiff did not plead for aggravated damages. I decline to award any.

Interest is awarded at the rate of 20% per annum on the total sum of the special damages from 2008, the date of filing this suit until payment in full.

Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

### **Remedies for the 4<sup>th</sup> Plaintiff – Thomas Anywar.**

The 4<sup>th</sup> Plaintiff's gratuity claimed is Ugshs. 6,237,085 as outstanding on his 1<sup>st</sup> contract with the Defendant. I have found no reason to doubt this claim and do hereby award it under paragraph (d) of Clause 13.10.1.

Gratuity on the renewed contract is awarded at Ugshs. 6,237,087

The 4<sup>th</sup> Plaintiff is also given the following awards under Clause 13.10.1 of the Defendant's Human Resource Manual;

Ugshs. 4,158,056 as balance of his salary for the months of November, 2007, December, 2007 and January, 2008.

Leave pay of Ugshs. 2,079,028/- under paragraph (c) and clause 7.7.2 of the Defendant's Human Resource Manual.

Under paragraph (a) of clause 13.10.1, the 4<sup>th</sup> Plaintiff is entitled to one month's pay in lieu of notice at Ugshs. 2,772,038/-

Airtime and Christmas bonus are awarded at Ugshs. 300,000/- and 150,000 respectively under paragraph (c) of Clause 13.10.1.

In total therefore, the 4<sup>th</sup> plaintiff is awarded Ugshs. 21,933,294 as special damages.

### **General damages**

The 4<sup>th</sup> Plaintiff prayed for general damages of 30,000,000/-. I find Ushs. 10,000,000/- appropriate as general damages.

Aggravated damages were not pleaded.

730 Interest is awarded to the 4<sup>th</sup> Plaintiff at the rate of 20% per annum on the total sum of the above special damages from 2008, the date of filing this suit until payment in full. Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

**Plaintiff No. 5 –Angel Sabiiti**

735 The 5<sup>th</sup> Plaintiff's gratuity claimed is Ugshs. 11,721,006 as outstanding on his 1<sup>st</sup> contract with the Defendant. I have found no reason to doubt this claim and do hereby award it under paragraph (d) of Clause 13.10.1.

Gratuity on the renewed contract is awarded at Ugshs. 6,237,087

740 The 5<sup>th</sup> Plaintiff is also given the following awards under Clause 13.10.1 of the Defendant's Human Resource Manual; Ugshs. 1,953,501 as balance of her salary for the months of November, 2007, December, 2007 and January, 2008.

Leave pay of Ugshs. 1,302,334/- under paragraph (c) and clause 7.7.2 of the Defendant's Human Resource Manual.

745 Under paragraph (a) of clause 13.10.1, the 5<sup>th</sup> Plaintiff is entitled to one month's pay in lieu of notice at Ugshs. 1,302,334/-

Airtime and Christmas bonus are awarded at Ugshs. 45000/- and 100,000 respectively under paragraph (c) of Clause 13.10.1.

In total, the 5<sup>th</sup> plaintiff is awarded Ugshs. 22,661,262/- as special damages.

750 **General damages**

The 5<sup>th</sup> Plaintiff prayed for general damages of 10,000,000/-. I find Ushs. 3,000,000/- appropriate as general damages.

Aggravated damages are not awarded as they were not pleaded.

755 Interest is awarded to the 5<sup>th</sup> Plaintiff at the rate of 20% per annum on the total sum of the above special damages from 2008, the date of filing this suit until payment in full. Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.



**Plaintiff No. 6 –Nabuti Peter**

The 6<sup>th</sup> Plaintiff's gratuity claimed is Ugshs. 2,835,438/- as outstanding on the earlier period that he worked for the Defendant before interdiction. I have found no reason to doubt this claim and do hereby award it under paragraph (d) of Clause 13.10.1.

765 Gratuity on the renewed contract is awarded at Ugshs. 2,430,375/-

The 6<sup>th</sup> Plaintiff is also given the following awards under Clause 13.10.1 of the Defendant's Human Resource Manual;

Ugshs. 1,215,188 as balance of his salary for the months of November, 2007, December, 2007 and January, 2008.

770 Leave pay of Ugshs. 945,146/- under paragraph (c) and clause 7.7.2 of the Defendant's Human Resource Manual.

Under paragraph (a) the 6<sup>th</sup> Plaintiff is entitled to one month's pay in lieu of notice at Ugshs. 945,146/-

775 Balance on Christmas bonus is awarded at Ugshs. 50000/- under paragraph (c) of Clause 13.10.1.

In total, the 6<sup>th</sup> Plaintiff is awarded special damages of Ugshs. 8,421,293/-

**General damages**

The 6<sup>th</sup> Plaintiff prayed for general damages of 10,000,000/-. I find Ushs. 3,000,000/- appropriate as general damages.

780 Interest on the special damages is awarded at the rate of 20% per annum from the date of filing this suit until payment in full on the total sum of the above special damages  
Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

Aggravated damages are not awarded as they were not pleaded.

785 **Plaintiff No. 7 –Sebowa Cyrus**

The 7<sup>th</sup> Plaintiff's gratuity claimed is Ugshs. 2,835,438/- as outstanding on the earlier period that he worked for the Defendant before interdiction. I have found no reason to doubt this claim and do hereby award it under paragraph (d) of Clause 13.10.1.

Gratuity on the renewed contract is awarded at Ugshs. 2,632,906/-

790 The 7<sup>th</sup> Plaintiff is also given the following awards under Clause 13.10.1 of the Defendant's Human Resource Manual;

Ugshs. 1,215,188 as balance of his salary for the months of November, 2007, December, 2007 and January, 2008.

Leave pay of Ugshs. 945,146/- under paragraph (c) and clause 7.7.2 of the Defendant's Human Resource Manual.

Under paragraph (a) the 7<sup>th</sup> Plaintiff is entitled to one month's pay in lieu of notice at Ugshs. 945,146/-

Balance on Christmas bonus is awarded at Ugshs. 50,000/- under paragraph (c) of Clause 13.10.1.

Total special damages are at Ugshs. 7,678,678/=

### **General damages**

The 7<sup>th</sup> Plaintiff prayed for general damages of 10,000,000/-. I find Ushs. 3,000,000/- appropriate as general damages.

Aggravated damages are not awarded. They were not pleaded.

Interest on the total special damages is awarded at the rate of 20% per annum from 2008, the date of filing this suit until payment in full.

Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

### **Plaintiff No. 8 –Yusuf Kajamiti**

The 8<sup>th</sup> Plaintiff's gratuity claimed is Ugshs. 2,835,438/- as outstanding on the earlier period that he worked for the Defendant before interdiction. I have found no reason to doubt this claim and do hereby award it under paragraph (d) of Clause 13.10.1.

Gratuity on the renewed contract is awarded at Ugshs. 2,632,906/-

The 8<sup>th</sup> Plaintiff is also given the following awards under Clause 13.10.1 of the

Defendant's Human Resource Manual;

Ugshs. 1,215,188 as balance of his salary for the months of November, 2007, December, 2007 and January, 2008.

Leave pay of Ugshs. 945,146/- under paragraph (c) and clause 7.7.2 of the Defendant's Human Resource Manual.

Under paragraph (a) the 6<sup>th</sup> Plaintiff is entitled to one month's pay in lieu of notice at Ugshs. 945,146/-

Balance on Christmas bonus and balance on airtime are awarded at Ugshs. 50,000/- and 60,000/- respectively under paragraph (c) of Clause 13.10.1.

Total Special damages are awarded at Ugshs. 8,683,824/-

825 **General damages**

The 8<sup>th</sup> Plaintiff prayed for general damages of 10,000,000/-. I find Ushs. 3,000,000/-

Aggravated damages are not awarded as they were not pleaded.

Interest on the special damages is awarded at the rate of 20% per annum from 2008, the date of filing this suit until payment in full.

830 Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

**Plaintiff No. 9–Mwenda Steve**

The 9<sup>th</sup> Plaintiff's gratuity claimed is Ugshs. 5,265,815/- as outstanding on the earlier period that he worked for the Defendant before interdiction. I have found no reason to

835 doubt this claim and do hereby award it under paragraph (d) of Clause 13.10.1.

Gratuity on the renewed contract is awarded at Ugshs. 2,430,375/-

The 9<sup>th</sup> Plaintiff is also given the following awards under Clause 13.10.1 of the Defendant's Human Resource Manual;

840 Ugshs. 1,215,188 as balance of his salary for the months of November, 2007, December, 2007 and January, 2008.

Leave pay of Ugshs. 945,146/- under paragraph (c) and clause 7.7.2 of the Defendant's Human Resource Manual.

Under paragraph (a) the 9<sup>th</sup> Plaintiff is entitled to one month's pay in lieu of notice at Ugshs. 810,125/-

845 Balance on Christmas bonus and airtime are awarded at Ugshs. 50000/- and 60,000/- under paragraph (c) of Clause 13.10.1.

Total special damages are awarded at Ugshs. 10,776,649/=

**General damages**

850 The 9<sup>th</sup> Plaintiff prayed for general damages of 7,5000,000/-. I find Ushs. 2,000,000/- appropriate as general damages.

Aggravated damages were not pleaded and are therefore, not awarded.

Interest is awarded at the rate of 20% per annum on the total sum of the special damages from 2008, the date of filing this suit until payment in full.

855 Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

**Plaintiff No. 11 –Masabo Henry**

The 11<sup>th</sup> Plaintiff's balance of his salary for the months of November, 2007, December, 2007 and January, 2008 is awarded at Ugshs. 1,215,188 as claimed. I have found no reason to doubt the evidence presented to court.

860 Balance on Christmas bonus and airtime are awarded at Ugshs. 50000/- and 60,000/- respectively under paragraph (c) of Clause 13.10.1.

Total special damages for the 11<sup>th</sup> Plaintiff are awarded as claimed at Ugshs. 1,325,188/=

**General damages**

865 The 11<sup>th</sup> Plaintiff prayed for general damages of 5,000,000/-. I find Ushs. 300,000/- appropriate as general damages.

Aggravated damages are not awarded as the 11<sup>th</sup> Plaintiff did not plead for any.

Interest is awarded at the rate of 20% per annum on the special damages from 2008, the date of filing this suit until payment in full.

870 Interest on general damages is awarded at 8% per annum from the date of judgement until payment in full.

In the final result therefore, it is order as follows: -

**1. Judgement be and is hereby entered for each Plaintiff as above.**

**2. The Defendant be and is hereby ordered to pay the respective sums established against each Plaintiff.**

875 **3. The Defendant pays costs of this suit.**

I so order.

**Dated, signed and delivered by mail at Kampala this 5<sup>th</sup> day of January, 2024.**

880 **Esta Nambayo**

**JUDGE**

**5<sup>th</sup>/1/2024.**