Memorandum of Appeal on Security Gratuity and Double Counting of Terminal Dues

Educational sample 228 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

APPEAL NO [reference]

[APPELLANT] v [RESPONDENT]

MEMORANDUM OF APPEAL

1. The Appellant appeals against [identified parts] of the judgment in Mombasa CMELRC [number] delivered on [date]. The decree, admitted payment records and gratuity calculation appear at [record pages]. The appeal identifies each challenged award rather than seeking an undifferentiated cancellation of all employment dues.

2. The trial court erred in computing gratuity without determining the full completed years between the actual March 1997 commencement and December 2020 cessation dates. The Appellant contends that the source period comprised twenty-three full years, subject to verification from the admitted employment records.

3. The trial court erred in using [identified wage component or computation] without applying the proved protective-security gratuity basis. The appropriate fifteen-day rate, legally applicable wage base and full years should be stated transparently. Alleged wage components require evidence from the trial record.

4. The trial court erred in making awards overlapping terminal dues without crediting the admitted KSh 204,942 receipt. The payment evidence and allocation are [pages]. The Appellant asks for a net computation after determining the gross lawful entitlement, avoiding recovery of the same gratuity twice.

5. Any challenge to the early-retirement finding must address the unchallenged birth date and an actual contractual, policy or industry basis for retirement. The Appellant does not rely on the public-sector Pensions Act as an automatic answer to a private employment contract.

6. The Appellant requests recalculation of the relevant heads, credit for the proved payment, clarification of any arithmetic discrepancy in the decree and appropriate costs. Evidence not admitted below is not introduced by inserting a new policy into this memorandum.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Identify the exact lower-court judgment or ruling, operative decree, parties, concise grounds and requested disposition. Use the procedure for this particular appellate court: an ELRC appeal and a High Court or ELC first appeal are not Court of Appeal proceedings. Check limitation, any necessary leave or extension, record, fees, service and directions. Filing an appeal is not an automatic stay. Verify the ELRC Procedure Rules 2024 and 2025 amendments, or the applicable designated subordinate-court procedure, and current directions. Assess section 90 for each employment claim.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A night guard worked from March 1997 until December 2020. He said a retirement notice ended service roughly six months before his fifty-fifth birthday. The private employer invoked retirement policy but produced no defining contract or policy, and did not contest the actual birth date. The guard admitted receipt of KSh 204,942. Claims for decades of overtime and public holidays lacked particulars.

The ELRC upheld relief for early retirement but recalculated gratuity for 23 full years at the stated KSh 15,142 wage base, giving KSh 174,133. The operative paragraph records six-month compensation of KSh 154,244.60 and requires both heads to be reduced by the KSh 204,942 already received. Earlier passages state KSh 154,224.60, an internal figure discrepancy that must be checked against the authenticated decree. Overtime and holiday claims were declined. Each party bore its appeal costs.

Public-sector retirement provisions do not automatically define a private employee retirement age. Establish the contract, applicable policy or industry wage order and actual birth date. The judgment applied protective-security gratuity of fifteen days pay per full year, not an unproved 24 years. It distinguished a particularised timely work-hours claim from exaggerated historic totals. Section 90 limitation must be assessed against the actual accrual and cessation dates.

[2025] KEELRC 2683 (KLR) - 2 October 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelrc/2025/2683/eng%402025-10-02

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/sga-security-solutions-ltd-v-kasanya-2025-keelrc-2683-klr.pdf

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.