



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**HIGH COURT CIVIL CASE NO.26 OF 1988**

SAMUEL WANJUGUNA ..... PLAINTIFF  
VERSUS  
COFFEE BOARD OF KENYA .....DEFENDANT

**RULING**

There are two applications before me one dated the 24th July, 2003 filed by the Plaintiff herein as applicant and the other by the Defendant herein dated the 16/9/2003. In both cases the Applicants seeks to review the orders of Mr. Justice Aganyanya make on his Judgment of the 31/7/2001.

When the matter came before me the application filed on behalf of the Plaintiff was conceded. The only issue outstanding was the contention of the Defendant in its application that the Learned Judge failed to deal with the issue of limitation by the Defendant in its Defence to the Plaintiffs claim.

It is accepted by both parties that the issue of Limitation was raised in paragraph 4 of the defence and that the Learned Judge did not deal with the issue of limitation in his Judgment.

The Plaintiff was filed on the 7/1/1988, and claimed that the Plaintiff was wrongfully retired and or dismissed by a letter dated the 14/5/1982.

In his Judgment the Learned Judge found that the Defendant gave the Plaintiff three-month notice to retire with effect from the 1st April 1982 to 30th June, 1982 and that the Defendant had no authority to force the Plaintiff into early retirement and this purported retirement was wrongful.

On the basis that the Plaintiff's decision arises out of breach of contract the Plaintiff was bound to file his suit within six years from the wrongful retirement, which was on the 30/6/1982. The Plaintiff was therefore filed within the six years period and as such I hold that the suit was not time barred.

The Defendant's application is therefore dismissed with costs to the Plaintiff.

Dated and delivered at Nairobi this 3rd day of May 2004

**P.J. RANSLEY**  
**JUDGE**