



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 807 of 2000**

**REMINGTON MWAKI.....PLAINTIFF**

**VERSUS**

**TELKOM KENYA LTD.....DEFENDANT**

**RULING**

This is the defendants application for an order that the plaintiffs suit be struck out as it is time barred.

The plaintiffs counsel did not file a replying affidavit.

Plaintiff seeks relief's for unlawful dismissal from employment. He pleads in paragraph 5 of the amended plaint that he was dismissed by a letter dated 20.7.94. Defendants pleads in para 6 of the Defence that suit offends the mandatory provisions of section 109(7) of the Kenya Posts and Telecommunications corporation Act – Cap 411 (now repealed) under that section an action or legal proceedings do not lie against the corporation unless it is commenced within twelve months, next after the act complained of.

Applicants counsel relies on the case of Joel Kiprono Langat versus Kenya Posts & Telecommunication Corporation – Civil Appeal No. 144 of 1999.

That decision shows among other things that contracts of employment and termination of such contracts falls within the limitation period in section 109(b) of the Act.

The Kenya Posts and Telecommunications Corporation has been repealed and re-enacted. The new Act Kenya communications Act – 1998 in Section 98(b) of the Interpretation and General Provisions Act the repeal does not affect the previous operation of the Kenya Post and Telecommunications Act.

The cause of action arose in July 1994. The present suit was filed on 24.5.2000. by August 1995 the cause of action had been time-barred. The suit has been brought more than 5 years out of time. The action does not lie.

Consequently, I allow the application with costs and strike out the suit with costs to defendants.

E. M. Githinji JUDGE

3.10.2001

Mr. Kituku for defendant present

Mr. Mwiti for plaintiff absent