



**National Cereal and Produce Board v Wanyonyi (Civil Appeal
72 of 2013) [2024] KEHC 3263 (KLR) (8 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3263 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CIVIL APPEAL 72 OF 2013
RN NYAKUNDI, J
APRIL 8, 2024**

BETWEEN

NATIONAL CEREAL AND PRODUCE BOARD APPELLANT

AND

CHARLES CHELOTI WANYONYI RESPONDENT

RULING

1. This appeal is grounded in the judgement of the Lower Court referenced Eldoret CMCC CASE 1082 OF 1995 as between Charles Cheloti Wanyonyi v National Cereals & Produce Board for reasons not very clear from the record this appeal dated 31.5.2013 has been pending before this High Court based on the judgement of the court below which decreed as follows:
 1. Judgement is entered in favour of the plaintiff as against the Defendant as follows
 - i. General Damages for unlawful termination.
 - a. 3months notice -Ksh 7,470/=
 - b. 2 years salary for wrongful termination - Ksh 119,520
 - c. Leave allowance for 2 years -Ksh 1,200
 - d. Total - Kshs 128, 190
 2. Special Damages - Nil
 3. The Plaintiff is awarded costs of this suit and interest
2. In the Owners of the Motor Vessel Lillian S v Caltex Oil (Kenya Ltd) 1989eKLR “it was held inter alia that jurisdiction is meant the authority which a court as to decide matters that the litigated before it or to take cognisance of matters presented in a formal



way for its decision. The limits of this authority are imposed by the statute, charter, or commission under which the court is constituted, and may be extended or restricted by the like means. If no restriction or limit is imposed the jurisdiction is said to be unlimited.

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where a court takes it upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing jurisdiction must be acquired before judgment is given.

3. I pause here only to say Art 162 (a) of *the constitution* established Employment and Labour Relations Court. In section 12 of *Employment and Labour Relations Court Act* it provides among other provisions, the jurisdiction to determine all matters arising out of employment and Labour Relations as defined therein.
4. In my judgement the Appellant submissions that I should exercise jurisdiction over this appeal based on transition clauses is one which I cannot accede. In the same context there must be some very compelling and substantial circumstances where the court which has no jurisdiction since the promulgation of *the constitution* 2010 should exercise it in 2024 to maintain the action in the textual provisions of a transitional clause.
5. Notwithstanding the inordinate delay contributed by both the High Court registry and the parties under the presumption that the court could recoup jurisdiction by virtue of transitional clause this matter was good for dismissal but bearing in mind this observation I exercise inherent jurisdiction for the interest of justice of the parties to transfer the appeal to ELRC. The matter shall be mentioned before the Deputy Registrar ELRC on 11.4.2024 for a Status Conference.

The parties are therefore invited to attend the conference for purposes of firm directions on the appeal.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 8TH DAY OF APRIL 2024

In the Presence of

M/s Wahome for the Appellant

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R. NYAKUNDI

JUDGE

