



**Kenya County Government Workers Union v Nairobi City County Public Service Board  
(Cause 92 of 2017) [2025] KEELRC 2555 (KLR) (25 September 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2555 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 92 OF 2017  
S RADIDO, J  
SEPTEMBER 25, 2025**

**BETWEEN  
KENYA COUNTY GOVERNMENT WORKERS UNION ..... CLAIMANT  
AND  
NAIROBI CITY COUNTY PUBLIC SERVICE BOARD ..... RESPONDENT**

**JUDGMENT**

1. The Kenya County Government Workers Union (the Union) sued the Nairobi City County Public Service Board (the Respondent) on 19 January 2017, and it stated the Issue in Dispute as:  
Unlawful summary dismissal of Mr Jefferson Mwendwa Mulwa, P/No 06Z – 030357.
2. The Respondent filed a Memorandum of Response on 3 February 2017, and the Cause was heard on 21 May 2025.
3. Jefferson Mwendwa Mulwa (the Grievant) testified. The Respondent opted to close its case without leading evidence.
4. The Union filed its submissions on 6 June 2025, and the Respondent on 9 June 2025.
5. The Union identified the Issues arising as:
  - i. Whether the termination of the Claimant’s member, Mr Jefferson Mulwa, was wrongful, unlawful, unprocedural and unjustified, thereby entitling the Claimant to the prayers and reliefs sought in the Memorandum of Claim?
  - ii. Whether the Claimant’s instant claim is statutorily time-barred?
6. The Respondent identified the Issues as:
  - i. Whether the Claimant’s claim is time-barred?



- ii. Whether the Claimant's contract was unfairly terminated?
  - iii. Whether the Claimant is entitled to the reliefs sought?
7. The Court has considered the pleadings, evidence and submissions.

**Limitation or time bar**

8. Section 89 of the *Employment Act* (previously section 90) prescribes a limitation of 3 years in actions arising out of a contract of service (12 months in cases of continuing injury).
9. The Respondent contended in its submissions that the action by the Union was caught by the law on limitation, and it cited *Bramwel Okunda Mayienga v Teachers Service Commission* (2018) KEELRC 2211 (KLR) and *Odeny v Kenya Breweries Ltd* (2023) KEELRC 776 (KLR).
10. For the Grievant, the Union submitted that since the dismissal was made by a person without authority, the dismissal was incurably defective and void ab initio, and the question of time bar did not arise.
11. The Union pleaded in paragraph 10 of the Memorandum of Claim that the Grievant was dismissed through a letter dated 22 November 2013, on the ground of desertion resulting from an illness.
12. The Grievant appealed to the Respondent on 2 December 2013 and to the Public Service Commission on 11 February 2015. The Commission informed the Grievant that the appeal was not successful through a letter dated 22 July 2015.
13. The Grievant reported to the Union, and it lodged a trade dispute with the Cabinet Secretary, Labour, on 21 March 2016. The dispute was not resolved, and the Union moved the Court on the date already stated herein above.
14. In terms of section 89 of the *Employment Act*, 2007, the Union (or Grievant) had up to 21 November 2016 to institute action against the Respondent.
15. The Court was moved on 19 January 2017, outside the prescribed limitation time.
16. The record indicates that the Grievant did not go to sleep after being informed about the dismissal.
17. The Court has set out above the actions and processes that the Grievant took, and these were appeals to the Respondent, the Public Service Commission and reporting of a trade dispute to the Cabinet Secretary, Labour.
18. Under these circumstances, can the Union or the Grievant be faulted or locked out of the Court because of time-bar ?
19. The Court of Appeal had occasion to address its mind to circumstances where the Court was moved after the lapse of time because of these types of processes.
20. The Court stated in *G4S Security Services (K) Ltd v Joseph Kamau & 468 Ors* (2018) eKLR:

The statutory framework on the conciliation process is as provided for by the provisions of the *Labour Relations Act*, 2007. Section 62(3) of the *Labour Relations Act*, 2007 provides that a trade dispute concerning the dismissal or termination of an employee shall be reported to the Minister within 90 days of the dismissal or any longer period that the Minister, on good cause, permits. It is not clear exactly when the Respondents reported this matter for conciliation.



Time does not stop running on the commencement of conciliation or other alternative dispute resolution mechanisms provided for under *the constitution* or any other law (my emphasis). This is fortified by the decision of this Court in the case of Rift Valley Railways (Kenya) Ltd v Hawkins Wagonza and Another [2016] eKLR, which held as follows: -

While there is no doubt that Section 15 of the Employment and Industrial Relations Act encourages alternative dispute resolution, it must be court-based and conducted within the law. Time does not stop running merely because parties are engaged in out of Court negotiations. It was incumbent upon the Respondents to bear in mind the provisions of Section 90 of the *Employment Act* even as they engaged in the negotiations. The claim went stale three years from the date of the termination of the Respondents' contracts of employment.

21. The appeals made by the Grievant to the Respondent and Public Service Commission of Kenya were underpinned by the Collective Bargaining Agreement between the Union and Respondent and section 77 of the *County Governments Act* and section 87(2) of the *Public Service Commission Act*.
22. More often than not, the organs given appellate power or that conduct alternative dispute resolution processes do not conclude their tasks in good time to enable those dissatisfied to move the Court within the prescribed 3-year limitation time.
23. The outcome may not meet the standards of justice.
24. This Court is bound by the decisions flowing from the Court of Appeal. The decisions from the Court of Appeal make it clear that, despite and in spite of the alternative dispute resolution processes, an action should be commenced within 3 years after the accrual of the cause of action.
25. The Union herein moved the Court outside the prescribed timelines.

### **Conclusion and Orders**

26. Regrettably, the Court finds that the Union moved the Court outside the prescribed limitation time and the Court must put down its pen.
27. The Cause is struck out with no order on costs.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN MERU ON THIS 25<sup>TH</sup> DAY OF SEPTEMBER 2025.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

Appearances

For Claimant Njuguna Mwaura & Co. Advocates

For Respondent Koceyo & Co. Advocate

Court Assistant Wangu

