



Kenya Chemical Workers' Union v Alliance Concrete Ltd (Cause E195 of 2025) [2025] KEELRC 2658 (KLR) (2 October 2025) (Ruling)

Neutral citation: [2025] KEELRC 2658 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E195 OF 2025
S RADIDO, J
OCTOBER 2, 2025**

**BETWEEN
KENYA CHEMICAL WORKERS' UNION CLAIMANT
AND
ALLIANCE CONCRETE LTD RESPONDENT**

RULING

1. For determination is a Motion dated 3 March 2025 by the Kenya Chemical Workers Union (the Union) against Alliance Concrete Ltd (the Respondent) seeking orders:
 - i. spent
 - ii. spent
 - iii. That pending the hearing and determination of this suit, the Honourable Court be pleased to make an order for the reinstatement of the Two Grievants to their previous positions, on the same terms and conditions of employment that prevailed prior to their dismissal.
 - iv. spent
 - v. spent
 - vi. (spent
 - vii. That pending the hearing and determination of this suit, the Honourable Court be pleased to issue an injunction restraining the Respondent, whether by themselves, their agents, employees or otherwise from engaging in any form of harassment, intimidation or coercion against the Grievants, directly or indirectly in relation to or as a consequence of this litigation or in any manner that may prejudice the fair adjudication of this matter.



- viii. That this Honourable Court be pleased to grant such further or additional orders as it may consider appropriate, just and equitable in the circumstances.
- ix. That the costs of this application be awarded to the applicants and shall be borne by the Respondent.
2. The grounds in support of the Motion were that the Respondent had employed Willy Murithi Watiri and Michael Kipyegon Terer (the Grievants) as truck drivers; the Grievants joined the Union around August 2024; the Respondent issued show cause notices to the Grievants in October 2024; the Grievants were dismissed without being afforded a fair hearing on 26 October 2024 and 12 November 2024 respectively.
3. Pursuant to directions issued on 12 March 2025, the Union filed its submissions on 10 April 2025.
4. The Union submitted that since the Grievants had been dismissed without observing procedural fairness, and in violation of their right to fair labour practices, the Court should reinstate them to employment or preserve their positions to prevent further harm.
5. The Respondent filed a replying and supplementary affidavit sworn by its Human Resource Manager on 12 May 2025 and 30 May 2025.
6. The Manager deponed in the affidavits that the Motion was incompetent; the dismissal of the Grievants was after a fair process and for valid reasons; the Grievants had refused to cooperate during the disciplinary process, and that the dispute was taken through conciliation but remained unresolved.
7. The Respondent filed its submissions on 31 May 2025, wherein it urged that the dismissals aligned with the *Employment Act* provisions on procedural fairness and validity of reasons.
8. The Court has considered the Motion, affidavits and submissions.
9. The Grievants already stand dismissed. Reinstatement, under section 49(3) of the *Employment Act*, 2007, is a final remedy to be granted where deserved after a hearing on the merits.
10. The orders sought by the Union at this interlocutory stage would amount to an order of specific performance, and the common law principle, which has been given statutory acceptance in Kenya, is that specific performance should not be granted except in exceptional circumstances.
11. The Grievants are no longer in an employment relationship with the Respondent, and the question of harassment within the context of employment does not arise.
12. The Union did not demonstrate any exceptional circumstances to warrant the grant of the orders sought.

Orders

13. The Motion dated 3 March 2025 is dismissed with costs in the cause.

DELIVERED VIRTUALLY, DATED AND SIGNED IN EMBU ON THIS 2ND DAY OF OCTOBER 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For the Claimant Mr Mutongoi, Industrial Relations Officer



For the Respondent Kwamboka Marie & Associates Advocates
Court Assistant Wangu

