



Aluko & 17 others (Suing on their own behalf and on behalf of other interested current and former frontline courier employees of G4S Kenya limited both casual and permanent) v G4S Kenya Limited; Kenya National Private Security Workers Union (Interested Party) (Cause E730 of 2025) [2025] KEELRC 2837 (KLR) (23 October 2025) (Ruling)

Neutral citation: [2025] KEELRC 2837 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E730 OF 2025
ON MAKAU, J
OCTOBER 23, 2025

BETWEEN

- LEONARD OMONDI ALUKO 1ST CLAIMANT**
- JOYCE KARIUKI 2ND CLAIMANT**
- BERNIS MUSANGO 3RD CLAIMANT**
- MICHAEL OMBIMA 4TH CLAIMANT**
- GEOFREY MUTHINI 5TH CLAIMANT**
- ALEX WANJAU 6TH CLAIMANT**
- BENSON KIPRONO 7TH CLAIMANT**
- JOSEPH MATU 8TH CLAIMANT**
- COSMAS KIPROTICH 9TH CLAIMANT**
- EMMANUEL RONALDO 10TH CLAIMANT**
- BENSON MWENDWA 11TH CLAIMANT**
- GILBERT OCHOGO 12TH CLAIMANT**
- SHARON AMOIT 13TH CLAIMANT**
- MAXWELL SENSO 14TH CLAIMANT**
- KENNEDY ODHIABO 15TH CLAIMANT**
- PESILIAH NIKITA 16TH CLAIMANT**
- KITHEKA OMARI 17TH CLAIMANT**
- FELISTA NJERI 18TH CLAIMANT**



**SUING ON THEIR OWN BEHALF AND ON BEHALF OF OTHER
INTERESTED CURRENT AND FORMER FRONTLINE COURIER
EMPLOYEES OF G4S KENYA LIMITED BOTH CASUAL AND PERMANENT**

AND

G4S KENYA LIMITED RESPONDENT

AND

**KENYA NATIONAL PRIVATE SECURITY WORKERS UNION .. INTERESTED
PARTY**

RULING

Introduction

1. The Application before me is the Respondent's Notice of Motion dated 18th September 2025 seeking the following orders:
 - a. The court be pleased to order separate trial of the suits initiated by the Claimants.
 - b. The court be pleased to transfer this suit to the Magistrates court, Employment and Labour Relations Division for trial and disposal.
 - c. Costs of the application.
2. The motion is supported by an Affidavits sworn on the same date by the Applicants Human Resource Officer courier division one Fedha Ithinji and was opposed by the Claimants vide Grounds of Opposition dated 20th September 2025.

Facts

3. The Applicants case is that the claims by the Claimants are generally connected to employment by the Respondent but are based on different factual circumstances, legal basis, contractual terms and employment issues, and each Claimant seek separate and distinct prayers from the court. That the causes of action do not arise from the same act or services of acts to justify joinder in a single suit.
4. The Respondent averred that the 1st Claimant was employed on 1st March 2008 and resigned on 2nd August 2023; that the 2nd and 3rd Claimants were employed on 1st October 2019 and 10th December 2020 respectively and they were all dismissed on 12th September 2024 for misconduct; that the 5th Claimant was employed on 1st March 2008 and resigned on 1st July 2024; that the 6th and 7th Claimants are still in employment and seeking underpayment of salaries only; that 16th and 18th Claimants have sued for unlawful dismissal and discrimination on account of age and pregnancy respectively; and that the rest of the Claimants have sued for unlawful dismissal on diverse dates.
5. The Respondent averred that the joinder of Claimants is a procedural mischief meant to circumvent the correct jurisdictional forum as all the Claimants were earning a salary of less than Kshs. 80,000 per month. Therefore the Respondent urged the court to order separate trial of the 18th claims and transfer the claims to the lower court for trial and disposal.



6. The Claimants on the other hand averred that the 1st Claimant was constructively dismissed; the 2nd and 3rd Claimants were shop stewards and were dismissed for holding meeting to discuss underpayment; and that the 2nd to 17th Claimants claim salary underpayment.
7. They further averred that this court has original jurisdiction and no express legal provision bars it from hearing claims for employees with a salary of less than Kshs. 80,000 per month. They also averred that the issues involved in the suit are complex, multi-faceted including constructive dismissal, discrimination, classification of occupations, systemic underpayment to thousands of employees and constitutional issues that are beyond the jurisdiction of the Magistrate Court. Hence they averred that this is the proper forum for determining the case because there is an overlap of constitutional and labour issues
8. They averred that splitting the claims will lead to multiplicity of suits and defeat the overriding objective under section 3 of the *Employment and Labour Relations Court Act* that is, efficient, expeditious and fair disposal of disputes, and to protect vulnerable employees from acts of impunity by the Respondent. Besides, the employer is using a divide and rule strategy because it knows that the Claimants cannot afford independent legal counsel.
9. The motion was disposed of by written submissions which were highlighted on 7th October 2025. Mr. Aluko Advocate urged the motion for the applicants while the 1st Claimant represented the other Claimants.
10. In brief, Mr. Adiwo submitted that the 18 Claimants were employed by the Respondent on diverse dates and served in different capacities and each left employment in different circumstances. He contended that each Claimant had a distinct claim or cause of action which should be tried separately and the Respondent allowed to respond to each Claimant's claim separately.
11. He further submitted that the Magistrate Court has jurisdiction to determine issues of constructive dismissal, unfair termination and terminal dues. He contended that alleged the constitutional issues raised in the claims can be dealt with by the Magistrate Court since the court is not being asked to determine any constitutional issues.
12. The 1st Claimant submitted that the Claimants claims are not separate but connected because they involve underpayment and misclassification of staff. He further argued that in paragraph 105 of the claim, some Claimants have prayed for compensation for discrimination on account of age, pregnancy and also their participation in trade union activities, which are constitutional issues.
13. As regards the order for separation and transfer of the suit to the Magistrates Court, the 1st Claimant contended that the suit herein is a class action and its by its nature a complex case which should be heard by this court. He reiterated that the jurisdiction of the court over the suit herein has not been taken away by the law or the Gazette notice cited by the applicant.
14. In his rejoinder, Mr. Adiwo Advocate submitted that underpayment and constitutional issues and reiterated that the two issues can be handled by the Magistrate Court and appropriate reliefs issued.
15. I have considered the pleadings, Motion, Grounds of Opposition, the submissions and the cited law and judicial precedents, and the following issues fall for determination:
 - (a) Whether the Claimants should be tried separately.
 - (b) Whether the suit(s) should be transferred



Separate trial

16. The Respondents case is that the Claims are distinct and they involve distinct causes of action while the Claimants are of a different view. The relevant law in this case is Rule 23 of the Employment and Labour Relations Court Procedure Rules, 2024 which provides that:
- “ 1. A suit may be instituted by one party on behalf of other parties with a similar cause of action.
 2. Where a suit is instituted by one person on behalf of other parties, that person shall, in addition to the statement of claim, file a letter of authority signed by all the other parties”
17. The above express provision of the law is clear that two elements must be satisfied before a person can file a suit on of the other parties:
- a. The cause of action must be similar to all other parties.
 - b. There must be a letter of authority signed by all the other parties.
18. I have perused the Claimants’ bundles of pleadings and confirmed that each Claimant has signed a letter of authority allowing the 1st Claimant to appear, plead and act on their behalf in accordance with Rule 23 above.
19. As regards the second element, the Respondent averred that each Claimant was employed under distinct contract and left work in different circumstances and therefore each Claimant has different distinct cause action. However the Claimants maintained that 2nd to 18th Claimants have the same claim of salary underpayment due to misclassifications while 1st, 2nd, 3rd, 16th and 18th Claimants all seeking compensation for discrimination.
20. I have carefully considered the statement of claim dated 18th July 2025 and their written witness statements. The following emerged clearly:-
- a. The 1st Claimant was in management and his claim is about constructive dismissal on 2nd August 2023. He also alleges discrimination.
 - b. The 2nd and 3rd Claimants’ case is about unlawful dismissal on 12th September 2024 and discrimination for participating in trade union activities. They claim salary underpayment due to misclassification of occupation.
 - c. 4th and 5th Claimants resigned on 12th September, 2024 and claiming salary underpayment due to misclassification of occupation.
 - d. 6th and 7th Claimants are still in employment but are seeking salary underpayment due to misclassification of occupation.
 - e. 16th and 18th Claimants are seeking compensation for unlawful termination in 2024 and 2022 respectively, salary underpayment due to misclassification of occupation, and compensation for discrimination on grounds of age and pregnancy respectively.
 - f. The rest of the Claimants are seeking compensation for unfair termination on diverse dated and salary underpayment due to misclassification of occupation.



21. Considering the above analysis, the cause of action for the 1st Claimant is distinct and dissimilar with those of the 2nd to 18th Claimants. It is also clear that all the said 17 Claimants have a similar claim of salary underpayment due to misclassification of their jobs as watchmen when infact they courier staff. This claim is the main claim for all the 17 Claimants while discrimination and unlawfully dismissal is only by some Claimants and they will be proved by the same evidence as unlawful termination.
22. In the above circumstances, I find that the claims by the 2nd to 18th Claimants can be tried together but separate from the claims for the 1st Claimant. Consequently, I grant the prayer for the trial of the 1st Claimant to be separated from the claims by the other 17 Claimants.

Transfer

23. The Respondent prayed for the transfer of the suit to the lower court for trial and disposal. The Claimants opposed the request contending that this court's original jurisdiction was not taken away by the cited Gazette notice. Suffice it to say that this court's original jurisdiction over employment dispute is still intact.
24. Secondly, the Claimants have raised constitutional issues of discrimination, unfair labour practices, and inhuman treatment at work place which only this court has the requisite jurisdiction to determine. Consequently, I decline to order transfer of the suit to the Magistrate Court until it becomes evident that the alleged constitutional violation was mere sugar coating.

Conclusion

25. I have found that the 1st Claimant's claim is different from the claims by the rest of the Claimants and ordered for separate trial of the 1st Claimant's claim and that of the 2nd and 18th Claimants. I have also found that this court has the requisite jurisdiction to try the dispute herein especially because it raises issues of violation of rights guaranteed in *the Constitution*. Therefore I make the following orders:
 - a. The claim for the 1st Claimant be separated from the claims for the 2nd to 18th Claimants.
 - b. The Claimants are given leave of 14 days to amend their statement of claim to effect the said separation of the respective claims.
 - c. The Respondent is awarded 14 days upon service of the Amended pleadings by the Claimants to file and serve Responses.
 - d. The suits will be heard and determined by this court.
 - e. Costs of the motion shall be in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY IN OPEN COURT AT NAIROBI THIS 23RD DAY OF OCTOBER, 2025.

ONESMUS MAKAU

JUDGE

Appearance:

Aluko for the Claimant

Andiwo for the Respondent

