



Kenya Chemical Workers Union v Krystalline Salt Limited (Cause E067 of 2025) [2025] KEELRC 2958 (KLR) (30 October 2025) (Judgment)

Neutral citation: [2025] KEELRC 2958 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE E067 OF 2025
M MBARÚ, J
OCTOBER 30, 2025**

BETWEEN
KENYA CHEMICAL WORKERS UNION CLAIMANT
AND
KRYSTALLINE SALT LIMITED RESPONDENT

JUDGMENT

1. The claimant presented its proposed CBA to the respondent, which included a 20% wage increase each year for 3 years, but the respondent refused to negotiate. On 8 April 2025, a conciliation meeting was held without a resolution.
2. On 30 April 2025, the conciliator issued a report on failed conciliation.
3. The unionisable employees of the respondent have not enjoyed a wage increase for many years. Under section 57 of the *Labour Relations Act* (the LRA), the claim is justified to seek the court to order the respondent to conclude the CBA within 30 days. The court is to issue any further orders as may be deemed just.
4. In reply, the respondent's case is that the claimant did not present a proposal on any CBA. It filed a dispute before the conciliator without notice, in accordance with Section 62 of the LRA.
5. Parties entered into a Recognition Agreement (Agreement) dated 12 September 2024 as directed by the court through judgment of 24 May 2024, and by the time the dispute was reported to the Minister, the membership of the claimant had rapidly begun to decrease. As of the effective date of the Agreement, the claimant had 27 employees, representing 4.7% of the legal threshold. Of the total 582 employees, the claimant had no simple majority under section 54 of the LRA.
6. Clause 4 of the Agreement allows for termination. The respondent issued notice to terminate within a month. Under Section 54(5) of the LRA, the matter is pending before the National Labour Board



- (the Board). Since the membership of the claimant has continued to reduce to 2 employees, denying the claimant the requisite mandate to negotiate a CBA.
7. The matter has been before the conciliator without a resolution. The claimant has no case against the respondent. The matter is pending before the Board; therefore, the orders sought should not be issued. The continued negotiation of the CBA lacks a legal basis. The claim herein should be dismissed.
 8. Parties filed written submissions. These are analyzed, and the single issue which emerges for determination is whether the court should direct parties to proceed and negotiate a CBA.
 9. The respondent asserts that parties signed the Agreement on 12 September 2024. However, the membership of the claimant has since been reduced to 2 employees out of the 582 employees. This effectively denies the claimant the required threshold to negotiate a CBA as herein sought.
 10. An Agreement once achieved has the legal effect of giving the union the legal mandate to negotiate a CBA as required under section 54(1) of the LRA:
 - (1) An employer, including an employer in the public sector, shall recognize a Trade union for purposes of collective bargaining if that trade union represents the Simple majority of unionisable employees.
 11. Recognition of a trade union is not a single item. It is a process. The trade union must have achieved the requisite threshold to earn recognition.
 12. Once recognition is achieved, it cannot be negated through other processes, such as the reduction of membership, unless the procedures under section 54(5) of the LRA are followed. The respondents' position that the claimant members have reduced and that the matter has been reported to the Board is not justification to stall CBA negotiations.
 13. The claimant has a lawful and legitimate expectation to base its demands on the Agreement to seek and negotiate a CBA with the respondent. In the case of *Teachers Service Commission v Kenya National Union of Teachers (KNUT) & 3 others* [2015] KEELRC 863 (KLR) the court held that:

A Recognition Agreement is entered into for the purpose of collective bargaining. The Recognition Agreement records the terms upon which the employer recognizes the Unions. These matters are provided for under section 54 of the [Labour Relations Act](#) No 14 of 2007 (RLA).
 14. The purpose of the Agreement signed on 12 September 2024 will be lost where the respondent takes the view that the claim members have since reduced. The sole purpose of the Agreement was to advance the claimant's negotiation of the CBA to the next level. The rationale being the claimant had achieved a simple majority, hence the Agreement.
 15. In the case of *Kenya Union of Domestic, Hotels, Betting, Educational Institutions and Hospital Workers (Workers) v Board of Management, Gombato Boys Secondary School* [2025] KEELRC 450 (KLR), the court held that:

Upon the employer's recognition of a trade union, the next logical and legal step is to engage in CBA negotiations under Section 54 of the LRA. The trade union is justified in proposing to the employer terms and conditions of employment for unionisable employees on the shop floor. Such a mandate is recognized under the law, and the court and the Court of Appeal make various decisions. See *Kenya Tea Growers Association v Kenya Plantation & Agricultural Workers Union* [2018] KECA 706 (KLR), where the court held that a CBA negotiation is the next logical step where the trade union has achieved recognition. In the



case of *Micato Safaris v Kenya Game Hunting & Safari Workers Union* [2017] KECA 713 (KLR), the court emphasized Section 54 of the LRA provisions that;

An employer, including an employer in the public sector, shall recognize a trade union for collective bargaining if that trade union represents the majority of unionisable employees.

16. This position is reiterated in *Kenya Union of Domestic, Hotels, Educational Institutions and Hospitals v BOM Mama Ngina Girls High School* [2023] KEELRC 3467 (KLR) that:

By recruiting a simple majority of the total unionisable employees as per the checkoff forms, the claimant is entitled to sign a CBA with the respondent. The failure by the respondent to conclude and sign the CBA proposal placed with them offends the rights and fundamental freedoms guaranteed under Article 36 and 41 of *the Constitution* and Section 4, 54 and 57 of the LRA.

17. The right to negotiate a CBA is secured under *the Constitution*. It is a constitutional mandate of the claimant to make CBA proposals to the respondent. See *Kenya Game Hunting & Safari Workers Union v Micatio Safaris* [2013] KEELRC 85 (KLR) where the court held:

This finding by the court has the consequence that the refusal by the Respondent to negotiate a new CBA was unlawful and in violation of Section 57 (1) of the *Labour Relations Act* which provides;

“57 (1) An employee that has recognized a trade union in accordance with the provisions of this part shall conclude a collective agreement with the recognized trade union setting out terms and conditions of service to all unionisable employees covered by the recognition agreement.”

And that:

It is pertinent to note that the freedom of association of employees is guaranteed under Article 41 of *the Constitution* of Kenya, 2010.

In this regard Article 41 (1) provides every person has the right to fair labour practices whereas sub-article 2 provides;

“Every worker has the right –

- a. to form, join or participate in the activities and programmes of a trade union.”

18. The emphasis here is that the claimant enjoys recognition by the respondent. The parties shall therefore proceed and negotiate the 39 CBA items proposed by the claimant and report to the court within 30 days.

19. Accordingly, the claim has merit to the extent that the claimant is lawfully entitled to seek negotiations with the respondent over the terms and conditions of employment and execute a CBA to be registered with the court. The following steps shall be taken:

- a. The claimant shall submit to the respondent the proposed CBA within 7 days from the date hereof [7 November 2025];
- b. The respondent shall make its counter-proposal within the next 14 days from the date hereof [17 November 2025];



- c. Parties shall meet before the Labour Officer, Mombasa, within the next 21 days to agree on the proposals [24 November 2025];
- d. The ELRC Mombasa Deputy Registrar shall extract the Orders above and serve the County Labour Officer, Mombasa.
- e. Parties herein have the liberty to agree and record a consent with the court.
- f. Report to court on 9 December 2025.

DELIVERED IN OPEN COURT AT MOMBASA, THIS 30TH DAY OF OCTOBER 2025.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet

..... and

