



Rift Valley Workers Union (K) v Registrar of Trade Unions; Attorney General (Interested Party) (Cause E388 of 2024) [2025] KEELRC 2848 (KLR) (21 October 2025) (Judgment)

Neutral citation: [2025] KEELRC 2848 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E388 OF 2024
SC RUTTO, J
OCTOBER 21, 2025**

BETWEEN

RIFT VALLEY WORKERS UNION (K) CLAIMANT

AND

REGISTRAR OF TRADE UNIONS RESPONDENT

AND

THE ATTORNEY GENERAL INTERESTED PARTY

JUDGMENT

1. In a Statement of Claim dated 21st May 2024, the Claimant alleges that on 27th June 2021, it convened its National Delegates Conference in full compliance with the law and in accordance with the Respondent’s Circular regulating the election of Trade Union officials.
2. The Claimant avers that during the said National Delegates Conference, resolutions were passed regarding the election of officials, the change of the Claimant Union’s name, and amendments to the Claimant’s Constitution. All these resolutions were duly carried out and submitted to the appointed Labour Officer, Madam Rahma Gubbo, for onward transmission to the Respondent’s office for registration as the Claimant’s Returns.
3. The Claimant contends that the Respondent refused or declined to initiate the processes and procedures necessary to give effect to the resolutions of the Claimant’s National Delegates Conference.
4. According to the Claimant, the National Delegates Conference amended its Constitution to include other workers who, although entitled to representation, were not being represented, yet were employed within the trade or sector the Claimant was mandated and registered to represent.
5. The Claimant contends that upon receipt of its Returns, the Respondent was legally obliged to apply the relevant provisions of the law. Instead, it invoked a provision that effectively denied the Claimant



and its members the rights approved at the National Delegates Conference, namely the changes to the Union's name and Constitution.

6. It is against this background that the Claimant now seeks the following reliefs against the Respondent:
 - a. That a declaratory Order be and is hereby issued to the effect that the action by the Claimants National Delegates Conference on the 27th day of June 2022 to Change the Name of the Claimant from Rift Valley Railways Workers Union (K), to Meter and Standard Gauge Railway Workers and Pensioners Union (k), did not in any way breach any provision(s) of any written law and was therefore procedural.
 - b. That the Respondent be and is hereby directed to forthwith comply with the mandatory requirement and provisions of Section 27(4) of the Labor Relations Act 2007.
 - c. That the Respondent be and is hereby directed to issue Certificate of Change of Name in Form (K) in accordance to the mandatory provisions of the LRA Section 27(6), and the second schedule of the Act.
 - d. That the Respondent be and is hereby directed to issue Certificate of Change of Constitution in Form (L) in accordance to the mandatory provisions of the LRA Section 27(6), and the second schedule of the Act.
 - e. That the Respondent be and is hereby directed to enter into the appropriate register, the Claimants Form E in accordance to the provisions of Section 24(1) (2) of the LRA.
 - f. That costs of the Claim to the Claimant.
7. The Respondent and the Interested Party filed a joint Response to the Statement of Claim, averring that the Respondent's refusal to register the Claimant's Returns was fully addressed in a letter dated 14th December 2021.
8. It is further averred that, by a letter dated 3rd February 2022, the Respondent responded to the Claimant, advising that the necessary changes or amendments to the Union Constitution be made before registration could be effected.
9. The Respondent further avers that it is its mandate and legal responsibility to ensure that any changes or amendments to a Union's Constitution comply with the provisions governing the registration of Trade Unions, rather than merely rubber-stamping the submitted amendments.
10. That on 14th December 2021, the Respondent wrote to the Claimant, advising that the proposed clause being "all Kenyan workers working within the Railways in the country" was too general and was bound to conflict with the membership of the existing Railway Workers Union (K).
11. It is further averred that in the letter dated 14th December 2021, the Respondent advised the Claimant that, under Section 2 of the [Labour Relations Act](#), pensioners are not members of a Trade Union, as their inclusion is not anchored in law.
12. The Respondent further avers that the Claimant was advised to amend the draft Constitution to comply with the requirements for Trade Union registration, but instead of making the advised changes, it prematurely approached this Court for redress.
13. The Respondent and the Interested Party aver that under the law, a pensioner is a retired worker and does not fall within the definition of a 'worker' under the [Labour Relations Act](#). That further, Rule 3 of the Claimant's amended draft Union Constitution permits pensioners to be members.



14. In the view of the Respondent and the Interested Party, the Claimant's allegations are unfounded and intended to mislead the Court into granting reliefs to which they are not entitled.
15. On account of the foregoing reasons, the Respondent and the Interested Party have asked the Court to dismiss the Claim herein with costs.
16. In reply to the Response by the Respondent and the Interested Party, the Claimant contends that the Respondent could not invoke Section 27(5) of the *Labour Relations Act* without first complying with Section 27(4). The Claimant asserts that Section 27(4) is couched in mandatory terms, obligating the Respondent to notify the public of the intended changes.
17. The Claimant further contends that the Respondent's letter dated 14th December 2021 is contrary to the law. It asserts that the Respondent lacks the locus to direct or cause the variation of resolutions passed by its National Delegates Conference.
18. The Claimant further posits that the relationship between an employee and an employer does not terminate upon the employee's retirement.
19. On 5th June 2025, the parties consented to have the matter determined on the basis of documentary evidence pursuant to Rule 59 of the Employment and Labour Relations Court (Procedure) Rules, 2024.
20. Subsequently, the Court directed the parties to file and exchange written submissions within the stipulated timelines.

Submissions

21. The Claimant submitted that, although the Respondent's communication regarding the proposed change of name may have been advisory in nature, it (Claimant) was not bound by such advice, particularly in light of Section 27(4) of the *Labour Relations Act*.
22. The Claimant further maintained that Section 27(9) cannot be invoked prior to the application of the provisions of Section 27(4). In the Claimant's view, Section 27(9) of the *Labour Relations Act* could only be invoked after objections had been received from interested parties, which would have arisen had the Respondent acted in accordance with its mandatory obligations under Section 27(4).
23. According to the Claimant, it had satisfied all other conditions precedent to the change of name or *the constitution* of the Claimant, including, but not limited to, making the requisite payment.
24. The Respondent and the Interested Party filed joint submissions in which they argue that the letter dated 14th December 2021 did not constitute a refusal but was intended to advise the Claimant of the defects in the proposed changes to its name and Constitution. That this was to forestall any objections or subsequent refusal of approval. The Respondent maintains that, had it been a refusal, the same would have been communicated in Form D as required under Section 20 of the *Labour Relations Act*.
25. It is further submitted that the proposed changes do not satisfy the requirements for registration of a trade union and would inevitably result in the refusal of approval for the change of name and Constitution, regardless of any objections. Consequently, the Respondent contends that the Claimant's recourse to this Court is premature, as no formal decision has yet been rendered by the Registrar.



Analysis and Determination

26. Drawing from the pleadings, the evidentiary material on record, as well as the rival submissions, the singular issue identified by the Court for determination is whether the Claimant is entitled to the reliefs sought.

Reliefs?

27. The record bears that by a letter dated 30th June 2021, the Claimant submitted to the Respondent Form I, being the notice of change of its Constitution; Form J, being the notice of change of its name; a copy of its old Constitution; a copy of its new Constitution; and other documents.
28. In response, by a letter dated 14th December 2021, the Respondent informed the Claimant that the proposed membership clause, being ‘all Kenyan workers working within the Railways sector in the country’, was overly broad and likely to conflict with the membership of the existing Railway Workers Union (K). To this end, the Respondent advised the Claimant to specify the scope of membership to avoid encroachment and demarcation disputes.
29. The Respondent further advised that the proposed name, which included pensioners, was legally improper, as pensioners are not recognized members of a trade union under the law, and on this score, recommended that the term ‘pensioners’ be omitted.
30. Consequently, the Respondent advised the Claimant to make the necessary amendments to facilitate further action from its end.
31. The Respondent reiterated its position in a subsequent letter dated 3rd February 2021.
32. From the Claimant’s standpoint, the Respondent could only act based on objections received. The Claimant contends that the Respondent overlooked the mandatory provisions of Section 27(4) of the *Labour Relations Act* and prematurely invoked Section 27(9) by refusing to register the proposed returns.
33. On the other hand, the Respondent and Interested Party contend that the proposed changes do not satisfy the requirements for trade union registration and would inevitably result in the refusal of approval for the change of name and Constitution, with or without objections.
34. Section 27(4) of the *Labour Relations Act* provides as follows:
- “[27(4)] Upon receipt of the notice of change of name or Constitution, the Registrar shall give notice of at least twenty-one days in the Gazette and in three daily newspapers of national circulation, inviting any objections to the proposed change by members of the trade union by members of the trade union and where any such objection is raised, the Registrar shall investigate the complaint and the grounds relied upon and may-
- (a) refer the matter to the Industrial Court;
 - (b) refuse to accept the proposed amendments; or
 - (c) make any orders that he may deem fit in the circumstances.”
35. The aforementioned statutory provision is clear regarding the procedure upon the Registrar receiving a notice of change to a union’s Constitution. In this regard, the Registrar must first issue 21-day notice in the Gazette and in three daily newspapers, inviting objections to the proposed changes. Thereafter, the Registrar is required to consider any objections raised and the grounds relied upon, and may then either



refer the matter to this Court, refuse to approve the changes, or make any orders deemed appropriate in the circumstances.

36. It is apparent that in the present case, upon receipt of the Claimant's request, the Respondent did not issue notices inviting objections as required under Section 27(4) of the Labour Relations Act. Instead, it advised the Claimant to effect the amendments it deemed appropriate.
37. My understanding of Section 27(4) of the Labour Relations Act is that the Registrar is mandated to first invite objections before deciding on any proposed changes to the name or Constitution of a trade union.
38. The law does not appear to grant the Registrar authority to make recommendations on proposed changes prior to inviting objections.
39. It is this Court's considered view that by proposing amendments to the Claimant's proposed name and Constitution before inviting objections, the Respondent effectively 'jumped the gun' and acted in a manner not contemplated under Section 27(4) of the Labour Relations Act.
40. In any event, upon receipt of objections, the Registrar retains the mandate under Section 27(5) of the Labour Relations Act to decline approval of any proposed constitutional change that does not meet the statutory requirements for registration of a trade union. In the Court's view, the Registrar is not bound solely by the objections received.
41. In view of the foregoing, the Court is persuaded that the Claimant's claim is merited, the Respondent having failed to comply with the procedural requirements stipulated under Section 27(4) of the Labour Relations Act.
42. Accordingly, the Respondent is hereby directed to process the Claimant's application strictly in accordance with Section 27(4) of the Labour Relations Act, by issuing the requisite notice inviting objections before rendering any decision on the proposed changes.
43. There will be no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 21ST DAY OF OCTOBER 2025

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STELLA RUTTO

JUDGE

In the presence of :

For the Claimant Mr. Munayi (Union rep)

For the Respondent and Interested Party Ms. Jepkemei

Court Assistant Millicent

Order

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of



Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

