



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kenya Engineering Workers Union v M/S Sohan Singh Josh & Sons Limited  
(Cause 262 of 2020) [2025] KEELRC 3110 (KLR) (6 November 2025) (Judgment)**

Neutral citation: [2025] KEELRC 3110 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 262 OF 2020  
CN BAARI, J  
NOVEMBER 6, 2025**

**BETWEEN**  
**KENYA ENGINEERING WORKERS UNION ..... CLAIMANT**  
**AND**  
**M/S SOHAN SINGH JOSH & SONS LIMITED ..... RESPONDENT**

**JUDGMENT**

**Introduction**

1. The Claimant is a registered trade union operating within the Republic of Kenya and holding a valid recognition agreement with the Respondent herein. The Claimant lodged a Memorandum of Claim against the Respondent seeking the following reliefs:-
  - i. That this court finds the actions of the Respondent of refusal to produce the required documents for negotiations to be unfair and in bad faith, and adopt the proposal by the Claimant and order that parties sign the same;
  - ii. That in the alternative, the Respondent be ordered to produce the said records and parties given a duration to complete and sign the CBA and the matter mentioned before the court for confirmation;
  - iii. That the court do issue an order against the Respondent and her agents from declaring redundancy the Claimant's members on the basis of this suit, trade union activities and/or affiliation; and
  - iv. That costs be met by the Respondent.
2. From the court record, there is no indication that the Respondent defended the suit. Other than an application seeking the setting aside of orders issued on 5<sup>th</sup> July, 2022, which application was dismissed by a ruling delivered on 6<sup>th</sup> March, 2025, no response to the Memorandum of Claim was filed.



3. An economic report was filed in the matter.
4. The Claimant filed submissions on the claim on court's directions. The Respondent again, did not file submissions.

### **The Claimant's Case**

5. The Claimant's case is that the parties herein have a valid and duly signed Recognition Agreement, and have previously negotiated several Collective Bargaining Agreements (CBAs), the most recent of which was signed on June 27, 2017, and which the Respondent has refused to review.
6. The Claimant states that in line with clause 39 of the said CBA, it forwarded a proposal for review to the Respondent, and that the Respondent made a counter-proposal. It avers further, that parties disagreed on the terms of the review, resulting in the Claimant reporting a trade dispute in accordance with Section 62 of the *Labour Relations Act*.
7. The Claimant states that the Ministry of Labour appointed a conciliator but even so, the Respondent refused to attend any of the conciliation meetings, prompting the conciliator to issue a certificate of unresolved issues and further the filing of this claim.
8. It states that other companies in the same sector have CBAs offering better employment terms and conditions than those of the Respondent.
9. It avers further, that the Respondent was given ample time and opportunity to respond or defend the case, but failed to do so, as they did not provide financial reports or cooperate with the CPMU or the Court.
10. It is the Claimant's prayer that this court allows its claim.
11. The court has duly considered the Claimant's submissions and the economic report placed before it.

### **Analysis and Determination**

12. The sole issue for determination is whether the Claimant merits the prayers sought.
13. The issue in dispute is the Respondent's refusal to review the CBA on basic minimum wage, general wage, house allowance, travelling allowance and an agreement on the effective date of the CBA.
14. The Claimant made proposals to the Respondent in respect of the review, where it proposed a 10% increment of the basis minimum wage for each year, a 25% increment on the general wage owing to the increased costs of living, Kshs.8000 for house allowance in the first year, up from Kshs.7000 under the outgoing CBA, leave travelling allowance ranging between Kshs.10,000 to Kshs.12,000. The Claimant further proposed that the incoming CBA takes effect on the date the outgoing CBA ends.
15. The court was told that the Respondent rejected the Claimant's proposal and has not defended this suit as to allow the court understand the basis of their rejection.
16. Section 57 of the *Labour Relations Act*, 2007, provides thus on collective bargaining:-  
'(57)1 An employer, group of employers or an employers' organisation that has recognised a trade union in accordance with the provisions of this Part shall conclude a collective agreement with the recognised trade union setting out terms and conditions of service for all unionisable employees covered by the recognition agreement.'



- (2) For the purpose of conducting negotiations under subsection (1), an employer shall disclose to a trade union all relevant information that will allow the trade union to effectively negotiate on behalf of employees.
- (3) All the information disclosed by an employer as specified in subsection (2) is confidential and shall not be disclosed by any person to a person who is not engaged in the negotiations.....”
17. It is evident that the parties herein have a valid recognition agreement, and there is also no denying that the parties had a running CBA as at the time of filing this suit.
18. The court notes that the outgoing CBA between the parties took effect on 1<sup>st</sup> June, 2017 and was thus expected to have run its two year term by 31<sup>st</sup> May, 2019, and was thus due for review at the time the Claimant commenced negotiations.
19. Section 59(5) of the *Labour Relations Act* provides that:-
- “The terms of the collective agreement shall continue to be binding on the parties until a new collective agreement is concluded.”
20. It therefore follows that where a CBA expires before a new one is concluded, the terms and conditions in the expired CBA continue to apply until a new CBA is signed and registered, and which should be the case in this matter.
21. The Claimant’s position is that the review of the outgoing CBA was necessary to cushion its members from the rising cost of living and that it made proposals which the Respondent rejected, and that it further declined to supply the Claimant with the necessary documents for effective negotiation.
22. Once an employer and an employee enter into a recognition agreement, a statutory duty to bargain in good faith is created. It is however clear that a court cannot compel parties to agree on specific terms, but can require them to engage in negotiation.
23. It is now settled that refusal or failure to negotiate may amount to an unfair labour practice under Article 41 of *the Constitution*. In the case of Kenya Union of Domestic, Hotels, Educational Institutions & Hospital Workers (KUDHEIHA) v. Aga Khan University Hospital [2015] eKLR it was held that once recognition exists, both parties have a legal obligation to negotiate in good faith, and the court can direct them to commence negotiations.
24. Further in Kenya Airways v. Kenya Airline Pilots Association [2014] eKLR, the Court reaffirmed that while the court cannot impose terms of a CBA, it can order parties to engage in genuine negotiations if one side is obstructing the process.
25. Again, in Kenya Chemical & Allied Workers Union v. Bamburi Cement Ltd [2018] eKLR, the Court directed the employer and union to resume negotiations for a new CBA after finding that delays were unjustified.
26. In light of the foregoing, this court finds the Respondent’s refusal to produce the documents required for negotiations, and to negotiate unfair.
27. The Claimant’s claim thus succeeds in terms of the following orders:-
- a. The Respondent be and is ordered to produce records necessary for negotiation of a new CBA between the parties herein, and to complete and sign a new CBA within 90 days of this judgment.



- b. That an order be and is hereby issued restraining the Respondent from victimizing its unionisable employees on account of their association with the Claimant union.
- c. In the interest of social partnership, parties shall bear their own costs.

28. Orders accordingly.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 6<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**C. N. BAARI**

**JUDGE**

Appearance:

N/A for the Claimant

N/A for the Respondent

Ms. Esther S - C/A

