

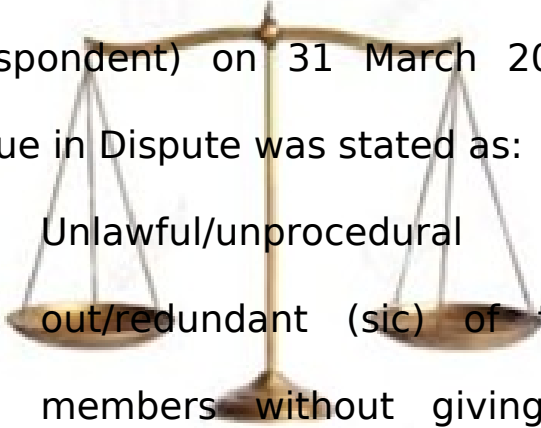
**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT AT NAIROBI
CAUSE NO. E268 OF 2021
KENYA ENGINEERING WORKERS UNION
CLAIMANT**

v

**IDEAL APPLIANCES LTD
RESPONDENT**

DIRECTIONS/RULING

1. The Kenya Engineering Workers Union (the Union) sued Ideal Appliances Ltd (the Respondent) on 31 March 2021, and the Issue in Dispute was stated as:


Unlawful/unprocedural lock
out/redundant (sic) of the Claimant
members without giving notice and
without following procedures by
consulting the Claimant and the Labour
Office in the area where the Grievant
herein were engaged or employed.

2. The Respondent filed a Reply to the Claim on 19 May 2021. The Union filed a Reply to the Response on 11 August 2021.

3. Thereafter, the parties appeared severally before the Deputy Registrar and ultimately a hearing date was fixed for 20 February 2023.
4. On 20 February 2023, the Court dismissed the Cause with costs for non-attendance (the record indicates that both the Union and Respondent were represented).
5. The Respondent moved to have its Bill of Costs taxed around 7 March 2023.
6. The Union moved the Court through a Motion dated 24 April 2023 to review the dismissal and stay execution of the costs order. The Union filed another Motion dated 18 May 2023 seeking similar orders.
7. Yet again, the Union filed another Motion dated 26 June 2023 seeking similar orders to the earlier Motions.
8. The Respondent filed a Preliminary Objection dated 11 August 2023.
9. Before the Motions could be determined, one Amos Omolo filed on or around 27 July 2023,

a Motion dated 6 May 2023 seeking leave to allow the introduction of some 29 Claimants to the Cause.

10. The Motions were mentioned before the Court on several occasions, and on 9 October 2023, the Court directed that the hearing of the Cause on the Motions proceed on 19 March 2024, and the Union was directed to notify the Respondent.

11. On 19 March 2024, the Court dismissed the Cause for the non-attendance of the Union (the record indicates that the Union was present).

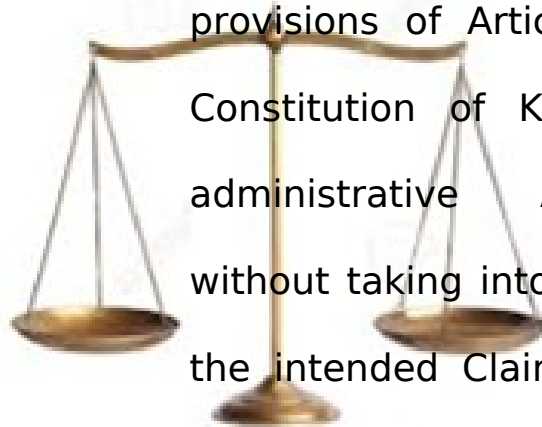
12. The parties next appeared before the Court on 26 June 2024. The Court heard submissions from the parties and reiterated that the Cause stood dismissed and the file closed.

13. The Union then filed a Motion dated 19 August 2024, seeking orders:

(i) ...

(ii) THAT the Honourable Court be pleased to issue interim orders to vacate the execution and set aside the orders dated 16th day of May 2024 issued by Honourable Mathew Nderi

EMPLOYMENT AND LABOUR RELATIONS COURT
Nairobi



Naibasha. The same was issued without complying with the provisions of Article 47 of the Constitution of Kenya on fair administrative Action and without taking into account that the intended Claimants and 1st Claimant were present in Court

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which presences of the parties have also been confirmed in orders dated 16th day of May 2024.

(iii) THAT the Honourable Court be pleased to issue interim orders to vacate the orders dated 16th

day of May 2024 dismissing the 2nd Intended Claimants main suit and awarding the Respondent herein costs which action by the Honourable Judge herein amounts to discrimination contrary to the provisions of Article 27(1) & (2) of the Constitution of Kenya and equality and freedom from discrimination.

EMPLOYMENT AND LABOUR RELATIONS COURT



14. The grounds in support of the Motion were that the parties were present when the Cause came up for hearing on 19 March 2024 and 16 May 2024, but the Court went ahead to dismiss the Cause; the order to dismiss the Cause for non-attendance despite the presence of the parties violated Articles 27(1) & (2) and 47 of the Constitution of Kenya and that the Court had the discretion to entertain the Motion.

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15. The Court gave directions on the Motion on 24 September 2024.
16. On 3 December 2024, the Court granted an extension to the Respondent to respond to the Motion. The Respondent filed a replying affidavit on 4 December 2024.
17. In the affidavit in which the Respondent's Operations Manager deponed that the Union had invoked inapplicable Rules of Procedure; the Court should review the record; the Union was not present in open Court for the hearing at noon on 20 February 2023 leading to the dismissal of the Cause; the Cause was reinstated on 9 October 2023 and hearing fixed for 19 March 2024; the Court directed hearing proceeds in open Court at noon but the Union but the Union was not represented when the Cause was dismissed at 1315 hours; the Respondent was present and ready on both hearing dates and had incurred costs; the supporting affidavit was

full of misrepresentation of facts; the Motion was an abuse of the court process and that were the Court inclined to allow the Motion, it should be on conditions.

18. The Intended Claimants filed submissions on 7 January 2025, and the Union filed its submissions on 15 February 2025. The Respondent filed its submissions on 20 February 2025. The Intended Claimants filed further submissions on 6 October 2025.

19. When the parties appeared before the Court on 4 March 2025, it reserved Ruling to 15 May 2025.

20. In the Ruling, the Court reinstated the Cause on conditions. The Court further recused itself from hearing the Cause, and the Presiding Judge of the Division reallocated the Cause to this Court on 29 September 2025.

21. This Court gave directions on 6 October 2025, 18 November 2025 and 25 November 2025.

22. Instead of filing submissions before 18 December 2025, the Union filed on 26 January 2026, an affidavit sworn by its General Secretary,

23. At the time this Court was giving directions, it was not alive to the Ruling delivered on 15 May 2025 in which the Court (differently constituted) reinstated the Cause and directed that it be heard on the merits. The notes on record indicate that the Ruling date was set on 4 March 2025 in the presence of the parties and that they were directed to file and exchange submissions so the allegations of the Union not having been heard are not true.

24. The import of the Ruling is that there is no pending application on the record, save for

the taxation of the Respondent's Bill and payment thereof before a hearing date is set.

25. The delivery of this Ruling has been brought forward with notice to the parties.

Orders

26. The Court orders:

(i) The Respondent's Bill of Costs to be taxed on a date convenient to the Taxing Officer and the parties.

(ii) The Union to settle the taxed costs within 30 days from the date of taxation.

(iii) The Cause will proceed to a hearing with the Union as the

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Claimant and intended Claimants as Grievants and not Claimants.

(iv) The Union and Respondent to file and exchange hard copies of trial bundles consisting of

Statement of Claim, Responses, documents and witness statements within 30 days of today.

27. Further directions before the Deputy Registrar.

Delivered virtually dated and signed in Nairobi on this 27th day of January 2026.

EMPLOYMENT AND LABOUR RELATIONS COURT

Radido Stephen, MCI Arb
Judge

Appearances

For Claimant

Mr Araka, Industrial Relations Officer

For Respondent

Mr Odera instructed by Bansbury Associate

Court Assistant

Advocates LLP
Wangu

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