

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT NAKURU
CAUSE NUMBER E019 OF 2025**

BETWEEN

KENYA PLANTATION AND AGRICULTURAL
WORKERS UNIONCLAIMANT

VERSUS

MAWARA INVESTMENT LIMITED [MAAKIOU ESTATE] RESPONDENT

RULING

1. The Claimant filed this Claim on behalf of its Members [Grievants], identified in the Statement of Claim as, "*Kamau Wairimu Maria and 39 Others.*"
2. The Claimant avers that the Grievants were employed by the Respondent between the years 1999 and 2016, as permanent Employees.
3. Paragraph 5 states that they worked diligently, until the year 2019, when the Respondent terminated their services, and refused to pay their terminal benefits.
4. The Claimant prays for orders that, the Grievants are paid gratuity; notice; leave; baggage allowance; costs; and interest.
5. The Respondent filed a Statement of Response dated 10th November 2025, and Notice of Preliminary Objection dated 10th December 2025.

Both the Statement and Notice, raise objection based on Section 89 of the Employment Act, on limitation of time.[Previously Section 90].

6. The Respondent states that termination took place in 2019. The Claim was filed in 2025, well beyond the 3 year period, allowed under Section 89.
7. Thomas Kipkemboi, Deputy General-Secretary of the Claimant Union, filed a Replying Affidavit, sworn on 16th December 2025.
8. He submits that the Claimant still *“has conceivable interest in the instant suit”* and that, the Grievants *“in the instant suit are still under employment by the Respondent.”*
9. He expounds that termination took place in 2019, but the Respondent still engages the Grievants on casual terms.
10. No prejudice has been occasioned to the Respondent by late filing. The Grievants would be prejudiced by dismissal of the Claim, as they would lose out their terminal benefits.
11. Parties agreed that the Objection is considered on the strength of their submissions.

The Court Finds: -

12. The current employment relationship between the Respondent and the Grievants, if any, is not relevant to the Preliminary Objection.
13. The Claimant pleads that the Grievants were employed in 1999 and had their contracts terminated, in 2019.
14. There is no pleading that they were re-employed on any terms after termination. There is no dispute concerning the terms and conditions of employment, post-dating 2019.
15. The prayers sought relate to termination that took place in 2019. Terminal benefits are pursued as a result of termination that took place in 2019.
16. The law of limitation is not concerned whether the Grievants, and the Claimants, still have "*conceivable interest in the "instant suit,"*" or whether the Grievants would be prejudiced by dismissal. Interest in the "*instant suit,"*" is normally reaffirmed, when a Claimant is faced with an application for dismissal of the Claim for want of prosecution.
17. The law of limitation under Section 89 of the Employment Act, focuses on timelines, from the date the cause of action accrues, to the date the Claim is filed before the Court.
18. In this case, it is common pleading that termination took place in 2019, and the Claim was filed in 2025.

19. It was filed 6 years after termination. It was 3 years late. It is time-barred under Section 89 of the Employment Act.

IT IS ORDERED: -

- a. The Preliminary Objection is sustained, and the Claim dismissed, under Section 89 of the Employment Act.***

- b. Costs to the Respondent.***

Dated, signed and delivered electronically at Nakuru, this 31st day of March 2026.

James Rika
Judge


