



**Riftvalley Railways Workers Union v Kenya Railways Corporation  
(Cause 830 of 2019) [2026] KEELRC 1214 (KLR) (7 May 2026) (Ruling)**

Neutral citation: [2026] KEELRC 1214 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 830 OF 2019**

**CN BAARI, J**

**MAY 7, 2026**

**BETWEEN**

**RIFTVALLEY RAILWAYS WORKERS UNION ..... CLAIMANT**

**AND**

**KENYA RAILWAYS CORPORATION ..... RESPONDENT**

**RULING**

1. This ruling relates to the Claimant/Applicant's Motion application dated 22<sup>nd</sup> September, 2024, wherein the Applicant seeks the following orders: -
  - i. Spent
  - ii. Spent
  - iii. Spent
  - iv. That the findings of the Ruling issued on the 18<sup>th</sup> of February 2021 be varied to conform to the findings of the court in the matter of Review, and or
  - v. That the matter be reinstated and heard de novo
  - vi. That costs be in the suit.
2. The application is supported by the grounds on the face of the Motion and the affidavit of Munayi Opondo Isaac.
3. The Claimant/Applicant argues that the Trial Court erred in dismissing the case under Section 90 of the *Employment Act*, 2007, asserting that the Court wrongly assumed that the Claimant only elected to prosecute the matter on 13<sup>th</sup> December 2019, despite the cause of action arising on 1<sup>st</sup> October 2014.



4. The Applicant maintains that after the cause of action arose, the dispute was promptly reported to the Ministry for conciliation on 14<sup>th</sup> July 2015, following initial attempts to resolve the issue amicably through local mechanisms.
5. The Applicant states that after reporting the dispute, a conciliator was appointed, who invited both parties to several meetings, but the Respondent failed to attend, and a certificate of disagreement was issued, allowing the matter to proceed to court. It avers that it then filed the case on 6<sup>th</sup> October 2016, but the Trial Court directed that the matter be filed afresh rather than allow rectification of procedural defects. It avers that, in compliance, it refiled the case as Cause No. 830 of 2019.
6. The Applicant emphasizes that the suit did not begin in 2019, but was preceded by mandatory conciliation, and further that earlier court proceedings, demonstrating continuous pursuit of the claim, and therefore contends that the finding that the claim was time barred under Section 90 of the Employment Act is incorrect.
7. Additionally, the Applicant disputes the Court's finding of want of prosecution, arguing that there were consistent and genuine efforts to prosecute the matter, and that the case remained active throughout.
8. The Respondent opposed the application through grounds of opposition dated 6<sup>th</sup> March, 2025.
9. The Respondent contends that the Applicant's application lacks merit both in law and fact, as it fails to establish any valid ground to warrant a review of the Court's ruling dated 18<sup>th</sup> February 2021.
10. The Respondent argues that the application does not meet the legal threshold for review under Order 45 Rule 1 of the Civil Procedure Rules, 2010, and Section 80 of the Civil Procedure Act. Specifically, the Respondent contends that the Applicant has not demonstrated the discovery of any new and important evidence that was previously unavailable despite due diligence.
11. Further, the Respondent maintains that there is no mistake or error apparent on the face of the record in the Court's ruling, nor has the Applicant shown any other sufficient reason to justify a review. The Respondent asserts that the application is characterized as a baseless challenge founded on the Applicant's personal dissatisfaction with the court decision.
12. The Respondent argues that the Applicant's application is an abuse of the court process, as it seeks to re-litigate issues already determined in previous suits involving the same parties, including Nairobi High Court Commercial Suit No. 136 of 2017 and ELRC Petition No. 76 of 2017. It is further contended that the application is, in fact, an appeal disguised as a review, yet the Court lacks jurisdiction to hear an appeal against its own decision.
13. The Respondent further points out that the application was filed after an inordinate delay of over three years from the date of the ruling, demonstrating a lack of diligence, and which causes prejudice to the Respondent.
14. The Respondent maintains that the underlying claim is statute-barred under Section 90 of the Employment Act and Section 87(b) of the Kenya Railways Act, as it challenges a decision made in November 2014, long after the limitation period had lapsed.
15. The Respondent concludes that the alleged misinterpretation of the law by the Court can only be addressed on appeal, and not through a review, and therefore, the application is frivolous, vexatious, and without legal basis, and should be dismissed with costs.
16. The motion was canvassed by way of written submissions, which have been duly considered.



## Analysis and Determination

17. The singular issue for determination is whether the Claimant/Applicant has met the legal threshold for the review of the Court's ruling dated 18<sup>th</sup> February 2021.
18. The principles governing review are now well settled. Rule 74 of the Employment and Labour Relations Court (Procedure) Rules, 2024, states :-
  - a. if there is discovery of a new and important matter or evidence which, despite the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made;
  - b. on account of some mistake or error apparent on the face of the record;
  - c. if the judgment or ruling requires clarification; or
  - d. for any other sufficient reason.
19. By the foregoing provisions, it is clear that this court is empowered to review its judgments/rulings on the conditions stipulated in paragraph 18 herein.
20. The Applicant's case is premised on the argument that the Court erred in holding that the claim was statute barred pursuant to Section 90 of the Employment Act and in finding want of prosecution. The Applicant further outlines the steps taken, including conciliation proceedings and the earlier filing of the suit in 2016, to demonstrate diligence.
21. In my view, what the Claimant needed to demonstrate is either that it had discovered new evidence or errors apparent on the face of the impugned ruling, and that the instant application was filed without inordinate delay.
22. The Applicant has not at all demonstrated the existence of any new and important evidence that was not within its knowledge at the time the ruling was delivered. All facts relating to conciliation, prior filing, and procedural history were within the Applicant's knowledge and could have been presented before the ruling was delivered.
23. Further, the alleged misinterpretation of Section 90 of the Employment Act requires a substantive re-evaluation of the law and facts, and does not therefore constitute an "error apparent".
24. In my view, whether time began to run in 2014 or was affected by conciliation is a matter requiring legal argument and interpretation, and would be a proper ground for appeal, rather than review. In *National Bank of Kenya Ltd v Ndungu Njau* [1997] KECA 389 (KLR), the Court of Appeal held that:-
  - a. "A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court, but it cannot be used to re-argue the case or correct an erroneous view of the law."
25. The Court further notes that the ruling sought to be reviewed was delivered on 18<sup>th</sup> February 2021, while the present application was filed on 22<sup>nd</sup> September 2024, more than three years after that ruling.



26. The Applicant has not provided an explanation for this delay, which no doubt renders the application fatally defective.
27. The Applicant has also not demonstrated any other sufficient reason that would justify review of the impugned ruling. The grounds advanced in my view merely reflect dissatisfaction with the Court's decision.
28. In whole, I find and hold that the application herein has failed to meet the legal threshold for review.
29. The Notice of Motion dated 22<sup>nd</sup> September 2024 is hereby dismissed in its entirety with no orders on costs.
30. It is so ordered.

**DATED, SIGNED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 7<sup>TH</sup> DAY OF MAY, 2026.**

**C. N. BAARI**

**JUDGE**

Appearance:

Mr. Isaac Munai present for the Claimant/Applicant

Mr. Nyakiti present for the Respondent

MS. Esther S - Court Assistant.

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