



Oigoro v Turkana County Public Service Board & another (Cause 11 of 2022) [2025] KEELRC 169 (KLR) (30 January 2025) (Ruling)

Neutral citation: [2025] KEELRC 169 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KITALE
CAUSE 11 OF 2022
MA ONYANGO, J
JANUARY 30, 2025**

BETWEEN

LAWRENCE OBINO OIGORO CLAIMANT

AND

TURKANA COUNTY PUBLIC SERVICE BOARD 1ST RESPONDENT

TURKANA COUNTY GOVERNMENT 2ND RESPONDENT

RULING

1. This ruling is in respect of the Notice of Motion dated 16th July 2024 brought by the Applicant under the provisions of section 16 of the *Employment and Labour Relations Court Act*, Rule 33 and Rule 34 of the Employment and Labour Relations Court (Procedure) Rules 2016. It seeks the following orders:
 - i. Spent
 - ii. That this Honourable Court be pleased to correct the arithmetic and typing errors in its judgment dated 12th April, 2024 at paragraphs 35, 37, and 38(ii).
 - iii. That this Honourable Court be pleased to correct the figure of Kshs. 7,003,513.00 awarded to the Claimant at paragraph 38(ii) to read Kshs. 7,093,513.00.
 - iv. That the Court do consider the application without requiring attendance of Counsel for the Applicant.
 - v. That Costs of this application be in the cause.
2. The grounds upon which the application is anchored are contained on the face of the application being that there is an apparent error on the face of the record; that in paragraph 35 of the judgment, the Court correctly stated that in his amended statement of claim, the Claimant prayed for Kshs. 5,889,808.00 plus Kshs.1,203,705.00 being arrears on account of acting allowance, all totaling Kshs.7,093,513.00;



that however, in paragraph 38(ii), the Court erroneously awarded the Claimant a total of Kshs. 7,003,513.00 instead of Kshs. 7,093,513.00; that in paragraph 37, the Court erroneously awarded a total of Kshs.9,003,513.00 instead of Kshs. 7,093,513.00; that these errors are arithmetical and typographical in nature and require correction to reflect the accurate computation of the Claimant's salary and allowances; that it is in the interest of justice that the errors be corrected to avoid any prejudice to the Claimant's entitlement; that it is an error that the Court can correct on its own motion without attendance of Counsel for the Applicant; and lastly, that correcting the error will not prejudice anyone but rather perfect the judgment.

3. The application was supported by the affidavit of Advocate Jeremiah Ongeri Samba, filed therewith and it reiterates the grounds upon which the application is grounded.
4. I have not seen any response by the Respondent.
5. The application was canvassed through written submissions. The Applicant's submissions are dated 22nd November 2024.

Determination

6. The applicable provisions in addressing the question of review of court decisions are in section 16 of the *Employment and Labour Relations Court Act* and Rule 33 of the Employment and Labour Relations Court (Procedure) rules, 2016 (Court Rules).
7. Rule 33 provides:
 1. A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time, apply for a review of the judgment or ruling—
 - a. if there is discovery of new and important matter or evidence which, after 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.
8. Upon perusal of the judgment, there is indeed an error on its face concerning the calculation of final computation. The Court at Paragraph 35 of the judgment, discussed the prayers sought by the Claimant in his Amended Statement of Claim and stated that the Claimant had prayed for Kshs 5,889,808 plus Kshs 1,203,705 being arrears on account of acting allowance which evidence had not been rebutted by the Respondent.
9. At paragraph 37 of the judgment, the court went ahead to grant the Claimant Kshs 9,003,513 being arrears for salary and allowances. An addition of the salary arrears and allowances mentioned in paragraph 10 above brings the amount payable to the Claimant to Kshs. 7,093,513 and not Kshs 9,003,513 as stated in paragraph 37 of the impugned judgment.
10. The court in its final disposition at paragraph 38(ii) granted the Claimant payment of arrears being salary and allowances from 1st February 2015 under Job Group "R" totaling to Kshs 7,003,513. This is an error apparent on the face of the judgment.



11. Section 16 of the *Employment and Labour Relations Court Act* provides for review of orders of the Court as follows:

The Court shall have power to review its judgements, awards, orders or decrees in accordance with the Rules.

12. Consequently, the application dated 16th July 2024 is meritorious and it is hereby allowed and the judgment delivered on 12th April 2024 is reviewed as follows:

i. Paragraph 37 of the judgement is amended to read:

37. I therefore grant the Claimant Kshs 7,093,513 being arrears of salary and allowances....

ii. Paragraph 38(ii) is amended to read:

38(ii) The Claimant is entitled to payment of arrears being salary and allowances from 1st February 2015 under Job Group “R” totaling to Kshs 7,093,513.

iii. There shall be no orders as to costs.

13. It is so ordered.

DATED, DELIVERED AND SIGNED AT ELDORET

THIS 30TH DAY OF JANUARY, 2025.

M. ONYANGO

JUDGE

