



**Kenya Union of Commercial Food and Allied Workers v Miniso Lifestyle (K) Ltd  
(Cause 351 of 2019) [2025] KEELRC 474 (KLR) (21 February 2025) (Judgment)**

Neutral citation: [2025] KEELRC 474 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 351 OF 2019  
B ONGAYA, J  
FEBRUARY 21, 2025**

**BETWEEN**  
**KENYA UNION OF COMMERCIAL FOOD AND ALLIED  
WORKERS ..... CLAIMANT**  
**AND**  
**MINISO LIFESTYLE (K) LTD ..... RESPONDENT**

**JUDGMENT**

1. The claimant filed the memorandum of claim dated 30.05.2019 through its Secretary General, Boniface Kavuvi. It is prayed as follows:
  1. It is the claimant’s humble prayer to the Honourable Court that the respondent action should be declared unfair and unlawful.
  2. That the Honourable Court to order the respondent to pay from its own account or resources Kshs. 40,000/- per month for the period not deducted and remitted.
  3. The Honourable Court do issue a permanent order restraining the respondent from intimidating, victimizing, coercing and disciplining and or terminating the services of any of its employees on account of his or her active participation in trade union activities.
  4. That the Honourable Court to order the respondent to effect deduction of trade union dues and to remit to the claimant within the provisions of section 48 of the *Labour Relations Act*.
  5. That the Honourable Court do issue an order directing the respondent to sign recognition agreement within seven (7) days and negotiate and conclude a collective bargaining agreement within thirty (30) days from the date of the judgment.
  6. That the Honourable Court do issue any other order it deems fit to address the cause of justice.



7. Costs of the claimant.
2. The claimant's case was pleaded as follows:
    - a. The claimant approached the respondent's employees sometimes in September to December 2018 and voluntarily recruited 100 members out of 122, translating to 82% of the respondent's employees. The claimant then wrote to the respondent forwarding check off forms and standard recognition agreement for purposes of effecting trade union deduction and signing the recognition agreement.
    - b. The claimant made several attempts to convince the respondent to effect deduction of union dues and sign recognition agreement but all in vain.
    - c. On 16.11.2018, the claimant reported a dispute and the respondent made a response to the dispute on 26.11.2018. A conciliator was then appointed on 10.12.2018. In a meeting before the conciliator on 18.03.2019, parties agreed to resolve the dispute amicably whereby the respondent was to avail the muster roll to the claimant for purposes of effecting deductions and possible signing of recognition agreement. Instead, the respondent verbally terminated the services of 18 of its employees in an act of impunity that this Court should address conclusively.
    - d. The respondent's failure to effect deduction of trade union dues was an economic sabotage to the claimant contrary to the spirit of the Constitution of Kenya. The same was a violation of section 48 of the Labour Relations Act and section 18 of the Employment Act as the respondent had been served with the gazette notice.
    - e. The loss incurred as a result of the respondent's failure to deduct dues can only be cured by the respondent being directed to pay equivalent amount from their own account for the months in default. It had no valid reason not to deduct and remit trade union dues after workers signed the check off forms and submitted the same to the company procedurally.
  3. The respondent's statement of defence dated 26.07.2019 was filed through Wanam Sale Advocates. It prayed that the claimant's claim be dismissed with costs. The respondent's case was as hereunder:
    - i. The claim of economic sabotage has no constitutional basis and the claim herein is premised on fraudulent recruitment exercise.
    - ii. The claimant's action was premised on illegalities and illusory substrata and is therefore a nullity. The respondent did not recruit 100 unionisable employees and or such sufficient number to qualify for a recognition agreement and consequently, the failure to sign the recognition agreement is justified.
    - iii. Further, the purported recruitment of unionisable members by the claimant was not in accordance with constitutional and labour law principles of freedom of association. The check-off forms revealed an inordinately high number of signatures that were strikingly similar and amounting to forgeries. That several employees were interviewed who denied ever having voluntarily joined the union. Other employees indicated to the respondent's management that at the time of signing the check-off forms, they were not informed that their wages would be deducted, and only came to know of it when the respondent started remaking remittances to the claimant.
    - iv. The consent signatures obtained by a misapprehension or ignorance of consequences do not amount to a voluntary decision and cannot be the basis of executing a valid recognition agreement.



- v. The termination of the services of its employees was in accordance with their contracts of employment and Labour laws.
4. The parties gave their evidence before the Court and thereafter filed their respective submissions. The Court has considered the material on record and returns as follows:
- a. The respondent witness (RW) testified that as at inception of the dispute, the respondent had 250 employees and the union had recruited 100 of them. RW started to effect deduction of union dues but the employees protested as not having joined the union. RW testified that the employees wrote protest letters demanding stoppage of the deduction of union dues. Accordingly, the deduction of union dues stopped. RW also confirmed that at the conciliation proceedings parties agreed to meet at their level, work out on the numbers so recruited by the union against the payroll and proceed to sign a recognition agreement. However, the letter by the conciliator exhibited by the claimant shows that thereafter the respondent refused to cooperate. The unresolved dispute was referred to the Court in the instant case. In re-examination RW testified that of the 100 recruited employees, more than half of the employees' signatures were fake and a report was made to the Directorate of Criminal Investigation but no investigation report had been received in that respect.
  - b. The Court finds that if at material time the employees in issue were 250 and the claimant had purportedly recruited only 100, the 50% plus one or simple majority envisaged in section 54 of the Labour Relations Act to justify recognition had not been attained. The stoppage of deduction of union dues appear to have been valid in view of the exhibited letters by the employees who denied joining the union and who demanded stoppage of the deduction.
  - c. As for claimed union dues, the same are not particularised and parties appear not to have resolved the issue of numbers as had been agreed during conciliation. The claim and prayer in that regard will fail.
  - d. In view of the findings, the claimant should be at liberty to recruit employees in a proper and honest manner. The respondent should cooperate and provide information as well as access to the claimant. Parties are in the process of initiating recognition agreement and each will bear own costs of the suit.

In conclusion, the suit is dismissed with orders each party to bear own costs of the suit.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS  
FRIDAY 21<sup>ST</sup> FEBRUARY, 2025.**

**BYRAM ONGAYA**

**PRINCIPAL JUDGE**

