



REPUBLIC OF KENYA



Transport Workers Union (K) v Sanghani & another (Cause E829 of 2024) [2025] KEELRC 1779 (KLR) (19 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1779 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E829 OF 2024**

**S RADIDO, J
JUNE 19, 2025**

BETWEEN

TRANSPORT WORKERS UNION (K) CLAIMANT

AND

R.K. SANGHANI 1ST RESPONDENT

NAUTAMLAL SANGHANI 2ND RESPONDENT

RULING

1. The Transport Workers Union (K) (the Union) sued R.K. Sanghani and Nautamlal Sanghani (the Respondents) on 1 October 2024, and it stated the Issue in Dispute as:

Failure by the 1st and 2nd Respondents to remit deducted monthly trade union dues in accordance with sections 48 and 50 of the *Labour Relations Act*, 2007.

2. At the same time, the Union filed a Motion seeking orders:

- i. ...
- ii. That, pursuant to section 48(2),(3) and 50(8) and (10) of the *Labour Relations Act*, the 1st and 2nd Defendant be convicted for deducting and failure to remit trade union dues from three hundred and forty two (342) who signed check forms as members of the applicant and authorised deduction of the trade union dues from their monthly salaries since November 2023 to date.
- iii. That pursuant to section 19(6) of the *Employment Act* and section 28(c) and (d) of the *Employment and Labour (Procedure) Rules 2016*, the 1st and 2nd Respondents be liable and ordered to pay to the applicant all unremitted and accrued dues totalling to Kshs 2,257,200/- (342 members x Kshs 600/- per member x 11 months – from November 2023 – September



2024) from the 1st Defendant own funds and to continue to pay all other subsequent months at rate of Kshs 205,200/- until full implementation of all Check off forms deductions.

- iv. That pursuant to section 82(2) of the *Labour Relations Act*, 2007, the 1st Defendant be convicted and fined forty thousand shillings for failure to deduct and/or failure to remit monthly trade union dues to the applicant as provided for in the law since November 2023 to date.
 - v. That pursuant to section 82(3) of the *Labour Relations Act*, the 2nd Defendant be convicted and fined ten thousand shillings for failure as Managing Director of the 1st Defendant to comply with section 48(2),(3) and 50(8) of the *Labour Relations Act*, 2007.
 - vi. That pursuant to section 28(g) of the *Employment and Labour (Procure) Rules, 2016*, the Hon Court issue any other order to meet the end of justice.
 - vii. That the cost of this application be borne by the Defendants.
3. The grounds in support of the Motion were that the Union had recruited 342 employees of the Respondents by May 2024; the Union sent the Form Ss with names of the employees to the Respondents asking them to commence deduction of union dues; the Respondents commenced deduction of union dues in June 2024 but failed to remit the dues to the Union; the union dues had accrued to Kshs 2,257,200/- and that the Court had the power to grant the orders sought.
 4. The Respondents filed a replying affidavit on 8 October 2024 wherein it was deponed that the Motion was incompetent and bad in law; the 1st Respondent had a recognition agreement with the Kenya Quarry and Mine Workers Union and had signed a Collective Bargaining Agreement with it; the dispute was referred to conciliation and the Union had failed to accept the findings and recommendations of the Conciliator: the employees who had joined the Union had resigned and joined the Kenya Quarry and Mine Workers Union and that the interests of justice required that the Motion be dismissed.
 5. Pursuant to Court directions issued on 25 November 2024, the 2nd Respondent filed a further affidavit on 4 December 2024 deponing that a further 47 employees had resigned from the Union.
 6. Again, pursuant to the directions, the Assistant Labour Commissioner, Nairobi, conducted an inquiry on the Union's level of membership and the Union filed a copy of the report in Court on 24 April 2025.
 7. On the same day, the Union filed a response to the Labour Officer's report, asserting that the Labour Officer was not factual in his report and had gone outside the scope of the Court order.
 8. The Union's submissions were not on the e-filing portal by the agreed timeline (submissions were purportedly filed on 24 April 2025 but what was filed a letter addressed to the Conciliator).
 9. The Respondents filed their submissions on 7 May 2025, restating the assertions in their affidavits and that the Union had not met the threshold set by section 54(1) of the *Labour Relations Act* for recognition.
 10. The Court has considered the Motion, affidavits and submissions on record.
 11. The Respondents asserted that the 1st Respondent has a recognition agreement with the Kenya Quarry and Mine Workers Union, and that the parties have a Collective Bargaining Agreement has not been contested.
 12. That single ground creates a legal doubt as to whether it is open to the Union herein to attempt to assert any organisational or bargaining rights at the Respondents' workplace.



13. On that singular ground, the Court declines to grant any of the orders sought.
14. However, to be granted recognition by an employer, a trade union should recruit a simple majority of the employer's unionisable employees.
15. Section 54(5) of the *Labour Relations Act* contemplates the revocation of a recognition agreement at the behest of the employer, while section 54(6) of the Act provides that a trade dispute about a recognition dispute should be referred to conciliation by the concerned trade union.
16. The Respondents herein have not moved the National Labour Board to revoke the recognition agreement with the Kenya Quarry and Mining Workers Union.
17. Equally, there is nothing on record to suggest that the Union reported a trade dispute over recognition to the Cabinet Secretary, Labour, as envisaged under section 54(6) of the *Labour Relations Act*.
18. To that extent, the instant Cause or dispute is also premature.

Orders

19. The Motion dated 30 September 2024 is dismissed with costs to the Respondents.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 19TH DAY OF JUNE 2025.

RADIDO STEPHEN

JUDGE

Appearances

For Claimant Mr Alutalala, Industrial Relations Officer

For Respondent Chamwada & Co. Advocates

Court Assistant Wangu

