



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

Dibo & 8 others v Standard Chartered Bank Kenya Limited (Cause E140 of 2021) [2025] KEELRC 2177 (KLR) (24 July 2025) (Judgment)

Neutral citation: [2025] KEELRC 2177 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E140 OF 2021**

**L NDOLO, J
JULY 24, 2025**

BETWEEN

**JAPHETH OCHIENG DIBO 1ST CLAIMANT
CAROLINE AKINYI LAMBA ARINA 2ND CLAIMANT
MERCY KARIMI KANGERI 3RD CLAIMANT
HABIBA ANDIA WASOMI 4TH CLAIMANT
EMMA MUTHUNGI 5TH CLAIMANT
SAMSON MBUGUA KAMAU 6TH CLAIMANT
YUSSUF ABDULWAHID HAJI 7TH CLAIMANT
IAN AMOGOLA 8TH CLAIMANT
LAWRENCE KYALO MUENDO 9TH CLAIMANT**

AND

STANDARD CHARTERED BANK KENYA LIMITED RESPONDENT

JUDGMENT

1. The Claimants are former employees of Standard Chartered Bank Kenya Limited, having been employed on diverse dates in various positions, until termination of their employment, on account of redundancy.
2. The Claimants' claim against the Respondent Bank is that the termination of their employment was unlawful and unfair. The claim is contained in a Memorandum of Claim dated 16th February 2021. The Respondent filed a Memorandum of Response dated 30th June 2021 and amended on 28th July 2021. The Claimants filed Reply to Memorandum of Response dated 7th July 2021.



3. When the parties appeared before me on 3rd February 2025, they agreed that the matter be determined on the basis of pleadings, supporting documents and written submissions.

The Claimants' Case.

4. The Claimants state that they were employees of the Respondent, having been employed on diverse dates, and working until termination of their employment on the ground of redundancy.
5. On 29th September 2020 and 21st December 2020, the Claimants were served with Notice of Risk of Redundancy, informing them of a restructuring process, by which the Global Banking and Commercial Banking were to be merged to form Corporate Commercial and Institutional Banking.
6. The Claimants state that the Banking team received an email dated 1st September 2020, inviting them to a virtual meeting on 3rd September 2020. At this meeting, there was communication that there would be staff rationalisation in Business Banking.
7. The Claimants were advised to look for any suitable alternative roles within the Bank, in order to avoid redundancy.
8. The Claimants fault the letters dated 29th September 2020 and 21st December 2020 under reference 'Notice of Risk of Redundancy' pointing to an instruction not to attend the office nor continue with their official duties. According to the Claimants, this effectively terminated their services as they were stopped from discharging their duties, without prior notice.
9. The Claimants term the redundancy a smokescreen, asserting that the roles which were to fall off were the same ones they were asked to apply for and for which they were interviewed. They fault the interview process as unfair, with pre-determined outcomes.
10. The Claimants' case is that there was no genuine case of redundancy, as their roles remained intact even after the restructuring. They complain of discrimination by being targeted unfairly for redundancy. They accuse the Respondent Bank of violating the law and its own internal policies and procedures.
11. The Claimants therefore claim the following:
 - a. 12 months' salary in compensation for unfair termination;
 - b. Punitive and aggravated damages for loss of reputation & career growth;
 - c. Damages for discrimination;
 - d. Unpaid leave;
 - e. Balance of ex gratia payment;
 - f. Retention of loans at staff interest rates;
 - g. Costs plus interest

The Respondent's Case.

12. In its Memorandum of Response as amended on 28th July 2021, the Respondent admits that the Claimants were its employees, having been engaged on diverse dates but denies that the termination of their employment was unlawful or unfair.



13. The Respondent contends that there was justification for each of the Claimants to be declared redundant and both procedural requirements and contractual obligations were observed in the termination between September 2020 and January 2021.
14. The Respondent avers that the Claimants were duly informed of the restructuring, leading the declaration of redundancy. The Respondent admits having held a virtual meeting with the Claimants, when they were informed of the impending redundancy.
15. The Respondent further admits having issued the Claimants with a letter dated 29th September 2020, drawing attention to the integration of Global Banking and Commercial Banking to form Corporate Commercial and Institution Banking. The Respondent denies the Claimants' averment that they were subjected to discrimination.
16. The Respondent states that because of the merger of the Claimants' positions, their employment was placed at risk. The letter of 29th September 2020 referred to a meeting held on the same day, at which the issue was discussed and the Claimants informed that there would be a thirty-day period of consultation on how best any impact of the change could be moderated or avoided.
17. According to the Respondent, one way of assisting the Claimants was to advise them to visit the internal careers portal and identify any vacant position to which they could be posted. A further meeting is said to have been held on 28th October 2020.
18. Regarding the complaint by the Claimants that they were prevented from performing their duties even before their positions had been phased out, the Respondent avers that the Claimants were given time off as an opportunity for them to explore chances for alternative placement within the Bank. The Respondent points out that during this period, the Claimants remained its employees with full salaries and benefits.
19. The Respondent claims that it has a superior Group Redundancy Standard Policy, which requires inter alia:
 - a. The Respondent avoids redundancy where possible;
 - b. Redundancy should be handled in accordance with that superior policy;
 - c. Employees and/or their representatives should be informed of any proposed redundancies at the earliest opportunity;
 - d. There has to be consultations with affected employees prior to termination on account of redundancy;
 - e. There should be no discrimination in the process;
 - f. The Respondent would continue to look for alternative employment for at risk employees until the date of termination of their employment.
20. The Respondent maintains that it fully observed the provisions of Section 40(1)(c) of the *Employment Act*, on selection for redundancy, in that the Bank interviewed all the affected employees and did a desktop review of their performance, skills and competence, covering the period 2018, 2019 and 2020.
21. The Respondent asserts that an employee can be declared redundant on account of failure to meet newly introduced set of standards. The Respondent adds that the Claimants failed to meet the standards required for the merged unit.



22. The Respondent defends the redundancy process and avers that due notice was issued to the Labour Office and the Banking Insurance and Finance Union.
23. The Respondent concludes that it retains absolute right to design and implement a business model which suits its goals and could therefore restructure its establishment and workforce to fit into that model.
24. The Respondent contends that it complied with the provisions of the Employment Act and paid the Claimants improved severance dues beyond the statutory minimum.

Findings and Determination.

25. There are two (2) issues for determination in this case:
 - a. Whether the termination of the Claimants' employment was lawful and fair;
 - b. Whether the Claimants are entitled to the remedies sought.

The Termination.

26. The termination of the Claimants' employment was communicated by individual letters stating as follows:

“NOTICE OF REDUNDANCY

Following our recent discussions, we regret to inform you that your role will be made redundant and your employment with Standard Chartered Bank Kenya Limited (the “Bank”) will therefore terminate by reason of redundancy on the terms set out in this letter (“Notice of Redundancy”).

1. Termination
 - a. Your employment will terminate on...(the “Termination Date”). You will continue to receive your salary and contractual benefits in the normal way up to and including the Termination Date.
 - b. You shall continue to serve the Bank faithfully and diligently up to and including the Termination Date. It is a condition of this Notice of Redundancy and the Payments under clause 2, that you complete a full and effective handover of your duties (including providing a comprehensive handover document to your People Leader) in accordance with the Group Handover Policy.
2. Payments
 - a. Subject to your compliance with the terms of this Notice of Redundancy, the Bank shall pay you and you shall accept the following sums (together the “Payments”):
 - i. KES.....(“PILON”) in lieu of your contractual notice period.



- ii. Pay in lieu of any accrued but unused holiday entitlement up to and including the Termination Date.
- iii. KES.....(the “Severance Payment”) in accordance with the Group Redundancy Standard, by way of compensation for loss of employment, without any admission of liability (express or implied) and in full and final settlement of all and any claims against the Bank and/or the Group.
- iv. 25% net discount on your outstanding loans as at the last date [of] service.
- v. Staff Bank accounts to remain on staff rate for 6 months from separation date.
- vi. Staff loans to remain at staff rate for 6 Months from separation.
- vii. An additional ex-gratia payment of KES.....(the “Ex-Gratia Payment) in accordance with the Group Redundancy Standard, by way of compensation for loss of employment, without any admission of liability (express or implied) and in full and final settlement of all and any claims against the Bank and/or the Group.

All payments due are also set out at Appendix 1 of this Notice of Redundancy.

- b. The Payments are also subject to you complying with the terms of your contract of employment with the Bank, and the Bank’s prevailing policies, procedures and standards. You warrant that there are no facts or circumstances which would have entitled the Bank to terminate your employment for gross misconduct.
- c. You agree that except for the sums and benefits referred to in this letter, no other sums or benefits are due to you from the Bank or the Group.
- d. If you become re-employed as an employee or engaged as a non-employed worker by the Bank or the Group within 12 months of the Termination Date, you agree that you will repay some or all the Severance Payments and the Ex-Gratia Payment in accordance with the terms of the Group Redundancy Standard.

3. Variable Compensation Pay Eligibility

You will remain eligible for consideration for a discretionary variable compensation award for the performance year 2020. Any awards paid under the discretionary Group Regulation of Variable Compensation Policy will depend on a number of factors including your own performance, the performance of your team, the business and the Group, and your adherence to the Bank’s valued behaviours and risk control and conduct expectations, whilst also taking into consideration the fact that you will no longer be employed by the Group.



There is no entitlement to or any guarantee of an award and you should not expect an award to be similar to any award you have received in previous years. Any award will be subject to the Group Regulation of Variable Compensation Policy as amended from time to time. Should any award be made, this will be payable on the Bank's normal payment date in or around March 2021.

4. Tax

The Bank makes no warranty as to the taxable status of the Payments with respect to your home country or such other jurisdiction worldwide. Additionally, you undertake that if the Bank is called upon to account to any competent tax authority for any income tax, national insurance or social security contributions, interest and/or penalties thereon arising in respect of the Payments made under this letter ("Tax Liability") you will immediately, upon written request by the Bank, pay the Tax Liability to the competent tax authority. Where the Bank has paid such Tax Liability, you will immediately upon written request of the Bank pay an amount equal to the Tax Liability to the Bank

5. Employee Share Schemes

If you are currently a participant of the sharesave plan, you are able to continue saving for a period of 5 months following the Termination Date, at which point you can exercise your sharesave award on a pro-rata basis. The sharesave award will lapse if it is not exercised within 6 months from the Termination Date and under no circumstances can the award be reinstated once lapsed. Alternatively, you can withdraw your savings plus any interest, where applicable by submitting a withdrawal instruction, prior to your Termination Date.

6. Loans or outstanding sums

- a. In the event that you have a credit card and/or loan from the Bank, you will be required to agree on a repayment plan with the Collections Department before the Termination Date. You will be eligible for a 25% net discount on any outstanding staff mortgage, staff car and personal loans. In addition, the Bank will retain your outstanding staff loans at the prevailing staff rate for six months after the Termination Date.
- b. You agree that the Bank may deduct any monies or outstanding liabilities owed by you to the Bank up to 70% of your net payment (or any other amounts due to you from the Bank).

7. Medical Insurance

The Bank will extend the terms of the current medical cover to you and your current dependents up to 31 December 2020. Any costs above the entitlements and/or medical sub limits within the medical cover will be borne by you.

...

9) Release and Discharge

- a) By your signature to this letter, you accept its terms in full and final

settlement of, and agree to release and discharge the Bank from, any and all claims, costs, expenses or rights of action of any kind, whether contractual (including any claim in respect of any profit-sharing, bonus or incentive or share option arrangements), statutory or



otherwise, whether or not they are or could be in the contemplation of the parties at the date of this Notice of Redundancy, and whether having already occurred or arising in the future in any other country in the world, which you have or may have against the Bank and/or the Group or any of its officers or employees from time to time arising out of or in connection with your contract of employment, your employment or any office or appointment held with the Bank and/or the Group and/or termination thereof. You further agree to waive all and any right to institute any action, both now and in the future, of any nature, in any administrative or judicial forum, in any jurisdiction against the Bank and/or the Group.

- b) You agree that, without prejudice to any other rights or remedies of the Bank and/or the Group arising, if you institute any action or proceedings against the Bank and/or the Group, you shall repay to the Bank immediately upon demand such amount of the Severance Payment and the Ex-Gratia Payment as is equivalent to the total amount of the compensation or damages (including interest) awarded to you as a result of such proceedings, together with the full amount of any legal fees incurred by the Bank in defending such proceedings. You agree that such sum will be repayable as a debt. Any part of the Severance Payment which remains outstanding and the EX-Gratia Payment shall cease to be payable under this letter with effect from the date of commencement of such proceedings.

...

Yours sincerely

(signed)

Birju Sanghrajka

Head CCIB Client Coverage, Kenya & East Africa

For and on behalf of Standard Chartered Bank Kenya Limited”

27. It was agreed between the parties that the Claimants’ employment came to an end by reason of redundancy, arising from restructuring within the Respondent Bank.
28. In Section 2 of the [Employment Act](#) and in the analogous provision in the [Labour Relations Act](#), redundancy is defined as:
- “the loss of employment, occupation, job or career by involuntary means through no fault of an employee, involving termination of employment at the initiative of the employer, where the services of an employee are superfluous and the practices commonly known as abolition of office, job or occupation and loss of employment.”
29. While redundancy is a legitimate mode of termination of employment, Section 40 of the [Employment Act](#) sets the following mandatory conditions to be met by every employer declaring redundancy:
- (a) where the employee is a member of a trade union, the employer notifies the union to which the employee is a member and the labour officer in charge of the area where the employee is employed of reasons for, and the extent of, the intended redundancy not less than a month prior to the date of the intended date of termination on account of redundancy;
- (b) where an employee is not a member of a trade union, the employer notifies the employee personally in writing and the labour officer;



- (c) the employer has, in the selection of employees to be declared redundant had due regard to seniority in time and the skill, ability and reliability of each employee of the particular class of employees affected by the redundancy;
 - (d) where there is in existence a collective agreement between an employer and a trade union setting out terminal benefits payable upon redundancy; the employer has not placed the employee at a disadvantage for being or not being a member of the trade union;
 - (e) the employer has where leave is due to an employee who is declared redundant, paid off the leave in cash;
 - (f) the employer has paid an employee declared redundant not less than one month's notice or one month's wages in lieu of notice; and
 - (g) the employer has paid to an employee declared redundant severance pay at the rate of not less than fifteen days pay for each completed year of service.
30. Conditions (a) and (b) direct that every employer declaring redundancy must issue a one-month notice of intention to the affected employee, their union (where applicable) and the local Labour Officer. By definition, this notice, should set out the reasons for and the extent of the intended redundancy.
31. It is now settled that the redundancy notice under (a) and (b) is separate and distinct from the termination notice provided under condition (f).
32. In *Thomas De La Rue (K) Ltd v David Opondo Omutelema* [2013] eKLR the Court of Appeal stated as follows:

“It is quite clear to us that sections 40 (a) and 40 (b) provide for two different kinds of redundancy notifications depending on whether the employee is or is not a member of a trade union. Where the employee is a member of a union, the notification is to the union and the local labour officer at least one month before the effective redundancy date. Where the employee is not a member of the union, the notification must be in writing and to the employee and the local labour officer. Section 40 (b) does not stipulate the notice period as is the case in 40 (a), but in our view, a purposive reading and interpretation of the statute would mean the same notice period is required in both situations. We do not see any rational reason why the employee who is not a member of a union should be entitled to a shorter notice.”

33. In the subsequent decision in *Kenya Airways Limited v Aviation & Allied Workers Union Kenya & 3 others* [2014] eKLR Maraga JA (as he then was) asserted that the redundancy notice embodies an element of consultation with the affected employees, either directly or through their trade union. The learned Judge stated the following:

“The purpose of the notice under Section 40(1) (a) and (b) of the *Employment Act*, as is also provided for in....ILO Convention No. 158-Termination of Employment Convention, 1982, is to give the parties an opportunity to consider ‘measures to be taken to avert or to minimize the terminations and measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment.’ The consultations are therefore meant to cause the parties to discuss and negotiate a way out of the intended redundancy, if possible, or the best way of implementing it if it is unavoidable.”



34. In the more recent decision in *The German School Society v Ohany & another* [2023] KECA 894 (KLR) the Court of Appeal held that the requirement for consultation is implied in Section 40 of the *Employment Act*, stating that:
- “In essence, consultation is an essential part of the redundancy process and ensures that there is substantive fairness. The employer should ensure that it carries out the process as fair as possible and that all mitigating factors are taken into consideration.”
35. There is evidence on record that apart from the termination letters, the Claimants were issued with a redundancy notice in the nature of ‘Notice of Risk of Redundancy’. This was in addition to a departmental meeting at which the issue of redundancy was discussed.
36. Moreover, the Claimants were given an opportunity to candidate for new roles. Due notice was also issued to the Ministry of Labour. The Court is therefore satisfied that the conditions on notice were satisfied.
37. The Claimants made broadside allegations that they were unfairly targeted for redundancy, claiming that their positions remained intact even after the restructuring. They however did not adduce any evidence to support these allegations and the Court did not find any reason to fault the Respondent Bank on this score. I therefore return the verdict that condition (c) on selection criterion was complied with.
38. Regarding payment of statutory dues under conditions (e), (f) and (g), the Court was satisfied that the Respondent discharged its obligation. The Claimants assertion that they were not paid all their benefits was not supported by any evidence.
39. Ultimately, I find the Claimants’ entire claim unmeritorious and proceed to dismiss it with costs to the Respondent.
40. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 24TH DAY OF JULY 2025

LINNET NDOLO

JUDGE

Appearance:

Mr. Sewe h/b for Mr. Koceyo for the Claimant

Ms. Nyakundi h/b for Mr. Obura for the Respondent

