



**Mwanji v Kenya Revenue Authority (Cause E610 of 2020)
[2024] KEELRC 831 (KLR) (16 April 2024) (Ruling)**

Neutral citation: [2024] KEELRC 831 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E610 OF 2020
NZIOKI WA MAKAU, J
APRIL 16, 2024**

**BETWEEN
MAJOR (RTD) NICHOLAS MAYENZE MWANJI CLAIMANT
AND
THE KENYA REVENUE AUTHORITY RESPONDENT**

RULING

1. The Respondent's counsel Mr. Chabala objects to the questions put by the counsel for the Claimant Mr. Laichena. It was objected that the witness, Mr. Kabia has already answered after the question had been put in relation to the witness the Claimant asserts, he had asked for Mr. Chabala objects that the issue in question arose after investigation and therefore is not within the Respondent's witness knowledge.
2. Mr. Laichena for the Claimant submits that the witness for the Respondent is true to testify on behalf of the Respondent. He submits the witness has indicated he is not aware that there was money for covert forwarding. Mr. Laichena submits that his counsel indicates that at the disciplinary hearing he asked for the inspector to be called and that there was need to show there are covert operations. Counsel submitted that KRA had refused to release the transcript of proceedings and that the witness for the Respondent has to answer if he questioned the Chief Inspector or not.
3. Mr. Chabala in a brief reprise submits that in examination in chief, he had placed a question to the Respondent's witness as to whether he was aware of the request made to question Mr. Mutwiri and the witness had answered that he is not aware. Counsel submitted the witness should be allowed to say as he has, that he does not know.
4. The question put to the Respondent's witness Mr. Kabia, is whether he is aware of the issue of covert operations. In the proceedings before me, the matter of covert operations arose during the testimony of the Claimant. It is not pleaded, is not on the Claimant's explanations to show cause or his statement.



The issue pleaded at paragraph 19 of the claim is where the Claimant averred that he sought the Police Commander to be summoned to testify on the disbursement of the funds, a request that was denied by the panel chair.

5. Granted the issue of covert operations came up after investigating, it would not be to answer as to whether he questioned the Police Commander, or any other person for that matter, about covert operations. He has indicated that he is not aware of the issue and as such the court upholds the objection raised by Mr. Chabala.

DATED AND SIGNED IN OPEN COURT THIS 16TH DAY OF APRIL 2024 AT NAIROBI

NZIOKI WA MAKAU

JUDGE

