



**Kenya Union of Domestic Hotels Educational Institutions Hospitals And Allied Workers( KUDHEIHA) v Board of Management of Ugenya Diploma Primary Teachers Training College (Cause E052 of 2024) [2024] KEELRC 13350 (KLR) (5 December 2024) (Ruling)**

Neutral citation: [2024] KEELRC 13350 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU  
CAUSE E052 OF 2024  
CN BAARI, J  
DECEMBER 5, 2024**

**BETWEEN**

**KENYA UNION OF DOMESTIC HOTELS EDUCATIONAL INSTITUTIONS  
HOSPITALS AND ALLIED WORKERS( KUDHEIHA) ..... CLAIMANT**

**AND**

**BOARD OF MANAGEMENT OF UGENYA DIPLOMA PRIMARY TEACHERS  
TRAINING COLLEGE ..... RESPONDENT**

**RULING**

1. For determination herein, is the Respondent’s Preliminary Objection dated 26<sup>th</sup> July, 2024. The Objection is premised on the following four issues:-
  - a. That the Honorable court has no jurisdiction to entertain the present claim in the 1<sup>st</sup> instance.
  - b. That the issues pleaded in the claim were directly and substantially in question in Kisumu ELRC E 046 of 2023: Kudheiha vs Board of Management of Ugenya Teachers Training College, which have been substantially reshaped in the present claim.
  - c. That the claim has been overtaken by events, is malicious, defective, incompetent, brought in bad faith and an abuse of the court process.
  - d. That this court is therefore functus officio in respect of the issues presented in the Claim .
2. The Claimant responded to the preliminary Objection vide grounds of opposition dated 15<sup>th</sup> August, 2024, wherein, it argues that the Court has jurisdiction to entertain the claim in this matter, since ELRC cause No. E046 OF 2023: Kudheiha vs Board of Management of Ugenya Teachers Training College was struck out with parties granted the liberty to move the Court, if need be, after exhaustion



of alternative dispute resolution mechanisms, and this court is therefore not functus officio in respect of the issues presented in the claim.

3. It is the Claimant's assertion that the claim has not been overtaken by events, is not malicious, defective nor incompetent.
4. It argues further that the claim was filed in good faith and is not an abuse of court process.
5. Parties sought to canvass the objection by written submissions. The Respondent filed submissions; the Claimant did not.
6. The Respondent's submissions have been duly considered.

### **Determination**

7. The singular issue for determination is whether the preliminary objection raised herein, has merit. The objection as filed is premised on four grounds, but the Respondent in its submission, has only urged the single issue of jurisdiction premised on the pecuniary and geographical jurisdiction of the court.
8. The Respondent's position is that the grievants represented by the Claimant earned between Kshs. 15,417 and Kshs. 20,334, with the sum total of the claim being at Kshs. 3,033,931.50 for the ten grievants.
9. As correctly submitted by the Respondent, the Chief Justice vide Gazette Notice No. 6024 granted jurisdiction to the Magistrates' Court to entertain claims where employees' salaries fall below Kshs. 80,000/=. This delegation however, excluded trade disputes under the [Labour Relations Act, 2007](#).
10. The Court notes that the claim herein is between a trade union and her members' employer. Pursuant to Section 62 of the [Labour Relations Act, 2007](#), a dispute arising between a trade union and an employer is a labour dispute. Other than the requirement that such a dispute would in the first instance be submitted to the Minister for Labour for purposes of conciliation, this is a matter that falls within the jurisdiction of this court.
11. The assertion therefore that the matter does not fall within the jurisdiction of this court is unfounded. The Preliminary Objection is thus devoid of merit and is dismissed.
12. The file be remitted to the ELRC at Kisumu for hearing and final determination.
13. Orders of the Court.

**DATED, SIGNED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 5<sup>TH</sup> DAY OF DECEMBER, 2024.**

**C. N. BAARI**

**JUDGE**

**Appearance:**

Mr. Onwong'a present for the Claimant

Ms. Salim present for the Respondent

Ms. Esther S-C/A

