



Kenya Union of Commercial, Food and Allied Workers v Central Ngadori Farmers' Cooperative Society Ltd (Employment and Labour Relations Cause E002 of 2022) [2023] KEELRC 842 (KLR) (13 April 2023) (Judgment)

Neutral citation: [2023] KEELRC 842 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E002 OF 2022
ON MAKAU, J
APRIL 13, 2023

BETWEEN

KENYA UNION OF COMMERCIAL, FOOD AND ALLIED WORKERS CLAIMANT

AND

CENTRAL NGADORI FARMERS' COOPERATIVE SOCIETY LTD RESPONDENT

JUDGMENT

1. The claimant is a registered trade union and has a Recognition agreement with the respondent. The two parties voluntarily negotiated a Collective Agreement (CBA) for April 1, 2019 to March 30, 2021 in which they agreed on all the items except the mandatory age of retirement. According to the claimant, the mandatory age of retirement should be aligned with Public Service guideline of 60 years, but the respondent insists that that age should be 55 years.
2. As a result of the said deadlock, the matter was referred to the Minister for Labour for conciliation. Again each party maintained its respective hardline position and the matter was referred to this court for adjudication. The claimant filed the Memorandum of Claim herein on January 27, 2022 seeking the following orders;
 - a. Compel the respondent to sign the CBA.
 - b. The CBA to be registered in court within 30 days.
 - c. Costs of the suit.
3. The respondent was served with the process but failed to file defence. Instead its lawyer wrote letter dated April 5, 2022 to the claimant and copied to the court indicating willingness to settle the matter.



On May 9, 2022 the defence lawyer attended court in the absence of the claimant and asked the court to enter judgment for the claimant that the respondent do execute the CBA and have it registered within 30 days from the date of the order. Further the matter was marked as settled and finalized save that parties were at liberty to apply.

4. The said orders have not been set aside and therefore I adopt the same in this judgment. What remains is therefore execution of the judgment entered on admission on May 9, 2022. The claimant can now embark on the process of executing the decree against the respondent. Costs of the suit to the claimant.

DATED, SIGNED AND DELIVERED AT NYERI THIS 13TH DAY OF APRIL, 2023.

ONESMUS N MAKAU

JUDGE

Order

In view of the declaration of measures restricting court operations due to the Covid-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 15th April 2020, this judgment has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

ONESMUS N. MAKAU

JUDGE

