



**Kenya Union of Commercial Food and Allied Workers v Murang'a Farmers Cooperative Union Limited (Cause E042 of 2022) [2023] KEELRC 1895 (KLR) (1 August 2023) (Judgment)**

Neutral citation: [2023] KEELRC 1895 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI  
CAUSE E042 OF 2022  
ON MAKAU, J  
AUGUST 1, 2023**

**BETWEEN**  
**KENYA UNION OF COMERCIAL FOOD AND ALLIED  
WORKERS ..... CLAIMANT**  
**AND**  
**MURANG'A FARMERS COOPERATIVE UNION LIMITED ..... RESPONDENT**

**JUDGMENT**

1. The claimant trade union brought this suit on behalf of its member Mr. Paul Ngobia Mwangi (hereinafter called 'The grievant') seeking following:-
  - a. Kshs.3,048,429.71
  - b. Interest at court rates
  - c. Costs of the suit.
2. The facts of the case are that the claimant was employed by the respondent from 1<sup>st</sup> September, 1993 to 31<sup>st</sup> January, 2020 when he was discharged on account of redundancy. Thereafter the employer computed his terminal dues at Kshs.4,030,680.52 out of which he was paid Kshs.1,002,250.81 leaving a balance of Kshs.3,028,429.71. The respondent failed to pay the balance and the claimant lodged a trade dispute at the Labour office for conciliation but the respondent declined to attend the proceedings. Hence the instant suit.
3. The respondent filed defence denying the allegations by the claimant. However, on without prejudice basis, the respondent admitted that it declared the grievant redundant and his dues were to be settled by instalments for a period of 6 years which was to run up to 31<sup>st</sup> January 2026. Consequently, it averred that the suit herein is premature and prayed for it to be dismissed with costs.



## Evidence

4. The grievant testified as CW1. He adopted his written statement dated 28<sup>th</sup> September, 2022 as his evidence and produced 9 documents as exhibits. He repeated the averments in the claim that after his redundancy, the respondent computed his terminal benefits at Kshs.4,030,680.00 and paid him Kshs.1,002,250.80 leaving a balance of Kshs.3,028,429.71. He prayed for judgment for said balance plus interest at court rates and costs.
5. On cross examination he admitted that the balance of his terminal dues were contained in the respondents' letter dated 31<sup>st</sup> January 2020 being Kshs.3,028,429.71 which stated that the balance would be paid gradually within 6 years subject to economic condition of the respondent. He contended that he signed the letter because it was attaching a cheque. He contended that waiting for 6 years would have rendered his claim time barred.
6. The respondent was represented by its Chief Executive Officer Ms Irene Muthoni Kibochi who testified as RW1. She adopted her written statement dated 5<sup>th</sup> December, 2022 as her evidence and backed it with 9 documents as exhibits. She confirmed that the grievant was among 23 other employee who were laid off. She admitted that Kshs.3,028,429.71 is still owed to the grievant as his terminal benefits. However she contended that there was an agreement to settle the said sum by instalments till January 2026. She contended that had the claimant not rushed to court, he would be receiving payment like other employees who never filed suit. However, she admitted that claims based on employment became statute barred after the lapse of three years.
7. After the hearing, both sides filed written submission which basically reiterated the rival contentions as set out in the pleadings and evidence.

## Analysis

8. Having carefully considered the pleadings, evidence and submissions the only issue for determination is whether the claimant is entitled to the reliefs sought. The answer to that question is in the affirmative. I say so because RW1 admitted under oath that the grievant's total dues were paid less Kshs.3,028,429.71. Whether the said debt is to be paid by instalments until 2026 is a matter for another day.
9. As a consequence of the foregoing holding, I enter judgment for the claimant as follows:-
  - a. Kshs.3,028,429.71
  - b. Costs and interest at court rate from date of filing the suit.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 1ST DAY OF AUGUST, 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 15<sup>th</sup> 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

