



**Kenya Union of Commercial, Food and Allied Workers v Komothai Coffee Growers Co-op Society Limited (Cause E055 of 2021) [2023] KEELRC 2128 (KLR) (22 September 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2128 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI  
CAUSE E055 OF 2021  
ON MAKAU, J  
SEPTEMBER 22, 2023**

**BETWEEN**

**KENYA UNION OF COMMERCIAL, FOOD AND ALLIED  
WORKERS ..... CLAIMANT**

**AND**

**KOMOTHAI COFFEE GROWERS CO-OP SOCIETY LIMITED .. RESPONDENT**

**RULING**

1. On 31<sup>st</sup> October, 2022, Marete J rendered a judgment in favour of the claimant awarding the following:
  - a. Three months' salary in lieu of notice for each grievant.
  - b. Payment of Collective Bargaining Agreement arrears.
  - c. Service gratuity as per the CBA for each grievant.
  - d. Six months' salary as compensation for unlawful termination of employment for each grievant.
  - e. Costs of the suit.
  - f. The Commission of Labour to compute the dues for the grievants within 120 days, with involvement of the parties.
  - g. The suit to be mentioned on 6<sup>th</sup> March, 2023 for a report on computation and payment.
2. The commissioner never complied with the judgment and therefore no report on computation of dues was filed. The claimant, has now filed a notice of motion dated 21<sup>st</sup> June, 2023 seeking for review of the judgment delivered on 31<sup>st</sup> October, 2022 and computation of the dues awarded in orders (i) to (iv) of the Judgment of 31<sup>st</sup> October, 2022.



3. The application is supported by the Affidavit sworn on 21<sup>st</sup> June, 2023 by the Assistant General Secretary of the claimant, Ms Helina Macharia. In brief the affiant deposes that the commissioner for labour appointed a conciliator by a letter dated 20<sup>th</sup> January, 2023 but the respondent failed to attend two meetings convened for computation of dues as ordered by the court. The claimant then filed its computation to court on 11<sup>th</sup> May, 2023.
4. I have considered the application and the explanation given by the claimant in support of the application. There is no sufficient cause shown for the application to be brought. The failure by the respondent to attend the meetings called by the conciliator did not bar the conciliator from computing the dues within the 120 days given by the court. What the claimant should be doing now is to seek leave to extend the period for the conciliator to finalize his work with or without the attendance of all the parties.
5. Having so said, I reject the application as filed and instead extend the time given by the trial court for computation of the dues by a further ninety (90) days from the date hereof. The conciliator is going to invite the parties to a meeting to discuss computation and whether any or all the parties fail to attend, the conciliator appointed by the Commissioner of Labour, one Mr. Joel Omweno or his successor in Kiambu Labour Office is to compute the dues and file a report within 90 days of this ruling. The claimant will be responsible for serving the conciliator with this ruling and the primary judgment. I make no order as to costs.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 22ND DAY OF SEPTEMBER, 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 ruling 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

