



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**CAUSE NO. E025 OF 2020**

**KENYA UNION OF DOMESTIC, HOTELS**

**EDUCATIONAL INSTITUTIONS AND HOSPITAL**

**WORKERS.....CLAIMANT**

**v**

**ST CAMILLUS MISSION HOSPITAL**

**BOARD OF MANAGEMENT.....RESPONDENT**

**JUDGMENT**

1. The Kenya Union of Domestic, Hotels, Educational Institutions and Hospital Workers (the Union) sued the Board of Management of St Camillus Mission Hospital on 9 December 2020, alleging unfair termination of employment of some named 9 employees (Grievants) through redundancies.
2. On 3 February 2021, the Court allowed the Union to file and serve an Amended Statement of Claim and also directed that the Cause be set down for hearing (a Motion on record had been overtaken by events).
3. The Union filed the Amended Statement of Claim on 18 February 2021.
4. The Board of Management (the Respondent) filed a Response on 15 September 2021 and on 12 October 2021, hearing was fixed for 29 November 2021.
5. When the Cause was called out for hearing on 29 November 2021, the Union informed the Court that it would not call any witnesses and that it was seeking an adjournment to enable it to file a computation of the dues/awards it was seeking.
6. The Court declined to allow the adjournment and the Union closed its case without calling evidence.
7. The Respondent called 1 witness.
8. The Union filed its submissions on 29 December 2021, while the Respondent filed its submissions on 31 January 2022.
9. The Court has considered the pleadings, evidence and submissions.
10. Under section 47(5) of the Employment act, 2007, it is incumbent upon a Claimant to demonstrate that an unfair termination of employment has occurred.
11. The Union did not lead or call any evidence to discharge the burden.
12. Nevertheless, the Grievants were on fixed-term contracts which were set to lapse on 31 December 2020.
13. On 2 October 2020, the Respondent issued notices to the Grievants informing them that effective 1 January 2021, their contracts would stand terminated.
14. Since the Grievants were on fixed-term contracts which run their course and were not renewed, it was not legally necessary for the Respondent to give notices of termination of contract(s).

15. The Court therefore finds that the contracts lapsed by effluxion of time.

16. The Cause is dismissed with no order on costs.

**DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN MOMBASA ON THIS 2<sup>ND</sup> DAY OF MARCH 2022.**

**Radido Stephen, MCI Arb**

**Judge**

**Appearances**

For Union Mr Kamuye, industrial Relations officer

For respondent Ms Babu instructed by Anne Babu & Co Advocates

Court Assistant Chrispo Aura