



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT NAIROBI
CAUSE NUMBER E673 OF 2020

BETWEEN

ARTHUR ASEKA CLAIMANT

VERSUS

WORLD RELIEF..... RESPONDENT

RULING

1. The Claimant was employed by the Respondent, an International Organization with its head office in the USA, and a Branch Office in Nairobi.
2. He states that he was employed on 16th August 2019, as Area Coordinator, Bentiu in Juba, Southern Sudan.
3. His contract was terminated through the Respondent's head office, on 23rd February 2020.
4. He states that termination was unfair and unlawful, and filed this Claim on 23rd October 2020, seeking compensation for unfair termination and terminal benefits.
5. The Respondent has filed a Notice of Preliminary Objection citing 5 grounds, why the Court has no jurisdiction to hear and determine the Claim.
6. The Court does not think it necessary, to make a finding on 4 of those grounds, but shall focus on 1 ground, which is that the contract of employment concluded by the Parties, annexure 1 in the Claimant's bundle of documents, contains a mediation and arbitration clause.
7. The clause reads as follows: -

“ Any claim or dispute arising from or related to this agreement shall be settled by mediation and, if necessary legally binding arbitration in accordance with the Rules of Procedure for Christian Conciliation of the Institute for Christian Conciliation, a division of Peacemakers Ministries [complete text of the Rules is available at [www. Peacemakers. net](http://www.Peacemakers.net)]. Judgment upon an arbitration decision may be entered in any court otherwise having jurisdiction. The Parties understand that these methods shall be the sole remedy for any controversy or claim arising out of this agreement and expressly waive their right to file a lawsuit in any civil court against one another for such disputes, except to enforce an arbitration decision. ”

8. Parties have therefore positively rejected the jurisdiction of the Court, opted for a private dispute resolution mechanism, and there is no reason at all, why the Claim was filed in Court. They expressly waived their right to file lawsuit. The dispute should be dealt with in accordance with the above clause. It is not for the Court to make reference to mediation or arbitration. That is the role of the Parties, having positively rejected the jurisdiction of the Court, save on enforcement of any arbitration decision. The Court declines jurisdiction.

IT IS ORDERED: -

- a. The Court has no jurisdiction to hear and determine the Claim.**
- b. The Claim is struck out with no order on the costs.**

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT CHAKA,
UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS
22ND DAY OF APRIL 2022.**

JAMES RIKA

JUDGE