



**Kenya Union of Commercial, Food and Allied Workers v National Museums of Kenya
(Cause 2222 of 2015) [2022] KEELRC 12765 (KLR) (29 September 2022) (Ruling)**

Neutral citation: [2022] KEELRC 12765 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 2222 OF 2015
MN NDUMA, J
SEPTEMBER 29, 2022**

BETWEEN

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

AND

NATIONAL MUSEUMS OF KENYA RESPONDENT

RULING

1. By a notice of motion application, the applicant seeks to review the ruling by the court dated August 23, 2021. The court notes that the said ruling was erroneously titled ‘judgment’ and corrects that error on its own motion so that the decision is titled ‘ruling’ instead of Judgment.
2. The application seeks to review in particular paragraphs 14 and 18 of the ruling where the court found:

“ 14” It is clear that the respondent is following a known lawful procedure before it can sign the collective bargaining agreement it being a public funded institution and

“18. Furthermore, the court cannot order a party to negotiate a collective bargaining agreement and or to sign the same since collective bargaining is entirely voluntary. Where parties fail to agree the dispute is to be resolved through statutory conciliation and/or other options provided in the Labour Relations Act, 2007 failing which an economic dispute is to be brought to the court for adjudication on any demands made by the union to the employer in the cause of collective bargaining.

3. The application is premised on grounds set out on the face of the application set out in paragraph 1 to 25 of the application and the supporting affidavit of Mike O Oranga, the National Organising Secretary of the claimant.



4. The respondent failed to file a response to the application timeously or at all.
5. The application is premised on rule 33 of [*Employment and Labour Relations Court \(Procedure\) Rules, 2016*](#) which provides: -

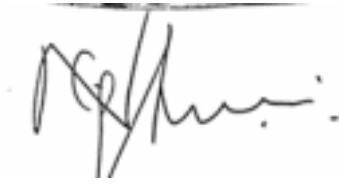
Review

- 1) A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time apply for a review of the judgment or ruling—
 - (a) if there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made;
 - (b) on account of some mistake or error apparent on the face of the record;
 - (c) if the judgment or ruling requires clarification; or
 - (d) for any other sufficient reason.
 - (2) An application for review of a decree or order of the court under subparagraphs (b), (c) or (d), shall be made to the judge who passed the decree or made the order sought to be reviewed or to any other judge if that judge is not attached to the court station.
 - (3) A party seeking review of a decree or order of the court shall apply to the court by way of notice of motion supported by an affidavit and shall file a copy of the judgment or decree or ruling or order to be reviewed.
 - (4) The court shall, upon hearing an application for review, deliver a ruling allowing or dismissing the application.
 - (5) Where an application for review is granted, the court may review its decision to conform to the findings of the review or quash its decision and order that the suit be heard again.
 - (6) An order made for a review of a decree or order shall not be subject to further review
6. The court has carefully considered the application by the claimant union and is satisfied that the matters complained of do not warrant a review of the ruling of the court in that the court made a considered decision on matters of fact and law in its impugned ruling and if the applicant is aggrieved by the ruling of the court, it ought to file an appeal against the ruling of the court but not press the court to revisit its own decision on matters of fact and law.
 7. Other than the title of the ruling, the court finds no obvious errors, amenable to review in the said judgment.
 8. Indeed, the court reiterates that it lacks authority to force a party to sign a collective bargaining agreement. A collective bargaining agreement which is not signed and not registered with the court is not a concluded collective bargaining agreement contrary to assertion by the applicant.



9. accordingly, the court finds no merit at all in the application and dismisses the same with costs. However, the title “judgment” is replaced with the title “ruling”

Dated and delivered at Nairobi (online) this 29th day of September, 2022.



Mathews N. Nduma

Judge

Appearances:-

Mr. Nyumba for claimant

Mr. Wahome for SRC

Ekale – Court Assistant

