



**Kenya Union of Commercial, Food and Allied Workers v Iriaini Farmers  
Cooperative Society Ltd (Employment and Labour Relations Cause  
E052 of 2021) [2022] KEELRC 13175 (KLR) (31 October 2022) (Judgment)**

Neutral citation: [2022] KEELRC 13175 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE E052 OF 2021  
DKN MARETE, J  
OCTOBER 31, 2022**

**BETWEEN**  
**KENYA UNION OF COMMERCIAL, FOOD AND ALLIED  
WORKERS ..... CLAIMANT**  
**AND**  
**IRIAINI FARMERS COOPERATIVE SOCIETY LTD ..... RESPONDENT**

**JUDGMENT**

1. This matter was originated by way of a memorandum of claim dated October 13, 2021. The issue in dispute is therein cited as;  
Violation of (clauses 27) deduction of wages
2. The matter is not defended, or at all.
3. The claimant’s case is that the parties relate by a way of mutual relationship through a valid recognition agreement and have been on collective bargaining agreements with the latest being that of October 1, 2017 to September 30, 2019.
4. The claimants further case is that on July 9, 2018 the respondent invited all members of staff to a joint meeting in which the chairman of the respondent informed them of a 30% salary reduction that was agreed on at the collective bargaining agreement. No consensus was reached on this *inter partes*.
5. Again, the claimant’s case is that on July 17, 2018, the parties met and it was agreed that no deductions would be made. Parties would pursue the collective bargaining agreement as set out. On August 17, 2018 the respondent addressed the permanent workers and in october next started deductions without involving or consulting the claimant.



6. The claimants other case is on February 25, 2020 a trade dispute was reported for conciliation but the respondent was un-cooperative and non-attendant to several meetings culminating into failure to resolve the dispute.
7. The claimant therefore submits a case of a refund of Kshs 1,798,492.00 being total undue deductions for the period of October, 2018 to September, 2021. This is because all the respondents staff and workers are members of the claimant union.
8. She prays as follows;
  - i. That the respondent to reverse and with immediate effect the thirteen staffs' salaries as they were in September 2018 which are the correct salaries.
  - ii. That the respondent to refund/pay to the thirteen members of staffs whose salaries were reduced a total of Kshs 1,798,492.00 being the total amount deducted for the period October 2018 to September 2021.
  - iii. That the respondent to pay interest in (11) above at court rate from October 2018 when the reduction started.
  - iv. Costs of the suit in favour of the claimant.
9. The matter came to court severally until the 17th of March, 2022 when the claimant agreed on a determination by way of written submissions.
10. The issues for determination therefore are;
  1. Whether the respondent reversal and reduction of the salaries of the 13 grievants in September, 2018 was lawful?
  2. Whether the claimant is entitled to the relief sought?
  3. Who bears the costs of the suit?
11. The 1st issue for determination is whether the respondent reversal and reduction of the salaries of the 13 grievants in September, 2018 was lawful. The claimant in her brief written submissions dated April 4, 2022 posits a case of irregular salary deductions by the respondent to the detriment and loss to the grievants. This is in reiteration of her case as pleaded and presented.
12. The claimant's case is further demonstrated and augmented by the witness statement of Erastus Mututo the claimant Branch Secretary in Nyeri. This is further buttressed by the following documents in support of the claim;

| App | Description |
|-----|-------------|
|-----|-------------|

1. Parties collective bargaining agreement
2. Parties meeting proceedings dated July 17, 2018
3. Respondent's memo to the permanent staff members
4. Salaries tabulations
5. Claimant's trade dispute report to the Cabinet Secretary, Ministry of Labour dated February 25, 2020



6. Conciliator's appointment letter dated March 4, 2020
7. Joint conciliation meeting invitation letter to the parties dated July 13, 2020
8. Joint conciliation meeting invitation letter to the parties dated July 29, 2020
9. Joint conciliation meeting invitation letter to the parties dated August 10, 2020
10. Referral certificate dated August 26, 2020
13. In the absence of a defence against the claim, it takes sway. The claimant has ably demonstrated a case of unlawful deduction of salaries which she has attempted to thrash out through conciliation with no success. The respondent merely ignored this overture. I therefore find a case of deduction of the grievant salaries and hold as such.
14. The 2nd issue for determination is whether the claimant is entitled to the relief sought. She is. Having succeeded in a case of unlawful termination of employment, she becomes entitled to the relief sought.
15. I am therefore inclined to allow the claim and order relief as follows;
  - i. That the respondent be and is hereby ordered to reverse and forthwith effect the thirteen staffs salaries as they were in September 2018.
  - ii. That the respondent be and is hereby ordered to refund/pay to the thirteen members of staffs whose salaries were reduced a total of Kshs 1,798,492.00 being the total amount deducted for the period October 2018 to September 2021.
  - iii. That the commissioner of labour be and is hereby ordered to, with the involvement of parties compute the unduly deducted salaries for the 13 workers for periods after September, 2021 to date.
  - iv. That the respondent to pay interest in (ii and iii) above at court rates from October 2018 when the reduction started.
  - v. That the costs of the claim shall be borne by the respondent.

**DATED AND DELIVERED AT NYERI THIS 31ST DAY OF OCTOBER 2022.**

**D.K.NJAGI MARETE**

**JUDGE**

Appearances

Miss Macharia for the Claimant Union.

No appearance for the Respondent.

