



Kenya Union of Commercial Food and Allied Workers v Gusii Water & Sanitation Company Ltd (Cause 3 of 2022) [2022] KEELRC 12898 (KLR) (13 October 2022) (Ruling)

Neutral citation: [2022] KEELRC 12898 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
CAUSE 3 OF 2022
CN BAARI, J
OCTOBER 13, 2022
(FORMERLY KERICHO ELRC CAUSE NO. 70 OF 2018)

BETWEEN

KENYA UNION OF COMMERCIAL FOOD AND ALLIED WORKERS APPLICANT

AND

GUSII WATER & SANITATION COMPANY LTD RESPONDENT

RULING

1. Before court is a motion dated 15th July, 2022, brought pursuant to Section 12 (3)(iii) and 15 (5) of the *Employment and Labour Relations Court Act* and Rule 37 (1) of the ELRC Procedure Rules. The Applicant Seeks orders that: -
 - i. Spent
 - ii. Spent
 - iii. This Honourable Court be pleased to grant an order directing the Chief Economist, Central Planning and Monitoring Unit of the Ministry of Labour to analyze the proposals in consultation with the parties herein and file an economic report within thirty days of the date of the order.
 - iv. This Honourable Court be pleased to grant an order directing the Respondent to cooperate with the Central Planning and Monitoring Unit of the Ministry of Labour to ensure a speedy analysis of the proposals to pave way for timely filing of the economic report.
 - v. The costs of the suit be in the cause.



2. The application is supported by grounds on the face of the motion and the affidavit of George Obong'o sworn on 15th July, 2022. The motion is premised on a judgment rendered on 21st September, 2021, wherein, the court directed parties to engage and conclude negotiations, and enter into a Collective Bargaining Agreement.
3. The Applicant avers that the Respondent has, contrary to the orders of the court, declined to engage despite several requests by the Claimant/Applicant.
4. The Respondent did not oppose the application.
5. The Claimant/Applicant urged the application orally on 26th July, 2022. The Respondent did not appear on the hearing date despite service.

Determination

6. Rule 37 (1) of the Employment and Labour Relations Court (Procedure) Rules, provides: -

“In any economic dispute involving a collective agreement or any other issue where the Court considers it fit, the Court may order the Central Planning and Monitoring Unit to file a report within thirty days of service of the pleadings in any suit or such other time as the Court considers necessary.”
7. The dispute between the parties herein involves negotiation of a Collective Bargaining Agreement (CBA). The Rules define an economic dispute as: -

“a dispute or difference, or an apprehended dispute or difference, between employers and employees, between employers and trade unions, or between an employers’ organization and employees or trade unions, concerning any economic or compensatory matter and includes disputes regarding negotiations of collective agreements, salary, basic pay, allowances, terms and conditions of service.”
8. The decision of the court directing parties to engage was made over a year ago. Considering that the Respondent has not shown interest in negotiating with the Applicant, and further noting that the application herein is not opposed, the court finds the application merited and is allowed in the following terms:
 - a. An order is hereby issued directing the Chief Economist, Central Planning and Monitoring Unit of the Ministry of Labour to analyze the proposals in the matter in consultation with the parties, and file an economic report within 45 days of the date of this order.
 - b. An order be and is hereby issued directing the Respondent to cooperate with the Central Planning and Monitoring Unit of the Ministry of Labour to ensure a speedy analysis of the proposals to pave way for timely filing of the economic report.
 - c. Costs shall be in the cause.
9. Orders of the court.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT KISUMU THIS 13TH DAY OF OCTOBER, 2022.

CHRISTINE N. BAARI
JUDGE

Appearance:



N/A for the Claimant/Applicant

N/A for the Respondent

Ms. Christine Omollo - Court Assistant

