



**Arati & another v Achievo Limited (Cause 1349 of 2017)
[2022] KEELRC 13307 (KLR) (30 November 2022) (Ruling)**

Neutral citation: [2022] KEELRC 13307 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1349 OF 2017
J RIKA, J
NOVEMBER 30, 2022**

BETWEEN

MOSES ORWONGO ARATI 1ST CLAIMANT

EUGENE MUNENE 2ND CLAIMANT

AND

ACHIEVO LIMITED RESPONDENT

RULING

1. The claimants were heard and rested their respective cases, on December 14, 2021.
2. The respondent was absent and the court directed parties to file and exchange their written submissions, with a mention date scheduled for February 10, 2022.
3. It appears there was no mention on February 10, 2022, when parties would have confirmed filing and exchange of submissions.
4. On March 9, 2022, the matter was meant to be mentioned for the same reasons it had been scheduled for mention on February 10, 2022.
5. Unfortunately, the cause list indicated that the matter was due for hearing, and because the Parties did not show up on March 9, 2022, the court gave an order for dismissal of the claim for non-attendance.
6. The claimants have filed an application dated March 10, 2022, in which they bring to the attention of the court, the above defect in the proceedings of the court, and seek that the claim is reinstated. The claimant’s advocate states that he endured technical challenges on March 9, 2022, and was unable to log in, when the claim was called out.
7. The application is unopposed.



The Court Finds:-

8. It is clear that the claimants gave evidence and rested their case, on December 14, 2021. What remained was for the parties to confirm filing and exchange of their submissions, the respondent having throughout, sat out of the proceedings.
9. It was an error on the part of the court to list the matter for hearing, instead of mention, on March 9, 2022. The court was misled by the cause list, in finding that the parties had failed to attend court for hearing. there was no hearing as indicated in the cause list, just a mention to confirm filing and service of submissions, and for reservation of a date for Judgment. Sincere apology of this court to the claimants. It is ordered: -
 - a. The application dated March 10, 2022 filed by the claimants is allowed, and the consolidated claims reinstated.
 - b. The claimants shall file and serve their submissions with respect to the claim, within 14 days of the ruling, if they have not already done so.
 - c. The respondent shall file and serve its submissions within 14 days of service.
 - d. Mention on January 31, 2023, when a date for Judgment shall be reserved.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 30TH DAY OF NOVEMBER 2022.

James Rika

Judge

