



**Munyi v Kenya Chemical Workers Union (Cause E0123 of 2022)
[2022] KEELRC 13315 (KLR) (30 November 2022) (Ruling)**

Neutral citation: [2022] KEELRC 13315 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E0123 OF 2022
J RIKA, J
NOVEMBER 30, 2022**

BETWEEN

GRACE WAIRIMU MUNYI CLAIMANT

AND

KENYA CHEMICAL WORKERS UNION RESPONDENT

RULING

1. The claimant filed her statement of claim dated February 2, 2022. She avers that she was employed by the respondent Union on June 14, 1996 as a copy-typist cum clerk. She rose to become the administration manager, a position she held, until January 19, 2022, when the respondent summarily dismissed her. She has presented the claim asking the court to find that her dismissal was unfair; and award her compensation and terminal dues.
2. The respondent filed its statement of response dated March 18, 2022. It among others, denies owing the claimant salary arrears.
3. She made an interlocutory application dated February 22nd, seeking to be paid salary arrears, pending refunds, service pay and pro-rata leave. The respondent filed a replying affidavit sworn by Peter Ouko on March 8, 2022, which prompted the claimant to file a Supplementary affidavit, sworn on June 3, 2022.
4. In the supplementary affidavit, the claimant exhibits 2 documents, which the respondent object to, on the basis that the documents are private and confidential. The documents are [a] Acceptance of pending staff/ employees arrears for the period 2004/2005 as at August 16, 2019; and [b] Treasurer's report to the national delegates congress meeting at Sandton Palace Hotel Limited, Nairobi on May 18, 2022.
5. The respondent filed an application dated June 24, 2022, asking the court to expunge the documents from the record on the basis that the documents are private and confidential. It is alleged that the



documents do not assist the claimant in pursuing her main prayers, and that the claimant is exposing other employees' private monetary matters. The respondent alleges that it is prejudiced by production of the documents, and that the claimant obtained them irregularly.

6. The claimant answers that the documents are not private and confidential. They are not marked as such. The documents came to the knowledge of the claimant during her regular course of duty. There is nothing barring her to use the documents after employment. The claimant anchors her position on the court's decision in [Leland I Salano v Intercontinental Hotel \[2013\] eKLR](#).
7. Parties agreed to have the application considered and determined on the strength of their affidavits and submissions on record. They confirmed filing and exchange of their submissions at the last mention on, July 21, 2022.

The Court Finds: -

8. The treasurer's report was presented in the National Delegates' Conference. It contains information on the respondent's indebtedness to its staff, among them, the claimant. It discloses financial constraints the respondent was faced with, following the collapse of some employers' businesses, who were remitting trade union dues to the respondent.
9. These are disclosures made at the National Delegates Conference. The documents cannot be characterized as private and confidential. Once the treasurer disclosed the information, at the National Delegates Conference, the information was accessible to the delegates, and the staff of the respondent.
10. The claimant was a Senior Manager at the respondent. She was in a position to receive the documents and use them, in showing that the respondent is indebted to her. There is no privacy or confidentiality concerning the respondent and other staff who are mentioned in the treasurer's report, which has been violated. This is a document which has been presented by the respondent, in its National Delegates Conference. Those delegates were not barred from sharing the information with the general public, if they so wished.
11. The respondent disputes indebtedness. The documents exhibited by the claimant address the subject, and cannot be expunged from the record, without impairing fair administration of justice. They are necessary documents, regularly dispersed by the respondent, and accessed by the claimant.
12. The court however, does not think the interlocutory application pursued by the claimant, for payment of certain dues, is necessary. The same prayers in that application, have been sought in the main claim. The court is not likely to grant an interlocutory application, which seeks the same prayers as the main claim. The claimant should consider withdrawing that application, and prosecute the claim.
13. Lastly, the court has experienced difficulties reading through documents and pleadings, which have been drawn on foolscaps. Court documents should be drawn on plain, white, size A4 paper. Foolscaps are for handwritten drafts which parties may use for their own internal drafting. The court uses foolscaps for handwritten transcripts. Ruled foolscaps are not appropriate for printing. Going forward, parties shall present documents and pleadings drawn and printed on legible, plain white, size A4 paper.
14. It is ordered: -
 - a. The application dated June 24, 2022 filed by the respondent is declined.
 - b. Costs in the cause.



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

JAMES RIKA

JUDGE

