



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT KISUMU

CAUSE NO. 91 OF 2018

KENYA TERTIARY & SCHOOLS WORKERS UNION.....CLAIMANT

V

BOARD OF MANAGEMENT, MBALE SECONDARY SCHOOL.....RESPONDENT

JUDGMENT

1. The Kenya Tertiary & Schools Workers Union (the Union) sued the Board of Management of Mbale Secondary School (the Respondent) on 9 April 2018, and it set out the Issues in Dispute as

- i. Deduction of trade union dues.
- ii. Recognition of trade union by the employer.

2. Despite the Respondent's Principal receiving and acknowledging service on 13 April 2018, no appearance or Response was filed.

3. On 3 July 2018, the Court directed that the Cause proceeds to formal proof.

4. When the Cause came up for hearing on 8 December 2020, the Union informed the Court that it did not intend to call any witness but would file submissions. The submissions were filed on 19 January 2021.

5. Regrettably, the Court has come to the view that the Cause should be dismissed for lack of evidence. If the Union wanted to proceed without calling or leading evidence, it should have filed an affidavit.

6. Pleadings and witness statements that are not adopted under oath cannot be treated as evidence.

7. The Court also notes that a certificate of unresolved dispute contemplated by section 69 of the Labour Relations Act was not filed.

8. The Cause is dismissed with no order on costs.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 24TH DAY OF MARCH 2021.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Union Mr Agura, Secretary-General

Court Assistant Chrispo Aura