



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**PETITION NO. 59 OF 2020**

**[Together with Petition No 119 of 2020 and Petition 117 of 2020]**

**BETWEEN**

**MERCY MILANOI & 164 OTHERS.....PETIONERS [59 OF 2020]**

**KENYA UNION OF JOURNALISTS.....PETITIONER [119 OF 2020]**

**KAMAU MWAURA JOB & 5 OTHERS.....PETITIONERS [ 117 OF 2020]**

**VERSUS**

**NEDIAMAX NETWORK LIMITED.....RESPONDENT**

**RULING**

1. The Respondent has been brought to Court by various of its Employees, and the Workplace Trade Union, in different Petitions as indicated above. The subject matter is the same in all Petitions- unfair termination/ irregular pay cuts.
2. The files have been placed together by the Registry, and have in the past, been dealt with together by the Court.
3. On 17<sup>th</sup> December 2020, Mr. Njuguna for the Respondent informed the Court that there is no valid Petition pending before the Court, the Respondent having paid the Petitioners their salaries as ordered by the Court, and consent order recorded by the Court, on 10<sup>th</sup> June 2020.
4. Subsequently, on 26<sup>th</sup> February 2021 the Parties appeared before the Court and sought orders for filing of Submissions. They were granted 14 days to file Further Affidavits and Submissions, with mention slated for 4<sup>th</sup> June 2021.
5. On 4<sup>th</sup> June 2021, only the Respondent's Advocate, Mr. Njuguna appeared. He informed the Court that the Petitioners have not filed any Submissions or Further Affidavits, and asked the Court to strike out the Petitions.
6. Ruling was reserved for 25<sup>th</sup> June 2021.

**The Court Finds: -**

7. There are orders, recorded by the Court on 10<sup>th</sup> June 2020, before Hon. Justice Ongaya in the following terms: -
  - a. That by consent, this suit is withdrawn.
  - b. That no order on the costs.
  - c. That the contract of service between the Parties is preserved.
  - d. That affected staff may go on redundancy per law and prevailing contracts.
8. The Court has not seen orders reviewing or setting aside the above orders. It is not clear what the Parties wish further from the Court,

having entered the orders above before the Hon. Court.

9. There are also Parties who have filed documents, stating that, they did not consent to being joined to the Petitions. The Petitioners are not clearly identifiable. Petition 59 names 36 Petitioners ending abruptly at Number 36, with the indication that the 36 Petitioners have sued on behalf of 164 other Employees. Who and where are these other 164 Employees? There is no consent on record, disclosing 164 other Employees, signed by all such Employees.

10. The Kenya Union of Journalists petitions the Court on behalf of its Members. It is not disclosed who the Members are. They could be the same Petitioners who have come before the Court individually and collectively, on behalf of 164 others. The Petitions are convoluted. There is no clarity if the other Petitioners, are Members of the Kenya Union of Journalists. 13 Employees, submitted in the Petition filed by the Union, that they are not Members of the Union, asking the Court to strike out the Petition.

11. There is no clear list of who the 164 others, represented by the 36 Petitioners in Petition 59, are. It is not disclosed why the 164 are not able to appear in their own names.

12. The Court is satisfied that these Petitions were dealt with and concluded through the orders recorded by the Court on 10<sup>th</sup> June 2020. Ordinarily, the Court would agree with the Respondent that the Petitions are not maintainable. There is however no need, to grant orders striking out the Petitions, these Petitions having been settled by consent.

IT IS ORDERED: -

*a. Judgment is entered in the 3 Petitions in terms of the orders recorded by the Court, on 10<sup>th</sup> June 2020.*

*b. No order on the costs.*

*c. The 3 files shall be marked as closed.*

**DATED, SIGNED AND RELEASED TO THE PARTIES AT MOMBASA, UNDER MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 25<sup>TH</sup> DAY OF JUNE 2021.**

**JAMES RIKA**

**JUDGE**