



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA**

**AT UASIN GISHU**

**COURT NAME: ELDORET LAW COURT**

**CASE NUMBER: ELRCC/16/2020**

**CITATION: KENYA UNION OF COMMERCIAL FOOD & ALLIED WORKERS**

**VS**

**TURNER BAKERS & HATFIELD (1968) LIMITED**

**JUDGMENT**

**ON 2021-07-30 BEFORE HON. JUSTICE J. N. ABUODHA**

1. Through a statement of claim filed on 28th February, 2020 the Claimant Union sought orders among others that the respondent recognizes claimant union as properly constituted representative body and the sole labour union representing labour interest of their employees. Further that the respondent engages the Claimant union in collective bargaining within thirty days upon signing recognition agreement.
2. In support of the claim, the Union submitted that it was the right section Trade Union as per its constitution and the respondent shop was within the Claimants area. Further the Claimant had satisfied the simple majority rule as nine out of nine employees had registered their membership with the Claimant which accounted for 100% membership. More than the simple majority required for purposes of recognition. Further, there was no rival trade Union claiming to represent the respondents' employees.
3. The respondent on its part submitted that it was not true that the Claimant recruited employees of the respondent as required for purposes of recognition. The respondent further denied the Claimant has over forwarded to the respondent a drafted recognition agreement for purposes of signing. They admitted that it was alive to the fact that it was a constitutional right of its employees to join a trade union and has never denied its employees this right.
4. The respondent further denied victimizing any of the Union members who assisted in the recruitment of other members. Mr. Koros was not victimized as alleged. He applied for retirement while Mr. Simiyu broke into the respondent's director's bedroom and when he was found he ran away and had never come back.
5. From the submissions by both the Claimant and the respondent, there seem to be no serious contestation over the right of the Union to be recognized by the respondent.
6. What did not come clear was whether the respondent was served with draft recognition agreement for signature and the check off forms for purposes of deduction of Union dues.
7. Considering that there has been some considerable time since the alleged recruitment took place and the submission of the draft recognition agreement the Court will order that the Claimant resubmits to the respondent for verification and confirmation the list of members recruited and the draft recognition agreement for signature once the list of members is verified and confirmed by the respondent.
8. The matter is set for mention thirty days from the date of delivery of this judgement for recording of final orders. That is to say on 29th November, 2021 for recording of final orders.
9. It is so ordered.

**Dated at Eldoret this 18th day of October, 2021**

Delivered at Eldoret this 18th day of October, 2021

GIVEN under my hand and Seal of this Court on 2021-10-18 11:06:52

**SIGNED BY: HON. JUSTICE J. N. ABUODHA (ADMINISTER JUSTICE) THE JUDICIARY OF KENYA.**

ELDORET ELRC

EMPLOYMENT AND LABOUR RELATIONS COURT