



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

CAUSE NO. 1545 OF 2018

EDWARD GITHINJI & 131 OTHERS.....CLAIMANTS

VERSUS

KENYA MEDICAL RESEARCH INSTITUTE.....1ST RESPONDENT

THE DIRECTOR,

KENYA MEDICAL RESEARCH INSTITUTE.....2ND RESPONDENT

THE BOARD OF MANAGEMENT,

KENYA MEDICAL RESEARCH INSTITUTE.....3RD RESPONDENT

SALARIES REMUNERATION COMMISSION.....4TH RESPONDENT

MINISTRY OF HEALTH.....5TH RESPONDENT

THE CABINET SECRETARY,

NATIONAL TREASURY.....6TH RESPONDENT

THE ATTORNEY GENERAL.....7TH RESPONDENT

RULING

1. The 4th Respondent seeks leave to file a response to claim. Mr. Sitienei asserts that the 4th Respondent will be able to file its response to the claim within 7 days.
2. The Claimants through their advocate Mr. Jaoko in a rather lengthy and unnecessary response to the request assets the 2 witnesses of the Claimant have testified and been cross examined in full and the Respondents have known the strength of the Claimants' case and the weaknesses of theirs. He thus urges the Court not to allow the late filing of a response as pleadings closed within 14 days of service of the claim.
3. The 4th Respondent asserts in a brief reply that the Claimants will not be prejudiced if they file the proposed defence. The 4th Respondent asserts the Claimants can be recalled and re-examined and cross-examined in the event they wish to rebut any of the additional matters as may arise courtesy of the defence by 4th Respondent.
4. The Court is inclined to agree with the Claimants on this score as the 4th Respondent upon coming into the suit ought to have at the barest minimum filed a response. It would seem therefore that the case having progressed to this position, it would prejudice the Claimants to have to face a new case, testifying again and ultimately a determination of the Court issue. As such I decline the invitation to allow any further filings as the case is slowly creeping to its third year in the cause lists.
5. Mention today was to get further directions on hearing and due to the delays occasioned by the aborted hearing my Court cannot hear the matter any further this year as all available slots for hearing have been taken up till end of term in December. Granted the interests of justice

dictate a speedy resolution of disputes before the Court, I refer the matter to the Registry for the taking of a date before any other Judge who may have a slot for hearing this term. Mention will be before Deputy Registrar on 21st October 2021 to give further directions as to hearing.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 13TH DAY OF OCTOBER 2021

Nzioki wa Makau

JUDGE