

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT ELDORET

COURT NAME: ELDORET LAW COURT

CAUSE NUMBER: ELRCC/30/2020

CITATION: SILAS K. TANUI VS TEACHERS SERVICE COMMISSION(TSC)

RULING

1. By a notice of Preliminary Objection filed on 15th January, 2021 the respondent contended that the statement of claim dated 5th August, 2020 was statute barred pursuant to mandatory provisions of section 90 of the Employment Act.
2. According to the respondent, the Claimant who was employed by the respondent as a teacher was dismissed on 8th November, 2012 on account of desertion of duties. The cause of action therefore arose on the date of the verdict and time began to run from then. The Claimant ought to have filed the claim within three years from the date aforementioned. Pursuant to section 90 of the Employment Act. The claim ought therefore to have been filed on or before 8th November, 2015.
3. On the face of the statement of claim the Claimant has pleaded that he was dismissed on 8th November 2012 hence the dismissal date is not in dispute.
4. In as much as it would not be of much help, the claimant herein did not even attempt to explain what prevented him from contesting the dismissal in court within the period provided for in the Employment Act.
5. Section 90 of the Employment Act is couched in mandatory terms and once the limitation period set by the Act has lapsed, the Court is not clothed with the discretion to enlarge the time set by the statute.
6. The suit herein is therefore statute barred and is hereby struck out with costs.
7. It is so ordered,

GIVEN under my hand and Seal of this Court on 2021-11-27 10:29:56

SIGNED BY: HON. JUSTICE J. N. ABUODHA (ADMINISTER JUSTICE)

THE JUDICIARY OF KENYA.

ELDORET ELRC

EMPLOYMENT AND LABOUR RELATIONS COURT

DATE: 2021-11-27 10:29:56