



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
CAUSE NO. 1265 OF 2018
KENYA ENGINEERING WORKERS UNION.....CLAIMANT
v
DRILLING SPARES AND SERVICES LTD.....RESPONDENT

JUDGMENT

1. The Kenya Engineering Workers Union (the Union) commenced legal proceedings against Drilling Spares & Services Ltd (Respondent) on 30 July 2018 seeking recognition and an order directing the Respondent to comply with the provisions of section 48 of the Labour Relations Act.
2. The Cause was heard on 11 November 2019.
3. The Union opted not to call any witness while the Respondent called its Human Resources Manager.
4. There are 2 Issues in dispute, the questions whether the Union is the right union to represent employees in the sector the Respondent operates in, and whether the Respondent had declined to comply with section 48 of the Labour Relations Act.

Right Union

5. The Respondent's contention was that it operates under the National Construction Authority classification of *civil engineering works*, sub class *water works* and that the Union's constitution provided for membership eligibility to employees of companies involved in *general mechanical engineering* and metal and allied industries.
6. During cross examination of the Respondent's witness, the Union attempted to advance the position that in the process of drilling bore holes, casings are used and the skills of technicians and engineers are mandatory hence the Respondent is involved in *general mechanical engineering*.
7. In the view of the Court, although technicians and engineers may be involved in the drilling process, the substratum operations of the Respondent is in the water business, and therefore the Union is not the right union to represent employees of the Respondent.
8. With the conclusion, it is not necessary for the Court to determine the issue of compliance with section 48 of the Labour Relations Act.
9. From the foregoing, the Court finds no merit in the *Memorandum of Claim*. It is dismissed with no order on costs.

Delivered, dated and signed in Nairobi on this 24th day of January 2020.

Radido Stephen

Judge

Appearances

For Union Mr. Makale, Industrial Relations Officer

For Respondent Mrs. Mbabu instructed by P.K. Mbabu & Co. Advocates

Court Assistant Judy Maina