



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT MOMBASA**

**CAUSE NO 284 OF 2014**

**DEDAN N. WANJOHL.....CLAIMANT**

**VS**

**KENYA REVENUE AUTHORITY.....RESPONDENT**

**RULING**

1. On 3<sup>rd</sup> October 2019, I allowed the Claimant's application dated 28<sup>th</sup> February 2019, thus reinstating an earlier application, seeking leave to file suit out of time.

2. The Claimant subsequently filed an application dated 20<sup>th</sup> January 2020 seeking review of the ruling delivered on 3<sup>rd</sup> October 2019 on the ground that the date of the application whose reinstatement was sought by the Claimant ought to have been 3<sup>rd</sup> September 2013 and not 3<sup>rd</sup> December 2013, as cited in the application dated 28<sup>th</sup> February 2019 and consequently adopted in the ruling of the Court.

3. The application is supported by an affidavit sworn by the Claimant's Counsel, Oduor Opalo and is based on the following grounds:

- a. That the ruling delivered by the Court on 3<sup>rd</sup> October 2019 omits a material relief sought by the Claimant;
- b. That there is an error apparent on the face of the record, as a result of a typographical error made by Counsel for the Claimant;
- c. That the said error was not deliberate;
- d. That the present application has been brought without unreasonable delay;
- e. That it is in the interest of justice that the ruling be reviewed.

4. The Respondent did not oppose the application.

5. The power of the Court to review its own decisions is donated by Section 16 of the Employment and Labour Relations Court Act and Rule 33 of the Employment and Labour Relations Court (Procedure) Rules.

6. Rule 33(1) of the Procedure Rules provides that:

**1. A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time, apply for a review of the judgment or ruling-**

**a. if there is discovery of new and important matter or evidence, which after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made; or**

**b. on account of some mistake or error apparent on the face of the record; or**

**c. if the judgment or ruling requires clarification; or**

d. for any other sufficient reason.

7. The Claimant's plea in this application is that the date of 3<sup>rd</sup> December 2013 appearing in the application of 28<sup>th</sup> February 2019 which was adopted by the Court in its ruling delivered on 3<sup>rd</sup> October 2019, is an error and ought to be replaced with the date 3<sup>rd</sup> September 2013.

8. This is evidently an error on the face of the record within the meaning of Rule 33(1)(b) of the Procedure Rules of this Court.

9. The Court therefore reviews its ruling delivered on 3<sup>rd</sup> October 2019 by replacing the date 3<sup>rd</sup> December 2013 with 3<sup>rd</sup> September 2013.

10. The costs of this application will be in the cause.

11. Orders accordingly.

**DATED SIGNED AND DELIVERED AT MOMBASA THIS 10<sup>TH</sup> DAY DECEMBER 2020**

**LINNET NDOLO**

**JUDGE**

**ORDER**

In view of restrictions in physical court operations occasioned by the COVID-19 Pandemic, this ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of court fees.

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Oduor Opalo for the Claimant

No appearance for the Respondent