



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

MISC CAUSE NO. 1613 OF 2018

FREDRICK ODHIAMBO AYIEKO.....APPLICANT

v

PARLIAMENTARY SERVICE COMMISSION.....RESPONDENT

RULING

1. For determination is a motion dated 17 December 2018 by Fredrick Odhiambo Ayieko (applicant) against the Parliamentary Service Commission (Respondent) seeking orders

1. THAT leave be granted to the applicant to file a suit herein out of time.
2. THAT the filed Memorandum of Claim herein be deemed as duly filed.
3. THAT the costs of this application be in the cause.

2. The Respondent filed grounds of opposition to the application on 18 January 2019 and skeletal submissions and authorities on 13 February 2019.

3. The Court took arguments on 19 February 2019.

4. The applicant was engaged as Constituency Office Manager on 1 April 2013 and was interdicted on 25 August 2014.

5. On 29 September 2014, the applicant was served with a summary dismissal letter. He now seeks the orders set out above.

6. In terms of section 90 of the Employment Act, 2007, the applicant had 3 years within which to commence legal action in respect of any claim for unfair termination of employment. He did not.

7. The law books are now replete with case law to the effect that in cause(s) of action accruing from contract (including employment contract), the Court has no jurisdiction to grant leave or enlarge time for purposes of instituting such claims (see *Divecon v Samani* (1995 - 1998) 1 EA 54, *Rift Valley Railways (K) Ltd v Hawkins Wagonza Musonye & Ar* (2016) eKLR and *Kenya Airports Authority v Shadrack Abraham Kisongochi* (2016) eKLR).

8. Without the requisite jurisdiction, the Court declines the invitation by the applicant and dismisses the motion dated 17 December 2018 with no order as to costs.

9. The applicant may wish to consider seeking legal opinion on whether and how Part III of the Limitation of Actions Act may apply to the facts of his case.

Delivered, dated and signed in Nairobi on this 1st day of March 2019.

Radido Stephen

Judge

Appearances

Applicant in person

For Respondent Mr. Wambulwa, Advocate, Parliamentary Service Commission

Court Assistant Lindsey