



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT MOMBASA

CAUSE NUMBER 380 OF 2018

BETWEEN

JOHN MWENDWA ALI.....CLAIMANT

VERSUS

KALU WORKS LIMITED.....RESPONDENT

RULING

1. There are 7 related Claims, brought by Former Employees of the Respondent herein, Kalu Works Limited. The Claims are:-

- i. Cause No. 380 of 2018, John Mwenda Ali v. Kalu Works Limited.
- ii. Cause No. 381 of 2018, Juma Ngovi Bulushi v. Kalu Works Limited.
- iii. Cause No. 382 of 2018, Hebron Santa Keah v. Kalu Works Limited.
- iv. Cause No. 383 of 2018, Michael Makenzi v. Kalu Works Limited.
- v. Cause No. 384 of 2018, Khamisi Kalume Dena v. Kalu Works Limited.
- vi. Cause No. 385 of 2018, Kalama Chai Mdigo v. Kalu Works Limited.
- vii. Cause No. 386 of 2018, Konzi Chondo Konzi v. Kalu Works Limited.

2. The Claimants seek Judgment against the Respondent for terminal benefits and compensation for unfair termination.

3. The Respondent filed Notice of Preliminary Objection on 4th February 2019. It is pointed out that the Statements of Claim filed by the Claimants in the respective files, are not signed by the Advocates for the Claimants.

4. The Respondent submits that Rule 6(a) of the Employment & Labour Relations Court (Procedure) Rules 2016, requires the Statement of Claim to be signed by the Claimant or by his Advocate.

5. The Court is prayed to strike out the Statements of Claim, with costs to the Respondent.

6. The Claimants filed what they describe as 'Response to the Respondent's Preliminary Objection' on 18th June 2019. They all submit that their Statements of Claim were duly signed before filing.

7. The Objection was heard on 19th June 2019.

The Court Finds:-

8. The Preliminary Objection was argued under Cause No. 380 of 2018. For the record, the Court makes the following Order before proceeding with the Ruling.

(a) The files listed at paragraph 1 of the Ruling, are consolidated, to be dealt with under Cause No. 380 of 2018.

9. At the time the Objection was argued, and Ruling prepared, the Statements of Claim in the following files did not have the signature of the Advocates for the Claimants:-

(a) Cause No. 380 of 2018.

(b) Cause No. 385 of 2018.

10. The rest of the files, 5 in all, have Statements of Claim indicated to have been signed by the Advocates for the Claimants on 26th April 2018.

11. Prior to filing the Notice of Preliminary Objection, the Respondent wrote to the Deputy Registrar asking for certified copies of the Statements of Claim in all files. These were certified and released to the Respondent.

12. Certified copies supplied by the Court to the Respondent, are all unsigned.

13. It can only be that the Claimants' Advocates accessed the files in Court and signed some of the Statements of Claim, after the default was raised by the Respondent, in a bid to remedy the default.

14. The certified copies conclusively show that the Statements of Claim were not signed, at the time of filing.

15. The Statements of Claim filed in all the 7 files have no formal validity in law.

IT IS ORDERED:-

a) The 7 Claims are hereby struck out.

b) Costs to the Respondent.

Dated and delivered at Mombasa this 18th day of July 2019.

James Rika

Judge