



**REPUBLIC OF KENYA**

**EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO 1343 OF 2016**

**FORMERLY CMCC 8469 OF 2009**

**MONICAH DOROTHY.....CLAIMANT**

**VERSUS**

**THE REGISTERED TRUSTEES OF**

**GETRUDES GARDEN CHILDREN HOSPITAL..... RESPONDENT**

**RULING**

1. The claim herein was filed on 10<sup>th</sup> December 2009. In the plaint, the Claimant averred that she resigned through a letter dated 15<sup>th</sup> December, 2003 giving two months' notice however upon resignation the respondent neglected or ignored to pay her commission totaling to Kshs. 960,000/=.
2. The respondent has raised objection to the effect that the Claimant was wrong in filing the suit in the Chief Magistrates Court at the time because the Employment Act, 2007 was already in force then and only Industrial Court as it was called then had jurisdiction to hear employment matters.
3. The respondent further contended that the Claimant having resigned in 2003 the cause of action accrued then hence the filing of the suit in 2009 was beyond the limitation period set by the Employment Act.
4. Section 87(a) of the Employment Act gave jurisdiction to the Industrial Court to hear disputes arising out of employment contracts. Subsection (2) of the said section barred any Court other than Industrial Court from hearing complaints or disputes arising out of contracts of employment.
5. To that extent the Court finds and holds that the claim as filed in Chief Magistrates Court was incompetent and incapable of being transferred to the present Court.
6. The claim is therefore struck out with no order as to costs.
7. It is so ordered.

**Dated at Nairobi this 20<sup>th</sup> day of September, 2019**

**Abuodha Jorum Nelson**

**Judge**

**Delivered this 20<sup>th</sup> day of September, 2019**

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....**for the Claimant and**

.....**for the Respondent.**

**Abuodha J. N.**

**Judge**