



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**CAUSE NO 549 OF 2013**

**KENYA UNION OF COMMERCIAL FOOD AND**

**ALLIED WORKERS.....CLAIMANT**

**VERSUS**

**KENYA MEAT COMMISSION.....RESPONDENT**

**RULING**

1. By its ruling delivered on 12<sup>th</sup> July,2018 the Court herein declined jurisdiction to hear the main claim herein on the basis that the respondent being a state corporation its employees were public servants hence the fixing of their remuneration had to be done in consultation with SRC. There was no evidence that SRC's input was sought through the process.
2. The Court proceeded to strike out the suit for that reason. The Claimant Union has sought review of that ruling through the application dated 24<sup>th</sup> July,2018.
3. The application is based on the ground that SRC and the National Treasury circulars do not require Unionisable employees to seek and obtain recommendation from SRC while formulating proposals for review of remuneration and all the directions therein were not directed at employees.
4. Further, it was the respondent's duty to approach SRC for approval and recommendation before forwarding their proposals or counter offers to the applicant and before engaging the applicant union in negotiations.
5. The applicant therefore sought a review and setting aside of the Court's ruling delivered on 13<sup>th</sup> July, 2018 and an order to issue that the respondent submit the Union's proposals and their counter offers including the agreed clauses and parties' positions on outstanding clauses for the SRC's input within the meaning and framework of SRC's circular No SRC/015/03/2014 dated 21<sup>st</sup> March ,2014.
6. The applicant further sought an order directing SRC to give their advice on remuneration and benefits of the respondent's employees and that such recommendations be filed in Court within 30 days.
7. Rule 33 of the Court Rules gives the Court power among others to review its orders and judgements for any other lawful or sufficient cause.
8. The Court has considered the application and is of the view that it might have erred when it struck out the suit for lack of SRC's input. It is indeed correct as the applicant submits that SRC's input is the responsibility of the respondent and not the Union.
9. The Court in the circumstances grants prayers 6 and 7 of the Motion. That is to say, the respondent shall submit to SRC the Union's proposals and counter offers including agreed clauses and parties' position on outstanding clauses for SRC's input within the meaning and framework of SRC's circular No SRC/015/03/2014 dated 21<sup>st</sup> March,2014 and that SRC give their advice on the same within 30 days of the ruling.
10. It is so ordered.

**Dated at Nairobi this 18<sup>th</sup> day of October, 2019**

**Abuodha Jorum Nelson**

**Judge**

**Delivered this 18<sup>th</sup> day of October, 2019**

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha J. N.**

**Judge**