REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1233 OF 2013

KENYA ENGINEERING WORKERS UNION.....CLAIMANT

v

POWER CONTROL LIMITED.....RESPONDENT

JUDGMENT

1. Kenya Engineering Workers Union (the Union) instituted legal proceedings against Power Control Ltd (Respondent) on 6 August 2013 and it stated the Issue in Dispute as

Refusal of the Employer to sign a Recognition Agreement.

2. The Union's pleaded case was that its constitution allowed it to organise within the sector the Respondent operated in, it was the right Union to represent the employees of the Respondent, there was no rival Union, it had recruited 18 out of 26 unionisable employees of the Respondent which constituted over 51% majority and that it submitted check-off forms to the Respondent on 22 June 2012 but the Respondent had refused to grant it recognition.

3. The Union therefore reported a trade dispute to the Cabinet Secretary and the Secretary appointed a Conciliator, but the Respondent ignored to attend any of the conciliation meetings, hence the instant proceedings.

4. On its part, the Respondent contended that in 2012 it had 37 unionisable employees (list of employees including 3 management staff was exhibited), and therefore the Union had not met the simple majority threshold.

5. It also contended that some of the 18 employees who had been recruited by the Union had left employment or had resigned (copies of resignation letters were exhibited).

6. When the Cause came up for hearing on 18 April 2018, Mr. Omollo, Industrial Relations Officer representing the Union opted to make oral submissions to buttress the pleadings, while Ms. Kanyiri for the Respondent led its Accountant to give sworn testimony.

7. The Court has considered the material placed before it and without any detailed reasoning come to the conclusion that the Cause herein has no merit because the Union failed to prove that it had recruited a simple majority of the Respondent's unionisable employees.

8. The Union should go back to the ground and commence fresh recruitment in order to seek recognition.

9. The Cause is dismissed with no order as to costs.

Delivered, dated and signed in open Court in Nairobi on this 18th day of May 2018.

Radido Stephen

Judge

Appearances

For Union Mr. Omollo, Industrial Relations Officer

For Respondent Ms. Kanyiri, Legal Officer, Federation of Kenya Employers

Court Assistant Lindsey