



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NUMBER 549 OF 2013**

**KENYA UNION OF COMMERCIAL**

**FOOD AND ALLIED WORKERS ..... CLAIMANT**

**VERSUS**

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

**JUDGMENT**

1. The parties herein were deadlocked on negotiations for CBA for the period 1<sup>st</sup> July 2012 to 30<sup>th</sup> June, 2014 which period has since lapsed. The parties were unable to agree on clauses concerning allowances, remuneration, medical benefit, transfer, gratuity, commuter allowance, canteen and special allowance for drivers and freezers.

2. On 20<sup>th</sup> March, 2014 Lady Justice Ndolo referred the dispute to CPMU for their opinion. The CPMU prepared and filed their report on 18<sup>th</sup> December 2014. The matter has been mentioned severally thereafter with a view to recording settlement but this did not materialize leading to the court directing the parties to file submissions to enable the court decide the matter.

3. In his submissions on behalf of the respondent, Mr Koceyo raised a fundamental and important issue which the court must take into account in reaching a decision. That is the fact that the respondent being a state corporation hence its employees are public servants, the fixing of their remuneration has to be done in consultation with the Salaries and Remuneration Commission. There is no evidence that Salaries and Remuneration Commission's input was sought throughout the process of negotiating the disputed CBA.

4. Treasury circular No. 02/2016 which was filed by the respondent provides among others that adjustment of salaries and emoluments and upgrading of staff in state corporation/SAGAs should only be done after receiving recommendations from SRC. In the circumstances, it would be an exercise in futility for the court to delve into merit or otherwise of either party's position over the disputed clauses without the benefit of SRC's input.

5. The court would therefore decline jurisdiction and direct that the CBA concerned if still necessary, be negotiated with the input of SRC. The suit is therefore struck out with no order as to costs.

6. It is so ordered.

**Dated at Nairobi this 13<sup>th</sup> day of July, 2018**

**Abuodha Jorum Nelson**

**Judge**

**Delivered this 13<sup>th</sup> day of July, 2018**

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.