



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 506 OF 2011**

**NOAH M. J. KAROKI.....1 ST CLAIMANT**

**JOEL NJUNGA KINGU.....2ND CLAIMANT**

**JAMES KANGETHE KAMAU.....3RD CLAIMANT**

**RAHAB NJERI MWANGI.....4TH CLAIMANT**

**ANN NJERI MAINA.....5TH CLAIMANT**

**(suing on behalf of Instructor/Managers Youth Polytechnics)**

**VERSUS**

**THE ATTORNEY GENERAL.....1ST RESPONDENT**

**MINISTRY OF YOUTH AFFAIRS AND SPORTS.....2ND RESPONDENT**

**RULING**

1. The claimants brought this suit on 4.4.2011 alleging that they were retrenched through the letter dated 15.9.2000 and sought the following reliefs:

- (a) Improved terms and conditions of employment in tandem with terms and conditions of the Civil Service.
- (b) Improved salaries as per the labour laws governing the country.
- (c) Payment of all terminal dues for any retired claimant
- (d) Medical/house allowances and all other benefits accorded to other Civil Servants.
- (e) Categorization of the claimants to the various job groups and payment of salaries as per the said job groups.

2. The first claimant filed Notice to withdraw on 22.2.2016 before the respondents filed the Notice of Objection to the suit (PO) dated 14.3.2018 seeking to have the suit struck out with costs for the following grounds:

- (a) The suit is statute barred
- (b) The suit is an abuse of the process of the court.
- (c) The suit is incompetent.

The parties to dispose of the P. O by way of written submission but despite service by the respondent, the claimants never filed their submissions to oppose the P.O. It is therefore in order for the court to find that the P.O is unopposed. However out of curiosity, I have deliberately decided to consider the issue of statute bar.

**Statute barred suit**

3. Under paragraph 25 and 26, the claimants pleaded that they were retrenched from service by the letter dated 15.9.2000. Flowing from that pleading, the cause of action herein arose under the Employment Act in force before June 2008 which is now repealed. Under the retired statute the limitation time within which to commence suit was governed by section 4(1) of the Limitation of Actions Act which provided for 6 years from the time the cause of action arose. The cause of action herein having arisen on 15.9.2000, the 6 years within which to commence suit lapsed on 15.9.2006. This suit having been instituted on 4.4.2011 was therefore statute barred and the court is not clothed with the jurisdiction to entertain it. I must therefore, which I do now, down my tools.

**Conclusion and Disposition**

4. For the reason that the suit was filed out of the statutory limitation period, I proceed to strike out with no order as to costs.

**Dated, Signed and Delivered in Open Court at Nairobi this 28th day of September, 2018**

**ONESMUS N. MAKAU**

**JUDGE**