



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

CAUSE NO 745 OF 2014

MERCY KENTRONE AYILO OMBILI.....CLAIMANT

VERSUS

AFRICAN ORGANIZATION FOR

STANDARDIZATION.....RESPONDENT

RULING

1. The respondents in this matter raised in limine an objection that the suit herein having been filed on 7th May, 2014 was statute barred by virtue of Section 90 of the Employment Act.
2. The respondent further pleaded that the suit was incompetent by reason of the provisions of Article IV(2) of the Agreement/Accord between Republic of Kenya and the respondents by reason whereof the respondent enjoyed immunity against all forms of legal proceedings.
3. Counsel for the claimant in his submissions filed before the court concedes that the matter was filed on 7th May, 2014 way after the limitation period of three years provided for under Section 90 of the Employment Act had lapsed. Counsel however contended that the court can exercise discretion and allow the matter to proceed despite having been filed out of time.
4. The court has ruled severally that it does not have discretion to extend time for filing claims arising under Employment Act or contract of employment generally once time has lapsed.
5. To this extent the court on the very concession by the counsel for the claimant that the suit was filed contrary to Section 90 of the Act upholds the preliminary objection on this point. The court therefore does not need to delve in the second limb of the objection as to immunity from civil process.
6. The suit is therefore struck out with costs.
7. It is so ordered.

Dated at Nairobi this 21st day of September, 2018

Abuodha J. N.

Judge

Delivered at Nairobi this 21st day of September, 2018

Abuodha J. N.

Judge

In the presence of:-

.....for the Claimant

.....for the Respondent