



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

MISC. APPLICATION NO. 7 OF 2018

(Before Hon. Justice Mathews N. Nduma)

1. DORINE MBAI
2. JUMA MARY
3. SALOME ONYANGO
4. OGINGA SHEM OGENDO
5. OKAL NOEL MBOGO
6. OCHWADA PAMELA
7. OCHIENG PAMELA A.
8. AMOLO LOICE
9. MADOTE E. OGUTU
10. CAREN AUMA GUMBA
11. BOI BENAD OBEL
12. ANYANGO GRACE
13. ODHIAMBO TABIA AKEYO
14. THOMAS ONGERI
15. OTIENO PAMELA AKOTH
16. OMANGA CORNEL LANGO
17. ROBERT NYAUNDI
18. SAMWEL O. NGOLO
19. NAM BUXTON ODHOCH
20. ODIDI JOYCE
21. ANGADO MESHACK ODOYO
22. OKWATCHA PAMELA
23. JOHN ODHIAMBO OKOTH

24. ONGAWO SYLVESTER
25. WASHINGTON OTIENO NYAGWA
26. DAN OYUGI OTEDE
27. PAMELA OKAL
28. OTIENO CLEMENT J. A.
29. GRACE AKETCH OBACH
30. ELLY TOM MOLLO
31. EVANS WASIAYA OKOTH
32. GEORGE OGODO GENGA
33. ELISHA O. AYODO
34. SAMWEL OKETCH ATIENO
35. BENJAMIN MBUYA
36. PAUL JUMA OBOSI
37. CHARLES O. OKOKO
38. JOHN OSANO ONYANGO
39. MARGARET ADOYO ONDIEK
40. JANE ATIENO OUMAAPPLICANTS

VERSUS

LAKE BASIN DEVELOPMENT AUTHORITYRESPONDENT

R U L I N G

1. The applicants seek the following orders:-

i) That this court be pleased to invoke its supervisory powers herein and review/set aside the decision herein made on 16th October, 2008 in **Winam SRMCC No. 196 of 2007** aforesaid and declare the appropriate judgment applicable is the decision in **Kisumu CMCC No. 122 of 2007; Paul Owino Ramoli Vs Lake Basin Development Authority** delivered on 17th June, 2011.

ii) That Judgment herein be entered severally in each of the cases listed herein under in accordance with the decision in **Kisumu CMCC No. 122 of 2007; Paul Owino Ramoli Vs lake Basin Development Authority**.

2. The liability is not in issue having been determined in both lower courts at Winam and at **Kisumu HCCC 15 of 2004 Titus Korir Komen Vs Lake Basin Authority** in which Hon. Warsame as he then was decreed as follows:-

“In view of the above, I am satisfied that the retrenchment of the Plaintiff and computation of his benefits were not done in accordance with the set regulations and guidelines for implementing staff retrenchment in the civil service as required specifically in the letter dated 23rd June, 2000. The defendant was as a matter of procedure required to undertake an implementation in accordance with the circular of the permanent secretary office of the president.”

3. Hon. Nambuye J followed the decision of Warsame J. in **Titus Koris Komen Vs Lake basin Development Authority [2011]eKLR**.

4. I have recently decided a similar matter in which I gave a declaratory ruling guiding the matter the subject of this suit and all other pending matters once and for all to avoid conflicting decisions by the magistrates which go against the decisions by the High Court that have already put the matter to rest.

5. I have considered the objections raised to the application by the Respondent in their replying affidavit and written submissions and have found them to be without merit in view of the previous decisions of the High court settling the issues in dispute herein once and for all.

Those High Court decisions were not appealed against and they therefore remain good law applicable and binding all the magistrate courts on the quantum of package payable to the retrenches as directed by the permanent secretary, office of the president in his circular aforesaid.

6. Accordingly, the application for review is allowed as prayed and judgment entered severally in each of the cases listed hereunder in accordance with the decision in **Kisumu CMCC No. 122 of 2007; Paul Owino Ramoli Vs Lake Basin Development Authority** following the High Court decision in **Kisumu HCCC No. 15 of 2004 Titus Korir Komen Vs Lake Basin Development Authority** by Warsame J as he then was.

7. Each party to bear their own costs of the application.

Ruling Dated, Signed and delivered this 20TH day of SEPTEMBER, 2018

Mathews N. Nduma

Judge

Appearances

Kulecho, Musomba & Co. Advocate for the Applicants

Otieno Yogo, Ojuro & Co. Advocates for the Respondent

Chrispo – Court Clerk