



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 275 OF 2016

(Before Hon. Justice Mathews N. Nduma)

KENYA CHEMICAL & ALLIED WORKERS UNION.....CLAIMANT

VERSUS

SPECTRE INTERNATIONAL LIMITED.....RESPONDENT

J U D G M E N T

1. The dispute between the Claimant Union and the respondent is failure by the Respondent to pay monthly wages to the Unionsable employees from November 2013 to February, 2014. The unpaid salaries have been computed and attached to the statement of claim in the sum of Kshs.13,190,455.84 in respect of 109 named grievants in the said attachment. The specific amounts due and owing to each grievant are indicated in the list.

2. A dispute was reported to the Ministry of Labour, Social Security and Services on 18th March, 2014. M/s. Hellen Maneno was appointed conciliator on 29th May, 2014. The union made its presentation to the conciliator on 11th July, 2014. The Federation of Kenya employers represented the Respondent and wrote a letter dated 8th August, 2014 to the Secretary General of the Claimant Union which letter was respondent to on 2nd August, 2014. The parties met on 29th August, 2014 and the dispute was not resolved by the parties. The parties referred the matter for further conciliation before the conciliator.

3. The conciliator made her report on 17th March, 2015 having heard submissions from both parties and made the following recommendations;

Management to pay 50% of the 10 million due and owing to the Claimants over a period of six months.

The recommendation was made on a without prejudice basis.

4. The Respondent was served with the Memorandum of Claim and summons to enter appearance on 21st September, 2016 but failed to enter appearance nor file a defence to the claim.

5. The Respondent was also served with various mention and hearing notices but failed to attend court.

6. The matter proceeded to formal proof and Mr. Duncan Abongo Otieno testified in support of the Claimants suit. CW2 Joyce Chari Mwangunga also testified under oath in support of the claim set out in the memorandum of claim and annexures produced as exhibits thereof.

7. The Claim as filed was undefended and the court is satisfied that the Respondent did not pay the named grievants, who are its employees salary and house allowance for four (4) months between the months of November, 2013 to February, 2014 in the sum of Kshs.13,190,455.84. The Claimant seeks payment of 50% of the amount in terms of the recommendation by the conciliator.

8. The court has considered the report by the conciliator, the pleadings before court and the testimony by CW1 and CW2 and finds that the Claimant has proved the claim for payment of 50% salary and house allowance owed to the members of the claimant on a balance of probabilities.

9. Accordingly judgment is entered in favour of the Claimant and the grievants in the sum of Kshs.6,595,227.92 being 50% of the unpaid sum of four (4) months.

10. No order as to costs.

Dated and Signed in Kisumu this 4thday ofOctober, 2018

Mathews N. Nduma

Judge

Appearances

George Gwako for the Appellant

Chrispo – Court Clerk