



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI**

**CAUSE NO.1601 OF 2013**

**(Formerly HCCC No. 609 OF 2002 at Nairobi)**

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|-----------------------------------|-----------------------------------|
| <b>1. AGNES W. KINUTHIA</b>       | <b>304. TARACICIO GEORGE M</b>    |
| <b>2. ALFRED K. LIPOSHE</b>       | <b>305. TERESIAH M. KARIUKI</b>   |
| <b>3. ANDERSON K. WAWERU</b>      | <b>306. THOMAS M. MARITHI</b>     |
| <b>4. ARON MATAMBO</b>            | <b>307. WAHOME DOUGLAS</b>        |
| <b>5. ALICE ALPHONE</b>           | <b>308. WINNIE W. NGUGI</b>       |
| <b>6. BENEDICK B. MUSINGU</b>     | <b>309. WINNIE W. KIONGO</b>      |
| <b>7. BANCY M. NGORU</b>          | <b>310. MESHACK TOLE KIRIGHA</b>  |
| <b>8. BENSON K. NDEGWA</b>        | <b>311. ALICE NJERI MAINA</b>     |
| <b>9. CECILIA M. GONGERA</b>      | <b>312. ALFRED O. KITOYI</b>      |
| <b>10. CHRISTINE V. MUDENDEYI</b> | <b>313. AGNES WAMBUI MBAI</b>     |
| <b>11. DANIEL F. NJENGA</b>       | <b>314. A. ROSIO ITHA</b>         |
| <b>12. DANIEL N. GATHUA</b>       | <b>315. DAVID O. OSWAR</b>        |
| <b>13. DIANA W. MUCHIRI</b>       | <b>316. ELENAN N. KARIUKI</b>     |
| <b>14. DAVID K. GITAU</b>         | <b>317. ESTHER NYAMBURA MBIU</b>  |
| <b>15. DAVID N. NGURE</b>         | <b>318. ERNEST K. MWANGI</b>      |
| <b>16. DAVID M. NGUGI</b>         | <b>319. ESTHER KARIMI M</b>       |
| <b>17. CHRISTOPHER O. WASWA</b>   | <b>320. ELIJAH NJROOGE KIMANI</b> |

18. ERNEST M. SITETI
19. EUNICE NDUTA NJENA
20. FANICE M. MBONE
21. FRANCIS K. GIKARU
22. FRANCHIA W. MWANGI
23. EDWIN W. KIARIE
24. EDWARD O. WASIEMBO
25. ELIZABETH K. KATHUMBI
26. GRACE M. KABUNDI
27. GLADAYS JAMES WAHITO
28. ITATI NGUGI
29. IROBI ABDIRAHMAN
30. JEMIMAH KERUBO
31. JACINTA W. GICHOMO
32. JEMUTAI KIRWA
33. JOEL OGUTA ORENGE
34. JACKSON A. MIGWI
35. JOSEPH K. NJUGUNA
36. JANE AUMA RIAGA
37. JOSEPH W. MUCHIRI
38. KILLIAN J.M. ONYANGO
39. KIMANI GRACE G.
40. LUCAS O. ONDORO
321. EDWIN MUSANDU
322. EVELYNE W. MACHARIA
323. FLORENCE ATIENO MUMA
324. FRANCIS A. OGERO
325. FRANCIS MUSYIMI MONI
326. FREDRICK W. MUNGAI
327. GRACE W. NJOROGE
328. GEOFFREY S. NDUNGU
329. GITAU KIARIE GITHOGO
330. HENRY K. NGANGA
331. ISMAEL K. KARANJA
332. JULIUS OLALO A
333. JANET A. OJUKU
334. JAMES MWAURA KAHIU
335. JAMES MUGA OLUTE
336. JUDITH G. IKIARA
337. JOYCE GATHONI NJOROGE
338. JULIUS B. RUKWARO
339. JOYCE W. GITONGA
340. JORIM W. ODHAKO
341. JAMES M. MACHARIA
342. JOHN CHEGE NJUGUNA
343. JOYCE N.A.

**MOMANYI**





**43. MICHAEL O. ODERO**

**346. LUCY G. MUNGAI**

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|-----------------------------|-------------------------------|
| 44. MARGARET N. KAMAU       | 347. LAWRENCE MUNYUA          |
| 45. MARAGRET A. ALIWA       | 348. LEONARD A. ODERA         |
| 46. MARY N, KARANJA         | 349. LEAH WAHITO<br>MAINA     |
| 47. MOSES M. MUROKI         | 350. MWAURA W.<br>NJUGUNA     |
| 48. MUCHENE D. KIBUNYI      | 351. MARY N. NJOROGE          |
| 49. NJENGA MARY W.          | 352. MULWA MARY. K            |
| 50. MUCHIRI JOSEPH K        | 353. MUROKI ROSE NJOKI        |
| 51. MERCY W. MUCHENDU       | 354. MUSOGA W, IVUSA          |
| 52. MUNGAI MOSES K          | 355. MONICAH MUENI<br>DOMINIC |
| 53. NICHODEMUS P.<br>MUNYAO | 356. MWAURA SAMUEL            |
| 54. NJONGE PETER K.         | 357. MUNENE ALICE<br>MBUYA    |
| 55. PETER ODUOR AREGO       | 358. MARY WAKOIMBI<br>KIMANI  |
| 56. PETERSON K. MUTURI      | 359. MAINA MACHARIA           |
| 57. OCHIENG PATRONILLA      | 360. OPANGA BARNABAS<br>O     |
| 58. REGSON W. WEKESA        | 361. NYAMINAYA<br>EDWARD      |
| 59. RISPER K. BOSIERE       | 362. NYANGARESI<br>NYAKUNDI   |
| 60. SRAH M. MUGANIA         | 363. NGUGI E. WAMBUI          |
| 61. SHEM G. MACHARIA        | 364. NJUGUNA HANNAH W         |
| 62. SUSAN MUTIO KYALILI     | 365. RAHAB W. NGIGI           |
| 63. TABITHA M. KIGONI       | 366. ROBINSON N.<br>KABANGE   |
| 64. WILLIAM OPANY DETER     | 367. RAGIRA TOERI             |
| 65. WANJIKU E. WAWERU       | 368. STEPHEN WAINAINA         |
| 66. WILLIE N. NJOROGE       | 369. STANLEY W.               |

**MWANGI**

- |                                  |                                    |
|----------------------------------|------------------------------------|
| <b>67. DAVID M. MAGONDU</b>      | <b>370. TIMOTHY LIBOYO OTEYO</b>   |
| <b>68. ALICE W. NDEGWA</b>       | <b>371. WILSON WAWERU KABU</b>     |
| <b>69. AYUB O. WAMOYI</b>        | <b>372. BENARD MWAURA K</b>        |
| <b>70. ALICE M. KAPIMA</b>       | <b>373. AGNES W. NGIGI</b>         |
| <b>71. BENJAMIN AWAINO AWUOR</b> | <b>374. AGNES NJERI CHEGE</b>      |
| <b>72. BENINA K. OMWOMO</b>      | <b>375. AARON NDAMBOKI WAEMAM</b>  |
| <b>73. CECILIA W. JUSTUS</b>     | <b>376. ANN MUCHECHE</b>           |
| <b>74. DEBRAH K. JEREMIAH</b>    | <b>377. BEATRICE M. MWAURA</b>     |
| <b>75. DAVID NJOROGE</b>         | <b>378. EDWARD N. NYAGA</b>        |
| <b>76. DULA BETTY KATISI</b>     | <b>379. ENOS A. AIRO</b>           |
| <b>77. EUNICE NDUTA NJENGA</b>   | <b>380. ESTHER W. KABIRU</b>       |
| <b>78. EUNICE NJERI NDERITU</b>  | <b>381. ESTHER W. WAMWIRI</b>      |
| <b>79. ELIZABETH W. NJOROGE</b>  | <b>382. EVA K. NDAMBUKI</b>        |
| <b>80. FLORENCE MAKUNGU</b>      | <b>383. ESTHER NDUTA</b>           |
| <b>81. FREDRICK WANGENYE</b>     | <b>384. ESTHER NDUTA GATURU</b>    |
| <b>82. FRANCIS G. KIMANI</b>     | <b>385. FREDRICK N. NJOKA</b>      |
| <b>83. FRANCIS M. MWANGI</b>     | <b>386. FRANCIS VILIIJA MATITI</b> |
| <b>84. FRANCIS I. NJOROGE</b>    | <b>387. FRANCISCA MORAA</b>        |
| <b>85. FIDELIS O. NYABWARI</b>   | <b>388. FLORENCE J. AWUOR</b>      |
| <b>86. GRACE WANJIKU K</b>       | <b>389. GEORGE A. AUGO</b>         |
| <b>87. GITHAIGA D.M</b>          | <b>390. GATERE PETER MWANGI</b>    |
| <b>88. GRACE N. KARANJA</b>      | <b>391. GRACE W. GAKUHI</b>        |
| <b>89. GIDRAPH T. KARIUKI</b>    | <b>392. GITAU B. MUTHAMI</b>       |

90. GLADYS GATHONI 393. GEORGE O. OWINO
91. HELLEN W. KIMANI 394. GRACE JUMA
92. IENE W. NGAMAU 395. JAMES M. IRUNGU
93. ISAAC MWANGI KANJA 396. JOHN N. OTIENO
94. KIARIE J. MUNYIRI 397. JOSEPHAT N.  
KARANJA
95. KIMOTHO LOSIE  
WANJIKU 398. JAMES B. MWAURA
96. KABABU PETER G 399. JAMES K.  
KIHANANYO
97. JAMES M. WANYOIKE 400. MONICAH N. MBICHO
98. JOHN M. MWANGI 401. JAMES MWAMBIGU
99. JANE W. GACHOMBA 402. JOHN M. KALENDO
100. JOHN MARTIN OKOTH 403. JOHN NYANDIKA  
OROKO
101. JOSEPHINE M. KASUNGI 404. JANE N. MACHARIA
102. JOHN M. KIMANI 405. JOSEPH O. AGALI
103. JANE M. NGUGI 406. JESIKA KATUMIKA
104. JAMES KINUTHIA 407. KARIUKI PETER K
105. JANE K. MBINDA 408. KAREWA A. GITHAKA
106. JOHNSON O. FESTUS 409. KAMUNYA E.  
MACHARIA
107. JANE NJERI THUMBI 410. KANGETHE D.  
MWAURA
108. JOSEPH NGUGI 411. MOSES N. NRINA
109. LUCY W. GACHURU 412. MAINA GATHONGO
110. MBURU FLORENCE W. 413. MUHINDI BETH N
111. MARY W. MBUGUA 414. MARY W. MWANGI
112. MACHARIA GEORGE N. 415. MUKUNGA MWANGI
113. MUSA OTINEO OYUSU 416. MAINA SERAH W

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|-----------------------------|-----------------------------|
| 114. MARY WNAJIKU<br>IKUMBU | 417. MWAURA STANLEY K       |
| 115. MARY W. MBUGUA         | 418. MATHIAS N.<br>WAWERU   |
| 116. MARGRET KINAI          | 419. MARY WANJIKU<br>NGINYA |
| 117. MARGARET WANJIKU       | 420. MARY WAKOMBI<br>KIMANI |
| 118. MARGRET W. MASAI       | 421. MARY W. MBUGUA         |
| 119. MARY CHEPNGTICH S.     | 422. MARGARET W.<br>NGUGI   |
| 120. MARGARET W. GITHIRI    | 423. MUGO SAMSON JOHN       |
| 121. MWANGIO JACKSON K.     | 424. MERCY N. NDUNGU        |
| 122. MARGRET WAMBUI G       | 425. MARY W. MUNGURA        |
| 123. MARY GACHARU           | 426. MBUTHIA GRACE W        |
| 124. MUNENE WILSON          | 427. MARY OGOLA             |
| 125. MARGARET N.<br>MAWANGI | 428. MBOBUANI R.<br>GACHERI |
| 126. MARY W. KARINGA        | 429. MILKA W. KIONYWE       |
| 127. MBUGUA JOHN G.         | 430. MUNGAI PETE RK         |
| 128. MWITA ROSE W.          | 431. NANCY MUTHON<br>KURIA  |
| 129. NGUGI GRACE WAMBUI     | 432. NGATIA ANTHONY W       |
| 130. NGUGI MWAURA           | 433. NJERI SERAH NJIHIA     |
| 131. ODINGA HELLEN A.       | 434. NJERU GATERE           |
| 132. ORACHA E. MUHANJA      | 435. NGANGA MONICAH<br>W.   |
| 133. NGANGA AMOS CHEGE      | 436. ONKOMBA CHARLES<br>O   |
| 134. NZYOKI KATAA           | 437. PAUL G. NGURU          |
| 135. PETER W. CHEGE         | 438. PAUL NJUGUNA<br>NGANGA |
| 136. PETER W. CHEGE         | 439. PATRICK MUASYA         |

137. PAMEAL W. NJERU
138. POSO MARURAN OLE
139. RONALD M. THANDE
140. ROSE ODOGI
141. ROBERT MUTHANJI
142. ROSE A. NYANGOR
143. RAGUI RUFUS
144. CLEMENTINA A. RAMOGI
145. SILAS M. GITHINJI
146. CELINA K. MUSA
147. SARAH M. MANDU
148. SIMON O. ODERA
149. SAMUEL A. APINDO
150. SAMUEL NDUNGU
151. SARAH WAIRIMU MBUGUA
152. SUSAN WANJIRU GITEMA
153. THAIYA FLORENCE W.
154. TABITHA WAMBUI
155. TUUKUO JOHN L
156. WAITHERA SERAH
157. WAINAINA SUSAN W.
440. RUTH MUSIMBI SHIVANJI
441. RUTH NJOKI GICHURU
442. SERAH WANGU NDUNGU
443. STEPHEN W. KAMAU
444. STEPHEN OSINO ODERO
445. SIMON NJOROGE
446. STEPHEN CHEGE K
447. STEPHEN NJIHIA
448. RACHAEL KINYANJUI
449. ROSE LUBANGA AMBUDO
450. ROSELINE K. KUBITU
451. ROBERT M. WAIRURI
452. SAMUEL MBURU KIGO
453. ALICE WAITHERA NJUGUNA
454. ANITA KANANU
455. ALICE WANAGU
456. ANNE W. WAMARI
457. GACHINA GIDEON K
458. CHARLES K. GITHINJI
459. DORCAS AWINO PETER
460. DEVINA A. ODHIAMBO

158. MARY WANJIKU NGANGA	461. DAVID D. IMBUKA
159. AMBASA JOHN I	462. GEORGE W. NJARI
160. ANGALUKI MUDOGA	463. GATHECHAH MARGARET
161. ALICE WAITHERA N	464. GACHATHA MARGARET
162. ATIENO MARY	465. HUDSON MAKIDIAH CHORE
163. ANNE NGINA NJENGA	466. JOYCE W. KIBIKU
164. ANNE WANJIRU KURIA	467. JOHN K. GITUERE
165. ASHA MOHAMMED	468. JAIRO C. KACHILA
166. AMBAI JACKSON	469. JOHN G. WACHURU
167. ALFRED NYAMWEA M	470. JOY KARIMI NKANATHA
168. BARNABAS M. OGEGA	471. JOSPEH M. KINUTHIA
169. BEATRICE W. MUNGAI	472. JULITAH N. WASIOMANGA
170. BEATRICE M. KAYAGA	473. IRUNGU BETH WAMBUI
171. BEATRICE W. NENE	474. LEONARD K. NDUNGU
172. CECIA NYAGUTHI GITAU	475. MUSUNGU JOSPHAT M
173. CAREN S. ADHIAMBO	476. MUNGAI C. NJUNGE
174. CHARLES KAIRICHI M.	477. SHEM MUDAKA
175. DAVID KAMAU MWANGI	478. JOEL T. M'ITURUKI
176. EDWARD ONGURA PUSIA	479. TITUA MUNYITHIA
177. ELIUD O. OSODO	480. VIRGINIA N. NDUNGU
178. ESTHER WANGARI KARIUKI	481. VINCENT A. AMOLO
179. FRANCIS K. KAMARI	482. WILSON N. NDEKE
180. FELIX H. ANAMI	483. WANJIKU S. MUNGAI

181. FATUMA ALI
182. GEORGE M. WAMANGU
183. GATONYE ALICE M.
184. GRACE MATHENGE
185. GERALD THUO KANGETHE
186. GITAU MWANGI
187. JOSEPH M. ATOLWA
188. JOSIAH K. MBUGUA
189. JOTHAM MUMAIMA M.
190. JOSPEH N. OSOKHO
191. JANE N. NJOROGE
192. JOY MUTHONI
193. JOHN M. NJOROGE
194. JOHN O. WAFULA
195. JACOB ASINDI AGARE
196. JOSEPH A. GICHANA
197. JOHN GACHOKA MAINA
198. JORO GAYO ARERO
199. JAMES MWAURA KAHIU
200. JOHN GACHOKA
201. JANE K. LIFUMBU
203. JOSEPHAT K. WAMUNYI
204. J.M. GITAU
484. WANGAI EUNCIE N
485. WAMBUI GRACE K
486. WILFRED M. MWATHI
487. ANGELINE M. NZIOKA
488. ABSOLOMON M. IRUNGU
489. ALICE WMABUI CHEGE
490. ASHTON M. MWANJALA
491. BENSON MAINA NJUGUNA
492. CHRISTOPHER M., MUTUMBWA
493. CALEB ABUNGE
494. CHARLES O. NYANGWESO
495. DANIEL MBURU MWAURA
496. ELIZAPHAN NJIRU
497. FATUMA HUSSEIN M
498. JOSEPHAT MUTHUI JUMA
499. JACKSON K. GADONYA
500. JOHN M. MELI
501. JOHN M. MWAURA
502. JOHN P. MAIGWA
503. KARIUKI M, MUIRU
504. NJIHIA PETER MBUGUA
505. MARY O. OWITI
506. MAURICE M. MATERE

205. JOSEPH K. ANARI
206. KINUTHIA JANE WAMBUI
207. KAMAU GITUKU
208. KAGUATHI MARY W
209. KIBE DANIEL N
210. LUCY N. MARURU
211. LILIAN WANJIKU MUTHEE
212. MBUGUA NANCY W
213. MORRIS KISILU
214. MICHAEL G. KIMWANA
215. MARGARET KAIIGI JACOB
216. MICHENE GRACE W
217. MAKORI ERNEST MOSES
218. MORRIS ODAGO OMOLO
219. MORRIS M. KIUNA
220. MARGARET W. GAKERE
221. MARY WANJIKU MUNGU
222. MARY W. KABUI
223. MARY NYAMBURA
224. MARY W. NGUGI
225. NANCY W. MUNGA
507. MARY MUHINDI
508. POLYCRAP NYANGWE
509. SIKUKU ANALLETUS OUMA
510. STEPHEN M KARIUKI
511. SOLOMON A. ATABACHI
512. STEPHEN PARSAOTI
513. SIMON N. KIRANGA
514. STEPHEN M. NDWALA
515. WAMBUA JULIUS M
516. VIRGINIA G. MUGAMBI
517. ODERO YUCABETH A.
518. ALICE W. NJERI
519. ALICE M. NDINGIA
520. AGNES W. GATHUMBI
521. ADUDA MRAY TERA
522. DALMAS O. OCHIENG
523. ELIJAH T. NGETICH
524. FIBI MOBNE NDENGA
525. FRANCIS M. NTHIA
526. GACHECHE LAM
527. JOSEPH MURIGI KIOGE

226. PAULO NDUNGU  
MUNUKU

227. PAUL MURULA ANDEGA

228. PATRICK N. MBUGUA

229. PAMELA AOKO OKEYO

230. PETER K. MBUTU

231. PETER CHEGE NDUNGU

232. PETER N. GICHUI

233. PETER K. MWANGI

234. ROSE A. ONYANGO

235. RUFUS N. WANGAI

236. STEPHEN MUIRURI

237. SEBASTIAN K..E

238. SUSAN W. MWANGI

239. SANKAAIRE IBRAHIM N.

240. SOLOMON INZAHULI

241. STEPEHN K. MWAURA

242. SYOKAU MUSYOKA

243. THOMAS MULWA

244. VIOLET M. NYAMBU

245. ALICE MAHIGA

246. ALICE NYAMBURA

247. AMONDI MARY A

248. ALEX NATSE MSWANYI

249. AGNES KAIMBUTHI

528. JOHN O. OBENDA

529. JARED G. ODHIAMBO

530. JOHN NDUNGU

531. JOHN K. MIHARI

532. JOHN NYAGA  
MWENDWA

533. JOSEPHAT  
AMULENGA

534. KIMOTHO LOISE  
WANJIKU

535. KIMEU KATITHI

536. LEONARD K. NDUNGU

537. MAITHYA MUTUA

538. MARTIN K. KAMAU

539. MBOBUA R. GACHERI

540. MUTIA ROSE W

541. NANCY G. NJERU

542. NAOMI NJERI

543. NGENY  
CHEPCHUMBA

544. NDORIA ALFRED M

545. PAUL K. MAINA

546. PHELISTER O.  
MALENYA

547. RAPHAEL N.  
OLWENYI

548. SERAH W. NJOROGE

549. STEPHEN NJOROGE

550. SAMUEL M. NJOROGE

551. THOMAS MBUA  
MWANGI

250. ALEXANDER M. MWARIGHA	552. WILLYKESTER ATIENO
251. BETH MULE	553. WYCLIFFE W. SITINI
252. BRIDGET K. NDUBAI	554. WANJIRU LUCY
253. CATHERINE C. KENDA	555. WILLYEDDDY N. WANJAL
254. ELIZABETH O. AMBUNDO	556. WANYAMA EDITH V
255. ELIZABETH WAMBUI	557. ELIJAH G. ONYANCHA
256. FLORENCE W. MUTHEMBA	558. GEORGE F. WANDERA
257. GITHUA ANTHONY M	559. JEREMIAH M. MINAI
258. GEORGE NJAGI	560. ANYIEKA A. NYAGEYA
259. GILBERT O. ONYANGO	561. DISHON O. SAMBAYA
260. GRACE W. WAMBUGU	562. ELIAS O. BONYO
261. GLADYS MBAIRE MUGO	563. GABRIEL G. MBUGUA
262. HELLEN M. NGUGI	564. JOHN M. UMWAMI
263. HERINE AKINYI ATITIO	565. KAREN A. OUCHO
264. HUMPHREY K. IRERI	566. RACHAEL N. NGIRI
265. JOSEPHINE M. MTURUCHIU	567. LYDIAH JEPKOSGEI
266. JAMES N. MALONZA	568. NGOIZI EUNICE
267. JANE MWENDE	569. ALFRED O. OMIENYO
268. JEREMIAH KUIRA	570. ELIZABETH W. WAINAINA
269. JOHN W. KAMAU	571. GRACE GATHONI KIMANI
270. JOEL MUNYAU KASEMBI	572. KABUNDI KAMANU
271. ISAAC JUMA PESA	573. GATHONI NJAGI
272. KIMANI NGANGA	574. TIMINA MUNGOHE

273. LUCY M. NGARARI	575. AGNES M. GICHUHI
274. LUCY N. NJENGA	576. ELIZABETH WANJIKU W.
275. LAWRENCE K. MWANIA	577. GRACE GAKONYO J
276. MARY WATIRI N	578. GEORGE NJENGA
277. MWARIRI DAMALIS W	579. JEREMIAH N. MBILU
278. MARGARET W. KAMONI	580. ALFRED J. WARINDA
279. MURIUKI WARUI	581. CHRISTOPHER N. SHIBWECHE
280. MARY N. MBUGUA	582. CHANZU SABLON O.
281. MUSANGO MBAI	583. CAROLINE C. RONO
282. ONESMUS K. ADURA	584. EVANS M. BEDI
283. OWUOR MONICA A	585. ELIZABETH NDINDA MUTUA
284. NGUGI ALICE NJERI	586. FRANCIS NJOROGE W
285. NAOMI W. MBURU	587. GISHARU PURITY M
286. NELSON LUSIMBA	587. GISHARU PURITY M
287. NGIGE NANCY M	589. H. GALGALO CHULAN
288. NAOMI NJERI	590. JOHN N. NYENZO
289. PAETER NJUNGO MBUGUA	591. J.M. NZIVO
290. PAMELA A. OULLA	592. JECINTA WAMBUI K.
291. PEER MACHARIA	593. JOSEPH ODERA
292. PETER K. KATANA	594. JORIM O. WAMDHA
293. ROSEMARY W. MBUGUA	595. KANYUIRO K. GATUMUTA
294. ROSE A. OGADO	596. KARANJA DANIEL C
295. RAPHAEL M. KYANUI	597. LYDIAH C. MUSYOKA
296. STEPHEN N. WANGAI	598. MARGARET WATIRI
297. SUSAN W. MWANGOMBE	599. MARGARET M.

**MUNGA**

**298. SOLOMON W. MBUGUA**      **600. MARGARET K. MWANJALA**  
**299. SIMON KANGETHE**      **601. NYUNGA JOSHUA O.**  
**300. STANLEY N. THUO**      **602. ONYANO CHARLES J**  
**301. SRA O. KENGWA**      **603. OGARA NICHOLAS O.**  
**302. SUSAN WAIRIMU**      **604. PAUL M. MUTHAMI**  
**303. TABITHA A. OKUTE**      **605. PAUL NDUGO MUNUKU**  
**607. STEPHEN K. NJAU**      **606. PETER N. CHANGENDA**

**NDERI**  
**MBOGO.....CLAIMANTS**

**VERSUS**

**UNIVERSITY OF NAIROBI.....RESPONDENT**

**AND**

**MINISTRY OF EDUCATION SCIENCE**

**AND TECHNOLOGY.....1<sup>ST</sup> THIRD PARTY**

**HON. ATTORNEY GENERAL.....2<sup>ND</sup> THIRD PARTY**

(Before Hon. Justice Byram Ongaya on Friday 9<sup>th</sup> November, 2018)

**JUDGMENT**

The suit was commenced by way of a plaint filed in the High Court on 09.04.2002 through Juma Kiplenge & Associates. The plaintiffs (claimants) prayed for judgment against the respondent for:

I. Kshs.279, 940, 364.00 (being commuting allowance at the rate of Kshs.46, 395.00 per person Kshs.37, 581, 289.00; house allowance per grades of the claimants Kshs.29, 985, 550.00; transport allowance as per grades of the claimant Kshs.25, 661, 924.00; value of unsupplied uniform between 1989 and March 2001 Kshs.11, 239, 234.00; overtime allowance from 1990 to March 2001; the balance of the golden handshake Kshs. 134, 024, 940.00; training allowance Kshs.21, 676, 000.00; and transport allowance Kshs.1, 692, 000.00).

II. A declaration that the retrenchment of the plaintiffs induced breach of contract, discriminatory, violated the law, illegal null and void.

III. General damages.

IV. Costs of the suit.

V. Any other or further relief that the Honourable Court may deem it fit and just to grant.

The 608 claimants were listed as parties to the suit and their case as pleaded was as follows:

a) That they were employed by the respondent in various cadres on permanent basis under written contracts of service.

b) By the letter dated 05.03.2001 entitled “Notification for Retrenchment” and pursuant to an alleged process of implementing Staff Retrenchment Programme, the respondent without justification or lawful basis illegally and discriminately indentified each of the claimants for retrenchment under the said programme. The claimants and their trade union were not consulted prior to the retrenchment exercise.

c) The respondent terminated the services of each of the claimants effective 31.03.2001 without paying to the plaintiffs a total of Kshs.279, 940, 364 as claimed in the present suit.

d) In the budget speech for the fiscal year 2001/2002, the Minister for Finance indicated to Parliament Kshs. 7.65 billion had been spent on a total of 27, 724 retrenched public servants (20, 526 from civil service; 3204 from public universities; 188 from Catering Levy Trust; 884 from Kenya Revenue Authority; and 3922 from other public bodies.) Further according to the Civil Service Reform Retrenchment Plan 2000 – 2002, about 4882 public universities’ officers had been identified for retrenchment at the cost of Kshs. 1.2 billion.

e) The underpayment of the claimants’ dues now claimed was due to embezzlement and misappropriation of public funds earmarked for the claimants.

f) The claimants may at later stage apply to make the suit representative for all persons similarly affected by the offending retrenchment.

The respondent filed the defence on 02.05.2002 through Kilonzo & Company Advocates. The respondent prayed that the claimants’ suit be dismissed with costs. The reply to defence was filed on 17.05.2002. The 2 third parties were enjoined and they filed a defence on 26.06.2006 through the Honourable Attorney General and prayed that the suit be dismissed with costs.

The respondent’s case is as follows:

a) The claimants listed in paragraph 2.1 of the defence are unknown to the respondent as they were not subject of the retrenchment process. The claimants admit that fact and add that they are parties to the suit in so far as they claim arrears, uniform and overtime under the Omolo Okero terms and conditions of service (the mentioned claimants otherwise being normal retirees). The Court finds as much as there is no dispute that some of the claimants had not been retrenched.

b) Some claimants’ names are not properly known to the respondent as listed in paragraph 2.2 of the defence and the claimants admit that much. The Court finds that the claimants are properly known as listed in the paragraph.

c) The claimants as listed in paragraph 2.3 of the defence are repeated may be repeated but while admitting, the claimants have stated that for some the names are similar but they are different persons. The Court finds that no evidence has been provided to rebut the respondent’s position and on a balance of probability, the repetitions in the names as pleaded for the respondent is upheld.

d) The respondent admits that on 05.03.2001 it issued letters of the same date to some of the claimants titled “**Notification for Retrenchment**”. The respondent also admits that it carried out and implemented a Staff Retrenchment Programme but denies that the same was without justification or lawful basis. It denies that the retrenchment exercise was illegal or discriminatory and each affected claimant was identified under the prescribed criteria. The claimant’s union, KUDHEIHA was consulted.

e) The retrenchment programme was aimed at improving the financial and administrative performance of the respondent; it focused on the respondent’s important functions and targets; it was to balance recurrent expenditure relative to personal emoluments, payroll and operation; in 1998 the respondent had 6, 600 workers with 3726 being unionisable and Kshs. 1, 850 billion being labour costs relative to a working capital of Kshs.618, 589, 760.00 so that the labour cost was a serious financial burden relative to the respondent’s working capital; and in the circumstances, retrenchment was a necessity and not a choice of the respondent.

f) Due to overstaffing, financial constraints and related factors the respondent engaged on retrenchment exercise aimed at improving the financial and administrative performance of the defendant; reviewing and restructuring the defendant’s administration to focus on its important functions and targets; retrenching and reorganizing all and any overstaffed positions; and balancing recurrent expenditure. Study had shown that the respondent was overstaffed with more than 2500 employees.

g) The retrenchment was part of the government-wide retrenchment programme. The Government approved a Public Universities Reform Programme (PURP). Civil Service Reform Programme applied to government departments and ministries while the respondent was directed to develop its own similar plans and guidelines for its staff retrenchment.

h) In 1999 under PURF the respondent undertook rationalization of functions and staff rightsizing exercise to identify optimal functions. The respondent says it identified its core functions, policy priorities and strategic objectives; overlapping and duplication of functions and departments; over-manned posts; and about 1,900 members of staff were identified for retrenchment in grades I-IV in the first phase.

i) The claimants were identified for retrenchment in line with the prescribed criteria. There was no discrimination as alleged for the claimants. The prescribed principles of Last-In First-Out (LIFO) and First-In First-Out (FIFO) were strictly applied.

j) The claimants’ union participated in the kick start workshop held on 21.08.2002 at Egerton University. The respondent then carried out sensitization workshops at all its levels. A Sensitization Manual on Staff Retrenchment in Public Universities was distributed to all sections of the respondent. Sensitization workshops were carried out for all respondent’s affected staff.

k) The government exchequer financed the retrenchment process and it was carried out in accordance with the labour laws, the University of Nairobi Act and the CBA.

l) The retrenched staff were paid all due statutory and non-statutory payments including severance pay being one month basic salary for each completed year of service Kshs. 57, 722, 694.75; gratuity at one month basic salary for every year worked on CBA terms Kshs.57, 722, 693.75; passage of baggage payment per CBA Kshs.1, 465,550.00; salary in lieu of notice Kshs. 12, 074, 155.00; off days net pay Kshs. 1, 838, 183.00; leave days' payment Kshs.871, 042.00; overtime payment Kshs.591, 492.00; non-statutory payment being golden handshake of Kshs.45, 000.00 per employee. The respondent paid out a total of Kshs.149, 558, 971.15. The respondent therefore denied the claimants' claims and prayers. These payments were per the PURP guidelines and not the general Civil Service Retrenchment Programme guidelines because the respondent was bound by PURP guidelines.

The consent order of 16.04.2018 was that the suit be determined on the basis of pleadings, documents on record and final submissions for the parties.

The Court has considered the pleadings and the material on record including final submissions filed for the parties. The Court makes findings as follows.

**First**, the Court returns that the claimants instituted the suit in their individual capacities. They were all listed in the plaint initiating the suit. The Court returns that it was misconceived to be submitted for the respondent that the suit had been an improperly commenced representative suit.

**Second**, the respondent has submitted that there was misjoinder in view of the many claimants with varying contracts of service to have sued together as co-claimants. In so far as the suit arose out of the same transaction being the retrenchment exercise, the Court returns that the work involved in prosecuting the suit may have been overwhelming but certainly there would be no misjoinder. However, the Court returns that to the extent that persons who had retired normally and not being subject to the retrenchment exercise were named as plaintiffs, the same amounted to misjoinder of parties but the suit appears to have proceeded without the Court being moved for appropriate orders such as striking out such parties and appropriate amendments.

**Third**, the Court has considered the claims and prayer that the retrenchment amounted to induced breach of contract, was discriminatory, violated law, and was illegal and null and void. As submitted for the respondent, the claimants have not pleaded and provided evidence for the particulars of inducement, alleged breach of contract and discrimination. Further, the Court has perused the plaint and claimants' final submissions and there is no provision of the Constitution or legislation that is said to have been violated during the retrenchment exercise. The respondent has shown the criteria that were followed to identify the claimants for retrenchment and that sensitization workshops took place to prepare the affected claimants for the retrenchment. The claimants have not provided the names of persons who may have remained in the respondent's service after the retrenchment and the reasons why such other persons may have been better candidates to be retrenched in priority to the claimants. In such circumstances, the Court considers that on a balance of probability the respondent applied the stipulated criteria of LIFO and FIFO. The Court returns that the respondent has established that the retrenchment was justifiable as pleaded and submitted for the respondent. The claimant's union was involved throughout and no material breaches of the CBA have been established. Thus, as submitted for the respondent, the claimants have failed to establish the claims and the prayer will be declined together with the related prayer for award of general damages.

**Fourth**, as submitted for the respondent, the claimants failed to provide evidence and justification for the commuting allowance, house allowance, transport allowance, the value of unsupplied uniforms, and overtime. It was not clear how each of the claimants would become entitled to the claims and it was not clear how the computation had been arrived at. It is submitted that commuting allowance, house allowance and transport allowance were altered per recommendations of the Omollo Okelo Taskforce and the allowances were not fully paid hence the claim. The evidence of whatever was paid and then not paid was not provided. It is submitted that uniforms were not supplied between 1990 to 2001 but the basis of the value of the uniforms and those of the claimants that were entitled remains at large – and in any event, the uniforms and not money was to be provided; so that if the claimants bought their own uniforms and they were seeking refund of the expense, then there might have been some justification but which is not the present claim. In any event no evidence was provided to show existence of the grievance prior to the retrenchment. On overtime it is submitted that the claimants worked overtime but the particulars remain unknown. The Court returns that the prayers will fail as unjustified and not established by way of necessary evidence.

**Fifth**, the respondent has established that the sensitization workshops took place to prepare the affected staff for the looming retrenchment and there was no prescribed training in that regard. The claimants have not provided evidence that they were to be trained and then paid training allowance for attending such training. The prayer will therefore fail.

**Sixth**, the respondent has established that under the prevailing policy and guidelines for PURP each retrenched employee in the respondent's establishment was to be paid Kshs.45, 000.00 in golden handshake and which was paid. The Court returns that under the PURP guidelines there would therefore be no valid claim as prayed for the claimants and the prayer will fail.

**Seventh**, the Court has considered all the circumstances of the case including time that has run since the filing of the suit. The Court returns that each party shall bear own costs of the suit towards balancing justice in this matter that has taken many years to be determined by the Court.

In view of the foregoing findings, the Court returns that there would be no need to delve into the issue of the liability of the third parties, if any, because the determination of that issue does not even begin to arise.

In conclusion, judgment is hereby entered for the respondent for dismissal of the suit with orders that each party shall bear own costs of the suit.

**Signed, dated and delivered** in court at **Nairobi** this **Friday 9<sup>th</sup> November, 2018.**

**BYRAM ONGAYA**

**JUDGE**