REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 551 OF 2012

AVIATION & ALLIED WORKERS UNION (K).....CLAIMANT

v

KENYA AIRWAYS LIMITED.....RESPONDENT

RULING

1. On 25 July 2018, the Claimant and his advocate were not in Court when its case came up for hearing, and the Court after going through the record ordered the Cause dismissed.

2. During the appearance, the Respondent was represented by Mr. Weru holding brief for Mr. Obura who was reportedly ill.

3. On 9 August 2018 the Aviation & Allied Workers Union (K),(the Union) moved Court seeking orders

a. **THAT** the order of the Honourable Justice Radido made on the 25th day of July, 2018 dismissing the Claim filed on 30th March 2012 herein together with all other consequential orders be set aside.

b. **THAT** the Claim filed herein dated 30th March 2012 be reinstated for full hearing and final determination.

c. **THAT** the costs of this application be provided for.

4. The grounds in support of the application were that the advocate having conduct of the Cause and an associate instructed to hold brief were before other Courts (disclosed); that the advocate on record for the Respondent had earlier informed the Union's advocate that he would be seeking an adjournment; that the Union has always been willing and ready to prosecute its case and that the Court had unfettered discretion.

5. The Respondent did not oppose the application.

6. The Court has looked at the record and established that the Cause is part heard and that the Union has mostly been ready to proceed with the hearing.

7. In the event the application is allowed with no order as to costs.

8. A mutually convenient hearing date to be scheduled hereinafter considering the age of the suit.

Delivered, dated and signed in Nairobi on this 9th day of November 2018.

Radido Stephen

Judge

Appearances

For Union Okweh Achiando & Co. Advocates

For Respondent Obura Mbeche & Co. Advocates

Court Assistant	Lindsey