

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 399 OF 2017

(Before Hon. Justice Mathews N. Nduma)

GEORGE AMOTH AND 14 OTHERS.....CLAIMANTS

VERSUS

KENYA MEDICAL RESEARCH INSTITUTE (KEMRI).....RESPONDENT

R U L I N G

1. The claim was instituted by a statement of claim on 29th September, 2017.
2. The Claimants state that they were employed in the years, 1986 to 1997; 1989, 1990 to 1991 and 1993. The Claimants seek a declaration that the manner of their engagement violated their constitutional rights. A declaration that the continuous engagement of the Claimants as casuals was unlawful and unconstitutional. The Claimants seek damages in respect thereof
3. A perusal of the pleadings, reveal this to be a claim based on contracts of employment entered into between 49 and 24 years from the time the suit was filed.
4. The effort to disguise the simple claims based on contracts of employment as constitutional claims to avoid the limitation period set under section 4(1) of the Limitations of Actions Act, Cap 22 Laws of Kenya which prohibits filing of any suit based on contract more than six (6) years from the time the cause of action arose has failed in the courts considered view and finding.
5. The Claimants did not make any application to file the suit out of time. However, even if they had done so, no enlargement of time would have been granted following the Court of Appeal decision in the case of Devicon.
6. Accordingly, the suit is time barred and is struck out since the court lacks jurisdiction to entertain it.

Ruling Dated, Signed and delivered this 20th day of December, 2018

Mathews N. Nduma

Judge

Appearances

Claimant in Person

M/s. Wanjala for Respondent

Chrispo – Court Clerk