

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 183 B OF 2014

(Before Hon. Justice Mathews N. Nduma)

THOMAS JACOB NANGUMBACLAIMANT

VERSUS

TEACHERS SERVICE COMMISSIONRESPONDENT

R U L I N G

1. The suit was filed on 15th August, 2014. From the face of the statement of claim, the cause of action arose on 1st September 2007, the effective date the Claimant was placed on compulsory retirement vide a letter of notification dated 26th June, 2006. The Respondent then further purported to terminate the Claimant's employment by a letter dated 26th September, 2007 in which it was indicated that the claimant was not pensionable. This claim is for payment of pension.
2. From the facts presented by the Claimant in the statement of claim, the suit was filed more than six (6) years from the date the cause of action arose.
3. In terms of section 4(1) of Limitation of Actions Act, Cap 22 Laws of Kenya, a suit based on contract cannot be filed more than six (6) years from the date the cause of action arose.
4. In terms of the Court of Appeal decision in the case of Devicon, no extension of time may be granted to file a suit based on contract.
5. In this matter, no such extension of time was sought before filing the suit.
6. Accordingly, the suit is time barred and is struck out since the court lacks jurisdiction to hear it.
7. The effect of this decision is that the suit is dismissed with no order as to costs.

Dated, Delivered and Signed in Kisumu this 20th day of December, 2018

Mathews N. Nduma

Judge

Appearances

Mr. Sitima for the Respondent/Objector

Mr. Kopot for Claimant

Chrispo – Court Clerk