



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 168 OF 2016

(Before Hon. Justice Mathews N. Nduma)

JOSEPH NYARANGO ONDARI.....APPLICANT

VERSUS

SECRETARY GENERAL

UNION OF KENYA CIVIL SERVANTS.....1ST RESPONDENT

UNION OF KENYA CIVIL SERVANTS.....2ND RESPONDENT

NATIONAL EXECUTIVE COMMITTEE,

UNION OF KENYA CIVIL SERVANTS.....3RD RESPONDENT

CHAIRMAN, UNION OF KENYA CIVIL SERVANTS.....4TH RESPONDENT

JUDGMENT

1. This suit was filed on 16th June, 2016 seeking payment of salary arrears not paid between January, 2003 and December, 2009.
2. The Claim was filed more than seven (7) years after the cause of action arose without leave of court.
3. Limitation of time in respect of claims founded on Employment contracts prior to the year 2008 is regulated by section 4(1) of the Limitation of Actions Act, Cap 22 Laws of Kenya.
4. The section provides that no action founded on contract may be filed after lapse of six (6) years from the time the cause of action arose.
5. The Court of Appeal in Devicon case affirmed this position and ruled that no extension of time may be granted to a litigant whose case is founded on contract upon expiry of six years from the date the cause of action arose.
6. Accordingly, the court lacks jurisdiction to entertain this claim and the same is declared time barred and struck off with no order as to costs.

Dated, Signed and Delivered in Kisumu this 6th day of December, 2018

Mathews N. Nduma

Judge

Appearances

S. M. Sagwe & Co. Advocates for Claimant

Chrispo – Court Clerk