



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1724 OF 2014

KENYA UNION OF COMMERCIAL FOOD AND ALLIED WORKER'S UNIONCLAIMANT

VERSUS

KAPA OIL REFINERIES.....RESPONDENT

M/s Kilonzo for claimant/applicant

M/s Muumbi for respondent

RULING

1. The claimant/applicant filed a notice of motion application on 19th July 2016 seeking the court to correct the decree granted in cause no. 25 of 2004 on 29th December 2015 to correspond with the award of the court delivered on 22nd December 2004.
2. The file in this matter could not be traced for a long time and on 1st December 2014, Honourable Lady Justice Monica Mbaru ordered the reconstruction of the same. This explains the delay in bringing this application.
3. The court has perused the award of the court in cause no. 25 of 2004 by Honourable Murtaza Jaffer in which the final order of the court were for payment;
 - a. For outstanding wages, leave pay and allowances as provided for in the CBA between the parties;
 - b. In lieu of notice in accordance with clause 11 of the CBA.
 - c. Of gratuity in accordance with clause 26 of the CBA
 - d. Twelve (12) months' wage by way of compensation.
4. The court further ordered;
 - e. Ministry of Labour to investigate compliance by the respondent with the labour laws/wages regulations as well as health and safety requirements in respect of casual employees employed either directly by the respondent or through sub-contractors or other agents. A report of the Ministry's investigation be produced in court within 45 days.

f. All sums already paid by the respondent be taken into account in the process of implementation of this award by the parties.

5. The dispute was set down for mention on 9th February 2005. To date the award has not been satisfied for various reasons including loss of the original file.

6. The court is satisfied that the decree granted in cause no. 25 of 2004 on 29th December 2015 did not reflect correctly the orders of Honourable Murtaza J. in the award delivered on 22nd December 2004.

7. The court therefore allows this application and directs;

(a.) The Registrar, re-draw a decree that strictly corresponds to the award of the court delivered on 22nd December 2004 as captured in this ruling above.

(b.) The Registrar to keep this file in the strong room.

(c.) Costs to follow the outcome.

Dated and delivered at Nairobi this 21st Day of April 2017

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE