



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 992 OF 2013**

**BERNARD MAINA KIAMA**

**(SUING ON HIS BEHALF AND**

**ON BEHALF OF 42 OTHERS) ..... CLAIMANT**

**VERSUS**

**RIFT VALLEY RAILWAYS (K) LTD ..... RESPONDENT**

**RULING**

1. The respondent has raised a preliminary objection to this suit on the basis that same offends section 90 of the Employment Act, 2007 in that it was filed after three years from the date the cause of action arose.
2. From the plaint itself, it is evident that the cause of action arose in May 2008 when the petitioners stopped working upon being declared redundant with effect from 1<sup>st</sup> April 2008.
3. The plaint was filed on 20<sup>th</sup> January 2012 at the High Court.
4. The Employment Act, 2007, commenced operation on 2<sup>nd</sup> June 2008. It cannot operate retroactively with respect to this suit.
5. The law applicable to this matter on limitations is section 4 (1) of the Limitation of Actions Act, Cap 22 of the Laws of Kenya which reads;

*“The following actions may not be brought after the end of six years from the date on which the cause of action occurred:*

*(a.) Actions founded on contract.”*

6. It follows that this matter was filed within the limitation period. The preliminary objection is misconceived and is dismissed with costs in the cause.

**Dated, signed and delivered at Nairobi this 29<sup>th</sup> September, 2017**

**MATHEWS NDERI NDUMA**

**PRINCIPAL JUDGE**