

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

Judicial Review Application No 3 Of 2015

[FORMERLY MISC CIVIL CASE NO 1278 OF 2004]

RUFUS NJUGUNA..... 1ST PLAINTIFF

RURIAN MICHENI..... 2ND PLAINTIFF

RURIAN MICHENI..... 3RD PLAINTIFF

DANSON KIMANI..... 4TH PLAINTIFF

(Suing on their own behalf and on behalf of 63 other former employees of Directorate of Civil Aviation, a department within the Ministry of Transport and Communications)

VERSUS

THE ATTORNEY GENERAL..... 1ST DEFENDANT

KENYA CIVIL AVIATION AUTHORITY..... 2ND DEFENDANT

C.A. KUTO..... 3RD DEFENDANT

JUDGMENT

1. This matter was heard and determined in the High Court (**Emukule J**) who in a ruling delivered on 7th November 2005 made the following order:

“I order that the Plaintiffs be paid their arrears of salary and other benefits for the period dating back to 18-04-2002. The exact amounts to be assessed by the Registrar or Deputy Registrar taking into account the applicable terms of service.”

2. The matter went on appeal and the Court of Appeal, while upholding the substance of the ruling by the trial judge, reversed the direction that the salary arrears be assessed by the Registrar or the Deputy Registrar. Instead, the Court of Appeal directed the Plaintiffs to file schedules of arrears due to them to form the basis for assessment before any other High Court Judge. The High Court (**Mumbi Ngugi J**) transferred the file to this Court in March 2015.

3. In an interim ruling delivered on 19th August 2016, I directed the Plaintiffs to file documentary evidence in support of their respective tabulations. Only forty (40) of them provided the required evidence and the supported tabulation of their dues are as shown below:

Name.	ID Number.	Salary at	Salary Arrears 2002 – 2014
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Termination (145 months)

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1.	Rufus Njuguna	B. 0986177	20,472.00	2,968,440.00
2.	David N. Onyango	0680077	20,472.00	2,968,440.00
3.	Elizabeth Mwangi	W. 13778753	19,471.00	2,823,295.00
4.	Jackline W. Muchoki	13706079	20,403.00	2,958,435.00
5.	Thomas Omondi	0301235	34,397.00	4,978,565.00
6.	Allan M. Mukindia	8537362	29,256.00	4,242,120.00
7.	Moses F. Wandera	9803576	22,409.00	3,249,305.00
8.	Lazarus O Obungo	8142050	27,287.00	3,956,615.00
9.	Jacob K. Kangogo	12827546	19,383.00	2,810,535.00
10.	Kenneth S. Mukhaya	6999903	32,909.00	4,771,805.00
11.	Saul K. Cheruiyot	11121852	30,919.00	4,483,255.00
12.	Samuel K. Maiyo	11166695	21,393.00	3,101,985.00

1 3.	James G. Ngugi	10425230	30,919.00	4,483,255.00
1 4.	William K. Gachovia	13573066	19,471.00	2,823,295.00
1 5.	Susan W. Mwangi	11287569	22,494.00	3,261,630.00
1 6.	Martin M. K'obonyo	8231705	23,958.00	3,473,910.00
1 7.	Jacqueline Nyangau	N 13893078	15,101.00	2,189,645.00
1 8.	Christine I. Itur	8345662	32,287.00	4,681,615.00
1 9.	James N. Muiru	7456291	28,472.00	4,128,440.00
2 0.	James J Muthuri	13554237	17,971.00	2,605,795.00
2 1.	William T Abira	0359380	30,287.00	4,391,615.00
2 2.	Peter N. Kairu	197702708 1	32,919.00	4,773,255.00
2 3.	Wilson N Karanja	1122147	21,393.00	3,101,985.00

2 4.	Dominic M Salim	0085569	30,316.00	4,395,820.00
2 5.	Joses M Munyithya	1359215 9	22,803.00	3,306,435.00
2 6.	Peter K. Korir	1143031 5	23,958.00	3,473,910.00
2 7.	Danson G. Kimani	1093449 2	27,943.00	4,051,735.00
2 8.	Dishon N Mahinda	1345411 4	19,256.00	2,792,120.00
2 9.	Jeffither G Mbaroki	4434134	47,919.00	6,948,255.00
3 0	Dan R. Manywanda	5959470	32,971.00	4,780,795.00
3 1.	Willies M Muya	3424345	35,615.00	5,164,175.00
3 2.	Maulid O Ongalo	1397770	19,471.00	2,823,295.00
3 4.	Paul N Makali	8369277	42,870.00	6,216,150.00
3 5.	Jeremiah Alubokho	O 2146787 8	18,976.00	2,751,520.00

3 6.	Elijah G Mwangi	1135062 8	29,713.00	4,308,385.00
3 7.	Tabitha K Litala	9225078	32,287.00	4,681,615.00
3 8.	Daniel S Mbinga	8024402	32,287.00	4,681,615.00
3 9.	David N Gichuhi	1141809 5	17,099.00	2,479,355.00
4 0.	David M. Njoroge	1070879 9	20,909.00	3,031,805.00

4. In the interim ruling delivered on 19th August 2016, the Court concluded that the Plaintiffs' claims, being in the nature of special damages, ought to be based on known and verifiable figures. That being the case, the Court was unable to return any figure on account of the Plaintiffs whose claims were not supported by documentary evidence.

5. I therefore enter judgment in favour of the 40 Plaintiffs named in the 2nd column of the above table in the sums set out in the 5th column. The result is that the claims for all the other Plaintiffs are dismissed for want of supporting evidence.

6. Each party will bear their own costs.

7. Orders accordingly.

DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 27TH DAY OF OCTOBER 2017

LINNET NDOLO

JUDGE

Appearance:

Mr. Gathara for 1st Plaintiff

Dr. Khaminwa for 2nd - 67th Plaintiffs

No appearance for the Respondents