



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO 1639 OF 2016**

**LONDON DISTILLERS (K) LIMITED.....CLAIMANT**

**VERSUS**

**KENYA UNION OF COMMERCIAL FOOD**

**AND ALLIED WORKERS.....RESPONDENT**

**AND**

**MOHAN GALOT.....APPLICANT/INTENDED INTERESTED PARTY**

**RULING**

1. Subsequent to a ruling delivered on 26<sup>th</sup> May 2017, by which the Court directed the Respondent to effect a 17% wage increment in favour of 27 of its employees, the Applicant filed an application seeking to be joined in the claim as an interested party.
2. The application which is brought by a Notice of Motion supported by the Applicant's own affidavit sworn on 30<sup>th</sup> August 2017 is based on the following grounds:
  - a) That the claim concerns the Applicant's employees;
  - b) That the Court would be better informed on the issues if the Applicant is joined;
  - c) That it is in the interest of justice that material facts be brought forth before the Court;
  - d) That the Respondent has illegally and unprocedurally recruited members outside its mandate;
  - e) That it is fair and justice that the Applicant be joined in this matter as an interested party;
  - f) That the Applicant's joinder will avoid multiplicity of suits and considerably save judicial time and nobody will be prejudiced.
3. In his affidavit in support of the application, the Applicant states that he is the Founder and Chairman of the Claimant Company. He adds that the salaries of his personal employees are paid through the Claimant but debited to his personal account. He accuses the Respondent of irregularly recruiting and engaging with his personal employees, who are not employed by the Claimant.

4. The Respondent's response is contained in a replying affidavit sworn by its General Secretary, Boniface M. Kavuvi on 17<sup>th</sup> October 2017. He states that the Applicant has no employment relationship with the 27 employees in issue.

5. Submitting on behalf of the Respondent before the Court, Mr. Nyumba (Union Representative) told the Court that there was no pending dispute upon which the Applicant could be joined. The 27 employees had already benefited from the 1<sup>st</sup> phase of the 17% wage increment and the Court had directed the Respondent to effect the 2<sup>nd</sup> phase.

6. The gist of the Applicant's application is that he is aggrieved by the Ruling of the Court delivered on 26<sup>th</sup> May 2017, directing the Claimant to effect the 2<sup>nd</sup> instalment of the 17% wage increment in favour of the 27 employees.

The Applicant's grievance stems from his assertion that the 27 are not employees of the Claimant but his personal employees, whose salaries though paid by the Claimant are debited to his personal account.

7. This Court has already determined the question as to whether the 27 are employees of the Claimant and is there is no basis in law for its reopening. In any event, the Applicant did not file any financial statements to prove that the salaries of the 27 employees are in fact debited to his personal account.

8. For the foregoing reasons, the Court finds the Applicant's application to be without merit and proceeds to dismiss it with costs to the Respondent.

9. Orders accordingly.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 19<sup>TH</sup> DAY OF DECEMBER 2017**

**LINNET NDOLO**

**JUDGE**

Appearance:

Miss Sang the Applicant

Mr. Nyumba (Union Representative) for the Respondent