



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE NO. 668 OF 2010

**KENYA UNION OF DOMESTIC, HOTELS, EDUCATIONAL
INSTITUTIONS, HOSPITALS & ALLIED**

WORKERS

CLAIMANT

v

BOARD OF GOVERNORS,

KIRINYAGA TECHNICAL INSTITUTE

RESPONDENT

JUDGMENT

1. The Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals & Allied Workers (KUDHEIHA) commenced legal action against the Board of Governors, Kirinyaga Technical Institute (Respondent) on 10 June 2010 alleging underpayment of wages (in terms of salary scales for civil servants, 1997 and 2008 and Regulation of Wages (General)(Amendment) Orders).
2. KUDHEIHA also pleaded unlawful redundancy but sought no prayers in that respect in the Memorandum of Claim.
3. On 27 October 2010, KUDHEIHA sought and got leave to amend the Memorandum of Claim. A Supplementary Memorandum of Claim was thereafter filed on 12 November 2010.
4. The record does not bear any indication that the Respondent ever filed a Response to the Cause.
5. The Cause was heard on 6 July 2011 and Madzayo J (as he was then) indicated that he would deliver an award on 14 July 2011. There is nothing to suggest the award was delivered.
6. The Cause then went into limbo until when the file was placed before the Principal Judge who directed that the file be mentioned before him on 10 May 2013, but for reasons not apparent on the record, it was not.
7. Because of the long interlude without any action, this Cause was part of the many fixed for hearing during the service week in Nairobi which is running from 18 April 2016 to 22 April 2016.
8. The Registrar of the Court gave out appropriate notices on the Court's notice board, daily newspapers, online and through notices addressed to individual parties (representatives).
9. When the Cause was called out for hearing on 18 April 2016, KUDHEIHA was represented while the Respondent was not present or represented.
10. The representative of KUDHEIHA informed Court that the Union wished to rely on the record and the Court reserved judgment to today.
11. Rule 21 of the Industrial Court (Procedure) Rules, 2010 allows the Court to determine a Cause based on the record.
12. The Court has considered the pleadings and the report of the Conciliator who was appointed by the Minister for Labour dated 20 November 2008.
13. The facts as asserted by KUDHEIHA remaining unchallenged/uncontroverted by any pleadings

by the Respondent and considering the Circulars and Regulation of Wages (General) (Amendment) Orders exhibited by KUDHEIHA, the Court finds that the Grievants were underpaid for a period of 12 months as contended by KUDHEIHA.

14. The Court consequently enters judgment in the following terms

i. Beth Munyua	Kshs 21,060/-
ii. Joseph Kahiga	Kshs 21,060/-
iii. Julius Wanjohi	Kshs 22,020/-
iv. Margaret Rukunyi	Kshs 22,020/-
v. Simon Chewa	Kshs 21,780/-
vi. Johnson Chirchir	Kshs 21,780/-
vii. Jamleck Mbogo	Kshs 25,200/-
viii. Joseph Kariuki	Kshs 25,200/-
ix. Peter Njure	Kshs 25,200/-
x. Octavio Muthee	Kshs 21,780/-
xi. Alfred Matundura	Kshs 20,220/-
xii. Pauline Njogu	Kshs 22,980/-
xiii. Justus Kugua	Kshs 22,920/-
xiv. Boniface Kabui	Kshs 22,920/-
xv. Anthony N. Njagi	Kshs 25,200/-
xvi. Patrick Njagi	Kshs 22,980/-
xvii. Edith Mburia	Kshs 22,980/-
xviii. Ann W. Njanja	Kshs 22,980/-
xix. Peter N. Nyaga	Kshs 22,920/-

15. No order as to costs.

Delivered, dated and signed in Nairobi on this 22nd day of April 2016.

Radido Stephen

Judge

Appearances

For KUDHEIHA Mr. Njiru, Industrial Relations Officer

For Respondent did not participate

Court Assistant Nixon