



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**CAUSE NO 82 OF 2002**

**JOHN DELFINO NTORURU.....APPLICANT**

**VS**

**TRANSPORT & ALLIED WORKERS UNION.....CLAIMANT/RESPONDENT**

**KENYA AIRPORTS AUTHORITY.....RESPONDENT**

**RULING**

1. On 7th August 2013, I dismissed the Applicant's application for review of the award of the Court issued on 24th July 2003. On 16th April 2015, the Applicant filed an application for review of my ruling. Following a preliminary objection raised by the Respondent by notice dated 9th June 2015, the Applicant withdrew this application on 6th July 2015.
2. Subsequently, the Applicant filed another application on 14th December 2015 seeking interpretation of the award of the Court delivered on 24th July 2003. Attached to this application is a memorandum in support of review brought under Section 16 of the Employment and Labour Relations Court Act and Rule 32 of the Rules.
3. In its grounds of opposition filed on 8th February 2016, the Respondent states that:
  - a. The application offends Rule 32(7) of the Rules of this Court as it seeks to review a ruling arising from a previous application for review;
  - b. The matters raised in the application were substantively determined by the Court in its ruling delivered on 7th August 2013 and are therefore *res judicata*. The application therefore offends the provisions of Sections 7 and 8 of the Civil Procedure Act;
  - c. This Court lacks jurisdiction to hear an application for review of a ruling arising from a previous application for review. If the Applicant is aggrieved by the ruling of the Court, the only avenue open to him is an appeal in the Court of Appeal.
4. I have looked at the Applicant's application together with the supporting memorandum and grounds and find that although the application is headed '*Interpretation of Award*' it is an application for review in substance. No particular part of the award has been presented for interpretation.
5. What the Applicant projects is a dissatisfaction with the award of the Court delivered on 24th July 2003 and this Court has already dealt with this matter in a previous review application brought by the Applicant in 2013. That being the case, this Court lacks jurisdiction to entertain the Applicant's application. I must add that this Court is now *functus officio* in this matter and any further redress can

only be availed by the Court of Appeal.

6. The result is that the Applicant's application fails and is dismissed with each party bearing their own costs.

7. It is so ordered.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 1ST DAY OF APRIL 2016**

**LINNET NDOLO**

**JUDGE**

**Appearance:**

John Delfino Ntoruru (Applicant in person)

Mr. Molenje for the Respondent