



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

**MISC NUMBER 40 OF 2015**

**VENERANDAH WOKA BUKHALA.....CLAIMANT**

**VERSUS**

**EQUATORIAL COMMERCIAL BANK.....RESPONDENT**

**RULING**

1. The applicant herein seeks extension of time to file a suit against the respondent. The application is based on the grounds among others that between the year 2008 to 2011 the applicant underwent prosecution at the instigation of the respondent who accused her of stealing. She was acquitted on 17<sup>th</sup> May, 2011.

2. The Court will not go into the merits and demerits of the facts upon which the application is based or opposed but will seek an understanding of section 90 of the Employment Act as read with section 4 of the Limitation of Actions Act.

3. Section 90 of the Employment Act provides as follows:-

**“...Notwithstanding the provisions of section 4(1) of the Limitation of Action Act, no civil action or proceedings based or arising out of this Act or a contract of service in general shall lie or be instituted unless it is commenced within three years next after the act, neglect or default**

**complained or in the case of a continuing injury or damage, within twelve months next after the cessation thereof.”**

4. Section 4 (1) of the Limitation of Action Act lists actions which may be brought prior to expiry of six years from the date on which the cause of action accrued. Section 4(2) of the said Act however provides that actions based on tort may not be brought after expiry of three years from the date on which the cause of action accrued.

5. However, under section 27 of the Act, actions based on tort may be brought after the expiry of three years provided the Court has granted leave to do so prior to or after the commencement of the action.

6. Section 90 of the Employment Act referred to above, as well as section 4(1) of the Limitation of Actions Act do not provide for extension of time to bring actions based on contracts. This therefore means no extension of time is permissible for these actions once limitation has elapsed.

To this extent this application cannot be granted hence stands dismissed with costs.

7. It is so ordered.

Dated at Nairobi this 24<sup>th</sup> day of June 2016

**Abuodha Jorum Nelson**

**Judge**

Delivered this 24<sup>th</sup> day of June 2016

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha Jorum Nelson**

**Judge**