

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO 1440 OF 2013

KENNEDY M. OYUGI.....CLAIMANT

V

ATTORNEY GENERAL.....1ST RESPONDENT

INSPECTOR GENERAL OF POLICE.....2ND RESPONDENT

DEPUTY INSPECTOR GENERAL OF POLICE.....3RD RESPONDENT

NATIONAL POLICE SERVICE COMMISSION.....4TH RESPONDENT

RULING

1. This ruling relates to a preliminary objection taken by the 1st Respondent by way of notice filed in Court on 18th November 2014 to the effect that the Claimant's claim is statute barred and should therefore be struck out.

2. Ms. Chesinya for the 1st Respondent submitted that the cause of action herein arose in 2003 and the claim which was filed on 3rd February 2014 is therefore incompetent. Counsel pointed out that the claim is statute barred by virtue of Section 3(2) of the Public Authorities Limitation Act, Section 90 of the Employment Act and Section 4(1) of the Limitation of Actions Act.

3. The Claimant filed a response on 8th December 2014 stating that the Respondent's preliminary objection is in contravention of the Constitution of Kenya, 2010. With regard to the accrual date of the cause of action, the Claimant told the Court that to date he had not been served with a termination letter.

4. In determining a preliminary objection in a claim arising out of termination of employment, the date of termination which heralds the running of time is critical. The Claimant claims that he was not issued with a termination letter, an allegation that the 1st Respondent does not refute. In the circumstances, the Court finds the preliminary objection by the 1st Respondent to be without basis and hereby overrules it. The Respondents are directed to file their Reply to the Claimant's claim within the next 21 days from the date of this ruling.

5. The costs of this application will be in the cause.

Orders accordingly.

**DATED SIGNED AND DELIVERED IN OPEN COURT NAIROBI THIS 21ST DAY OF
JANUARY 2015**

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JUDGE

Appearance:

Kennedy M. Oyugi (the Claimant in person)

Ms. Chesyna for the 1st Respondent