



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI**

**CAUSE NO. 121 OF 2013**

**KENYA UNION OF COMMERCIAL FOOD AND**

**ALLIED WORKERS..... CLAIMANT**

**VERSUS**

**TOP RANK BREWING COMPANY LIMITED..... RESPONDENT**

(Before Hon. Justice Byram Ongaya on Friday 5<sup>th</sup> June, 2015)

**JUDGMENT**

The claimant filed the memorandum of claim on 18.11.2013. The claimant prayed for judgment against the respondent for orders as follows:

1. That the honourable court orders the parties to sign formal recognition within 30 days of the award to pave way for collective bargaining.
2. The respondent to be ordered to comply with section 48 (2) and (3) of the Labour Relations Act 2007 by effecting deductions of trade union dues and effect appropriate remittances within 30 days of the award.
3. The respondent to pay costs of the suit.

The respondent filed the memorandum of response on 29.01.2014 through Kinyua Mwaniki & Wainaina Advocates. The respondent prayed that the claim be dismissed with costs.

The only issue for determination is whether the claimant is entitled to remedies as prayed for.

First is the prayer for recognition. The conciliator's report exhibit 8 on the statement of claim shows that the claimant had recruited 33 of the respondent's unionisable employees making 66% of the employees eligible to join the union as per section 54 of the Labour Relations Act, 2007. There is no dispute that the claimant is the right union. The court has considered the material on record and there is no reason to doubt the conciliator's findings. Accordingly the court finds that the parties are entitled to conclude a recognition agreement.

Second is the prayer for deduction of union dues. The claimant by exhibit 2 forwarded the list of recruited employees with citation of the relevant Ministerial order allowing the deduction of the relevant union dues. The respondent has not denied that service and the court finds that the claimant has established service of both the order and the list of recruited staff as required in section 48 of the Labour Relations Act, 2007. The court finds that the claimant is entitled to the union dues.

In conclusion the court enters judgment for the claimant against the respondent for orders as follows:

1. That the parties shall negotiate and sign formal recognition agreement by 01.08.2015 so as to pave way for conclusion of the relevant collective bargaining agreement by 01.12.2015.
2. The respondent shall comply with section 48 (2) and (3) of the Labour Relations Act 2007 by effecting deductions of trade union dues and effecting appropriate remittances with effect from end of June 2015.
3. The respondent's chief executive officer and managing director shall be responsible on the part of the respondent for full compliance with the orders in this judgment.
4. The respondent to pay the claimant's costs of the suit.

**Signed, dated and delivered in court at Nyeri this Friday, 5<sup>th</sup> June, 2015.**

**BYRAM ONGAYA**

**JUDGE**