



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

**CAUSE NO 1894 OF 2015**

**KENYA SCIENTIFIC RESEARCH INTERNATIONAL TECHNICAL  
AND INSTITUTIONS WORKERS UNION.....CLAIMANT**

**VS**

**TNS RESEARCH INTERNATIONAL.....RESPONDENT**

**RULING**

1.The Claimant's application brought by way of Notice of Motion dated 26th October 2015 seeks orders declaring the Respondent's decision to terminate the employment of Henry Atuke, the grievant herein, illegal. The application, which is supported by the affidavit of Martin J. Oduor is based on the following grounds:

- a. The grievant has a chronic medical condition and is therefore likely to suffer;
- b. The grievant lacks the capacity to raise funds for his medical care;
- c. The grievant will be unable to financially support himself and his family.

2. In the supporting affidavit sworn by Martin J. Oduor on 26th October 2015, it is deponed that the conciliation process did not bear any fruit. Oduor further depones that the grievant's termination on grounds of redundancy was illegal.

3.In a replying affidavit sworn the Respondent's Human Resource Business Partner, Gloria Wanjala on 13th November 2015, it is deponed that from August 2013, the Respondent began having concerns with the way the grievant was discharging his obligations as Field Executive, specifically with the manner in which he was supervising auditors under his direction. Following a disciplinary process, the grievant's employment was terminated effective 26th June 2014. The averment that the grievant was declared redundant is denied.

4.Wanjala also states that the current application is an abuse of the court process as it seeks to determine the entire suit at the preliminary stage. Moreover in view of the fact that the grievant's employment was terminated over a year ago, there is no urgency in the matter.

5.Having examined the Claimant's application, the Court finds that the orders sought cannot be granted at the interlocutory stage. This is because first, the Court would require to take evidence in support of the prayers sought and second, to grant the orders sought would amount to determining the main claim at the interlocutory stage which is an abuse of the court process.

6. I therefore dismiss the Claimant's application with costs to the Respondent and direct that the main suit be listed for hearing on priority basis.

7. It is so ordered.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 4TH DAY OF  
DECEMBER 2015**

**LINNET NDOLO**

**JUDGE**

**Appearance:**

Mr. Oduor (Union Representative) for the Claimant

Mr. Ondiek for the Respondent