



REPUBLIC OF KENYA

INDUSTRIAL COURT OF KENYA AT NAIROBI

MISC. APPLICATION NO.56 OF 2013

(Before D.K.N. Marete)

AGNES NGENDO WANYOIKE.....CLAIMANT

Versus

KENYA PIPELINE COMPANY.....RESPONDENT

RULING

Before this court is an application dated 6th September, 2013 and supported by the Affidavit of Agnes Ngendo Wanyoike sworn on the same date. It seeks the following orders of court;

1. *THAT the Honorable Court be pleased to grant leave to the applicant to file a claim out of time against the respondent.*
2. *THAT the Honourable Court be please to grant any relief as it may deem fit.*

and is grounded as follows;-

1. *THAT the applicant was employed by the respondent in the procurement department in the year 16th February 2004 until the year 2nd December 2004 when the applicant was unfairly dismissed from employment.*
2. *THAT the applicant since the time of unfair dismissal she suffered a depression and was sick and bedridden for a long time.*
3. *THAT the applicant was unable to seek legal redress within the stipulated time frame despite wanting to do so, due to ill health.*
4. *THAT also due to the ill health and lack of any source of income, she was not able to afford legal fee to facilitate and engage serves of a legal practitioner due to financial constraints.*
5. *THAT its in the interest of justice, fair and expedient in all circumstances of the case that the prayers sought herein be granted.*

It is further supported by the affidavit and further supporting affidavit of Agnes Ngendo Wanyoike sworn on 6th September, 2013 and 2nd December, 2013 respectively.

This application is borne out of the allowance of an application dated 23rd April, 2013 by the

respondent seeking that the suit be disallowed for being statute barred. The court in its ruling dated 4th June, 2013 June, 2013 allowed the application with a rider that the claimant/respondent be at liberty to pursue the matter in accordance with the law and process.

I have studied the application, the supporting affidavits and the annexures thereon. These display a case of inadvertent delay in the filing of the claims by the claimant. There is a medical report displaying a poor state of mental health by the claimant and therefore the disability to pursue the claim on time.

The grounds are a display of prudent reasons for delay. This would warrant a case for withdrawal of the orders for dismissal of the suit and the reinstatement of the same. This would not in any way prejudice the respondent who would have all this time to do and defend his case. If at all, this would capture the interests of justice to the parties.

I am therefore inclined to allow this application with no order as to costs.

Dated, delivered and signed this 26th day of February, 2014.

D.K.Njagi Marete

JUDGE

Appearances:

Mr. Nyangito instructed Nyangito & Company Advocates for the claimant/applicant.