



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT OF KENYA**

**AT NAIROBI**

**PETITION NO. 191(N) OF 2009**

**KENYA SCIENTIFIC, RESEARCH INTERNATIONAL, TECHNICAL &  
ALLIED INSTITUTIONS WORKERS' UNION ..... CLAIMANT**

**-VERSUS-**

**KENYA SUGAR RESEARCH FOUNDATION .....RESPONDENT**

Mr. Korongo for Respondent/Applicant

Martin Oduor for the Claimant/Respondent

**RULING**

1. The Respondent/Applicant filed an application for review of the Judgment of Court dated 10<sup>th</sup> April, 2013.

The grounds for the review are that;

- i. the Court overlooked a correspondence from the Principal Labour Office confirming the dispute was settled;
- ii. that appendix 11 in the final submission shows applicants were paid their terminal dues;
- iii. that some deceased persons were not substituted prior to the award of judgment;
- iv. that Court adopted evidence of one witness for a claim of all the 38 Claimants.

2. A close perusal of the judgment on page 3 shows that the Court took into consideration all the matters raised by the Applicant and concluded that though the dispute was concluded on 5<sup>th</sup> August 2003 before the Labour Officer, the Respondent did not pay the terminal benefits agreed upon.
3. The Court found that no evidence of payment of the terminal benefits was placed before Court by the Respondent. The Court stated as follows on page 4 of the judgment:

*“the Respondent has not placed before Court any evidence of such payment but instead has*

*made bare denial. The document the Respondent relies on is an undated letter by the Provincial Labour Officer stamped 23<sup>rd</sup> August 2006, whereas the certificate of unresolved dispute was issued by the same office on 3<sup>rd</sup> November, 2008.”*

4. The Court concluded therefore that this dispute was never resolved and no payments were made to the Grievants.
5. The Court further found that the computation filed by the Claimants was not challenged by the Respondent and proceeded to award the Grievants accordingly.
6. The Court finds that the grounds for review permissible under Rule 32 of the Industrial Court (procedure) Rules, 2010 have not been satisfied by the Respondent/Applicant. The Application for review is accordingly dismissed with costs to the Claimant.
7. Execution of the judgment of the Court is to proceed with immediate effect as this matter has been inordinately delayed by the dilatory tactics applied by the Respondent herein.

***Dated and delivered at Nairobi this 21st day of March, 2014.***

**MATHEWS N. NDUMA**

**PRINCIPAL JUDGE**