



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA
AT NAIROBI
CAUSE NO. 97 OF 2012

KENYA UNION OF POST PRIMARY TEACHERS (KUPPET).....CLAIMANT

VERSUS

KENYA NATION UNION OF TEACHERS (KNUT).....1ST RESPONDENT

TEACHERS SERVICE COMMISSION (TSC).....2ND RESPONDENT

**SECRETARY / CHIEF EXECUTIVE TEACHERS SERVICE COMMISSION...3RD
RESPONDENT**

Mr. Jaoko for Claimant / Applicant

Mr. Chacha for 1st Respondent

Mr. Sitima for 2nd and 3rd Respondent

RULING

1. The Application serving before Court is dated 23rd July 2012 seeking to set aside the ruling of the Court delivered on 13th July 2012 by Justice Steward Madzayo and in place order that all the Claimant Union members who were confirmed to be members of the Claimant Union members (KUPPET) as per the audit report of the Central Planning and Monitoring Unit (CPMU) report filed in Court on 30th May 2012 be deemed to be union members of the Claimant and the Court so directs.

2. In terms of **Rule 32** of the **Industrial Court (Procedure) Rules, 2010** ;

“(1) a person who is aggrieved by a decree or an order of the Court may apply for a review of the award, judgment or ruling;

a. if there is a discovery of new and important matter or evidence which after the exercise of due diligence, may not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made; or

b. on account of some mistake or error apparent on the face of the record; or

c. on account of the award, judgment or ruling being in breach of any written law; or

d. if the award, the judgment or ruling requires clarification; or

e. for any other sufficient reasons.”

3. I have read the Ruling by the Hon. Judge and have perused the report of CPMU he relied upon.

He has analysed well the findings by Mr. Benson Okwayo on the irregularities committed by the players in the recruitment of new members of the Claimant during the period under review and made findings which in my view do not disclose any error apparent on the face of the record.

4. Furthermore, I have perused the relevant provisions of the LRA and in particular **Sections 48(6)(7) and (8)** and I did not discern any misdirection on the part of the Judge that would warrant review of his ruling.

5. No new evidence is relied upon by the applicant to warrant any review of the Ruling on this basis.

The Judge made specific directive under **order 3, 4 and 5** aimed at regularizing the resignations and check-off system in terms of the provision of the **Labour Relations Act**.

6. Accordingly, the Court is not persuaded that a case has been made out at all to warrant the review of the Ruling.

It is unfortunate that some members continue to suffer double deductions for reasons that should be rectified by the parties to this suit in line with the Ruling of the Court.

The Application is dismissed with costs.

Dated and Delivered at Nairobi this 30th day of May, 2014.

MATHEWS N. NDUMA

PRINCIPLAL JUDGE