



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA AT NAIROBI
CAUSES NO 116, 241 AND 587 OF 2013
RIFT VALLEY RAILWAYS WORKERS UNION.....CLAIMANT
VS
RIFT VALLEY RAILWAYS (KENYA) LIMITED.....1ST RESPONDENT
RAILWAYS AND ALLIED WORKERS UNION.....2ND RESPONDENT

RULING

Introduction

1. In its ruling dated 24th January 2014, this Court considered the following issues:

- a. Deduction and remittance of union dues to the Claimant;
- b. Deduction and remittance of agency fees to the 2nd Respondent ;
- c. Recognition of the Claimant by the 1st Respondent.

2. While making a determination on the first and second issues, the Court referred the issue of recognition of the Claimant by the 1st Respondent for further scrutiny by the Conciliator Mr. R.J. Twanga. This ruling

therefore flows from the Conciliator's report in this regard.

The Conciliator's Report

3. In his report filed on 21st May 2014, the Conciliator made the following findings:

- a. That the 1st Respondent has 1219 unionisable employees;
- b. That the 2nd Respondent has 618 subscribing members within the 1st Respondent's unionisable establishment;
- c. That out of 458 employees claimed by the Claimant as its members, 332 are active members of the 2nd Respondent, one was deceased, six had been dismissed, one had retired, forty seven had been retrenched, four had been terminated, thirty three were in management and four were contract staff. Consequently, the Claimant had an undisputed membership of only thirty employees. The

Conciliator therefore concluded that the Claimant had not attained the threshold for recognition for purposes of collective bargaining.

Response by the Parties

4. In its response filed on 5th June 2014, the Claimant assails the authenticity of the documents submitted by the 1st and 2nd Respondents and contests the findings by the Conciliator. On their part, the Respondents agree with the Conciliator's findings.

Determination

5. The Court has looked at the documents filed by the parties in this matter and having taken note of the Conciliator's observation that the authenticity of the signatures on the documents submitted by the Claimant and the 2nd Respondent could not be verified makes the following orders:

- (a) The 1st Respondent shall facilitate a balloting exercise for all its unionisable employees in all its work stations within the next sixty days from the date of this ruling ;
- b) During the balloting exercise, the Claimant and the 2nd Respondent shall

be represented by two agents at each work station;
- (c) The Labour Commissioner shall appoint respective Labour Officers to supervise and oversee the balloting in all the work stations;
- d. The Labour Commissioner shall file returns of the balloting exercise within

7 days from the date of completion of the balloting exercise;
- e) Each party will bear their own costs.

Orders accordingly.

DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 24TH DAY OF SEPTEMBER 2014

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JUDGE

Appearance:

Mr. Isaac Munayi (Union Representative) for the Claimant

Miss Ogutu for the 1st Respondent

Mr. Seriani for the 2nd Respondent