



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NYERI
CAUSE NUMBER 1021 OF 2013

BETWEEN

SILAS OBUHATSA DAVID.....CLAIMANT

VERSUS

TEACHERS SERVICE COMMISSION.....RESPONDENT

RULING

1. The Claimant avers that he was employed by the Respondent sometime in July 1992 and worked until February 1997 when he was removed from the Respondent's payroll.
2. According to him, the removal from the payroll was wrongful and has therefore sought an order for compensation from the Court.
3. The Respondent refutes the allegations and avers that it was justified in stopping the Claimant's pay since he stopped working without permission or leave.
4. The Respondent by a notice dated 2nd of July 2014, raised a preliminary objection that the suit is statute barred contrary to section 4 of the Limitations of Actions Act and section 3 of Public Authorities Limitation Act.
5. The issue of Limitation goes to the jurisdiction of the Court and whenever raised has to be resolved first.
6. The Claimant in his own pleadings aver that his salary was stopped in February, 1997.
7. He construed the stoppage as wrongful and amounting to termination of employment. He however does not explain why he did not take any action against the Respondent until almost 16 years later.
8. Even if it were possible, no evidence is shown that leave or attempt to get one was tried by the Claimant prior to filing a suit which on the face of it is inordinately late.
9. The Court's hands are therefore tied and declines to admit a matter that is commenced this late in the day.
10. It therefore becomes inevitable that the suit must be struck out as incompetent.

11. It is so ordered.

Dated at Nairobi this 23rd day of October 2014

Abuodha J. N.

Judge

Delivered this 23rd day of October 2014

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge