

REPUBLIC OF KENYA

Industrial Court of Kenya

Cause 888 of 2010

1. STEPHEN KARIUKI.....CLAIMANT

2. MOSES MWANGI.....CLAIMANT

VERSUS

MICHAEL NJOROGE.....1ST RESPONDENT

SANDSTONE LOGISTICS LIMITED/ CYLINDER WORKS LIMITED.....2ND RESPONDENT

RULING

The Claimants **Stephen Kariuki** and **Moses Mwangi** have both filed disputes against the Respondent Sandstone Logistics Ltd and Cylinder Works Ltd jointly with Michael Njoroge. When the matter came up for hearing before Hon. Justice Isaac Mukunya on 5th October 2011, he referred the dispute to the Labour Commissioner for investigation. The Report of the Labour Officer was filed in Court on 6th February 2012. The parties made submissions before me on 4th December 2012 with Mr. Kandere for the Claimants asking the Court to disregard the report for various reasons while Mr. Nyaanga for the Respondents asked the Court to adopt the report.

I have read the report, the pleadings by both parties and considered the oral submissions made by the parties and find that there is insufficient evidence to enable me make a fair decision because of the conflicting evidence on the record. I also note that the Respondent has not filed full particulars in respect of the employment of both Claimants. Both parties have also not addressed the issue of who among the three Respondents, on record was the employer of the Claimants to enable the court make a determination on whether all or any of them should be responsible to pay the Claimants the amounts, if any, that may be awarded by this Court.

For these reasons the parties are directed to take a hearing date in the registry so that each party can have an opportunity to submit its evidence. The Respondents are directed to file full particulars of the employment of the Claimants and specifically information relating to annual leave, work on public holidays, house allowance and overtime as required to be kept by law. The Respondent should file the same through supplementary submissions within 14 days from the date of this ruling. Should the Claimants wish to file a response to the same, they may do so within 7 days from date of service.

The registry is directed to give a date on priority basis.

Orders accordingly.

Read in open Court and signed on this 7th day of February, 2013.

HON. LADY JUSTICE MAUREEN ONYANGO.

JUDGE.

Ms. Ngesa h/b for kandere Opiyo for

In the presence of: _____ **Claimant**

Mr. Nyaanga for the

_____ **Respondent**