

REPUBLIC OF KENYA

Industrial Court of Kenya

Cause 11 of 2006

DANIEL MAGETOGESUKA.....CLAIMANT

VERSUS

CATERING LEVY TRUSTEES.....RESPONDENT

RULING

This is an application for reviewed of award dated 31st October, 2012 and filed on 5th November, 2012. It seeks a review of the award in cause number 11 of 2006 and is based on section 16 of the Industrial Court Act and rule 32 of the Industrial Court (Procedure) Rules, 2010.

The applicant vide a memo dated 31st October, 2012 seeks a review of the award of court in cause number 11 of 2006 and delivered on 30th May, 2008 ostensibly on new developments which he attempts to raise in the application. From the onset, it is notable that this concept of new developments is of clearly expressed in the pleadings. These lack clarity and one is of able to get the basis of the claim and application from the face of the application. On this ground alone, the application would fail.

The application raises a myriad of legal issues inhibiting its success but the most fundamental is one of *locus standi*. The respondent at paragraph 4 of his grounds of objection submits that the applicant does not have *locus standi* to commence his proceedings. I agree.

The initial cause, the subject matter of the application for review was brought to court via the applicant's (grievant's) union KUDHEIA. Even at the time of finalization of the suit, the union was in charge and the court decided along way in its favour. The applicant cannot therefore purport the file and prosecution an application for review in a matter where he is technically a total stranger. Even without going into any further analysis of the matter, or even the analysis of the merits of the application, this matter must fail and I so hold.

I therefore dismiss application with costs to the respondent.

Dated signed and delivered this **7th** day of **May**, 2013

D.K.Njagi Marete
JUDGE

Appearances

1. Claimant in person
2. Mr. Anam instructed by Odhiambo Owiti & Company Advocates for the respondent.