



**REPUBLIC OF KENYA**

**IN THE INDUSTRIAL COURT OF KENYA AT NAIROBI**

**CAUSE NO.835 OF 2013**

KENYA UNION OF COMMERCIAL, FOOD

& ALLIED WORKERS.....

.....CLAIMANT

VS

NOL TURESH LOITOKITOK WASANI..... 1<sup>ST</sup>  
RESPONDENT

TANATHI WATER SERVICES..... 2<sup>ND</sup>  
RESPONDENT

Mr. Dickens Atela Claimant/Applicant

**RULING**

The Court has read the Notice of Motion dated 25<sup>th</sup> May, 2013 and filed on 4<sup>th</sup> June 2013.

The 1<sup>st</sup> and 2<sup>nd</sup> Respondents have in spite of service failed to file a replying Affidavit. A return of service dated 13<sup>th</sup> June 2013 was filed in court on 18<sup>th</sup> June 2013 confirming service of the Notice of Motion. The Applicant also served an order of the court dated 4<sup>th</sup> June, 2013 directing the matter be heard *interparties* on 20<sup>th</sup> June, 2013.

The Application is therefore not defended and the court has proceeded to hear the submission by counsel for the Applicant in support of the Notice of Motion.

The court is satisfied that the Respondents have failed and/or neglected to pay the salaries/wages of all the unionisable workers of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents from the month of October, 2012 to date. However this Application is limited to payment of salaries upto the month of May 2013.

The court is satisfied that the Applicant has established its case for payment of such salaries and wages on a balance of probabilities and makes an order in the following terms;

1. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents do pay the employees who are members of the claimant salaries/wages for the months of October 2012 to May 2013 forthwith and in any event within 30 days from the date of this Ruling.
- (2) That the Respondent remits all statutory dues deducted from the salaries/wages of the said employees (as reflected in the payslips) immediately and in any event within 30 days from the date of this ruling.
- (3) That the Respondents are prohibited from intimidating any of the Claimant's shopstewards or members on the basis of this dispute.
- (4) That the Respondent pays cost of this suit.

**It is so ordered.**

**Dated and Delivered** in Nairobi this 20<sup>th</sup> day of June, 2013.

MATHEWS N. NDUMA

**PRINCIPAL JUDGE – INDUSTRIAL COURT**