



**REPUBLIC OF KENYA**

**Industrial Court at Nairobi**

**Cause 68 of 2006**

**BETWEEN**

**TRANSPORT AND ALLIED WORKERS UNION.....  
.....CLAIMANT**

**VERSUS**

**KENYA BUS SERVICES  
LIMITED.....RESPONDENT**

**RULING**

The Industrial Court gave an Award in favour of 732 employees of the Respondent, on 6<sup>th</sup> September 2007. The Award was subsequently published in the Kenya Gazette, as Gazette Notice No. 4692 on 30<sup>th</sup> May 2008.

The Award gave the following Order:-

***“The Respondent should pay the grievants all their wages for the period they have been on compulsory leave.”***

The Court observed that the enforcement of the Award would be an uphill task for the Union, but the Court could not refrain from ordering where the scales of justice should rest.

The Respondent, quite predictably, did not comply with the Award of the Court. The Claimant approached the High Court for enforcement, as the Industrial Court could not enforce its own decisions under the Repealed Trade Disputes Act, Cap 234 the Laws of Kenya.

The matter reverted back to the Industrial Court after there was a change in the Law, conferring jurisdiction to enforce, on the Industrial Court.

The dispute was mentioned in Court on 29<sup>th</sup> April 2013, in the presence of Mr. Nyamu, Advocate for the Claimant. Although the Respondent’s Advocates were notified, they opted to stay away.

The Claimant has tabulated the arrears of salaries of the 732 employees, up to the year 2010, to amount to Kshs.526,326,540 (Five hundred and twenty six million, three hundred and twenty six thousand, five hundred and forty). The Claimant asks the Court to approve execution for this initial amount, while reserving the right to execute for any outstanding amounts at a future date.

If the Court understands the Claimant correctly, the 732 employees are technically still on compulsory leave. The Respondent did not take any steps to terminate their contracts, or to pay the sums granted to the employees by the Court soon after the Award was read. The Respondent simply ignored a valid decision of the Court, with the result that liability to its employees has become over the years, compounded.

This Court has stated, even under the old regime when it was beyond the mandate of this Court to execute its own decisions, that decisions of the Court are not jewels placed in the snout of a pig. The decisions of a Court must be acted upon. No Court should sit back, and assume the position that it is not able to do justice. For these reasons, *IT IS HEREBY ORDERED:-*

**(a) The Claimant shall proceed with execution for the sum of Kshs.526,326,540 against the Respondent; and**

**(b) The Claimant is at liberty to bring further execution proceedings against the Respondent, on any outstanding amount at the end of first execution proceedings.**

Dated and delivered at Nairobi this 7<sup>th</sup> day of June 2013

**James Rika**

**Judge**