



REPUBLIC OF KENYA?
IN THE INDUSTRIAL COURT OF KENYA
AT NAIROBI
MISCELLANEOUS CIVIL SUIT NO. 58 OF 2013

KENNEDY OPAMU.....**APPLICANT**

versus

STEEL PLUS LIMITED.....**RESPONDENT**

RULING

1. The Application before me is the one by the Applicant dated 16th September 2013. The Applicant seeks the transfer of Civil Suit No. 13 of 2005 which was filed in the Kikuyu Resident Magistrates Court. Part of the Claim relates to the Workmen Injury Benefits Act (WIBA). The Applicant's application is not opposed.
2. The regime of law applicable at the time of filing of the suit was the Employment Act cap 226 of the Laws of Kenya. It did not make provision for the specialized Court that was the Industrial Court and the lower Court could competently take on civil suits of such nature.
3. The jurisdiction of the Court is set out under Section 12 of the Industrial Court Act. Section 12 of the Industrial Court Act provides as follows:-

12. Jurisdiction of the Court

(1) The Court shall have exclusive original and appellate jurisdiction to hear and determine all disputes referred to it in accordance with Article 162(2) of the Constitution and the provisions of this Act or any other written law which extends jurisdiction to the Court relating to employment and labour relations including—

- (a) disputes relating to or arising out of employment between an employer and an employee;*
- (b) disputes between an employer and a trade union;*
- (c) disputes between an employers' organisation and a trade unions organisation;*
- (d) disputes between trade unions;*
- (e) disputes between employer organisations;*

- (f) disputes between an employers' organisation and a trade union;*
- (g) disputes between a trade union and a member thereof;*
- (h) disputes between an employer's organisation or a federation and a member thereof;*
- (i) disputes concerning the registration and election of trade union officials; and*
- (j) disputes relating to the registration and enforcement of collective agreements.*

(2) An application, claim or complaint may be lodged with the Court by or against an employee, an employer, a trade union, an employer's organisation, a federation, the Registrar of Trade Unions, the Cabinet Secretary or any office established under any written law for such purpose.

(3) In exercise of its jurisdiction under this Act, the Court shall have power to make any of the following orders—

- (i) interim preservation orders including injunctions in cases of urgency;*
- (ii) a prohibitory order;*
- (iii) an order for specific performance;*
- (iv) a declaratory order;*
- (v) an award of compensation in any circumstances contemplated under this Act or any written law;*
- (vi) an award of damages in any circumstances contemplated under this Act or any written law;*
- (vii) an order for reinstatement of any employee within three years of dismissal, subject to such conditions as the Court thinks fit to impose under circumstances contemplated under any written law; or*
- (viii) any other appropriate relief as the Court may deem fit to grant.*

(4) In proceedings under this Act, the Court may, subject to the rules, make such orders as to costs as the Court considers just.

4. The Section reproduced above makes it amply clear that the reliefs the Court may give vary from the reliefs between the employee and employer, employees organisation, trade unions, employers organisation etc. to the orders set out under subsection 3. The suit before the Kikuyu Resident Magistrates Court is thus fit for transfer to this Court for disposal. The Applicant will of course have separate the Cause into two parts. The one under WIBA will remain before the Resident Magistrates Court at Kikuyu whereas the employment dispute will be transferred to this Court.

It is so ordered.

Dated and delivered at Nairobi this 17th day of December 2013

Nzioki wa Makau

JUDGE