



**REPUBLIC OF KENYA**

**Industrial Court of Kenya**

**Cause 712 of 2012**

**WILLIAM TONANGWEYA.....CLAIMANT**

**VERSUS**

**M/S SAROVA HOTELS LIMITED.....RESPONDENT**

**RULING**

The applicant has filed a Notice of Motion seeking leave to file claim out of time to recover employment terminal benefits. The Motion is supported by a detailed affidavit annexing various correspondences which I have considered in writing this ruling.

The Applicant was employed by the Respondent between 1<sup>st</sup> January, 1992 and 29<sup>th</sup> September, 1997 when he was summarily dismissed for various reasons contained in the letter of dismissal dated 29-9-1997.

The Applicant appealed but the same was summarily rejected. In the dismissal letter, the Respondent had admitted to pay terminal dues to the applicant which were not paid despite several demand letters some through advocates. One wonders why no legal action was filed even after threats to do so by his Advocates.

I have considered the application and the supporting documents and I have doubt that from September, 1997 to April 2012, when the Applicant filed this application amounts to 15 years, an ordinate delay. A claim based on employment contract is supposed to be filed within three (3) years as per Section 90 of the Employment Act, 2007.

There is no plausible explanation for the inordinate delay of about 15 years.

**I decline to grant the leave sought in the motion for the above reasons. That shall be the order of the Court.**

**Orders accordingly.**

**DATED** and **DELIVERED** at Nairobi this 20<sup>th</sup> day of September, 2012.

**Onesmus Makau**  
**JUDGE**