



REPUBLIC OF KENYA.

IN THE INDUSTRIAL COURT OF KENYA
AT NAIROBI.

(Before: Charles P. Chemmutut, J.,

J.M. Kilonzo & O.A. Wafula, Members.)

CAUSE NO. 82 OF 2007.

KENYA ENGINEERING WORKERS' UNION.....Claimants.

v.

HANS KENYA LTD.Respondents.

Issue in Dispute:-

“Employers’ refusal to sign Recognition Agreement.”

Mr. Joseph A.N. Omolo, Industrial Relations Officer, for the Claimants (hereinafter called the Union).

Mr. Daniel Irungu Kamau, Human Resource Manager, for the Respondents (hereinafter called the Company.)

FINAL AWARD.

In our interim award in this case, which was announced on 16th October, 2007, we decided to establish, through a secret ballot, the exact and true wishes of the employees of the Company regarding their union membership and whether or not the Union has had *bona fide* members amongst them. In the circumstances, we directed Mr. Benson Okwayo of the Economic Planning Division (EPD) to undertake this exercise and find out as above, in the presence of, among others, both parties’ representatives, whether or not the employees wished to join the Union as members.

Consequently, Mr. Okwayo duly conducted the secret ballot and the results of his report, which was filed in Court on 11th January, 2008, are as follows:-

“The outcome of the balloting was as shown below:-

- 1. The total number of employees who voted was 42.**
- 2. Those who wished to be members of the union were 29 or 69%.**
- 3. Those who did not wish to be members of the union were 13 or 31%.**

4. There were not spoilt votes”.

Accordingly, Mr. Okwayo concluded as hereunder:-

“The employees were well organized and knew exactly how to cast their votes. They were very calm inside the hall throughout the exercise and voter turnout was excellent, at 91%.

The parties promised to respect the decision of the workers on union representation.

Based on the above results, the union garnered 69%, which is over and above the mandatory 51% required for recognition”.

It is, therefore, apparent or clear from the foregoing results of the secret ballot that the Union has achieved or recruited more than a simple majority, i.e. 69%, of the unionisable employees as their members necessary for recognition by the Company under Section 5(2) of the Trade Disputes Act, Cap 234, Laws of Kenya.

This being the case, the demand for recognition is allowed; and the Company is **ORDERED** to accord recognition to the Union, and the parties should sign a formal recognition agreement forthwith or immediately.

DATED and delivered at Nairobi this 11th day of February, 2008.

Charles P.Chemmutut, MBS.,
JUDGE.

O.A. Wafula,
MEMBER.

J.M. Kilonzo,
MEMBER.