



REPUBLIC OF KENYA

EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT KERICHO

CAUSE NO. 80 OF 2016

(Before D. K. N. Marete)

KENYA UNION OF DOMESTICE, HOTELS, EDUCATIONAL INSTITUTIONS,

HOSPITALS AND ALLIED WORKERS (KUDHEIHA).....CLAIMANT

VERSUS

THE B.O.M KAPMASO SEC. SCHOOL.....RESPONDENT

JUDGEMENT

This matter was brought to court by way of a Memorandum of Claim dated 15th March, 2016. The issue in dispute is therein cited as;

“Refusal by management to deduct and remitt union dues”

The matter is not defended, or at all despite service to the respondent.

The claimant's case is that the respondent is an educational institution managed by the Board of Management under the Ministry of Education. It is her further case that matters of recruitment, recognition et al are now matters for the Board of Management.

The claimant's further case is that she has recruited at least nine employees of the respondent and signed a check off in accordance with S. 54 of the Labour Relations Act, 2007. She notified the respondent of the need for deduction and remission of union dues but this was not heeded prompting a report of the dispute to the Minister for Labour. This has refused to yield results due to lack of co-operation on the part of the respondent. This ended with the issue of a certificate of disagreement by the Minister.

She prays as follows;

4.1 That, the respondent be ordered to enter into Recognition agreement immediately and commence negotiations of Collective Bargaining agreement immediately to safeguard the rights of the claimant's membership.

4.2 That, the respondent be ordered not to harass or intimidate the employees in the union membership.

4.3 That, the respondent be ordered to remit the unremitted dues from the time the employees signed the check off and got recruited and no union dues were ever remitted for no apparent reason and Section 19 (6) of Employment Act 2007 be invoked to compel the employer to pay the intended beneficiary (union) from his own funds.

4.4 That, the Court may order any award it deems fit and just.

4.5 That, the costs of this application be borne by the respondent.

Like is earlier expressed, this matter is not defended, or at all. The claim does not disclose any cut throat issues in dispute. It is a display of normal disagreements between recalcitrant employers and anxious workers' unions. I therefore find for the claimant and order relief as follow;

i) That the respondent be and is hereby ordered to enter into a recognition agreement and pave way for Collective Bargaining Agreements (CBA) negotiations with the claimant within fourteen (14) days of these orders of the court.

ii) That the respondent be and is hereby ordered to maintain industrial peace and expedient labour relations at the work place.

iii) That the respondent be and is hereby ordered to deduct and remit union dues to the claimant with effect from 1st January, 2016.

iv) That the cost of this claim shall be borne by the respondent.

Delivered, dated and signed this 19th day of July 2016.

D.K.Njagi Marete

JUDGE

Appearances

1. Mr. Joseph Okwach for the claimant union.

2. No appearance for the respondent.



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