

THE SENATE
RECEIVED
24 JUN 2021

THE SENATE
RECEIVED
25 JUN 2021
DIRECTOR LEGISLATIVE AND
PROCEDURAL SERVICES

Petition concerning the Plight of workers of former Kenya United Steel Company LTD

15th June 2021

Mr. J.M. Nyegenye, CBS.
The Clerk,
Senate of the Republic of Kenya,
P.O Box 41842-00100
NAIROBI.

DLPS
Please deal,
MOR
25/6/21

② Mr. Moge (Advocate)
pls process
Suzanne
25/6/21

Dear Sir,

RE: PETITION UNDER ARTICLE 10, 25, 28, 29, 30, 37, 41, 119, OF THE
CONSTITUTION OF KENYA, SECTIONS 5(4) B, 16 A, OF THE
EMPLOYMENT ACT, REGARDING THE FATE OF THE FORMER
KUSCO EMPLOYEES

We the undersigned Petitioners are citizens of Kenya who largely reside in Mombasa County and largely in the Coastal region of Kenya. We are the former employees of Kenya United Steel Company (KUSCO), and wish to draw the attention of the Senate on the fate of the said citizens upon termination of their employment-

Facts of the case:

- a. THAT the undersigned 163 people were employed by a Company called Kenya United Steel Company Limited herein referred to as Kusco;
- b. THAT the Company was based in Mombasa County, Jomvu Sub County in Miritini area.
- c. THAT the Petitioners were illegally dismissed from their employment but were not compensated by the employer, instead, the Company was sold and employees left languishing in poverty.
- d. THAT the Petitioners through Joseph Ashioya and 171 others filed the matter in Court in the year 2011 under the Petition No. 703 of 2011.
- e. THAT the matter was subsequently transferred to Mombasa in Employment and Labour relations court under Cause No.10 of 2012. The case was subsequently dismissed by the High Court.
- f. THAT it was demonstrated that by December 2003, the Petitioners had not been paid for 4 months;

③ Ms. Kavata
please process.
24
25.06.21

Petition concerning the Plight of workers of former Kenya United Steel Company LTD

- g. **THAT** in January 2004, the Petitioners were asked to leave their place of work and report back on 1st March 2004.
- h. **THAT** the Claimants were not dismissed. There was no claim for redundancy. No terminal dues were paid. There was no communication from the Employer at any point while at work.
- i. **THAT** at the point when the matter arose, the Petitioners reported the matter to Engineering Workers Union, and as such were in constant consultations with them.
- j. **THAT** at the point of filing the case, the employer owed them salaries and terminal dues amounting to Kshs. 35,813,990, which can be broken down to:
 - 1. Salaries amounting to 5,974,791
 - 2. All other benefits amounting to Kshs. 29,839,199
- k. The remittance of the employees were **Kshs.12,342,644** owned to their Sacco, which was not remitted:
 - The Claimants sought for payment of the above from the court in vain.
- l. **THAT** when the Company was placed under receivership, Pricewaterhouse Coopers Limited was the Receiver Manager of the Company.
- m. **THAT** the Labour officer filed a report dated 16th April 2014 indicating that the Claimants herein were employees of Kenya United Steel Company Limited.
- n. **THAT** the Labour Officer recommended that the Receiver Manager pay to the Claimants all their dues worked for during the months of September 2003 to December 2003.
- o. **THAT** it is the Petitioners' case that the Company name Kenya United Steel Company (2006) Registrar of Companies other than as a business name.
- p. **THAT** the judge at the Employment and Labour Relations Court held that Kenya United Steel Company (KUSCO) Limited existed even in 2006.
- q. **THAT** the idea of changing the name was only intended to mislead the court and the applicants.

The law:

- i. **THAT the** Petitioners hold that the regulators failed to observe due diligence when they allowed transactions by employer the employer thus significantly exploiting its employees by contravening articles **10 and 232 of the**

Petition concerning the Plight of workers of former Kenya United Steel Company LTD

Constitution of Kenya on National values and principles of governance and on values and principles of public service including negating the requirement of high standards of professional ethics in the work.

- ii. **THAT** the Petitioners have suffered inhuman and degrading treatment as a result of the failure to be condemned to unpaid work by the Respondent in the eye of the regulator, contrary to articles **25** of the Constitution of Kenya.

Petition concerning the Plight of workers of former Kenya United Steel Company LTD

- i. **THAT** the Petitioners contend that their freedom from slavery and servitude have been violated because of their idea to employing them, subjected them unpaid conditions hence relegating them to squalor conditions contrary to articles 25 (b) and article 30 (1) and (2) of the Constitution of Kenya.
- ii. **THAT** the actions of the Respondents and the regulator have subjected them to a situation where their inherent human dignity is violated contrary to Article 28 of the Constitution. They are unable to live decently and provide for their households despite having worked for the company until the days when they aged.
- iii. **THAT** the Petitioners do forward this Petition under the above mentioned articles and also Articles 37 and 119 of the Constitution of Kenya.
- iv. **THAT** Petitioners right to acquire and own property has been deprived courtesy of the conditions they have subjected to this matter.

THAT, we have exhausted all available avenues to have the matter addressed to no end.

THAT, the issues in respect to which this Petition is made were dismissed in court and are thus not pending before any court of law, or constitutional or legal body.

We humbly request that the Senate-

- (i) investigates into the issue of termination and compensation of the former employees of Kenya United Steel Company (KUSCO) referred to in this Petition, with a view to establish whether the matter was done within the law and was just and fair;
- (ii) invites the Kenya United Steel Company Limited, the then Directors of Kenya United Steel Company Limited, PricewaterhouseCoopers Kenya, the Department of Labour and all the respondents and their Directors to answer questions regarding to the matter herein in the matter;
- (iii) recommends that Kusco Company Limited and their Directors do remit to the Petitioners Kshs.12,342,644 owed to them by the Sacco, which was not remitted; and

Petition concerning the Plight of workers of former Kenya United Steel Company LTD

- (iv) recommends a mechanism/framework, with timelines, to have the former employees compensated both salaries and benefits amounting to Kshs.35, 813,990 (Kshs.5, 974,791 and Kshs. 29,839,199, respectively) in a timely manner.

Kindly, below find the undersigned-

NO.	NAME	DESIGNATION	ID NO.	SIGNATURE
1.	OMARI ALIMWATAJE	STORES CLERK	2255004	<i>[Signature]</i>
2.	DANIEL M. T. MAZOU	PROD ASSISTANT	2142063	<i>[Signature]</i>
3.	COLMAN ODHAMBO	ARTISAN	16047730	<i>[Signature]</i>
4.	DAVID YUMBUA NZENGE	MASSARI	2211247	<i>[Signature]</i>
5.	ALI KIBUANE MHORIE	PULL PITY	2254810	<i>[Signature]</i>
6.	ALI HASAN MWAUMBARA	LABEL MAN	5412859	<i>[Signature]</i>
7.	JOHN JOSEPH CHAKA	MACHINE OPERATOR	4644181	<i>[Signature]</i>
8.	SWALEH MOHAMMED HAMED	CRANE OPERATOR	5433952	<i>[Signature]</i>
9.	ISWANA ALI MOHAMMED	PROD. ASS.	0505414	<i>[Signature]</i>

Dated: 15/06/2021

Countersigned by:

[Signature]

Sen. Mohammed Faki, MP,
Senator, Mombasa County.

