

Decision of the Players' Status Chamber

passed on 29 November 2023

regarding an employment-related dispute concerning
Hamisi Musa Juma

BY:

Javier Vijande Penas, Argentina

CLAIMANT:

Hamisi Musa Juma, Kenya
Represented by Lordvick Aduda

RESPONDENT:

Fountain Gate FC, Tanzania

I. Facts of the case

1. On 3 December 2022, the Kenyan national, Mr Hamisi Musa Juma (hereinafter: **the Claimant**) and the Tanzanian club, Fountain Gate FC (hereinafter: **the Respondent**) signed a "Contract of Service for Football Fitness Coach" valid as from the date of signature until 31 December 2023 (hereinafter: **the Employment Contract**).
2. Pursuant to clause 4 of the Employment Contract, the Claimant would be employed by the Respondent as fitness coach.
3. Pursuant to clause 9 of the Employment Contract, the Respondent undertook to pay the Claimant *inter alia*: (i) USD 2,000 as monthly salary; and (ii) USD 10,000 as sign-on fee.
4. On 5 September 2023, the parties entered into a termination agreement to the Employment Contract (hereinafter: *the Termination Agreement*). Accordingly, the Respondent undertook to pay the Claimant a total amount of USD 10,266 within the following 7 days.
5. On 20 September, the Claimant put the Respondent in default and requested payment of USD 10,266 per the Termination Agreement, within the following 10 days.
6. On 4 October 2023, the Claimant granted the Respondent an additional deadline of 7 days to cure its default, to no avail.

II. Proceedings before FIFA

7. On 20 November 2023, the Claimant filed the claim at hand before FIFA.
8. In his claim, the Claimant held that the Respondent failed to comply with its financial duties under the Employment Contract, as well as "coerced" and "forced" him to sign the Termination Agreement, which was also not respected.
9. Consequently, the Claimant suggested that the Termination Agreement should be disregarded, and (instead) that he should be awarded the total of USD 20,100 plus interest, broken down as follows:
 - USD 5,000 as sign-on fee;
 - USD 2,000 as the salary of June 2023;
 - USD 1,000 as the salary of July 2023;
 - USD 8,000 as the salaries from September until December 2023;

- USD 2,000 as *“recompense for the emotional, physical, psychological and spiritual torture”*;
 - USD 500 as a flight ticket from Tanzania to Kenya;
 - USD 600 *“incurred in varied expenses while waiting for the club to clear the agreed amounts stated in the [Termination Agreement] not honored up to 1st October 2023”*;
 - USD 1,000 as legal expenses.
10. On 21 November 2023, the FIFA general secretariat informed the Claimant that the matter at hand raised a preliminary procedural matter concerning the jurisdiction of the Football Tribunal, hence would be submitted to an expedited decision in line with article 19 of the Procedural Rules Governing the Football Tribunal.

III. Considerations of the Players’ Status Chamber

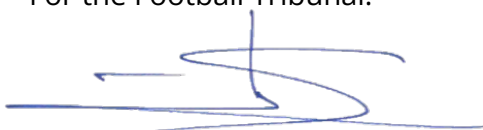
11. First of all, the Chairperson of the Players’ Status Chamber (hereinafter: **the Chairperson**) analysed whether he was competent to deal with the case at hand.
12. In doing so, he firstly took note that the present matter was presented to FIFA on 20 November 2023 and submitted for a preliminary decision on 27 November 2023. Taking into account the wording of article 34 of the March 2023 edition of the Procedural Rules Governing the Football Tribunal (hereinafter: **the Procedural Rules**), the Chairperson determined that the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
13. Furthermore, the Chairperson confirmed that, in accordance with article 19 paragraphs 1 and 2 of the Procedural Rules, he is competent to decide, in an expedited manner, whether the case at stake is affected by any preliminary procedural matter (*i.e.*, if the Football Tribunal obviously does not have jurisdiction or if the claim is time-barred). Likewise, the Chairperson highlighted that, in case the claim is not affected by any preliminary procedural matters, the FIFA general secretariat would be ordered to continue the procedure (*cf.* article 19 paragraph 3 of the Procedural Rules).
14. Subsequently, the Chairperson referred to article 2 paragraph 1 of the Procedural Rules and observed that in accordance with article 23, paragraph 1 in combination with article 22 paragraph 1 lit. c) of the Regulations on the Status and Transfer of Players (**RSTP**) (edition May 2023), the Players’ Status Chamber would be – **in principle** – competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between an alleged coach from Kenya and a club from Tanzania.

15. Notwithstanding the foregoing, the Chairperson noted that an issue regarding the jurisdiction of the Football Tribunal over the present claim was identified by FIFA *ex officio*.
16. In this respect, the Chairperson turned his attention to the Claimant's statement of claim and observed that it concerns an employment-related dispute between a fitness coach and a football club.
17. Against this background, the Chairperson recalled that on 1 January 2021 FIFA introduced a new regulatory framework governing the labour relations between coaches and clubs, and coaches and member associations. In particular, the amendment package included a proper definition of "*coach*" for the purposes of FIFA regulations (cf. definition item no. 28 of the RSTP – May 2023 edition).
18. In particular, the Chairperson acknowledged that said definition identifies a coach as an individual employed in a "*football-specific occupation*". This means that a coach shall be engaged in activities inherent to football that do not exist in the same way in other sports. Consequently, individuals practising activities that are not inherent to football are excluded from FIFA jurisdiction, such as nutritionists, sports scientists, fitness coaches, and the like.
19. On this note, the Chairperson highlighted that the employment of the Claimant by the Respondent as a fitness coach was expressly mentioned in the title and in clause 4 of the Employment Contract, as well as in the Termination Agreement. Furthermore, the Chairperson was also observant that the Claimant expressly confirmed its job title in the statement of claim.
20. Consequently, the Chairperson was firm to conclude that the Claimant's occupation is not considered to be football-specific in accordance with the FIFA regulations and the well-established jurisprudence of the Players' Status Chamber.
21. Therefore, the Chairperson decided that the Football Tribunal does not have jurisdiction to hear the dispute at stake since it falls outside the scope of article 22, paragraph 1, lit. c) of the RSTP (May 2023 edition).
22. Lastly, the Chairperson referred to art. 25 par. 1 of the Procedural Rules, according to which "*Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent*". Accordingly, the Chairperson decided that no procedural costs were to be imposed on the Claimant.

IV. Decision of the Players' Status Chamber

1. The Football Tribunal does not have jurisdiction to hear the claim of the Claimant, Hamisi Musa Juma.
2. This decision is rendered without costs.

For the Football Tribunal:



Emilio García Silvero

Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 57 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 17 of the Procedural Rules).

CONTACT INFORMATION

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