



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

JUDICIAL REVIEW NO. 18 OF 2012

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW FOR ORDERS OF
MANDAMUS**

IN THE MATTER OF JUDGMENT IN NAKURU HCCC NO. 65 OF 2006

BETWEEN

SIMON P. KAMAU & 19 OTHERS.....PLAINTIFFS/RESPONDENTS

VERSUS

TEACHERS SERVICE COMMISSION.....DEFENDANT/APPLICANT

IN THE MATTER OF

REPUBLIC.....APPLICANT

VERSUS

THE DIRECTOR, PENSIONS DEPARTMENT.....RESPONDENT

EX-PARTE

SIMON P. KAMAU AND 19 OTHERS.....SUBJECTS

VERSUS

THE DIRECTOR, PENSIONS DEPARTMENT.....RESPONDENT

RULING

1. On the 2nd March, 2015 this court issued an order and summons directed to the Ag. Inspector-General Mr. Samuel Arachi to attend court in person today to show cause why the court orders issued on the 20th February 2015 to have the TSC Secretary Gabriel Lengoiboin arrested and detained at Kamiti prison for failure to comply with orders of the court dated the 16th May, 2014.
2. In compliance of the above order, the Ag. Inspector-General, now the Deputy Inspector General has presented himself to this court.
3. Mr. Samuel Arachi informed this court that he came to know of the court orders on the 3rd March, 2015 as he was away on official duties, but confirmed that the orders were received in his office on the

26th February, 2015 and his office was waiting for instructions from him to effect the court order. He further told the court that upon getting back to office, he learnt that the contemptor Mr. Gabriel Lengoiboin was also out of the country (*Morocco*) from 28th February, 2015 and was expected back in the office yesterday, the 11th March, 2015 and to confirm that, he wrote to the Immigration Department. He says he will confirm later today whether the TSC Secretary is back in the country. He produced a letter dated the 9th March, 2015 to that effect.

4. I have listened to arguments by Mr. Kimatta Counsel for the Applicants and Mr. Nguyo learned State Counsel and also Mr. Situma for the contemptor.

5. I must commend Mr. Samuel Arachi, the Deputy Inspector-General for taking court orders seriously. As Mr. Kimatta commented, this is a very good gesture.

6. I am satisfied that sufficient cause has been shown by Mr. Samuel Arachi the Deputy Inspector-General why the court orders were not enforced. He is hereby discharged.

However, the orders of 14th May, 2014 remain in-force. The Applicants are yet to receive their pension. They are yet to reap the fruits of their Judgment given by the court seven (7) years ago.

7. To that effect, the orders issued on the 20th February, 2015 ought to be enforced. We now have an Inspector-General in place, Mr. Joseph Boinett having been sworn into office yesterday the 11th March, 2015.

8. I direct that the Inspector-General of Police, Mr. Joseph Boinett, do apprehend and escort the TSC Secretary Gabriel Lengoibon to Kamiti Maximum Prison for detention for a period of six (6) months in conformity with this courts' orders issued on the 16th May, 2014.

To allow the new Inspector-General to settle in his new office, this court will allow him sixty (60) days from today's order, within which the court orders ought to have been enforced, unless cause is shown why the said orders cannot be enforced.

The matter will be mentioned on the 28th May, 2015 at 9.00 a.m.

In the meantime parties to the dispute are encouraged to continue with negotiations with all relevant Government Departments to come to a solution to this long standing dispute amicably.

Dated, signed and delivered at Nakuru this 12th day of March, 2015

JANET MULWA

JUDGE

In the presence of:

Kimatta for Applicant

Sitima with Wachira for Contemptor

Nguyo for Attorney-General

Court clerk - Omondi