



Wahome v Judicial Service Commission (JSC) (Employment and Labour Relations Cause E094 of 2023) [2024] KEELRC 1733 (KLR) (5 July 2024) (Award)

Neutral citation: [2024] KEELRC 1733 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E094 OF 2023**

AN MWAURE, J

JULY 5, 2024

BETWEEN

SAMUEL MUTHEE WAHOME PETITIONER

AND

JUDICIAL SERVICE COMMISSION (JSC) RESPONDENT

AWARD

1. The honourable court as per its judgment delivered on 28th November 2023 had held that the petitioner ought to have been paid alimentary allowance for the period he was under suspension from 16th May 2019 and was terminated from employment on 27th February 2023.
2. The respondent vide its further affidavit dated 5th March 2024 deponed by Isaac Kamau the Assistant Director Human Resource Management and Development confirmed they had over the period paid the petitioner when he was on suspension his alimentary allowance being 1/3 of his salary as per clause H.14 of the Human Resource and procedure manual
3. It was unfortunate the petitioner had informed the court that during the period of his suspension he had not paid any salary and hence the order of the court. The Court has however from the respondents replying affidavit and the payslips annexed and other exhibits thereto being 1K 2 and 1K 3 and 1K 5(1) 1K 5(19) as well as 1K6(1) and 1K(17) the court is satisfied the respondent paid the petitioner the dues to him during the suspension. The petitioner did not file any response or refute the respondent's averments pertaining to his pay during the period of his suspension.
4. The court is satisfied there are no further dues to the petitioner as clearly he was paid his dues. The file is therefore marked as closed.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 5TH DAY OF JULY, 2024.



ANNA NGIBUINI MWAURE

JUDGE

Order

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

