



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT**  
**NAIROBI**  
**CAUSE NO. E743 OF 2024**

**JOMO KENYATTA UNIVERSITY OF  
AGRICULTURE AND  
TECHNOLOGY.....CLAIMANT**

**-VERSUS-**

**UNIVERSITY ACADEMIC STAFF UNION.....1<sup>ST</sup>  
RESPONDENT**

**UNIVERSITY ACADEMIC STAFF UNION  
(JKUAT CHAPTER).....2<sup>ND</sup>  
RESPONDENT**

**RULING**

**Introduction**

1. This Ruling relates to the 2<sup>nd</sup> Respondent's Notice of Motion dated 28<sup>th</sup> July 2025 seeking the following orders:-

***a) The orders issued on 14<sup>th</sup> November 2024 by Hon. Lady Justice Linnet Ndolo suspending the strike notice by the 2<sup>nd</sup> Respondent be and is hereby set aside and the 2<sup>nd</sup> Respondent be at liberty to proceed with industrial action.***

***b) Costs of this Application be borne by the Claimant.***

2. The motion is supported by the Affidavit sworn on the even date by Applicant's Secretary General, one Prof. Shadrack Muya and it is opposed by the Claimant vide the Replying Affidavit sworn on 30<sup>th</sup> September 2025 by its Deputy Vice Chancellor Prof. Bernard Ikua.

**Factual Background.**

3. On 24<sup>th</sup> June 2024, the Respondents served the Claimant with a strike notice raising sixteen (16) issues and on 17<sup>th</sup> July 2024, the Ministry of Labour appointed one Charles Gondosio, Labour Officer Thika to assist the parties to resolve the dispute.
4. In the meanwhile, the Claimant applied and obtained interlocutory order suspending the strike notice pending the conciliation process. The conciliation process yielded a Report by the conciliator dated 31<sup>st</sup> January 2025 in which he

indicated that out of the 16 issues lined up for discussion, only five (5) were unresolved.

5. The unresolved issues included abolition of tutorial fellow position, promotion of long serving academic staff, monthly pension remittance, immediate payment of diagonal arrears and the immediate election of dean. The conciliator made recommendation that the parties should move to the next level of dispute resolution on the above deadlocked issues. Nothing much happened towards resolving the said issues until the 2<sup>nd</sup> Respondent brought the instant Motion.
6. The Applicant's case in brief was that the interlocutory order suspending the strike notice pending conciliation process is overtaken by events and should be lifted. It is further Applicant's case that the Claimant has not initiated any further proceedings in this court as recommended by the conciliator for resolution of the deadlocked grievances.
7. The Claimant, however, averred that it has made effort to meet the Respondents to resolve the outstanding grievances but in vain. It averred that the parties should be given another chance to resolve the grievances in good faith considering that some of them fall within the powers of the Salaries Remuneration Commission. Finally it averred that the court still has the jurisdiction under section 73(1) of the Labour Relations Act to adjudicate over deadlocked issues.

8. The Motion was disposed of by written submissions. Having considered the Motion, Affidavits and submissions, the main issue for determination is whether the interlocutory order suspending the strike notice herein should be lifted.

### **Analysis**

9. The order was made by Ndolo J in her Ruling dated 14<sup>th</sup> November 2024 where she held that:-

***“ In the circumstances, I will suspend the strike notice and direct the parties to proceed with and conclude the stalled conciliation process.”***

10. The conciliation process was duly concluded and the conciliator made his Report on 31<sup>st</sup> January 2025. Eleven (11) issues were resolved leaving Five(5) and the conciliator advised the parties to move to the next level of dispute resolution on the deadlocked issues.

11. Section 73(1) of the Labour Relations Act provides that:-

***“ If a trade dispute is not resolved after conciliation, a party to the dispute may refer it to the industrial court in accordance with the rules of the industrial court.”***

12. After the conciliation the five unresolved grievances were not referred to the court for adjudication by either party. There are no proceedings pending in court concerning the trade dispute that was commenced pursuant to the strike notice dated 24<sup>th</sup> June 2024. Therefore I find and hold that both parties were satisfied with the outcome of the conciliation process and chose not to refer the unresolved disputes to the Court.

**conclusion**

13. I have found that the conciliation process was concluded as evidenced by the conciliators Report dated 31<sup>st</sup> January 2025 and as such the interlocutory order issued on 14<sup>th</sup> November 2024 is overtaken by events. Likewise, since none of the parties filed any further proceedings to this court after the conciliation, I find that the Strike Notice is also overtaken by events and/or was abandoned. Consequently, I decline to award the Applicant the orders as drafted in the Motion. Costs in the cause.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN OPEN COURT AT NAIROBI THIS 4<sup>TH</sup> DAY OF DECEMBER, 2025.**

**ONESMUS MAKAU  
JUDGE**

**Appearance:**

Mwaura for the Claimant

Nyakundi for Koceyo for the 1<sup>st</sup> Respondent

Mungai for the 2<sup>nd</sup> Respondent/Applicant

ORIGINAL