

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT KITALE
MISC. APPLICATION NO. E004 OF 2024

JACOB AMEME CHEMKENDO
APPLICANT

VERSUS

COUNTY GOVERNMENT OF WEST POKOT.....1ST
RESPONDENT

COUNTY SECRETARY

COUNTY GOVERNMENT OF WEST POKOT 2ND
RESPONDENT

SECRETARY COUNTY PUBLIC SERVICE BOARD

WEST POKOT COUNTY 3RD
RESPONDENT

PAYROLL OFFICERS,

WEST POKOT COUNTY 4TH
RESPONDENT

AND

MISC. APPLICATION NO. E002 OF 2024

MUSA PKITE LORWOAPPLICANT

VERSUS

**COUNTY GOVERNMENT OF WEST POKOT.....1ST
RESPONDENT**

COUNTY SECRETARY

**COUNTY GOVERNMENT OF WEST POKOT.....2ND
RESPONDENT**

SECRETARY COUNTY PUBLIC SERVICE BOARD

**WEST POKOT COUNTY.....3RD
RESPONDENT**

PAYROLL OFFICERS,

**WEST POKOT COUNTY.....4TH
RESPONDENT**

AND

MISC. APPLICATION NO. E003 OF 2024

**JULIA CHEPKORIR LOYATUM.....
APPLICANT**

VERSUS

**COUNTY GOVERNMENT OF WEST POKOT.....1ST
RESPONDENT**

COUNTY SECRETARY

**COUNTY GOVERNMENT OF WEST POKOT.....2ND
RESPONDENT**

SECRETARY COUNTY PUBLIC SERVICE BOARD

WEST POKOT COUNTY.....3RD

RESPONDENT

PAYROLL OFFICERS,

WEST POKOT COUNTY.....4TH

RESPONDENT

AND

MISC. APPLICATION NO. E005 OF 2024

CYRIL PKOBUS ROTINO.....

APPLICANT

VERSUS

COUNTY GOVERNMENT OF WEST POKOT.....1ST

RESPONDENT

COUNTY SECRETARY

COUNTY GOVERNMENT OF WEST POKOT.....2ND

RESPONDENT

SECRETARY COUNTY PUBLIC SERVICE BOARD

WEST POKOT COUNTY.....3RD

RESPONDENT

PAYROLL OFFICERS,

WEST POKOT COUNTY.....4TH

RESPONDENT

RULING

1. This ruling relates to a series of four files namely, Misc. Applications No. E004 of 2024, E002 of 2024, E003 of 2024 and E005 of 2024.
2. The Applicant in MISC. APPLICATION NO. NO. E004 OF 2024 vide an application dated 19th June 2024 seek orders that: -
 - a) Spent
 - b) The decision of the Public Service Commission delivered on 13th March 2024 as communicated vide letter dated 15th March 2024 be adopted and enforced as judgment of the Court and a decree to issue forthwith.
 - c) The Respondents pay Kshs. 1,361,930/= being salary arrears and damages assessed by the Public Service Commission vide its decision delivered on 13th March 2024 as communicated vide letter dated 15th March 2024.
 - d) The Respondents bear the costs of this adoption proceedings.
 - e) Interest at court rates on (c) and (d) above from the date of judgment until payment in full.

3. The grounds upon which the application is made are contained at the foot of the application and in the supporting affidavit as follows: -
- i. The Applicant filed a Statement of Claim against the 1st, 2nd and 3rd Respondents via KITALE ELRC CAUSE NO. E007 OF 2022 seeking payment of salary arrears.
 - ii. The Honourable Court vide its ruling delivered on 27th July 2023 ordered that the complaint be forwarded to the Public Service Commission.
 - iii. The Public Service Commission delivered its ruling on 13th March 2024 as communicated vide letter dated 15th March 2024.
 - iv. The decision of the Public Service Commission was communicated to the Respondents herein.
 - v. The advocates on record Messrs. Z. K. Yego Law Offices vide letter dated 16th April 2024 wrote a letter to the 2nd Respondent reminding them of the decision of the Public Service Commission and demanding payment of the salaries and allowances owing.

- vi. The Respondents herein have without any justifiable cause neglected, ignored and/or willfully refused to implement the decision of the Public Service Commission delivered on 13th March 2024 as communicated vide letter dated 15th March 2024.
 - vii. That the contemptuous action of the Respondents has warranted the Applicant to file this instant application.
 - viii. That this application has merit.
 - ix. That granting orders as prayed will serve the ends of justice.
4. The application is supported by the affidavit of JACOB AMEME CHEMKENDO, the Applicant sworn on 19th June 2024 which reiterates the grounds in the application.
 5. In MISC. APPLICATION NO. E002 OF 2024, MUSA PKITE LORWO vide a Notice of Motion dated 14th June 2024 sought similar prayers as JACOB AMEME CHEMKENDO but for a sum of Kshs. 3,634,030 being salary arrears and damages assessed by the Public Service Commission vide letter dated 15th March 2024 be adopted and enforced as judgment of the Court and a decree to issue.

6. In MISC. APPLICATION NO. E003 OF 2024, JULIA CHEPKORIR LOYATUM vide a Notice of Motion dated 14th June 2024 sought similar orders but for a sum of Kshs. 3,546,410.
7. In MISC. APPLICATION NO. E005 OF 2024, CYRIL PKOBUS ROTINO vide a Notice of Motion dated 19th June 2024 sought similar orders for a sum of Kshs. 1,844,400.
8. The applications are opposed. The Respondents filed similar Replying Affidavits in each of the files sworn on 18th September 2024 by **Jonathan Siwanyang**, the 2nd Respondent herein. He depones that the Respondents were duly served with the decisions of the Public Service Commission in Public Service Commission County Appeal No. 076 of 2023, ***Jacob Ameme Chemkendo v West Pokot County Government, County Secretary, West Pokot County, and the County Public Service Board***, Public Service Commission County Appeal No. 078 of 2023, ***Musa Pkite Lorwo v West Pokot County Government, County Secretary, West Pokot County, and the County Public Service Board*** Public Service Commission County Appeal No. 075 of 2023, ***Julia Chepkorir Loyatum v West Pokot County Government, County Secretary,***

West Pokot County, and the County Public Service Board, Public Service Commission County Appeal No. 077 of 2023, and **Rotino Pkopus Cyril v West Pokot County Government, County Secretary, West Pokot County, and the County Public Service Board**, all dated 13th March 2024, wherein the County Public Service Board was directed to remit to the Appellants the full salary they were entitled to under their contracts of employment for all the months their salaries were withheld, and further to pay them damages equivalent to two months' salary.

9. The Respondents contend that being dissatisfied with the Commission's decisions, they filed applications for review before the Public Service Commission pursuant to Section 88 of the Public Service Commission Act, read together with Regulation 24 of the Public Service Commission (County Appeals Procedure) Regulations, 2022, on 12th September 2024.
10. A further Replying Affidavit sworn on 23rd June 2025 by **Jeffrey Kapatet**, the 1st Respondent's Acting Human Resource Director, was filed in all four consolidated files.

11. In Miscellaneous Application No. E004 of 2024, it is deposed that the Applicant, **Jacob Ameme Chemkendo** lodged an appeal before the Public Service Commission on 1st August 2023 seeking payment of withheld salary arrears amounting to Kshs. 806,320. The Commission, in its decision delivered on 13th March 2024, noted that the Applicant had failed to justify the amounts claimed and directed the County Government to remit the full salary due under his contract of service. It is contended that at the time the Applicant lodged his appeal to the Commission, his unpaid salary for the period between May 2022 to July 2023 amounted to Kshs. 502,549.02, as tabulated by the Payroll Officer.
12. In Miscellaneous Application No. E002 of 2024, the Respondents averred that the Applicant, **Musa Pkite Lorwo**, had sought payment of withheld salary arrears totaling Kshs. 3,634,030. The Respondents contended, however, that his total unpaid salary for the period November 2022 to July 2023 amounted to Kshs. 950,027
13. In Miscellaneous Application No. E003 of 2024, the Respondents averred that the Applicant, **Julia Chepkorir**

Loyatum, had sought payment of withheld salary arrears totaling Kshs. 2,154,560. The Respondents stated, however, that at the time of the appeal, her total unpaid salary for the period January 2023 to July 2023 amounted to Kshs. 857,991

14. In Miscellaneous Application No. E005 of 2024, the Respondents averred that the Applicant, **Cyril Pkopus Rotino**, had sought payment of withheld salary arrears totaling Kshs. 1,036,600. The Respondents stated, however, that at the time of the appeal, his unpaid salary for the fifteen-month period from May 2022 to July 2023 amounted to Kshs. 642,854.63.
15. The Respondents maintained that they were willing to implement the Commission's decision and pay the Applicants their withheld salary arrears as tabulated by the Payroll Officer, the 4th Respondent, together with the awarded damages.
16. It was further averred that the sums claimed by the Applicants in their respective applications were false, unsubstantiated, and intended to mislead the Court. The Respondents denied any refusal to implement the Commission's decision, describing such allegations as false, misleading, and malicious, and

intended to tarnish the reputation of the West Pokot County Government.

17. The Respondents contended that the Commission's decision related strictly to the issues raised in the appeals, namely the payment of withheld salaries as at 1st August 2023.
18. The applications were disposed of by way of written submissions. The Applicants filed their submissions dated 17th November 2025 in the respective files which are largely similar. The Respondents also filed their submissions dated 16th January 2026, also in similar terms across the separate files.
19. The Applicants identified the issue for determination as whether they were entitled to the sums claimed. They submitted that the Public Service Commission's decision of 13th March 2024, communicated via letter dated 15th March 2024, allowed their appeals, ordering the County Public Service Board to remit the full salary due under their contracts and to pay two months' salary as damages for unlawfully withheld salaries.
20. The Applicants further submitted that their contracts had since lapsed, entitling them to gratuity, and that the Respondents' attempts at review were unsuccessful. They contended that no

valid appeal had been lodged against the Commission's determination.

21. The Applicants urged the Court to order the Respondents to pay the following sums as salary arrears: Kshs. 2,938,398.80 for **Jacob Ameme Chemkendo** (Misc. Application No. E004), Kshs. 6,290,444 for **Musa Pkite Lorwo** (Misc. Application No. E002), Kshs. 3,546,410 for **Julia Chepkorir Loyatum** (Misc. Application No. E003), and Kshs. 2,947,404.40 for **Cyril Pkopus Rotino** (Misc. Application No. E005 of 2024).
22. The Applicants sought an order that the applications be allowed with costs.
23. On their part, the Respondents identified the issue for determination to be whether the Applicants were entitled to salary arrears as claimed.
24. The Respondents submitted that, based on the Public Service Commission's ruling of 13th March 2024, the correct computation of the sums due to the Applicants was lower than those claimed. In respect of Miscellaneous Application No. E004 of 2024, the Respondents contended that the total salary arrears due to **Jacob Ameme Chemkendo**, based on verified

payroll records, amounted to Kshs. 502,549.02. It is submitted that in Miscellaneous Application No. E002 of 2024, **Musa Pkite Lorwo's** the salary arrears from November 2022 to July 2023 amounted to Kshs. 950,027.00. With regard to **Julia Chepkorir Loyatum**, the Applicant in Miscellaneous Application No. E003 of 2024, the Respondents asserted that total unpaid salary for the period January 2023 to July 2023 was Kshs. 857,991 and lastly with regard to Miscellaneous Application No. E005 of 2024, the Respondents contended that **Cyril Pkopus Rotino's** verified unpaid salary for the period May 2022 to July 2023 amounted to Kshs. 642,854.63.

25. The Respondents reiterated that the amounts claimed by the Applicants in their applications are false and unsubstantiated.
26. The Respondents have maintained that they are willing to implement the decision of the Public Service Commission by paying the Applicants their verified salaries as computed and tabulated by the County Payroll Officer together with the damages awarded by the Commission.

Determination

27. I have considered the application, the response, and the submissions of the parties. The main issue that presents itself for determination is the interpretation and scope of the decision of the Public Service Commission delivered on 13th March 2024.
28. Before delving into the issue for determination, it is necessary to clarify that this Court did not adopt the decision of the Public Service Commission on 20th May 2025, as alleged by the Applicant. On that date, the Court merely directed the Respondents to compute the sums payable in accordance with the decision of the Public Service Commission, and no adoption of the said decision as a judgment of the Court was made.
29. The evidence on record further shows that, following the delivery of the Commission's decision, the Respondents lodged an application for review before the Public Service Commission. The said application for review was heard and dismissed, and there is no evidence before this Court of any stay, variation, or

setting aside of the Commission's decision. The decision of the Public Service Commission therefore remains valid and binding.

30. As can be seen at paragraph 41 of the Commission's decision, the operative orders were in the following terms: -

"41. For the above reasons and pursuant to section 86(4) of the Public Service Commission Act 2017 as read together with Regulation 21 of the Public Service Commission (County Appeals Procedures) Regulations, 2022 the Commission allows the appeal and directs that:-

- a) The 3rd Respondent remits to the Appellant the full salary he was entitled to under his contract of employment for all the months his salary has been withheld unlawfully.*
- b) The Respondents pay the Appellant an equivalent of 2 months' salary as damages for unlawfully withholding his salary while engaged with the County Public Service."*

31. The Respondents have maintained that the appeal before the Commission concerned withheld salaries up to July 2023, while

the Applicants contend that the decisions entitle them to salary for the entire contractual period.

32. The court has further noted that in the appeals to the Public Service Commission the Applicants sought specific figures which are different from what they are seeking to be awarded in the instant application. In the said appeals the Applicants sought payment of the outstanding salary as claimed and in addition, indicated that they had not been paid "*any salary up to date*".
33. In the decisions of the Public Service Commission, it did not specify the amount due or the period in question. The Commission declined to award the sum claimed by each of the Applicants on the basis that the Applicants did not indicate how they arrived at the figures they had claimed.
34. According to the application before the court, the role of the court is to adopt the decision of the Commission. If there is any ambiguity as to the period covered by the decision of the Commission on the appeal and the amount payable to each of them, it is for the Commission to clarify the same as this court cannot make a determination on the issue when the parties are

before it solely for adoption of the decision and not on appeal or review of the decision.

35. According to the award of the Commission, each of the Applicants are entitled to “full salary for the months he has been engaged with the Respondents which has been wrongfully withheld”. The term “*full salary for the months he has been engaged with the Respondents*” and “*which has been wrongfully withheld*” in the circumstances of this case are open to different interpretations as is evident in the positions taken by the parties.
36. The Commission did not specify what the relevant period is. The parties are of different interpretations as to the period referred to, with the Respondents insisting that the period covered is up to 31st July, 2023 while the Applicants insist that the award covers payment up to the end of the contract term. To this extent, the decision of the Commission is ambiguous.
37. In an application for adoption of an award the court does not have a leeway to interpret the award. It is only in an appeal or review that the court would be at liberty to make its own

interpretation after reviewing the evidence before the Administrative body which made the decision.

38. For the foregoing reason, I refer these decisions back to the Public Service Commission to determine the exact period the award relates to which will make it possible for this court to determine and enter judgement for purposes of implementation of the award.
39. The Respondents shall, in any event, bear the costs of these applications, the determination by the Public Service Commission having been in favour of the Applicants.
40. Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY ON
THIS 29TH DAY OF JANUARY, 2026**

**MAUREEN ONYANGO
JUDGE**