



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kanyi v Moi Teaching and Referral Hospital Board & another (Cause E015 of 2025) [2026] KEELRC 476 (KLR) (19 February 2026) (Judgment)**

Neutral citation: [2026] KEELRC 476 (KLR)

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET**  
**CAUSE E015 OF 2025**  
**MA ONYANGO, J**  
**FEBRUARY 19, 2026**

**BETWEEN**

**DR JOHN KANYI ..... CLAIMANT**

**AND**

**MOI TEACHING AND REFERRAL HOSPITAL BOARD ..... RESPONDENT**

**AND**

**KENYA MEDICAL PRACTITIONERS, PHARMACISTS AND DENTISTS UNION ..... INTERESTED PARTY**

**JUDGMENT**

1. The Claimant instituted his claim against the Respondent vide a Memorandum of Claim dated 21<sup>st</sup> March 2025 seeking the following orders:
  - i. A declaration and/or finding that the demand for payment of a Training Service Bond of Kshs. 3,091,920.00 by the Respondent, its officers and/or servants is contrary to the express provisions of the Guidelines on the Bond for Training Public Servants published by the Public Service Commission (PSC) in July 2018, the executed Training Bond Form for Public Servants dated 8<sup>th</sup> January 2021 and the Moi Teaching and Referral Hospital Human Resource Policy and Procedures Manual, August 2018.
  - ii. A mandatory order directing the Respondent, its officers and/or servants to immediately transfer the Claimant's bond obligation to Kenyatta University Teaching, Referral and Research Hospital effective June 2024.
  - iii. A finding that the duration served by the Claimant as an employee of Kenyatta University Teaching Referral and Research Hospital be considered and subsumed in the tabulation of the Claimant's bonding obligation under the applicable PSC Guidelines, the executed Training



Bond Form dated 8<sup>th</sup> January 2021 and the Moi Teaching and Referral Hospital Human Resource Policy and Procedures Manual, August 2018.

- iv. A declaration that the Claimant's fundamental right to fair labour practices was breached by the Respondent and an award of general damages for breach of Article 41 of *the Constitution* of Kenya.
  - v. An order as to costs of this suit to be borne by the Respondent
  - vi. Interest at court rates on any monetary award granted by this court for general damages and costs from the date of judgment until payment in full
  - vii. That the Honourable Court do make any such further order as it deems fit to grant
2. It is the Claimant's case that he was employed by the Respondent as a Pharmacist on 5<sup>th</sup> September 2016 and served the Respondent for over 7 years.
  3. He asserts that in December 2020 he applied for and was accepted to pursue a Master's Degree in Radio pharmacy, sponsored by the International Atomic Energy Agency at Sefako Makgatho Health Sciences University, South Africa from 1<sup>st</sup> March 2021.
  4. The Claimant contends that he sought release and bonding from the Respondent which was granted on 22<sup>nd</sup> December 2020. Consequently, he executed a Training Bond Form for Public Servants on 8<sup>th</sup> January 2021 pursuant to the PSC Guidelines on the Bond for Training Public Servants (July 2018) as adopted by the Respondent.
  5. The Claimant avers that he graduated on 25<sup>th</sup> May 2023 with a Master's Degree in Radio pharmacy. He states that he returned and resumed duty on 1<sup>st</sup> February 2023 pending redesignation in view of his specialty, enhanced competence, and skills in Radio pharmacy. That he was however retained in the position of Principal Pharmacist, thereby limiting his career progression and skills utilization.
  6. The Claimant avers that the Respondent lacked adequate facilities to enable him undertake tasks related to his specialty. That he therefore engaged the Respondent to approve his secondment or a transfer of his service to Kenyatta University Teaching and Referral Hospital, a public hospital where he could fully apply his expertise.
  7. The Claimant states that Kenyatta University Teaching and Referral Hospital advertised the position of Radio pharmacist in the MyGov newspaper on 27<sup>th</sup> February 2024 and he applied. That he was thereafter employed pursuant to an appointment letter dated 19<sup>th</sup> April 2024 in which he was required to accept the appointment not later than 20<sup>th</sup> May 2024.
  8. He states that he tendered his resignation to the Respondent vide a letter dated 24<sup>th</sup> April 2024 which was approved on 29<sup>th</sup> May 2024.
  9. It is the Claimant's case that despite continuing in public service employment with Kenyatta University Teaching and Referral Hospital, the Respondent demanded payment of a Training Service Bond of Kshs. 3,091,920 contrary to the PSC Guidelines, the executed Training Bond Form dated 8<sup>th</sup> January 2021 and the Respondent's Human Resource Policy and Procedures Manual.
  10. The Claimant maintains that as a consequence of the Respondent's actions, he cannot access up to 50% of his accumulated pension contributions, excluding Tier II contributions estimated at approximately Kshs. 1,400,000.



11. The Respondent filed a Response to the Memorandum of Claim dated 16<sup>th</sup> May 2025 denying that the Claimant is entitled to the reliefs sought in his Claim.
12. The Respondent maintained that institutional plans were already underway to establish a Radio pharmacy Unit, including procurement of necessary equipment and infrastructure and that the Claimant's bonded service was intended to coincide with and support this development.
13. The Respondent averred that it is standard practice to train staff in advance of infrastructure rollouts to ensure technical readiness and that the Claimant's role was central to this phased implementation.
14. The Respondent contends that the Claimant resigned before completion of the equipment procurement process and that had he served the full bonded period, he would have been redeployed in line with institutional planning.
15. The Respondent therefore asserts that the Claimant's allegations regarding limited career growth do not negate his legal obligation to honour the bond agreement.
16. The Respondent further asserted that in February 2024, the Claimant sought permission to work part-time at Kenyatta University Teaching and Referral Hospital through a structured attachment arrangement to maintain his practical skills and that the Respondent approved the request in good faith.
17. The Respondent contends that during this period, the Claimant resigned and took up full-time employment at Kenyatta University Teaching and Referral Hospital. It further averred that the request for transfer of the bond was made nearly five months after resignation and had therefore become moot.
18. It is the Respondent's case that it allocates a budget for staff training in areas of need and that the bond ensures service continuity for the duration of the bond.
19. The Respondent maintains that the agreement was entered into voluntarily and that the Claimant is bound to honour it.
20. The Respondent further contends that its Human Resource practice does not allow transfer of bond obligations and that any employee who leaves while under bond must redeem the bond in full.
21. The Respondent averred that, in addition to the bond amount of Kshs. 3,091,920.00, the Claimant is liable to refund unearned travelling leave allowance of Kshs. 79,034.40.
22. The Respondent further asserted that the Moi Teaching and Referral Hospital Staff Pension Fund Scheme is a separate legal entity and that the Respondent does not hold or administer the pension fund.
23. It is the Respondent's contention that the Claimant is not entitled to the reliefs sought having breached the service bond agreement.
24. The Respondent therefore prayed for:
  - i. A declaration that the Claimant has breached the service bond agreement between the Respondent and himself,
  - ii. An order of specific performance directing the Claimant to honour the agreement entered to by the Respondent and himself, to pay the remaining amount of Kshs. 3,091,920 due to the Respondent,
  - iii. An order that the Claimant should refund the unearned travelling leave allowance in the sum of Kshs. 79,034.40 to the Respondent,



- iv. Interest in the (ii) and (iii) above at court rates from the date of judgment,
- v. Costs of the suit.

### **The Evidence**

- 25. The Claimant testified on 23<sup>rd</sup> June 2025 as CW1. He adopted his recorded witness statement and relied on the documents filed in support of his case as his evidence in chief.
- 26. In his testimony, the Claimant stated that he resigned from the Respondent's employment by a notice dated 24<sup>th</sup> April 2024 which became effective upon acceptance on 25<sup>th</sup> May 2024. He stated that his contract of employment required him to give one month's notice, and that at the time of resignation, he was serving a training bond.
- 27. The Claimant stated that he had been sponsored to undertake a course in South Africa where he studied for two years. That he resumed duty on 1<sup>st</sup> February 2023. He stated that at the time of his resignation, he had served 16 months of the training bond.
- 28. The Claimant testified that he took up the position of radio therapist at Kenyatta University Teaching and Referral Hospital on 24<sup>th</sup> May 2024 and that at that time he was remaining with eight months service of the training bond. It was his evidence that he issued his notice of resignation as provided in the manual and requested a transfer of the remaining bond in accordance with the bonding contract, which allows for transfer where an employee moves from one public institution to another public institution.
- 29. The Claimant contended that despite following the required procedure, the Respondent declined to clear him and release his pension benefits. He further stated that he left the Respondent's employment after his specialization training because the Respondent lacked infrastructure for nuclear medicine, adding that the only institution in Kenya with such infrastructure is Kenyatta University. He explained that there are only four radio pharmacists in the country and that when Kenyatta University advertised the position, he applied so that the public could benefit from his expertise.
- 30. On cross-examination by Counsel Otiso, the Claimant confirmed that he had not completed his bond at the time he resigned from the Respondent's employment. He stated that he had not paid the balance for the remaining eight months and had not offered to pay it.
- 31. He further stated that he was not aware of the sum of KShs 79,034.40 which the Respondent alleged he owed. He testified that he was given money annually as leave allowance but was not aware when it was paid.
- 32. He stated that his resignation was accepted in May 2024 and that he applied for transfer of the bond in his letter of resignation dated 24<sup>th</sup> April 2024 but the request was declined.
- 33. The Claimant stated that before moving to his current employer, the Respondent had allowed him to work there on a part-time basis. That he initiated the termination through resignation.
- 34. The Claimant testified that the Respondent does not hold any money payable to him and that all he seeks from the Respondent is a clearance certificate.
- 35. On re-examination, the Claimant stated that he requested for transfer of the bond in his resignation letter in accordance with the PSC Regulations and the Respondent's terms of service. He testified that he did not receive a response regarding the transfer of the bond and that the Respondent instead demanded payment.



36. The Respondent called Paul Kiprotich Mulwo, its Senior Human Resource Officer in the Human Resource Directorate, who testified as RW1. RW1 adopted his witness statement recorded on 16<sup>th</sup> May 2025 as his evidence in chief and relied on the documents filed by the Respondent in support of its case.
37. RW1 told the Court that the Claimant had an outstanding training bond of Kshs 3,091,920 and a leave travel allowance of Kshs 79,034.40. He explained that members of staff earn leave allowance at the beginning of the year as provided in the Respondent's Human Resource Manual and that the amount claimed was prorated because the Claimant resigned in May, and had unutilized leave allowance that had been paid at the beginning of the year.
38. He testified that after his studies the Claimant resumed duty in 2023 and worked for 16 months against a three-year bond, leaving an outstanding period of 14 months not served.
39. RW1 further stated that the Respondent trains staff, particularly specialized personnel, when new machines are being procured. He testified that the Claimant was trained as a cancer specialist and that although the machines had not been procured at the time of his return, he explained that staff are trained before installation so that operations can commence immediately, once the machines are in place.
40. He testified that under the Public Service guidelines on bonding, a bondee who initiates termination is required to pay the bond, whereas the bond is waived if termination is initiated by the Government. He stated that the Claimant resigned and therefore initiated the termination. He further testified that the Claimant had been allowed to work at Kenyatta University Hospital part time so that his skills would not become obsolete.
41. RW1 stated that an employee who leaves before the expiry of the bond period is required to pay the full bond amount as provided by the Public Service Guidelines on bonding. He maintained that the Respondent stands to lose the skills acquired by the Claimant through the training, and that if the machine is delivered in the absence of a skilled officer, the Respondent will be required to sponsor another officer for training for two years at additional cost.
42. On cross-examination, RW1 stated that the Respondent does not have any other staff trained in the Claimant's field, nor any trained support staff. He agreed that the Claimant requested to be released to work at Kenyatta University so that he does not lose his skills, as there was no facility at MTRH where he could utilize the skills.
43. He testified that the bonding form was executed on 7<sup>th</sup> January 2021 and that the current bonding form does not apply to the Claimant. He further testified that in the Claimant's case, Clause 2.8 of the Public Service Commission Bonding Guidelines does not apply because he resigned rather than being transferred. Further, RW1 stated that the Respondent's Human Resource Manual provides for resignation but contains no provision for transfer of service.
44. RW1 stated that the Claimant received his full salary while studying in South Africa, although the Respondent did not pay his school fees. He added that as a public institution funded by the Government, the Respondent pays salaries from taxpayers' money and that the loss suffered is the absence of the Claimant's skills in serving the Respondent's patients.
45. On re-examination, RW1 stated that by a letter dated 9<sup>th</sup> February 2024, the Claimant requested permission to work part-time at Kenyatta University and that the Respondent granted the permission.



46. At the close of the Respondent's case, parties were directed to file written submissions. The Claimant's submissions are dated 14<sup>th</sup> October 2025 while the Respondent's submissions are dated 21<sup>st</sup> November 2025.
47. By and large, the submissions reiterated the positions taken by the respective parties, and I need not repeat them.

### **Determination**

48. Upon considering the pleadings herein, the evidence of the respective parties and the submissions, I find that the issues that fall for this court's determination are: -
- i. Whether the Claimant is entitled to have the remaining bond obligation transferred to Kenyatta University Teaching and Referral Hospital
  - ii. Whether the Respondent lawfully demanded payment of Kshs. 3,091,920.00 being the bond amount and Kshs. 79,034.40 as unearned leave allowance.
  - iii. What orders should issue?

### **Whether the Claimant is entitled to have the remaining bond obligation transferred to Kenyatta University Teaching and Referral Hospital**

49. The Claimant contended that since he moved from one public institution to another, he was entitled to have the remaining term of the bond transferred to Kenyatta University Teaching, Referral and Research Hospital. He relied on Clauses 2.7 and 2.8 of the Public Service Commission (PSC) Guidelines, which provide for bond transfer where a bondee takes up employment in another public service organization.
50. The Respondent, however, argued that the Claimant resigned rather than being formally transferred or seconded. It maintained that its Human Resource Manual contains no provision for automatic transfer of service upon resignation. RW1 testified that a transfer presupposes continuity of employment under the same bond which was not the case herein.
51. The Public Service Commission Guidelines on the Bond for Training Public Servants, 2018 at Clause 2.7 and Clause 2.8 provides as follows: -

7. Bond obligations

In case of a transfer from one public organization to another during the period of the bond, the relevant Government entity must be advised of the change. The immediate supervisor of the Bondee shall inform the officer responsible for the Human Resource Management and Development about the change.

Where the Bondee initiates termination of employment she/he shall fully redeem the bond, whereas the Government shall write off the bond obligation if it initiates the termination process.

8. Transfer of Bond Obligation

Should a Bondee take an appointment in a public service organization during the period of the bond, the remaining bond shall be transferred to the new entity. In case of an appointment in a private sector organization the bond shall be redeemed in full.



52. From a reading of Clause 2.7, it is clear that there is a distinction between a bondee-initiated termination, which requires full bond redemption, and a government-initiated termination, which may result in a writing off of the bond. Clause 2.8 allows transfer of bond only where an appointment to another public service organization occurs during the bond period with proper administrative approval not when the employee resigns and secures a new appointment independently.
53. The evidence on record is to the effect that the Claimant tendered a resignation on 24<sup>th</sup> April 2024, effective 29<sup>th</sup> May 2024 before securing administrative approval for transfer. He thereafter commenced full-time employment at Kenyatta University Teaching Referral and Research Hospital without a transfer of service.
54. Regulation 2.7 provides that “Where the Bondee initiates termination of employment she/he shall fully redeem the bond.” In the instant case the Claimant initiated his termination by resigning. He did not obtain approval of the Respondent for the transfer of the bond. He further did not request his new employer to request the Respondent to allow it to take over the bond for the remaining term of the bond. Regulation 2.7 expressly provides that the relevant government entity must be advised of the change by the immediate supervisor of the bondee.
55. In the circumstances, the Court finds that the Claimant is not entitled to a transfer of the bond as he effectively terminated his employment rather than seeking to have the bond formally transferred.

**Whether the Respondent lawfully demanded payment of Kshs. 3,091,920.00 being the bond amount and Kshs. 79,034.40 as unearned leave allowance**

56. The bond agreement dated 8<sup>th</sup> January 2021 and the Respondent’s Human Resource Manual, clause 9.20.4 and 2.22.1, provide that an employee who leaves before expiry of the bond must redeem the full bond amount or enter into a repayment arrangement.
57. Further, Clause 2.9 of the Public Service Commission Guidelines reinforces that a bondee who fails to comply with the bond terms shall redeem the bond in full or on a pro-rated basis. It stipulates: -
  - .9 Breach of Bond Agreement
    - i. An employee who fails to comply with the terms of the bond shall be deemed to have breached the agreement and will be required to redeem the bond in full or as pro-rated.
    - ii. Where administrative efforts to redeem the bond fails, the organization shall institute legal action to recover the bond amount.
    - iii. If a Bondee fails to complete a course of training for reasons which cannot be justified, s/he and/or Surety/(ies) will be liable to repay the cost of training incurred
58. The Claimant admitted that he had not completed the 3-year bonding period, having served only 16 months. He had not served the remaining 14 months of the bond term and had not proposed a payment plan upon his resignation from the Respondent’s employment. He is therefore bound to redeem the bond.
59. The Respondent also claimed Kshs. 79,034.40 as unearned travelling leave allowance, prorated based on the Claimant’s resignation in May 2024.
60. While the Respondent’s demand for payment of the Training Service Bond and unearned leave allowance is lawful in principle, it is worth noting that the Respondent did not file a formal counterclaim seeking an order from this court for payment of the same. Under the rules of procedure, a party cannot obtain relief solely through a defence to a claim. A defence is intended to respond to



allegations made by the Claimant and does not constitute a formal request for an order of the Court. As the adage goes, parties are bound by their pleadings and cannot be awarded a relief that was not sought. Granting relief on the basis of a defence alone would deprive the Claimant of the opportunity to be heard in respect of the amounts claimed, contrary to the principle of audi alteram partem.

61. Consequently, the Court cannot issue an order for payment in these proceedings. The Respondent however remains entitled to pursue recovery of the bond and leave allowance by other means including instituting a proper suit, thereby allowing the Claimant to respond and the Court to determine the claim on the merits.

**What orders should issue?**

62. Having found that the Claimant resigned before completing the bonded period and that he was not entitled to transfer of the bond obligation to Kenyatta University Teaching and Referral Hospital, it follows that the orders he is seeking cannot issue.
63. In the end, the Memorandum of Claim dated 21<sup>st</sup> March 2025 is found to be without merit and is accordingly dismissed. There shall be no order as to costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY**

**THIS 19<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**M. ONYANGO**

**JUDGE**

