



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS**

**COURT OF KENYA AT KISII**

**CASE NO. E020 OF 2025**

UNIVERSITIES

ACADEMIC

STAFF

UNION.....**CLAIMANT**

**VERSUS**

KISII

UNIVERSITY.....**RESPONDENT**

**JUDGMENT**

1. Objection is taken to a circular No. DPM/PA/2/38 Vol. II (315) dated 14<sup>th</sup> December 2000 from the Permanent Secretary Director of Personnel Management of the Office of the President Mr. J.E.O Ongwae, OGW. The Circular related to payment of service gratuity to officers serving on local agreement/contracts. The Counsel for the Respondent Mr.

Ochwang'i objects to the production asserting that it is not clear if the directive holds. It is submitted in argument that the witness on the stand Dr. Constantine Wasonga is not the author and instead there should be someone from the Directorate of Personnel Management, Office of the President to come testify on the same.

2. Miss Olalo for the Claimant is opposed to the objection raised. She argues that the document is on Court record and that the Respondent had ample time to raise an objection prior to the hearing today. It is stressed that the document comprises of important evidence in the Court. She argues that the Court should disallow the objection and consider the import of the circular and issue its determination of the provenance of the same at the time of judgment.

3. In his brief reprise, Mr. Ochwang'i, Counsel for the Respondent asserts there is need to ascertain if the percentage in the circular is that applicable to the serving or retired tutorial fellows. He urges the expunging of the document from the evidence the witness can produce.

4. The Court notes the Circular is of particular importance in the present proceedings as it relates to a key aspect of the claim. The Respondent casts aspersions on the provenance of the 2000 December 14<sup>th</sup> Circular and it begs an answer. Is the rate applicable in the Circular the rate currently applied? As the Court is not inclined to striking out the document, the Court grants the Claimant a period of 21 days to avail either a report from the Directorate of Personnel Management, Office of the President or the relevant Ministry in charge of the docket that was held by retired PS Ongwae.
5. The Claimant's witness is thus stood down and the case will proceed before me on the Court circuit on 29<sup>th</sup> June 2026 at 9.00am as a part-heard. Should the Claimant file the additional evidence it can be indicated if a further witness will be required in which case there is leave hereby granted to the Claimant to avail a further witness statement within the 21 days granted.
6. The Respondent is granted leave to file any further evidence or additional statement upon service by the Claimant.

Hearing as indicated will be on 29<sup>th</sup> June 2026. The leave to the Respondent is 21 days upon service by the Claimant.

Orders accordingly.

**Dated and delivered at Kisii this 12<sup>th</sup> day of May 2026**

**Nzioki wa Makau, MCI Arb.  
JUDGE**

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