



REPUBLIC OF KENYA



KENYA LAW

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**Sasai & 8 others v Narok County Government & another (Cause
E050 of 2023) [2025] KEELRC 610 (KLR) (28 February 2025) (Judgment)**

Neutral citation: [2025] KEELRC 610 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E050 OF 2023
J RIKA, J
FEBRUARY 28, 2025**

BETWEEN

**JULIUS SASAI 1ST CLAIMANT
ELIZABETH LOLCHOKI 2ND CLAIMANT
EVERLINE KOYIAN 3RD CLAIMANT
JOSEPH KOILA 4TH CLAIMANT
GEORGE SUPEYO 5TH CLAIMANT
EZEKIEL RONOH 6TH CLAIMANT
CECILIA WAUPARI 7TH CLAIMANT
JOHANA CHERUYIOT 8TH CLAIMANT
FRED NTEKEREI 9TH CLAIMANT**

AND

**NAROK COUNTY GOVERNMENT 1ST RESPONDENT
NAROK COUNTY PUBLIC SERVICE BOARD 2ND RESPONDENT**

JUDGMENT

1. The Claimants filed their Statement of Claim dated 9th October 2023.
2. There was no appearance entered, and no response filed, on the part of the Respondents.
3. On 18th December 2023, the Claimants' Advocate, accompanied by an Advocate for the Respondents Allan Lungate, informed the Court that they were negotiating settlement out of Court.



4. On 15th February 2024, the Advocate for the Claimants, appeared alone before the Court. He informed the Court that the Respondents had paid a certain sum of money to the Claimants. The amount was not specified to the Court.
5. Subsequently the Claim was mentioned before the Court severally. There was no order on settlement, and no response filed by the Respondents. The Claim was fixed for formal proof on 20th November 2024.
6. The 4th Claimant, Joseph Koila gave evidence for the Claimants. The Claimants plead, and it is their evidence that, they were employed as members of the county executive committee of the 1st Respondent, on 11th December 2017.
7. They have exhibited a gazette notice number 9525, dated 22nd September 2017, signed by the 1st Respondent's Governor Samuel K. Tanui, notifying the general public that some of the Claimants, had been nominated to serve in various positions in the 1st Respondent.
8. They exhibit an executive order number 5, dated 20th December 2019, on the structure of the county executive members and chief officers, 2019, signed by the Governor. Some of the Claimants are named in the executive order, as chief officers.
9. They also exhibit various 5-year term contracts, issued upon them at the outset, defining the terms and conditions of their service.
10. They state that they were employed for a term of 5 years. Their respective terms ended in August 2022, with the general elections.
11. They earned a monthly salary of Kshs. 242,550 each. They claim that they were entitled to gratuity under the contract, and certificates of service. The Respondents did not pay them gratuity, or release their certificates of service.
12. They state that gratuity is payable at the rate of 31% of the basic salary, over a period of 5 years, based on a monthly salary of Kshs. 242,550. Each Claimant seeks gratuity at a total amount of Kshs. 4,511,430.
13. They seek orders for release of their certificates of service, costs and interest at court rate.
14. Hearing closed on 30th November 2024. Mr. Stanley Dikirr for the Claimants, informed the Court that certificates of service have since issued. He indicated that he did not wish to file closing submissions, relying entirely on the pleadings and evidence on record.
15. The issue that remains to be determined is whether the Claimants are entitled to gratuity as pleaded, costs and interest.

The Court Finds : -

16. The Claimants, except the 2nd Claimant Elizabeth Lolchoki, were appointed as executive committee members of the 1st Respondent. Executive order 5, issued by the Governor of the 1st Respondent, indicates that some of the Claimants were reassigned different roles as chief officers. The 8 Claimants had similar contracts.
17. Elizabeth was initially appointed as Economic Advisor to the Governor, in 2013. She was appointed the County Secretary, in 2018. Her contract, like those of her colleagues, expired in the year 2022. This is disclosed in her certificate of service, dated 16th December 2022. Her last salary is shown in September 2022 pay slip, at Kshs. 281, 250.



18. The Court has however not traced her contract, granting her gratuity.
19. The contracts executed by the rest of the Claimants, state: -

“You will be entitled to gratuity at the rate of 31% of the basic remuneration package, for the term served...”
20. Their pay slips show basic monthly salary at Kshs. 242,550. The basic annual salary was Kshs. 242,550 x 12 = Kshs. 2,910,600. In 5 years, each of the 8 Claimants earned 2,910,000 x 5= Kshs. 14,553,000.
21. 31% of Kshs. 14,553,000 is Kshs. 4,511,430. This claim is well-founded.
22. The Claimants, except Elizabeth [2] are granted gratuity at Kshs. 4,511,430 each.
23. The 2nd Claimant needs to give her own evidence, and exhibit clear documents, relating to her contract. Joseph Koila (4), who gave evidence for the Claimants, did not say much about Elizabeth, and her documents are not clear to the Court. Koila merely told the Court that Elizabeth, worked as Secretary, and that her terms were different. While Koila would be expected to recite the terms and conditions of employment of the 8 Claimants which were similar, it is unlikely that he would persuasively give evidence about the 2nd Claimant’s terms and conditions of service, the 2nd Claimant having been differently situated. The Court cannot dismiss or allow her Claim, without the benefit of hearing her evidence.

It is ordered : -

- a. The Claimants, except Claimant No. 2 Elizabeth Lolchoki, are granted gratuity at Kshs. 4, 511,430 each.
- b. Costs to the 8 Claimants.
- c. Interest allowed at court rates from the date of Judgment.
- d. The 2nd Claimant, Elizabeth Lolchoki, is granted leave to formally prove her Claim afresh, within the next 90 days, failing which her Claim stands dismissed.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, THIS 28TH DAY OF FEBRUARY 2025.

JAMES RIKA

JUDGE

