



**Kenya National Union of Nurses v Kiambu County Public Service Board & another
(Cause E895 of 2024) [2025] KEELRC 553 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 553 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E895 OF 2024
S RADIDO, J
FEBRUARY 27, 2025**

BETWEEN

KENYA NATIONAL UNION OF NURSES CLAIMANT

AND

KIAMBU COUNTY PUBLIC SERVICE BOARD 1ST RESPONDENT

COUNTY GOVERNMENT OF KIAMBU 2ND RESPONDENT

RULING

1. The Kenya National Union of Nurses (the Union) sued the County Public Service Board, Kiambu and the County Government of Kiambu (the Respondents) on 23 October 2024, alleging breach of contract and the law governing collective organisation.
2. Filed together with the Statement of Claim was a Motion seeking:
 - i. ...
 - ii. That the Honourable Court be pleased to issue an ex-parte interim order staying the implementation of the decision by the Respondents, assigns and/or agents to initiate disciplinary process by way of show-cause letters and any further steps pending the hearing and determination of this application.
 - iii. That the Honourable Court be pleased to issue an ex-parte interim order directing the Respondents to honour their part of the Return-to-Work Agreement as contained in clause three (3) of the same agreement pending the hearing and determination of this application.
 - iv. That after inter-partes hearing, the Honourable Court to issue an order directing the 1st Respondent to reimburse to all the members of the Claimant all amounts in form of penalties imposed on the members of the Claimant by financial institutions as a result of failure to remit all statutory deductions on time.



- v. That the Honourable Court be pleased to issue any other order it may deem fit and just to meet the ends of justice.
 - vi. That the costs of this application be in the cause.
3. The grounds in support of the Motion were that the Union had notified the Respondents through a letter dated 12 September 2024 of an intended withholding of labour due to non-payment or delay of salaries; that the Respondents issued show-cause notices dated 27 September 2024 to several employees, members of the Union accusing them of absence from duty without lawful cause or permission; that on 2 October 2024, the parties negotiated and agreed on a Return-To-Work Agreement on 2 October 2024 on condition August 2024 salaries were paid; that members of the Union resumed work but the Respondents did not honour the agreement to pay salaries for September 2024 and that the failure to pay the salaries had caused the Unions membership untold financial hardship.
 4. The Court gave directions on the Motion on 23 October 2024. At the same time, the Court stayed disciplinary proceedings against members of the Union pending further proceedings on 5 November 2024.
 5. The Legal Counsel to the Respondents filed a Notice of Appointment to come on record on 4 November Appointment 2024.
 6. The Respondents did not respond to the Motion.
 7. On 4 October 2024, the Kenya Union of Clinical Officers filed a Motion dated 31 October 2024, seeking to be joined to the proceedings (the Motion was withdrawn on 14 January 2025).
 8. When the Motion came up for an inter-partes hearing, the Respondents sought 7 days to file responses.
 9. The Court granted the Respondents time to file the responses. The Court directed the parties to appear in Court on 14 January 2025.
 10. However, on 11 December 2024, the Union filed a second Statement of Claim and Motion seeking orders staying the suspension of study leave for some members of the Union.
 11. The Court gave directions on the Statement of Claim and Motion on the same day with a return date of 16 December 2024.
 12. When the Motion was called out on 16 December 2024, the Respondents indicated that they were not ready to proceed.
 13. When the Court inquired from the Union on the competency of a second Statement of Claim in the same proceedings, the Union opted to withdraw the Statement of Claim and Motion.
 14. On 19 December 2024, the Union filed another Motion seeking orders:
 - i. ...
 - ii. That the Honourable Court be pleased to issue an ex-parte interim injunction order staying the implementation of the decision by the Respondents, assigns and/or agents via letters dated 8th November 2024 of suspending study leave for Miss Kimani Martha Njeri and Ms Wamathai Julia Wairimu or any other member of the Claimant and initiating any disciplinary process and any further steps on account of a strike that commenced on 19th September and ended on 2nd October 2024 pending the hearing and determination of this application/claim.



- iii. That this Honourable Court be pleased to issue an ex-parte interim order directing the Respondents to immediately reinstate the salaries and pay with arrears all withheld salaries of all the affected members of the Claimant pending the hearing and determination of this application/claim.
 - iv. That this Honourable Court be pleased to issue an ex-parte interim order directing the Respondents to resume deduction and remittance of union dues and pay the undeducted and unremitted dues for October and November amounting to 1,290,000/- and all accrued arrears from their own kitty pending the hearing and determination of this application/claim.
 - v. That after inter-partes hearing, this Honourable Court be pleased to issue an order directing the Respondents to reimburse to all the members of the Claimant all amounts in form of penalties imposed on the members of the Claimant by financial institutions as a result of failure to remit all the statutory deductions on time.
 - vi. That after inter-partes hearing, this Honourable Court be pleased to issue a declaratory order directing the Respondents to always engage in dialogue and follow due process before initiating any disciplinary action to the members of the Claimant.
 - vii. That the Court orders issued in this application/claim be incorporated into the main Claim dated 22nd October 2024.
 - viii. That the Honourable Court be pleased to issue any other order it may deem fit and just to meet the ends of justice.
 - ix. That the costs of this application be in the cause.
15. The grounds advanced by the Union in support of this Motion were that despite a Return-To-Work Agreement entered into between the parties on 2 October 2024, the Respondents had on 8 November 2024 suspended the study leave granted to Miss Wamaitha Julia Wairimu and Miss Kimani Martha Njeri allegedly because they were involved in unlawful strike and that the Respondent had stopped deduction of union dues for October 2024 and removed some employees from the payroll.
 16. The Court directed the Union to serve the Motion ahead of further proceedings on 14 January 2025.
 17. Despite service, the Respondents did not file a response to this Motion.
 18. On 14 January 2025, the Respondents though served and aware of the hearing did not appear (the Respondents had written to the Deputy Registrar on 21 December 2024, seeking a copy of the orders).
 19. The Court took a brief address from the Union and reserved Ruling to today.
 20. On 14 January 2025, the Union filed a third Motion, a motion seeking to cite for contempt, certain officers of the Respondent.
 21. The Court gave directions on the contempt Motion and directed that it will issue further directions on 27 February 2025.
 22. The Court has considered the Motions dated 22 October 2024 and 18 December 2024 and the brief address from the Union.

Motion dated 22 October 2024

23. The Respondent did not file any responses to rebut the facts as asserted by the Union in the Motion dated 22 October 2024. The facts remain uncontroverted and the Court can surmise that they are true.



24. In the Return-To-Work Agreement, the parties expressly consented that: Both parties undertake to enhance and maintain good industrial relations & continue to engage in utmost good faith.
25. The Union asserted that the Respondents did not keep their end of the Agreement to pay salaries. The assertion is not rebutted.
26. The Agreement provided that the parties would schedule a meeting to deal with impending welfare issues. There is nothing on record to show that the Respondents attempted to engage the Union in utmost good faith in respect of those welfare issues.
27. The Court however notes that prayers (ii) and (iii) in the Motion were transient in nature and were drafted not to extend beyond the ex-parte proceedings. In essence, the orders as drafted were overtaken by events after the conclusion of ex-parte proceedings.
28. The only substantive prayer in the Motion which survived the ex-parte stage is proposed order (iv) seeking an order directing the Respondents to reimburse the Union members penalties imposed by financial institutions for their failure to fulfil their contractual obligations with the institutions.
29. The order cannot be granted at an interlocutory stage as the claim requires prove to the required standard during the hearing on the merits.

Motion dated 18 December 2024

30. Through this Motion, the Union was seeking orders injuncting suspension of study leave of some of its members, reinstating withheld salaries and resumption of deduction and remitting of union dues.
31. Some of the issues raised in this Motion arose after the Union had moved the Court on 23 October 2024. Until the Union amends its pleadings, the Court risks granting orders outside the primary pleadings.
32. The *Labour Relations Act* contemplates conciliation where the social partners have a dispute. Such alternative dispute-resolution avenues are also included in many recognition agreements between employers and trade unions.
33. Before concluding, the Court must caution the Union against the filing of multiple applications even before previous applications have been ventilated. Such conduct will only serve to obfuscate the proportionate determination of its cause and clog the Court's docket.

Orders

34. Flowing from the above, the Court makes the following orders:
 - i. The Union to amend its Statement of Claim within 10 days of today to incorporate alleged legal wrongs accruing after 22 October 2024.
 - ii. The Respondents to file and serve Responses to the Amended Statement of Claim within 15 days of service.
 - iii. The County Labour Officer, Kiambu to conciliate the dispute herein and file a report with the Court within 60 days of today.
 - iv. The Respondents to continue deducting and remitting to the Union monthly union dues.
35. The Court will give further directions on 5 May 2025.
36. Costs in the cause.



DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 27TH DAY OF FEBRUARY 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Mr Ruteere, Industrial Relations Officer

For Respondents Mr Cheserek, Legal Counsel, Office of the County Attorney

Court Assistant Wangu

3| 14 Page Nairobi Cause No. E895 of 2024

