



**Wanyoike v County Government of Laikipia & another (Employment and Labour Relations Cause E030 of 2023) [2025] KEELRC 449 (KLR) (20 February 2025) (Judgment)**

Neutral citation: [2025] KEELRC 449 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE E030 OF 2023  
ON MAKAU, J  
FEBRUARY 20, 2025**

**BETWEEN**

**MOSES MWAURA WANYOIKE ..... CLAIMANT**

**AND**

**COUNTY GOVERNMENT OF LAIKIPIA ..... 1<sup>ST</sup> RESPONDENT**

**COUNTY PUBLIC SERVICE BOARD OF LAIKIPIA ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. The claimant filed this suit challenging his removal from his office as a member of the County Public Service Board in the 2<sup>nd</sup> Respondent. His name had been removed from payroll and he was no longer being invited to the Board meetings. His position was also advertised. He therefore faulted the said actions by the respondents because his six-year term was cut short without the due process of law.
2. The respondents admitted that they removed the claimant from the payroll and advertised vacancy for member of the Board. They averred that the said actions were taken after the claimant tendered his resignation.
3. The suit was settled by a consent in which the parties agreed to have the claimant reinstated to the payroll and to continue serving until the end of his term of 6 years. However, the parties differed on the issue of costs of the suit, which they left to the court to determine.
4. I have considered the written submissions filed by both sides. The issue for determination is whether or not the claimant should be awarded costs of the suit. It is trite law that award of costs of a suit is at the discretion of the court. Such discretion is exercisable upon certain factors including:
  - a. Whether the suit is frivolous.
  - b. Whether the suit proceeded to full hearing.



5. In this case, the claimant submitted that the respondent had removed him from office and were it not for filing of the suit, his employment would have been unlawfully lost. Consequently, he submitted that he is entitled to an award of costs.
6. The respondent on the other hand, maintained that the removal of the claimant from payroll and advertisement of vacancy in the Board was necessitated by his resignation. They contended that since the suit was compromised, no one should be condemned to pay costs.
7. Having considered the facts of the case, it is clear that the consent settlement essentially went the way of the claimant's case. He succeeded in getting reinstated without loss of emoluments, and further to serve his whole term. In the circumstances, I find that his case succeeded and as such costs should follow the events.
8. The facts of this case differ from those in the case of Mike Mbuvi Sonko v Clerk, County Assembly of Nairobi city & others which involved withdrawal of an appeal in the Supreme Court before the respondents filed their responses. In this case, the parties filed pleadings and continued litigating from October 2023 until September 2024 when a consent settlement was recorded in favour of the claimant. Therefore, the claimant's suit was not frivolous, it went on for a year and he was forced to incur costs to fight for his employment.
9. Having considered all the facts of the case, I award him costs of the suit plus interest at court rates from the date of filing the suit.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 20TH DAY OF FEBRUARY, 2025.**

**ONESMUS N MAKAU**

**JUDGE**

**Order**

This Judgment has been delivered to the parties via Teams video conferencing with their consent, having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

**ONESMUS N MAKAU**

**JUDGE**

