



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Laban v Machakos County Assembly Service Board & 2 others (Petition
E004 of 2023) [2025] KEELRC 1160 (KLR) (24 April 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1160 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS
PETITION E004 OF 2023**

BOM MANANI, J

APRIL 24, 2025

**IN THE MATTER OF ARTICLES 2, 3, 10, 41, 47, 174, 179,
185, 224, 226 AND 236 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF RIGHT TO A FAIR ADMINISTRATIVE
ACTION AND A FAIR HEARING PROVIDED UNDER
ARTICLES 47 AND 50 OF THE CONSTITUTION OF KENYA**

AND

**IN THE MATTER OF SECTION 13 OF THE COUNTY
GOVERNMENTS ACT, 2012 AND THE RIGHT TO FAIR LABOUR
PRACTISES UNDER ARTICLE 41 OF THE CONSTITUTION**

**IN THE MATTER OF THE UNFAIR, UNPROCEDURAL AND
UNLAWFUL PROCESS OF REMOVAL FROM THE OFFICE OF
THE CLERK OF THE COUNTY ASSEMBLY OF MACHAKOS**

BETWEEN

JOSEPH MUTISYA LABAN PETITIONER

AND

MACHAKOS COUNTY ASSEMBLY SERVICE BOARD 1ST RESPONDENT

THE COUNTY ASSEMBLY OF MACHAKOS 2ND RESPONDENT

THE SPEAKER, COUNTY ASSEMBLY OF MACHAKOS 3RD RESPONDENT



RULING

Background

1. The Petitioner has sued the three Respondents challenging their decision to suspend and remove him from his position as the Clerk of the County Assembly of Machakos. It is his case that the decision disregarded *the Constitution*, applicable law and Standing Orders. As such, he seeks orders of the court to, inter alia, reverse the impugned decision and reinstate him to the position of Clerk, County Assembly of Machakos.
2. The Respondents have opposed the Petition. They contend that the Petitioner was lawfully removed from office. As such, they pray that the Petition be dismissed.
3. At paragraph 21 of the 2nd and 3rd Respondents' reply to the Petition, they contend that the Petition was filed prematurely before the Petitioner had exhausted the dispute resolution mechanisms provided in law. According to them, if the Petitioner wished to challenge the 1st Respondent's decision to suspend and remove him from office, he ought to have filed an appeal to the Public Service Commission. As such, they contend that the Petition offends the doctrine of exhaustion of alternative remedies.
4. Together with the reply to the Petition, the 2nd and 3rd Respondents filed a Notice of Preliminary Objection dated 20th January 2025. In the notice, they raise the following objections to the legitimacy of the Petition:-
 - a. They contend that the court lacks jurisdiction to entertain the Petition in the first instance in view of section 77 of the *County Governments Act* which requires an officer of the County Government who is aggrieved by a decision which affects his or her employment to appeal to the Public Service Commission.
 - b. They challenge the court's jurisdiction to hear and determine the Petition in the face of sections 85(c) and 87(2) of the *Public Service Commission Act* as read with regulations 10(1) (2) and (3) of the Public Service Commission (County Government Public Service Appeals Procedure) Regulations, 2022 which obligate an officer in the county public service who is aggrieved by a decision which affects his or her employment to appeal to the Public Service Commission.
 - c. They contend that the Petition offends the doctrine of constitutional avoidance.
 - d. They contend that the Petition is irregular, misconceived, defective and an abuse of the court process.
5. The Petitioner has opposed the preliminary objection on two principal grounds as can be discerned from the submissions filed by his advocates. These are:-
 - a. That because his case seeks to challenge the constitutionality and legality of the Respondents' decision to suspend and remove him from office, the most suited forum to hear his case is the court and not the Public Service Commission.
 - b. That he is not a County public service officer but an officer in the service of the County Assembly. Therefore, the law which requires County public service officers who are aggrieved by decisions that affect their employment to appeal to the Public Service Commission does not apply to him.



Analysis

6. The Petitioner's contention that the Public Service Commission cannot handle his case because it challenges the legality and constitutionality of the Respondents' decision is unmerited. Both the Court of Appeal and the Supreme Court have held that the mere fact that a dispute which is meant to be adjudicated by a quasi-judicial body raises a constitutional question does not justify side stepping the quasi-judicial body in order to approach the court with the matter. The two courts have emphasized that such body is mandated to consider the constitutional issues that are raised in the matter.
7. Relying on the Supreme Court case of *Communication Commission of Kenya & 5 Others –v- Royal Media Services Limited & 5 Others* (Petition No. 14 as consolidated with Petition Nos. 14 A, 14 B and 14 C), the Court of Appeal in the case of *Albert Chaurembo Mumba & 7 Others v Maurice M. Munyao & 148 Others* [2016] eKLR observed on the subject as follows:-

“ Article 20 (4) [of *the Constitution* 2010] provides that in interpreting the Bill of Rights, a court, tribunal or other authority shall inter alia promote the spirit, purport and objects of the Bill of Rights. The inference from this provision is that there is no exclusive jurisdiction vested upon the High Court to interpret the Bill of Rights - a tribunal can interpret the Bill of Rights.....

.....it is our considered view that the respondents' contention that neither the CEO of RBA nor the RBA Appeals Tribunal could hear and determine questions relating to violation of constitutional rights enshrined in the Bill of Rights has no merit. The Retirement Benefits Authority Act does not preclude parties from raising constitutional issues touching on their complaint.....

.....under Article 3 of *the Constitution*, every person has an obligation to respect, uphold and defend *the Constitution* while Article 10 (1) provides that national values and principles of governance bind all public officers whenever they interpret *the Constitution* or make public policy decisions. The CEO of RBA and the Appeals Tribunal are public officers and or state organs and are bound to implement *the Constitution*. We are of the considered view that the jurisdiction of the High Court and or the Employment and Labour Relations Court to hear and determine the present dispute between the parties cannot be premised on the contention that the respondents' claim raises issues of violation of the constitutional right to property and consequently the CEO and Appeals Tribunal have no jurisdiction to consider constitutional violation of rights. It is our view that violation of constitutional rights can be raised in any forum that is competent to hear and determine a dispute between parties and such forum is bound by *the Constitution* in its interpretation and application of constitutional provisions and individual rights.”

8. The foregoing answers the Petitioner's advocates suggestion that merely because the Petitioner's case raises questions relating to possible infringement of various statutes and *the Constitution*, the Public Service Commission is not suited to determine the matter. It is apparent from the decision that the Public Service Commission is entitled to inquire into the alleged breaches of *the Constitution* and statute raised by the Petitioner.
9. In order to contextualize the provisions referred to by the 2nd and 3rd Respondents in their preliminary objection, it is best if some of them are reproduced verbatim in this decision. This will enable ease of reference to them. In addition to the foresaid provisions, I will highlight other provisions which are relevant to this discourse.



10. Article 234 of *the Constitution* 2010 speaks to the functions of the Public Service Commission. Article 234(2)(i) thereof provides that “the Commission shall hear and determine appeals in respect of county governments’ public service.”

11. Section 77 of the *County Governments Act* provides as follows:-

“Appeals to the Public Service Commission

1. Any person dissatisfied or affected by a decision made by the County Public Service Board or a person in exercise or purported exercise of disciplinary control against any county public officer may appeal to the Public Service Commission (in this Part referred to as the "Commission") against the decision.
2. The Commission shall entertain appeals on any decision relating to employment of a person in a county government including a decision in respect of:-
 - a. recruitment, selection, appointment and qualifications attached to any office;
 - b. remuneration and terms and conditions of service;
 - c. disciplinary control;
 - d. national values and principles of governance, under Article 10, and, values and principles of public service under Article 232 of *the Constitution*;
 - e. retirement and other removal from service;
 - f. pension benefits, gratuity and any other terminal benefits; or
 - g. any other decision the Commission considers to fall within its constitutional competence to hear and determine on appeal in that regard.
3. An appeal under subsection (1) shall be in writing and made within ninety days after the date of the decision, but the Commission may entertain an appeal later if, in the opinion of the Commission, the circumstances warrant it.
4. The Commission shall not entertain an appeal more than once in respect to the same decision.
5. Any person dissatisfied or affected by a decision made by the Commission on appeal in a decision made in a disciplinary case may apply for review and the Commission may admit the application if:-
 - a. the Commission is satisfied that there appear in the application new and material facts which might have affected its earlier decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given; or
 - b. there is an error apparent on record of either decision.



6. An application for review under subsection (5) shall be in writing and made within the time prescribed by the Commission in regulations governing disciplinary proceedings, but the commission may entertain an application for review later if, in the opinion of the Commission, the circumstances warrant it.”
12. Section 85 (c) of the *Public Service Commission Act* provides as follows:-

“The Commission shall, in order to discharge its mandate under Article 234(2)(i) of *the Constitution*, hear and determine appeals in respect of any decision relating to engagement of any person in a County Government, including a decision in respect of disciplinary control.”
13. Section 87(2) of the aforesaid Act provides as follows:-

“ A person shall not file any legal proceedings in any Court of law with respect to matters within the jurisdiction of the Commission to hear and determine appeals from county government public service unless the procedure provided for under this Part has been exhausted.”
14. Section 9 of the *Fair Administrative Action Act* provides as follows:-
 - “ 1. Subject to subsection (2), a person who is aggrieved by an administrative action may, without unreasonable delay, apply for judicial review of any administrative action to the High Court or to a subordinate court upon which original jurisdiction is conferred pursuant to Article 22(3) of *the Constitution*.
 2. The High Court or a subordinate court under subsection (1) shall not review an administrative action or decision under this Act unless the mechanisms including internal mechanisms for appeal or review and all remedies available under any other written law are first exhausted.
 3. The High Court or a subordinate Court shall, if it is not satisfied that the remedies referred to in subsection (2) have been exhausted, direct that applicant shall first exhaust such remedy before instituting proceedings under subsection (1).
 4. Notwithstanding subsection (3), the High Court or a subordinate Court may, in exceptional circumstances and on application by the applicant, exempt such person from the obligation to exhaust any remedy if the court considers such exemption to be in the interest of justice.”
15. The above provisions speak to several matters. These include:-
 - a. The power of the Public Service Commission to hear and determine appeals from decisions affecting the employment of persons in the County public service.
 - b. The obligation on employees in the County public service who are aggrieved by decisions affecting their employment to first appeal against such decisions to the Public Service Commission.
 - c. The statutory bar on employees in the County public service from approaching the court as the first port of call in respect of grievances arising from their employment.
 - d. The duty on the court not to review decisions by administrative and quasi-judicial bodies unless it is satisfied that the parties who have approached it (the court) have exhausted the existing alternative dispute resolution procedures.



16. The court, if satisfied that the available alternative dispute resolution procedures have not been exhausted, is authorized to refer the dispute to the relevant body for redress. It is only after this process has been completed that the matter may find its way back to court.
17. That said, the law recognizes that not all disputes are suitable for resolution through alternative dispute resolution mechanisms. As such, the court is permitted to admit some disputes for adjudication notwithstanding that the parties have not submitted to the existing alternative dispute resolution procedures.
18. One such scenario where courts have done so is with respect to requests for interim reliefs which are intended to preserve the status quo pending resolution of a dispute. It is generally acknowledged that most quasi-judicial bodies lack the mandate to issue interim reliefs such as injunctions and conservatory orders. As such, courts have often intervened to fill the lacuna by allowing parties who are required to submit to alternative dispute resolution processes before approaching them (the courts) to nevertheless file matters directly before them (the courts) in pursuit of the aforesaid interim reliefs.
19. The above approach has since received regulatory backing in some instances. For example, rule 56 (5) of the Employment and Labour Relations Court (Procedure) Rules, 2024 provides as follows:-
 - “Where *the Constitution*, a written law, collective bargaining agreement, contract of service, policy, or other instrument provides for alternative dispute resolution mechanisms:-
 - a) a person being party to a dispute may file a suit and seek appropriate interlocutory relief pending exhaustion of such alternative dispute resolution mechanisms or pending determination of the suit;
 - b) want of exhaustion of such alternative dispute resolution mechanisms shall not operate as a bar to a suit for application for interim orders or alleging unconstitutionality or unlawfulness of the action, omission, decision or other matter in dispute pending such exhaustion; and
 - c) a suit filed prior to exhaustion of such alternative dispute resolution mechanisms may be stayed and not struck out on account of such exhaustion.”
20. The foregoing raises the question whether the presence of alternative mechanisms for resolving a dispute has the effect of ousting or merely postponing the jurisdiction of a court of law over the dispute. In my view, the fact that the law provides for alternative procedures to settle a dispute does not oust the jurisdiction of the court to entertain the dispute. It only postpones this jurisdiction (*Mohumed v Wajir County Assembly Service Board (Cause E094 of 2023) [2024] KEELRC 1813 (KLR) (8 July 2024) (Judgment)*).
21. If the contrary was the case, courts will not be able to intervene in such disputes whenever it becomes apparent that the alternative dispute resolution mechanisms available are incapable of providing an effective remedy to the parties. It is for this reason that rule 56 (5) of the Employment and Labour Relations Court (Procedure) Rules, 2024 recognizes that a court may entertain a matter which is meant to be the subject of alternative dispute resolution when it becomes apparent that either of the parties to the dispute may be in need of interim conservatory or injunctive orders.
22. Since the exhaustion doctrine does not oust the jurisdiction of a court to hear a matter, a party who wishes to have a matter which is pending in court processed through the available alternative dispute resolution procedures should ordinarily raise this matter at the earliest opportunity preferably before the hearing of the dispute has commenced. Otherwise, he will be deemed to have acquiesced to the



court's jurisdiction to determine the dispute and may not be permitted to raise the matter at the tail end of the trial process.

23. In my view, the obligation to take advantage of the available alternative dispute resolution procedures lies primarily with the parties, not the court. This is because courts do not move *suo moto*. As such, they are entitled to proceed with a matter where they have the residuary jurisdiction to hear it unless the parties have expressed the desire to process the dispute through the available alternative dispute resolution mechanisms.
24. The Petitioner contends that he was not a County public officer. He contends that since he was employed by the County Assembly Service Board, he did not fall in the category of County personnel who are described as County public officers. Rather, he believes that he was an officer in the County Assembly service of the 2nd Respondent. As such, he contends that section 77 of the [County Governments Act](#) and sections 85, 86 and 87 of the [Public Service Commission Act](#) which provide for appeals to the Public Service Commission do not apply to him.
25. The Petitioner contends that County Governments have two distinct human resource institutions: the County Public Service Board and the County Assembly Service Board. He contends that only the personnel hired by the County Public Service Board constitute what is described as County public officers whose employment grievances are amenable to the appeal mechanism to the Public Service Commission.
26. The issue raised by the Petitioner is a matter which this court has had occasion to consider and pronounce itself on (see *Mohumed v Wajir County Assembly Service Board (Cause E094 of 2023)* [2024] KEELRC 1813 (KLR) (8 July 2024) (Judgment)). With respect, I do not agree with the views expressed by the Petitioner for the reasons that I will set out in the following paragraphs of this decision.
27. First, it is inaccurate for the Petitioner to suggest that section 77 of the [County Governments Act](#) only speaks to appeals from decisions by the County Public Service Board. The provision requires any person who is dissatisfied or affected by a decision made by either the County Public Service Board or a person in exercise or purported exercise of disciplinary control against any County public officer to appeal to the Public Service Commission. As such, the decision that may trigger such appeal to the Public Service Commission may have been rendered by the County Public Service Board or by any other person purporting to exercise disciplinary control over a County public officer. In my view, this includes decisions by the County Assembly Service Board.
28. In commenting on this matter in the above decision of *Mohumed v Wajir County Assembly Service Board (Cause E094 of 2023)* [2024] KEELRC 1813 (KLR) (8 July 2024) (Judgment), the court observed as follows:-

“... this provision requires appeals emanating from decisions made by any agency in purported exercise of disciplinary control over any county public officer to be presented to the Public Service Commission. This includes decision by individuals and agencies who are not the County Public Service Board.”
29. In order to determine whether employees of a County Assembly form part of the County public service, the starting point should be the definition of the terms “County public service” and “County public officer”. Section 2 (c) of the [County Governments Act](#) defines the term “County public service” to mean the collectivity of individuals performing functions within any department of the County Government or its agency, but does not include the Governor, deputy Governor, members of the County Executive Committee and the members of the County Assembly. It further defines the term “County public officer” to mean any person appointed by the County Government and holding or



acting in any County public office whether paid, unpaid, or on contractual or permanent terms but does not include a person engaged on a part-time basis in a County public body paid at an hourly or daily rate. As such, any person serving in a County Government other than the Governor, deputy Governor, member of the County Executive Committee, member of the County Assembly and a part-time employee constitutes part of the County public service irrespective of whether he is engaged to serve in the County Executive or Assembly.

30. The Petitioner's position of County Clerk does not place him in any of the excluded offices or positions in the definition of County public service and County public officer. As such, he was part of the County public service.
31. The foregoing was as well addressed in the case of *Mohumed v Wajir County Assembly Service Board (Cause E094 of 2023)* [2024] KEELRC 1813 (KLR) (8 July 2024) (Judgment) where the court observed as follows:-

“It is noteworthy that the section deals with decisions against “any county public officer.” Under section 2 of the Act, the term “County Public Officer” means any person appointed by the County Government and holding or acting in any county public office whether paid, unpaid, or on contractual or permanent terms but does not include a person engaged on a part-time basis in a county public body paid at an hourly or daily rate. The same provision defines the term “County Government” to mean a County Government as provided under Article 176 of *the Constitution*. And article 176 of *the Constitution* defines the term “County Government” as connoting a County Assembly and a County Executive. Undoubtedly therefore, the term “County Public Officer” in section 77 of the Act covers employees serving both in the County Assembly and County Executive.”

32. To erase any doubt whether section 77 of the *County Governments Act* covers all County Government public service save for the officers that are excluded as specified above, one needs to read the said section together with section 85 of the *Public Service Commission Act* which addresses the same issue. The latter section empowers the Commission to hear and determine appeals in respect of any decision relating to engagement of any person in a County Government. As such, the contention that the Commission is only entitled to entertain appeals from employees of the County Executive is misconceived.
33. Article 234 (2) (i) of *the Constitution* read together with the *Public Service Commission Act* further clarifies the misconception expressed by the Petitioner. This provision of *the Constitution* empowers the Public Service Commission to hear appeals from County Government's public service. Section 2 of the *Public Service Commission Act* defines the term “County Government” to mean County Government as defined under article 176 of *the Constitution*, that is to say, the constitutional entity which comprises of a County Assembly and a County Executive. On the other hand, the section defines the term “public service” to mean public service as defined under article 260 of *the Constitution*. Under the aforesaid article of *the Constitution*, the term “public service” connotes the collectivity of all individuals, other than state officers, performing a function within a state organ. A state organ includes the legislative arm of government.
34. The Petitioner was an employee of the 2nd Respondent serving in the position of County Assembly Clerk until the Respondents allegedly illegally removed him from office. In that position, he was neither a state officer as defined under article 260 of *the Constitution* nor a Governor, Deputy Governor, member of the County Executive or County Assembly or a part-time employee of the 2nd Respondent. Therefore and for all purposes and intents, he was part of the County public service.



35. The Petitioner has relied on two cases of *James Omariba Nyaoga v Chairman, County Assembly Service Board & another*; *County Assembly Service Board (Interested Party) [2021] eKLR* and *John Mwivithi Mutie v Speaker Kiambu County Assembly & 2 others*; *County Secretary Kiambu County Government & another (Interested Parties) [2022] eKLR* by this court (differently constituted) to argue that he is excluded from the County public service. It is correct as the learned Judges observed in the decisions that County Assemblies are meant to be constitutionally distinct from County Executives in furtherance of the principle of separation of powers. However, this principle ought to be understood in the context of the principal officers serving in the two arms of County Governments to wit, the Governor, deputy Governor and members of the County Executive on the one hand and members of the County Assembly on the other hand.
36. All other officers who serve in the two arms of County Government and who do not hold any of the above positions comprise the County public service. As such, they are amenable to the appeal process which vests in the Public Service Commission.
37. Although the County Assembly Service Board and the County Public Service Board play distinct roles of hiring personnel for the two distinct arms of a County Government, this does not mean that the persons who are so hired fall under two distinct categories of County public servants. If the definitions I have alluded to earlier in this decision are to offer any guidance on the matter, these officers, by dint of being part of the collectivity of all individuals, other than State officers, who perform functions within State organs, fall in the general pool of public service. And personnel in the County Governments who fall in this category of public servants are amenable to the appeal mechanism under section 77 of the [County Governments Act](#) as read with sections 85 to 87 of the [Public Service Commission Act](#).
38. Having regard to the foregoing, the Petitioner ought to have presented the grievance regarding his alleged unlawful suspension and removal from office to the Public Service Commission in the form of an appeal against the decision. As the record demonstrates, he did not. Instead, he moved directly to court to challenge the decision.
39. However, in view of rule 56 (5) of the Employment and Labour Relations Court (Procedure) Rules, 2024, it cannot be said that the decision by the Petitioner to directly approach the court was irregular. As the record shows, he approached the court for interim conservatory orders to stay the Respondents' decision to suspend him from duty pending determination of the Petition. This appears to be permissible under the aforesaid rule.
40. That said, the Respondents have filed the present objection to express their position that the matter should nevertheless be processed through the existing alternative dispute resolution procedures. As indicated earlier, where parties to a dispute have not waived their right to have the matter processed through the available alternative dispute resolution mechanisms, the court ought to accede to the edict that the case be processed through the existing alternative dispute resolution processes. Indeed, a keen reading of rule 56 (5) of the Employment and Labour Relations Court (Procedure) Rules, 2024 makes it plain that where the law provides for alternative mechanisms for resolving a dispute, the court should only intervene in the dispute for purposes of considering applications for interim injunctive or conservatory reliefs. Unless the parties have waived the right to process the dispute through the available alternative dispute resolution avenues by submitting to the court's jurisdiction, it (the court), after determining the request for interim reliefs, ought to stay the matter and refer it to the relevant alternative dispute resolution forum.
41. The Respondents having expressed their election to pursue resolution of the instant dispute through alternative channels established by law, this court must accede to the demand to have the dispute



determined by the Public Service Commission. As such, the Petition has to be stayed and referred to the Public Service Commission.

42. The court's responsibility to give way for alternative dispute resolution processes stems from *the Constitution*. By virtue of article 159 (2) (c) of *the Constitution*, courts of law have an obligation to promote alternative dispute resolution processes.
43. Both the Court of Appeal and the Supreme Court have underscored the importance of deference to existing alternative dispute resolution processes. Unless parties to a dispute have waived the right to have it (the dispute) resolved through the existing alternative dispute resolution mechanisms, it is generally desirable that a court of law should allow the dispute to be processed through these mechanisms.
44. In the recent decision of *Wajir Wasco Limited alias Wajir Water & Sewerage Company & another v Mohamed & 2 others* (Civil Appeal E396 of 2023) [2024] KECA 937 (KLR) (2 August 2024) (Judgment), the Court of Appeal underscored the necessity of parties to exhaust the available alternative dispute resolution processes before approaching a court of law with the same dispute. Referring to section 77 of the *County Governments Act* and sections 85, 86 and 88 of the *Public Service Commission Act*, the court stated that persons serving in the County public service have a statutory obligation to present grievances arising from their contracts of service to the Public Service Commission before they can approach courts of law.
45. In the case of *Mumba & 7 others* (Sued on their own behalf and on behalf of predecessors and or successors in title in their capacities as the Registered Trustees of Kenya Ports Authority Pensions Scheme) v *Munyao & 148 others* (Suing on their own behalf and on behalf of the Plaintiffs and other Members/Beneficiaries of the Kenya Ports Authority Pensions Scheme) (Petition 3 of 2016) [2019] KESC 83 (KLR) (8 November 2019) (Judgment), the Supreme Court restated the foregoing position when it expressed itself on the matter as follows:-

“...where there exists an alternative method of dispute resolution established by legislation, the Courts must exercise restraint in exercising their Jurisdiction conferred by *the constitution* and must give deference to the dispute resolution bodies established by statutes with the mandate to deal with such specific disputes in the first instance.”

46. Apart from the question of jurisdiction, the 2nd and 3rd Respondents have also raised the issue of constitutional avoidance. However, since the first question on jurisdiction is likely to determine the matter, the court will not address the question of constitutional avoidance.

Determination

47. Having regard to the foregoing, I find that the instant dispute ought to be adjudicated by the Public Service Commission in the first instance.
48. As such and in view of rule 56 (5) of the Employment and Labour Relations Court (Procedure) Rules, 2024, I hereby issue an order remitting the matter to the Public Service Commission for determination.
49. In the interim, I issue an order staying further hearing of the Petition by this court.
50. I make no order as to costs in the interim.

DATED, SIGNED AND DELIVERED ON THE 24TH DAY OF APRIL, 2025

B. O. M. MANANI

JUDGE



In the presence of:

..... for the Petitioner

..... for the 1st Respondent

..... for the 2nd and 3rd Respondents

Order

In light of the directions issued on 12th July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties 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.

B. O. M MANANI

