



**Republic v Public Service Commission & another; Kirinyaga County Government (Exparte Applicant) (Judicial Review E001 of 2022) [2025] KEELRC 1485 (KLR) (22 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1485 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI  
JUDICIAL REVIEW E001 OF 2022  
ON MAKAU, J  
MAY 22, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**PUBLIC SERVICE COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**KENYA NATIONAL UNION OF NURSES ON BEHALF OF JUDITH GATHONI  
MWANGI AND 187 OTHERS ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**KIRINYAGA COUNTY GOVERNMENT ..... EXPARTE APPLICANT**

**RULING**

1. The ex-parte’s motion dated 22<sup>nd</sup> November 2024 seeks the following orders:
  - a. Spent.
  - b. spent.
  - c. That this Honourable Court be pleased to cite the 2<sup>nd</sup> Respondent and its officials Seth Panyako, the General Secretary, Stephen Ruteere, The National Executive Committee member, Agnes Munderu, the National Treasurer and Henry Adolwa, the chief trustee for contempt of the orders issued by this Honourable Court on 27<sup>th</sup> April 2023 and further to order that they be committed to civil jail for a term not exceeding 6 months.
  - d. That the costs of the application be provided for.
2. The Application is grounded on the Affidavit sworn on 22<sup>nd</sup> November 2024 by the Applicant’s Chairperson Dr. Teddy Muchiri and it is opposed by the 2<sup>nd</sup> Respondent vide a Replying Affidavit sworn on 28<sup>th</sup> November 2024 by its General Secretary Mr. Seth Panyako.



3. The applicant's case is that this court quashed the decision of the 1<sup>st</sup> respondent on 27<sup>th</sup> April 2023 and prohibited the 2<sup>nd</sup> respondent from enforcing the said decision or occupying the applicant's premises. It is further applicant's case that 2<sup>nd</sup> respondent has disregarded the said express orders of the court and are now proceeding to prosecute the application dated 24<sup>th</sup> May 2021 in ELRC Misc. Application No 1 of 2021, which seeks enforcement of the 1<sup>st</sup> respondent's decision of 3<sup>rd</sup> March 2021. It is the applicant's contention that the court barred the 2<sup>nd</sup> respondent from enforcing the said decision and therefore by purporting to prosecute the said Misc. Application No 1 of 2021 the 2<sup>nd</sup> respondent is in contempt of court with respect to the prohibition orders in this file.
4. The 2<sup>nd</sup> respondent's case on the other hand is that the Application is an afterthought, incompetent, lacking in substance, unnecessary, scandalous, defective, bad in law and an abuse of court process. According to the 2<sup>nd</sup> respondent, the impugned Misc. Application sought the adoption and enforcement of the 1<sup>st</sup> respondent's decision of 3/3/2021 whereas the court quashed the 1<sup>st</sup> respondent's decision of 13<sup>th</sup> October 2021. Further that, stay of proceedings is misplaced since the Court pronounced itself on the said Misc. Application vide its ruling delivered on 26<sup>th</sup> July 2024 and became functus officio. Consequently, the 2<sup>nd</sup> respondent contends that the application herein is a delaying tactic by the Applicant intended to evade implementation of the judgment entered on 26<sup>th</sup> July 2024.
5. Finally, the 2<sup>nd</sup> respondent avers that the allegation that the Applicant has replaced the 188 employees is unfounded as the current employees are on contract terms and can be exited at the expiry of the term to pave way for the Respondent's members. As such, he seeks that the application be dismissed with costs.
6. The application was canvassed by written submissions. I have carefully considered the application, affidavits and the written submissions, the only issues for determination is whether the application has merits.
7. I have no doubt that Misc. Application No.1 of 2021 was heard and judgment entered on 26<sup>th</sup> July 2024 which essentially adopted the decision of the 1<sup>st</sup> respondent of 3<sup>rd</sup> march 2021. It follows that the instant motion is overtaken by events in as far as it seeks to stop the 2<sup>nd</sup> respondent from prosecuting the said Misc. Application.
8. Besides, the proceedings in Misc. Application No. 1 of 2021 dealt with the 1<sup>st</sup> respondent's decision of 3<sup>rd</sup> March 2021 which was never challenged by the applicant herein. As correctly stated by the 2<sup>nd</sup> respondent, the Judicial Review application herein challenged the decision of the 1<sup>st</sup> respondent dated 13<sup>th</sup> October 2021. As far as this court is concerned, it has fully exercised its mandate under section 89(1) of the *Public Service Commission Act* in Misc. Application No.1 of 2021. The court has also rendered its judgment in this Judicial Review suit and the parties know where to go after the judgments.
9. In view of the foregoing matters, I find that the contempt proceedings against the 2<sup>nd</sup> respondent are not well founded and must fail. Consequently, the Notice of Motion dated 22<sup>nd</sup> November 2024, is dismissed with costs.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 22<sup>ND</sup> DAY OF MAY, 2025.**

**ONESMUS N MAKAU**

**JUDGE**

**ORDER**



This ruling 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**

