



KUDHEIHA Workers Union v Board of Management Njogu-ini Secondary School (Employment and Labour Relations Cause E024 of 2024) [2025] KEELRC 1330 (KLR) (9 May 2025) (Judgment)

Neutral citation: [2025] KEELRC 1330 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E024 OF 2024**

ON MAKAU, J

MAY 9, 2025

BETWEEN

KUDHEIHA WORKERS UNION CLAIMANT

AND

**BOARD OF MANAGEMENT NJOGU-INI SECONDARY
SCHOOL RESPONDENT**

JUDGMENT

1. By a Memorandum of Claim dated 7th November 2024 the claimant alleges that the respondent underpaid its four members (hereinafter called the grievants) from May 2018 to November 2024. Therefore, it urged the court to order the respondent to pay the 4 grievants the underpaid salary, housing allowance and medical allowances as per the Regulation of Wages (General) Order 2018 and 2022. It also pray for costs.
2. The respondent denied everything pleaded by the claimant including the prayers sought and prayed for the suit to be dismissed with costs.

Facts of the case.

3. The claimant's case was that the four grievants were employed by the respondent between 1st May 2018 and November 2024 and as such General wages Order of 2018 and 2022 applied to them. However, the respondent failed to pay their salaries as per the said Wage Orders.
4. Anne Wamuyu (copy typist) was being paid monthly salary of Kshs.8780, Charles Ndegwa Kebaria (cook) Kshs.6,580, David W.Gakuyu (Groundsman) Kshs.6,600 and Anne Wanjiru Wangai (Accounts Clerk) Kshs.10,720. Under the said Wage Orders, the grievants fell under column 3 (All former Municipalities) because the school is within Nyeri County.



5. It's further claimant's case that under General Wage Order of 2018, the minimum wages for the grievants were Kshs.16,907.90 (Copy Typist), Kshs.13,005.70 (cook), Kshs.12,522.70 (grounds man) and Kshs.19,112.05 (Accounts Clerk /General clerk). Further, under the 2022 General Wage Order, the Minimum salaries were Kshs.18,936.85 (Copy Typist), Kshs.14,566.40 (cook), Kshs.14,025.40 (groundman) and Kshs.21,405.50 (Accounts Clerk/General Clerk).
6. During the hearing the claimant called its Branch Secretary Adelene Murage as its witness. She then confirmed that the matter went for conciliation before the Labour office and a recommendation was made that the grievants be paid the correct salaries as per the Wage Orders. She therefore prayed for the grievants to be paid their salary arrears.
7. The respondent called its Principal, Mr.Francis Kariuki Kiruthi as its witness. He admitted that, conciliation process was done and the labour officer made recommendation that salaries be increased but the same was not implemented immediately. He admitted that the grievants were being paid less salary than the amount prescribed by the 2022 Wage Orders. He further admitted that the grievants were entitled to house allowance.
8. He clarified that the school had 6 employees but 3 have since retired and their benefits are being negotiated by the union.

Submissions.

9. It was submitted for the claimant that the respondent violated section 48 of the *Labour Institutions Act* which incorporates the minimum wage established in a Wage order as a term of an employees' contract of employment. Reliance was placed on the case of John Kivunzi Musyoka t/a Jona Peston v Nyae & another (2023) KEELRC 3077 (KLR).
10. Finally, the claimant urged the court to award the salary arrears of the underpaid salary plus house allowance from 1st May 2018 at 15% of the minimum basic pay as computed in the Amended claim.
11. On the other hand, the respondent submitted that it was facing a dwindling student enrolment and urged the court to uphold the recommendation by the conciliator of reduction of staff to 3 and then gradually increase their salary to the required minimum.

Determination.

12. I have carefully considered the pleadings, evidence and submissions. It is clear that the grievants were at all material times to this suit employed by the respondent in various capacities. It is also a fact that their salaries were below the minimums prescribed in the General Wage Orders of 2018. It is also clear that they were not paid their rightful housing allowances. Consequently, the only issue for determination is whether the claimant is entitled to the payment of sums computed in the Amended claim.

Reliefs sought.

13. The claimant prayed for salary arrears arising from underpayment of salary. The under payment included basic salary and house allowance. The claimant computed the claim based on General Wage orders for 2018 and 2022 and specifically Column 3 which provided for minimum salaries for employees working within all former Municipalities and Town Council of Mavoko, Ruiru and Limuru.
14. However, the claimant never pleaded and proved that Njogu-ini Secondary School where the grievants were working was situated within the former Nyeri Municipality. According to the report by the



conciliator dated 29th June 2022, produced by the claimant, the school is situated at Tetu location about 5km from Ihururu shopping centre.

15. The foregoing evidence is not sufficient for the court to hold that Njoguini Secondary is situated within the former Municipality of Nyeri. Therefore, I find that the school is located outside the former Municipality of Nyeri and minimum salary falls within column 4 of the General Wage Order of 2018 and 2022.
16. As at May 2018 the minimum salaries were Kshs.13,975.30 for copy typist, Kshs.8,366.35 for cook, Kshs.7,240.95 for groundman, and Kshs.16,295.95 for General clerk. The grievants were entitled to a further 15% of the said basic pay as house allowance Copy typist Kshs.2,096.29, cook Kshs.1,254.95, groundman Kshs.1,086.14 and General clerk, Kshs.2,444.39.
17. The 2018 General Wage Order came into force on 1st May 2018 and continued until 1st May 2022 when it was replaced by the 2022 General Wage Order. Under the said order the Minimum basic salary was Kshs.15,652.30 for Copy Typist, Kshs.9,370.30 for cook, Kshs.8,109.90 for grounds man and Kshs.18,251.50 for General clerk. The house allowance was Kshs.2,347.8, Kshs.1,405.55, Kshs.1,216.36 and Kshs.2,737.73 respectively. The said minimum pay remained in place until November 2024.
18. The claimant prays for the underpaid salary and house allowances because the grievants were paid basic salaries of Kshs.8,780 for the Copy Typist, Kshs.6,585 cook, Kshs.6,600 grounds man and Kshs.10,720 General Clerk from 1st May 2018 to 1st November 2022. Having considered the evidence before the court, I am satisfied that the claimant has proved on a balance of probability that the grievants were victims of salary underpayment by the respondent and proceed to compute their dues herein below.
19. Ann Wamuyu (Copy Typist) worked for 48 months under 2018 General Wage Order, and 29 months under 2022 Order.
 - a. Salary (Kshs.13,975.30 – 8,780) x 48= Kshs.249,374.40
 - b. Housing 2,096.29 x 48= Kshs.100,621.92
 - c. Salary (Kshs.15,652.30 -8780) x 29= Kshs.199,296.70
 - d. Housing Kshs.2347.8 x 29= Kshs.68,086.20
Kshs.617,379.22
20. Charles Ndegwa Kebania (cook) is awarded similar items: -
 - a. Salary (Kshs.8366.35 -6580) x 48 = Kshs.85,744.80
 - b. Housing Kshs.1254.95 x 48 = Kshs.60,237.60
 - c. Salary (9370.30 -6580) x 29= Kshs.80,918.70
 - d. Housing Kshs.1405.55 x 29 = Kshs.40,760.95
Kshs.267,662.05
21. David Gakuya (Groundsman)
 - a. Salary (7240.95 -6600) x 48= Kshs.30,765.60
 - b. Housing Kshs.1086.14 x 48= Kshs.52,134.72
 - c. Salary (Kshs.8109.90 -6600) x 29= Kshs.43,787.10



- d. Housing $\text{Kshs.}1216.36 \times 29 = \text{Kshs.}35,274.44$
 $\text{Kshs.}161,961.86$
22. Ann Wanjiru Wangai (General Clerk)
- a. Salary $(\text{Kshs.}16295.95 - 10,720) \times 48 = \text{Kshs.}267,645.60$
- b. Housing $\text{Kshs.}2444.39 \times 48 = \text{Kshs.}117,330.72$
- c. Salary $(\text{Kshs.}18251.50 - 10720) \times 29 = \text{Kshs.}218,413.50$
- d. Housing $\text{Kshs.}2737.73 \times 29 = \text{Kshs.}79,394.17$
 $\text{Kshs.}682,783.99$
23. Based on the above computation, I enter judgment for the claimant as follows: -
- a. Aggregate sum of $\text{Kshs.}1,729,787.12$
- b. Costs and interest at court rate from the date of filing the suit.
- c. The award is subject to statutory deduction.

DATED, SIGNED AND DELIVERED AT NYERI THIS 9TH DAY OF MAY, 2025.

ONESMUS N MAKAU

JUDGE

