



Kenya County Government Workers Union v County Government of Machakos & another (Petition 23 of 2017) [2025] KEELRC 1693 (KLR) (12 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1693 (KLR)

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

PETITION 23 OF 2017

S RADIDO, J

JUNE 12, 2025

**IN THE MATTER OF VIOLATION OF ARTICLES 10, 22, 28, 41(1) AND (2),
48, 232 AND 236 OF THE CONSTITUTION OF THE REPUBLIC OF KENYA**

AND

IN THE MATTER OF SECTIONS 5, 9, 10 AND 37 OF THE EMPLOYMENT ACT CAP 226

AND

IN THE MATTER OF SECTION 61(3) OF THE COUNTY GOVERNMENTS ACT

AND

**IN THE MATTER OF AN APPLICATION BY THE
COUNTY GOVERNMENT WORKERS' UNION**

BETWEEN

KENYA COUNTY GOVERNMENT WORKERS UNION PETITIONER

AND

COUNTY GOVERNMENT OF MACHAKOS 1ST RESPONDENT

MACHAKOS COUNTY PUBLIC SERVICE BOARD 2ND RESPONDENT

RULING

1. In a judgment delivered on 19 June 2020, the Court found the County Government of Machakos and the County Public Service Board, Machakos (the Respondents), had unfairly terminated the employment of some named 157 members (Grievants) of the Kenya County Government Workers Union (the Union). The Court also found a breach of contract.
2. The Court ordered the Respondent to pay the Grievants:



- i. 1-month salary in lieu of notice.
 - ii. Damages of Kshs 50,000/- each.
 - iii. Compute and pay the awards within 60 days.
3. The Respondents did not comply and on 24 March 2025, the Union filed a Motion seeking orders:
 - i. ...
 - ii. That this Honourable Court be pleased to grant leave to the firm of James Oketch & Co. Advocates to come on record in this matter for the Petitioner after judgment was entered in place of the firm of Brian Otieno & Co. Advocates.
 - iii. That the following officers of the Respondents
 - (a) Governor Machakos County.
 - (b) County Secretary, Machakos County.
 - (c) Chair of Public Service Board, Machakos County.
 - (d) The Head of County Public Service Board, Machakos County be summoned before this Honourable Court to show cause why they should not be cited for contempt and committed to civil jail for blatantly failing to comply with the court orders by Hon Radido Stephen on 19th June 2020.
 - iv. That on failing to show necessary cause, the said officers be committed to civil jail for a maximum period of six (6) months for contempt of this Honourable Court's orders issued by Hon Radido Stephen on 19th June 2020.
 - v. That Officer Commanding Machakos Police Station do execute Order (iv) and Order (v) herein.
 - vi. That any other or further orders of this Honourable Court deems fit and appropriate.
 - vii. That costs of this application be borne by the Respondents.
4. The grounds in support of the Motion were that despite engagements between the parties, the Respondents had failed to pay the decretal sums; the Respondents were therefore in contempt of court; the dignity of the Court was at stake; no reasonable justification for failure to comply with the judgment of the Court; the failure to execute the judgment before was due to negotiations between the parties.
5. When the Motion was placed before the Court on 25 March 2025, it directed service and filing and exchange of responses and submissions with the hearing set for 5 May 2025.
6. The Union filed its submissions on 1 April 2025.
7. In the submissions, it was contended that the cited officers of the Respondents were in contempt of the judgment of the Court and case law was relied on.
8. On 5 May 2025, the Respondents' advocate on record informed the Court that though the Motion had been served, he had yet to receive instructions from the Respondents.
9. The Court directed the Respondents to file and serve responses and submissions to the Motion before 31 May 2025.



10. The Respondents did not give instructions to their advocate and the advocate filed a Summons seeking leave to cease from acting. The Summons was allowed on 21 May 2025.
11. The Court has considered the Motion, affidavit in support and submissions.

New advocate on record

12. A party has a right to be represented by an advocate of choice and prayer by the firm of James Oketch & Co. Advocates to come on record for the Union has not been opposed. The Court will allow the prayer.

Contempt

13. It is not in dispute that the Court entered judgment for the 157 Grievants who were former employees of the Respondents.
14. The judgment decreed that the Respondents compute and pay within 60 days the equivalent of 1 month's salary in lieu of notice and damages of Kshs 50,000/- to each of the Grievants.
15. The Respondents' advocate was present during the delivery of the judgment, and he secured a stay of execution for 30 days.
16. There is evidence on record that the Union and Respondents engaged in negotiations with a view to settle the awards. The Union wrote several letters to the Respondents.
17. The Court is therefore satisfied that the Respondents were aware of the judgment of the Court.
18. The judgment gave the Respondents timelines for compliance. There is no material on the record to suggest that the Respondents have complied with the judgment.
19. The Court concludes that there has been wilful disobedience with the judgment of the Court.
20. The Union has sought to cite 4 officials at the County Government. The Union has not explained the role of each of the officials in settlement of the judgment.
21. In that light, the Court directs that Summons issue to the County Secretary and Chair of the County Public Service, Board to appear in Court.
22. Before concluding, the Court notes that the delivery of this Ruling has been brought forward with notice to the parties because the Court will not sit on 26 June 2025.

Orders

23. Summons to issue to the County Secretary and Chairperson of the County Public Service Board to personally appear in Court on a date to be set hereinafter to show cause.
24. Costs of the Motion in the cause.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 12TH DAY OF JUNE 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Petitioner James Oketch & Co. Advocates



For Respondents did not file responses

Court Assistant Wangu

