



Njiru v Veterinary Medicines Directorate & 5 others (Employment and Labour Relations Petition E219 of 2024) [2025] KEELRC 1676 (KLR) (9 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1676 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS PETITION E219 OF 2024**

HS WASILWA, J

JUNE 9, 2025

BETWEEN

DR. JANE NJOKI NJIRU PETITIONER

AND

THE VETERINARY MEDICINES DIRECTORATE 1ST RESPONDENT

THE VETERINARY MEDICINES DIRECTORATE COUNCIL 2ND RESPONDENT

DR. NINGALA KALACHU, CHAIRPERSON VETERINARY MEDICINES DIRECTORATE COUNCIL 3RD RESPONDENT

THE CABINET SECRETARY, MINISTRY OF AGRICULTURE LIVESTOCK FISHERIES AND COOPERATIVES 4TH RESPONDENT

THE STATE CORPORATIONS ADVISORY COMMITTEE ... 5TH RESPONDENT

THE HON. ATTORNEY GENERAL 6TH RESPONDENT

RULING

1. The Petitioner/Applicant filed a Notice of Motion dated 20th January 2025 seeking orders that: -
 1. Spent
 2. The Court do finds that the 2nd and 3rd Respondent are in breach of the Court Order dated 30th December 2024.
 3. The court be pleased to give an order citing the 1st, 2nd and 3rd Respondent for contempt of the Court Order dated 30th December 2024.



4. The court do issue an order to allow the Petitioner/Applicant to break the door to be able to access the office to expense with her duties,
5. That the OCS Spring Valley police station to ensure compliance with the court orders.
6. Consequent to the grant of the prayers above, the Honourable Court be pleased to issue such further directions and or orders as may be necessary to give effect to the foregoing orders, and/ or favour the cause of justice.
7. That costs be in the cause.

Petitioner/Applicant's Case

2. The Petitioner avers that the Court issued a temporary order suspending the show cause letter dated 2nd December 2024 and all the letters written by the 1st Respondent through the 2nd and 3rd Respondent relating to the on-going disciplinary processes against her 30th December 2024.
3. The Petitioner avers that despite the court order, she received a redeployment letter dated 5th January 2025 from the 2nd Respondent directing her to report back to the State Department for Livestock with effect from 7th January 2025. She was further directed to handover all CEO functions and documents to Dr. Emily Muema and ensure clearance with the 1st Respondent before resettling back to the State Office.
4. The Petitioner avers that she received a letter from the 3rd Respondent on 7th January 2025 informing her that her request for renewal of secondment to the 1st Respondent had been declined despite having sent the letter on 27th September 2024.
5. Further, on 15th January 2015, she was served with a notice of mandatory compliance to the letter dated 7th January 2025 and indicated that the 1st Respondent is willing to take any necessary actions to ensure compliance despite the court order being in force.
6. The Petitioner avers that on 16th January 2025, she reported to work only to find that her office door locks had been changed and she was unable to access her office. She proceeded to report the matter to Spring Valley Police Station for unlawful eviction from the office under OB 24/16/1/2024 where a DCI officer accompanied her to the scene to confirm the same.
7. It is the Petitioner's case that the Respondents have continued with the breach of court orders by allowing the Acting CEO to run the government office activities which were her duties as confirmed in the letter dated 19th January 2025 and email dated 20th January 2025.
8. The Petitioner avers that the Respondents are in breach of the court order and failure to stop them, the Petition will be rendered nugatory and further exposing her to stand irreparable loss, damage and abortion of justice.

Petitioner/Applicant's Submissions

9. The Petitioner relied on the definition of contempt under the Black's Law Dictionary 9th Edition, as follows: "The act or state of despising; the conduct of being despised. Conduct that defies the authority or dignity of a court or legislature. Because such conduct interferes with the administration of justice."



10. She further relied in *Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & another* [2005] KLR 828, in which the court underscored the importance of obeying court orders, while observing as follows: -

“It is essential for the maintenance of the rule of law and order that the authority and the dignity of our courts are upheld at all times. The Court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against whom an order is made by court of competent jurisdiction, to obey it unless and until the order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by the order believes it to be irregular or void.”

11. The Petitioner submitted that any conduct by any person, against whom the court has made an Order, that defies the said order of the Court is contemptuous. Refusing to do that which the court had ordered you to do amounts to contempt of court for which the court is properly entitled to punish the contemnor.
12. It is the Petitioner/Applicant’s submission that the court issued orders on 30th December 2024, at a time the 1st, 2nd and 3rd Respondents had commenced disciplinary proceedings against the Applicant and a disciplinary hearing had been set for 7th January 2025. The order was clear and unequivocal that the ongoing disciplinary process against the Petitioner/Applicant shall be suspended pending further orders of the court.
13. The Petitioner/Applicant submitted that the Respondents intentionally and without lawful justification despised the court order and refused to obey it despite efforts to get them to comply. When the parties appeared before the court for mention on 23rd January 2025, the court reiterated the order in the presence of the Respondents giving them a chance to purge themselves of the contempt by doing the right thing; instead, they acted in further contempt by proceeding to recruit someone else to take up the Applicant’s position.
14. The Petitioner/Applicant submitted that the Respondents had no choice but to obey the order whether they agreed with it or not. No party litigating before a court of law has the luxury to choose which orders to obey and which ones to disrespect. Therefore, she urges the court to find the Respondents are in contempt of the court orders issued on 30th December 2024.
15. On the second issue, it is the Petitioner’s submission that the powers of court to punish for contempt, was discussed in the Court of Appeal case of *Shimmers Plaza Limited v National Bank of Kenya Limited* (Civil Appeal 33 of 2012) [2015] KECA 945 (KLR) (ibid) stated thus: -

“The courts should not fold their hands in helplessness and watch as their orders are disobeyed with impunity left, right and centre. This would amount to abdication of our sacrosanct duty bestowed on us by *the Constitution*. The dignity, and authority of the Court must be protected, and that is why those who flagrantly disobey them must be punished, lest they lead us all to a state of anarchy. We think we have said enough to send this important message across.”

16. The Petitioner submitted that based on this case law, the Respondents should be sentenced to a fine of Kshs 5,000,000 each; or in the alternative, the Respondents be sentenced to civil jail for a period of



two years as provided under section 20(7) of the Employment & Labour Relations Court Act, or to such other terms and this court shall deem just and expedient.

3rd Respondent's Submissions

17. The 3rd Respondent submitted on two issues: whether the Plaintiff concealed a material fact in Obtaining the Ex-Parte Order dated 30th December 2024; and whether the 3rd Respondent is in Contempt of the Order dated 30th December 2024.
18. The 3rd Respondent submitted that it is trite law that a party seeking ex parte relief has a duty to disclose all material facts to the court. Material fact is defined in Black's Law Dictionary as a fact that is significant or essential to the issue or matter at hand, such that its disclosure would have influenced a decision.
19. The 3rd Respondent submitted that the Petitioner failed to disclose the following material facts when seeking the ex-parte orders dated 30th December, 2024: That at the time of obtaining the orders, the Petitioner's secondment had already expired, and the renewal process had not been approved by the 4th Respondent; That the disciplinary process initiated by the 1st Respondent was lawfully commenced prior to the expiry of the secondment and was based on grave audit concerns; and that the Petitioner unilaterally sought renewal of the secondment without notifying the 1st and 3rd Respondents, thereby acting in bad faith.
20. It is the 3rd Respondent's submissions that the Petitioner concealed the entire issue of her secondment, particularly, her application for renewal of secondment dated 24th September 2024. This material fact fundamentally questions the very basis of the employment relationship between the Petitioner and the Respondents.
21. Had this crucial fact been presented before the court, it would have significantly influenced the Court's determination, likely leading the court to withhold the issuance of the orders granted on 30th December 2024. It is the 3rd Respondent's submission that the Petitioner's failure to disclose such a vital fact amounts to material non-disclosure, warranting the setting aside of the ex parte orders.
22. The 3rd Respondent relied in Republic v. Kenya School of Law & Another Ex Parte Kithinji Maseka Mbijiwe [2015] eKLR, in which the issue of concealment of a material fact arose in the context of judicial review proceedings. The court emphasized that concealment of a material fact amounts to an abuse of the court process. It held that where an applicant in judicial review proceedings does not present all relevant facts honestly and transparently, the court is justified in declining relief. As a result, the application was dismissed.
23. On the second issue, the 3rd Respondent submitted that before a court can find a party in contempt, it must be satisfied that the following elements are met: Existence of a clear and unambiguous court order; Knowledge of the court order by the alleged contemnor; Wilful disobedience of the court order; And conduct that undermines the authority of the court.
24. On existence of a clear and unambiguous court order, the 3rd Respondent submitted that in the present case, the scope of the orders issued on 30th December 2024 was confined to halting the disciplinary proceedings initiated by the 1st Respondent. These orders did not, either explicitly or by implication, extend to matters concerning the Petitioner's employment status or secondment arrangements under the authority of the 4th Respondent. Consequently, the orders did not impose any legal restraint on the 4th Respondent's prerogative to redeploy the Petitioner.



25. The 3rd Respondent submitted that the Petitioner's claim of contempt is therefore unfounded, as the alleged acts of non-compliance arose from circumstances outside the facts pleaded in the original application.
26. On the knowledge of the court order by the alleged contemnor, the 3rd Respondent submitted that together with the 1st Respondent, they were served the order dated 30th December 2024 which prompted the communique dated 3rd January, 2024 suspending the Disciplinary Proceedings by the 1st Respondent through the 3rd Respondent. Therefore, the Respondents have fully complied with the interim order halting disciplinary proceedings against the Petitioner/Applicant and there has been no further disciplinary action contrary to the court's directive.
27. On wilful disobedience of the court order, the 3rd Respondent submitted that the law is clear that contempt cannot be inferred from circumstances; it must be proven beyond reasonable doubt that the alleged contemnor had knowledge of the court order and wilfully defied it. The burden of proof lies with the Petitioner, which they have failed to discharge.
28. The 3rd Respondent submitted that the letter dated 7th January 2025 from the 4th Respondent recalling the Petitioner/Applicant is an independent administrative action, separate from disciplinary proceedings, and cannot be deemed contemptuous.
29. It is the 3rd Respondent's submissions that the redeployment letter serves as a response to a communication from the Petitioner addressed to the 4th Respondent; the Petitioner had a legitimate expectation of receiving a reply to that letter. To now present that very letter as the basis for a contempt claim is both disingenuous and an attempt to mislead the Court. It constitutes an abuse of process to weaponize a routine response to a legitimate inquiry as grounds for contempt proceedings. Such actions undermine the integrity of the judicial process and should not be entertained by this court.
30. The 3rd Respondent submitted that the Respondents' actions were based on a lawful and routine reply to the Petitioner's communication and did not constitute contempt, as no clear and unambiguous order was breached. It relied in *Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & Another* [2005] eKLR, the court emphasized that contempt must be proven beyond reasonable doubt.
31. The 3rd Respondent submitted that the Petitioner/Applicant has failed to establish a clear link between her redeployment and the suspended disciplinary proceedings. There is no evidence of wilful disobedience of the court order. They relied in *Teachers Service Commission v Kenya National Union of Teachers & 2 Others* [2013] eKLR, where the Court held that the burden of proving contempt lies upon the Applicant, and mere speculation or assumption is insufficient.
32. The 3rd Respondent submitted the application amounts to an abuse of court process, aimed at frustrating her lawful redeployment and misleading the court and prays that the same be dismissed with costs.
33. I have examined all the averments and submissions of the parties herein. On 30/12/25 this court (Hon. J Nzei) granted orders as follows:-
 - 1) The application is hereby certified urgent.
 - 2) Both the application and the Petition shall be served upon all the named Respondents within ten (10) days from 30th December, 2024, and an affidavit of service shall be filed.
 - 3) The Respondents shall serve their respective responses within ten (10) days of service.



- 4) Mention in Court No. 7 on 23rd January, 2025 for appropriate directions and/or orders.
 - 5) In the meantime a temporary order is hereby issued suspending the show cause letter dated 2nd December, 2024 and all the letters written by the 1st Respondent through the 2nd and 3rd Respondents relating to the on-going disciplinary process against the Petitioner/Applicant.
 - (6) For avoidance of doubt, the on-going disciplinary process against the Petitioner/Applicant shall be suspended pending further Orders of the Court
34. The orders granted suspended the ongoing disciplinary process against the petitioner/applicant. The applicants have now come back before this court averring that the respondents are guilty of contempt against the orders of this court of the said 30th December 2024.
 35. The applicants aver that despite these orders of this court, the respondent issued the applicant with another letter deploying her back to Ministry of state department for Livestock dated 5/1/2025 and that show was also directed her to hand over all CEO function and documents to one Dr Emily Muema and ensure clearance with the 1st respondent before settling back to the state office.
 36. The respondents went further and locked her office locks and so she was unable to access her office. The applicant aver that the respondent continued to breach court orders by allowing the Ag CEO to run the government office activities. From the application dated 27/12/24 the issue before court was on the ongoing disciplinary process that the applicant was facing then. The orders of court granted stay of the disciplinary process. It is however noteworthy that the issues of the applicant being locked out of office and an Ag CEO being appointed are not issues that this court pronounced itself upon.
 37. It is therefore my finding that the issue of contempt of court does not arise as against the action/omission of the respondent and therefore, the application for contempt is found without merit and is dismissed accordingly. Costs in the petition.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 9TH OF JUNE, 2025.

HELLEN WASILWA

JUDGE

