



**Chirchir & 39 others v West Pokot County Government & 2 others
(Employment and Labour Relations Cause E001 & E002 of 2023
(Consolidated)) [2025] KEELRC 1981 (KLR) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1981 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KITALE
EMPLOYMENT AND LABOUR RELATIONS
CAUSE E001 & E002 OF 2023 (CONSOLIDATED)**

MA ONYANGO, J

JULY 3, 2025

BETWEEN

DOREEN JEMOSOP CHIRCHIR & 39 OTHERS CLAIMANT

AND

WEST POKOT COUNTY GOVERNMENT 1ST RESPONDENT

COUNTY SECRETARY, WEST POKOT 2ND RESPONDENT

**COUNTY PUBLIC SERVICE BOARD WEST POKOT COUNTY 3RD
RESPONDENT**

RULING

1. This Ruling is in respect to the Respondents' Preliminary objection dated 18th March 2023 and the Claimants' Notice of Motion dated 3rd June 2024.
2. In the Preliminary Objection, the Respondents seek the striking out of the Claimants' Statement of Claim dated 7th February 2023 on the following grounds: -
 - a. The suit is fatally and incurably defective as it offends the doctrine of exhaustion of available statutory remedies
 - b. The suit is fatally and incurably defective as it offends the provisions of Section 77 of the *County Governments Act* and as such cannot stand or be ventilated before this Court
 - c. The Court's jurisdiction has been prematurely invoked as the Claimants have not exhausted the dispute resolution mechanisms established under Section 77 of the *County Governments Act* and that the issues raised ought to be resolved by the Public Service Commission.



- d. The entire suit is defective to the extent that there is a complete misjoinder of causes of action and misjoinder of parties in breach of Rule 9 of the *Employment and Labour Relations Court Rules* so that it would be impossible to prosecute or defend this matter effectively.
3. The Preliminary Objection was canvassed by way of written submissions. From a perusal of the record, only the Respondents filed submissions dated 4th January 2024.
4. The Respondents withdrew ground (d) of the notice of preliminary objection and argued the remaining three grounds which they distilled into the following issues for determination: -
- a. Whether this Court should exercise jurisdiction to determine this matter at the first instance;
- b. Whether the jurisdiction of this Court has been prematurely invoked;
5. On the first issue, the Respondents submitted that since the dispute before this Court involves an alleged decision by the 3rd Respondent to terminate the Claimants' employment, under Section 77 of the *County Governments Act* such disputes ought to be subjected to appeal before the Public Service Commission.
6. The Respondents further submitted that under section 87(2) of the *Public Service Commission Act* a party is estopped from filing any legal proceedings in any court of law with respect to matters within the jurisdiction of the Commission including to hear and determine appeals from the county government public service unless the procedure provided for has been exhausted. In support of this position, the Respondents cited the Court of Appeal decision in Nakuru Civil Appeal No. E136 of 2022 as consolidated with Nakuru Civil Appeal No. 137 of 2022, *The Clerk, Nakuru County Assembly & 4 Others v Kenneth Odongo & 7 Others*.
7. It is the Respondents submission that from the provisions of section 87(2) of the *Public Service Commission Act*, this Court cannot exercise first instance jurisdiction to hear and determine this matter and that the Claimants ought to have first referred the dispute to the Public Service Commission.
8. On the second issue, the Respondent contended that the jurisdiction of this court has been prematurely invoked as there are other forums of dispute resolution provided under statute, which have not been exhausted. To buttress this position, the Respondents cited the decisions in *William Odhiambo Ramogi & 3 others v Attorney General & 4others; Muslims for Human Rights & 2 others (Interested Parties)* (2020) eKLR, *Geoffrey Muthinja Kabiru & 2others v Samuel Munga Henry & 1756 others* (2015) eKLR and *Hezron Mwambia Karomg'a v Tharaka Nithi County Government & another* (2019) eKLR.
9. On this basis, the Respondents submitted that the claim before this court has been prematurely instituted before exhaustion of other dispute resolution avenues provided by statute. The court was thus urged to strike out the claim with costs to the Respondents.
10. I have carefully considered the Preliminary Objection and the submissions filed by the Respondents. The only issue for determination is whether section 77 of the *County Government Act* ousts the jurisdiction of this Court to determine the suit herein.
11. Section 77 of the County Governments Act provides as follows: -
77. 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.

12. The Respondents have contended that the suit herein should be struck out as the Claimants have not exhausted the procedure provided under Section 77 of the County Government Act and therefore the suit offends the doctrine of exhaustion.

13. The Doctrine of Exhaustion is defined in Black’s Law Dictionary 11th Edition as follows: -

“exhaustion of remedies. The doctrine that, if an administrative remedy is provided by statute, a claimant must seek relief first from the administrative body before judicial relief is available. The Doctrine’s purpose is to maintain comity between the courts and administrative agencies and to ensure that courts will not be burdened by cases in which juridical relief is unnecessary.”

14. In the case of Republic v National Environment Management Authority Ex parte Sound Equipment Ltd, [2011] eKLR, the Court of Appeal observed: -

“... Where there was an alternative remedy and especially where Parliament had provided a statutory appeal procedure, it is only in exceptional circumstances that an order for judicial review would be granted and that in determining whether an exception should be made and judicial review granted, it is necessary for the court to look carefully at the suitability of the statutory appeal in the context of the particular case and ask itself what, in the context of the statutory powers, was the real issue to be determined and whether the statutory appeal procedure was suitable to determine it...”



15. In the case cited by the Respondents of *William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties)* (2020) eKLR, the Court observed that: -

“ 52. The question of exhaustion of administrative remedies arises when a litigant, aggrieved by an agency's action, seeks redress from a Court of law on an action without pursuing available remedies before the agency itself. The exhaustion doctrine serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is, first of all, diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts. This encourages alternative dispute resolution mechanisms in line with Article 159 of the Constitution and was aptly elucidated by the High Court in *R v Independent Electoral and Boundaries Commission (I.E.B.C) Ex Parte National Super Alliance (NASA) Kenya and 6 others* [2017] eKLR, where the Court opined thus:

42. This doctrine is now of esteemed juridical lineage in Kenya. It was perhaps most felicitously stated by the Court of Appeal in *Speaker of National Assembly v Karume* [1992] KLR 21 in the following oft-repeated words:

Where there is a clear procedure for redress of any particular grievance prescribed by the Constitution or an Act of Parliament, that procedure should be strictly followed. Accordingly, the special procedure provided by any law must be strictly adhered to since there are good reasons for such special procedures.

43. While this case was decided before the Constitution of Kenya 2010 was promulgated, many cases in the Post-2010 era have found the reasoning sound and provided justification and rationale for the doctrine under the 2010 Constitution. We can do no better in this regard than cite another Court of Appeal decision which provides the Constitutional rationale and basis for the doctrine.”

“ 59. However, our case law has developed a number of exceptions to the doctrine of exhaustion. In *R. Vs Independent Electoral and Boundaries Commission (I.E.B.C.) & Others ex parte The National Super Alliance Kenya (NASA)* (supra), after exhaustively reviewing Kenya's decisional law on the exhaustion doctrine, the High Court described the first exception thus:

What emerges from our jurisprudence in these cases are at least two principles: while, exceptions to the exhaustion requirement are not clearly delineated, Courts must undertake an extensive analysis of the facts, regulatory scheme involved, the nature of the interests involved – including level of public interest involved and the



polycentricity of the issue (and hence the ability of a statutory forum to balance them) to determine whether an exception applies. As the Court of Appeal acknowledged in the *Shikara Limited Case* (supra), the High Court may, in exceptional circumstances, find that exhaustion requirement would not serve the values enshrined in the Constitution or law and permit the suit to proceed before it. This exception to the exhaustion requirement is particularly likely where a party pleads issues that verge on Constitutional interpretation especially in virgin areas or where an important constitutional value is at stake. See also *Moffat Kamau and 9 Others vs Aelous (K) Ltd and 9 Others.*)

60. As observed above, the first principle is that the High Court may, in exceptional circumstances consider, and determine that the exhaustion requirement would not serve the values enshrined in the Constitution or law and allow the suit to proceed before it. It is also essential for the Court to consider the suitability of the appeal mechanism available in the context of the particular case and determine whether it is suitable to determine the issues raised.
61. The second principle is that the jurisdiction of the Courts to consider valid grievances from parties who lack adequate audience before a forum created by a statute, or who may not have the quality of audience before the forum which is proportionate to the interests the party wishes to advance in a suit must not be ousted. The rationale behind this precept is that statutory provisions ousting Court's jurisdiction must be construed restrictively. This was extensively elaborated by Mativo J in *Night Rose Cosmetics (1972) Ltd v Nairobi County Government & 2 others* [2018] eKLR.
62. In the instant case, the Petitioners allege violation of their fundamental rights. Where a suit primarily seeks to enforce fundamental rights and freedoms and it is demonstrated that the claimed constitutional violations are not mere "bootstraps" or merely framed in Bill of Rights language as a pretext to gain entry to the Court, it is not barred by the doctrine of exhaustion. This is especially so because the



enforcement of fundamental rights or freedoms is a question which can only be determined by the High Court.”

16. In the case of *Fleur Investments Limited v Commissioner of Domestic Taxes & another* [2018] eKLR the Court of Appeal while determining whether a litigant can be exempt from the doctrine of exhaustion held:-

“Whereas courts of law are enjoined to defer to specialized Tribunals and other Alternative Dispute Resolution Statutory bodies created by Parliament to resolve certain specific disputes, the court cannot, being a bastion of justice, sit back and watch such institutions ride roughshod on the rights of citizens who seek refuge under the Constitution and other legislations for protection. The court is perfectly in order to intervene where there is clear abuse of discretion by such bodies, where arbitrariness, malice, capriciousness and disrespect of the Rules of natural justice are manifest. Persons charged with statutory powers and duties ought to exercise the same reasonably and fairly.”
17. Turning back to the case at hand, from the pleadings, the dispute before the court involves an alleged decision by the 3rd Respondent to terminate the employment of the Claimants. According to the Claim, the Claimants were not paid salaries from 1st April, 2022 when they were recruited. They wrote to the Respondents requesting for explanation for non-payment of their salaries and the next communication they received were letters of termination of their employment dated 3rd January, 2023 and issued to them on 15th January 2023, citing the reason for termination to be unsustainable wage bill.
18. The Claimants approached this court citing discrimination as well as violation of several other provisions of the Constitution and the Public Finance Management Act. On the face of the suit as filed in court and without the benefit of a response from the Respondents to rebut the averments therein, it is the view of this court that the Public Service Commission may not be the most appropriate forum for adjudication of the claim.
19. The court further notes that when the Claimants approached it they were under threat of termination of their employment in a manner that on the face of the documents filed in court and without the benefit of any response from the Respondents, required quick intervention by the court to stop the threatened terminations, a relief that has not been demonstrated could have been obtained from the Public Service Commission. The Commission’s regulations, the Public Service Commission (County Appeals Procedures) Regulations, 2022, do not provide for an ex parte procedure like that in courts through which the Claimants could have approached it for grant of urgent orders in the wake of the termination notices issued to them midway through the one month notice period given in the letters.
20. As was stated by the Court of Appeal in the case of *Fleur Investments Limited*, the court is perfectly in order to intervene where there is clear abuse of discretion by such bodies, where arbitrariness, malice, capriciousness and disrespect of the Rules of natural justice are manifest. It is my view that the instant case fits within the exceptions to the exhaustion doctrine.
21. The court further observed in the same case that the court cannot, being a bastion of justice, sit back and watch such institutions ride roughshod on the rights of citizens who seek refuge under the Constitution and other legislations for protection.
22. It is for these reasons that I find the preliminary objection filed by the Respondents herein to be without merit and dismiss the same.



23. I have noted that there is another Notice of Preliminary Objection dated 20th January, 2025 filed by the County Solicitor, County Government of West Pokot on similar grounds as the preliminary objection under consideration. The decision herein will apply to the same.
24. I will now deal with the Claimants Notice of Motion dated 3rd June 2024. In that application, the Claimants sought for orders that:-
- a. Spent
 - b. That the 1st Contemnor namely Jonathan Siwanyang, County Secretary West Pokot County Government be committed to civil jail for a period not exceeding six (6) months for contempt of the orders of the Honorable Court issued on 15th February 2023, 30th November 2023 and 28th May 2024.
 - c. That the 2nd Contemnor namely Consolata C. Arusei, Secretary to the West Pokot County Public Service Board be committed to civil jail for a period not exceeding six (6) months for contempt of the orders of the Honourable Court issued on 27th February 2024 and 28th May 2024
 - d. That the Contemnors be punished in any such manner as the court deems it in the circumstances for contempt of court
 - e. That the Contemnors to bear the costs of this contempt proceedings
25. The grounds on which the application is made are;
- a. That the Honourable Court issued the following orders on 15th February 2023:-
 - i. That the application is certified as urgent and be heard ex parte in the first instance and service be dispensed with forthwith.
 - ii. That the application dated 7th February 2023 be served on the Respondents.
 - iii. That the applicants to file a response within 14 days of service.
 - iv. That pending the hearing and determination of this application inter partes, a temporary order of injunction be and is hereby issued staying the coming into effect of the one month termination notices dated 3rd January 2023 issued to the Claimants as from 16th January 2023.
 - v. That the matter be mentioned on 20th March 2023 for directions on hearing and disposal.
 - vi. That this cause and cause No. E001 of 2023 be consolidated and proceed under cause number E001 of 2023.
 - b. That on 30th November 2023 the Honourable Court directed the 1st Contemnor to personally ensure compliance of the orders issued on 15th February 2023 failing which the court will not shy away from holding him in contempt should there be another application for contempt.
 - c. That the Honourable Court issued orders on 27th February 2024:-
 - i. That the application be and is hereby certified urgent and fixed for inter partes hearing on 11th April 2024.



- ii. That the Respondents, their agents, servants or any person acting on their behalf are restrained from filling any of the positions held by the Applicants or in any other way interfering with their employment contracts pending the inter parties hearing of this application.
 - iii. That the Respondents be served and to file their response to the application within 14 days from the date of service.
- d. That the Honourable Court issued orders on 28th May 2024 that:
- i. The Respondents to file affidavits by heads of all departments in which the Claimants are deployed to confirm that they have been given work in their respective offices and are receiving salary with proof of both deployment and allocation of work and payment of salaries before any further directions by the court.
 - ii. The ongoing recruitments are suspended until the Respondents confirm that the Claimants have been deployed, allocated work and paid.
 - iii. The matter will be mentioned on 25th June 2024.
- e. The 1st Contemnor has willfully failed to comply with the Honourable Court's orders issued on 30th November 2023 and 28th May 2024. The Claimants have not received salaries and/or allowances as from April 2022 to the date, the Claimants were not in the May 2024 payroll. Further, they have not been allocated duties by their supervisors as at 3rd June 2024 neither have they been allowed to access their work stations and are still being ushered into empty boardrooms.
- f. That the 2nd Contemnor has been most contemptuous to the orders of this Honourable Court issued on 27th February 2024 and 28th May 2024 in that despite being aware of the injunctive orders against the unlawful recruitment process to replace the Claimants herein issued on 27th February 2024, on 17th May 2024 the 2nd Contemnor published a list of shortlisted candidates inviting them for interviews on various dates starting 27th May 2024. The said interview scheduled for 27th and 28th May 2024 were conducted by the 3rd Respondent.
- g. On 28th May 2024 the Honourable Court issued further orders suspending the ongoing recruitment process but on 29th May to 31st May 2024, the 3rd Respondent continued the prohibited recruitment process by conducting interviews thus undermining the authority of this Honourable Court.
- h. That the Respondents have shown utmost impunity in the handling of dismissing the Claimants/Applicants who they now intend on constructively by hiring new staff to replace them now, yet the main Cause/Claim and application dated 27th February 2024 are yet to be determined on merit by the Honorable Court.
- i. That this application has merit as the 1st and 2nd Contemnors who are officers of the Respondents in the Claim, have blatantly disregarded the all the orders of this Honourable Court and are determined to undermine its authority.
- j. That the Claimants/Applicants continue to suffer great prejudice owing to the conduct by the 1st and 2nd Contemnors which not only undermines the right of the Claimants/ Applicants to dignity, fair labour practices and lawful remuneration.



- k. The 1st and 2nd Contemnors have undermined the authority of the Honourable Court and persistently seek to embarrass it.
- l. That granting contempt of court orders against the 1st and 2nd Contemnors at this stage will serve the ends of justice.
26. The application is supported by the affidavit of Hashim Harun, the 6th Claimant who reiterates the contents of the grounds upon which the application is premised.
27. The application is opposed. The 1st Contemnor filed a Replying affidavit sworn on 6th September 2024 where he deposed that the status quo obtaining as at the time this case was instituted on 12th February 2023 and as at the time the ex parte temporary injunction was issued on 15th February 2023 was that the Claimants' salaries had neither been budgeted for by the West Pokot County Government nor appropriated by the County Assembly of West Pokot and as a result the Respondents could not legally pay them.
28. According to the 1st Contemnor, the Claimants had not earned salaries for more than 10 months from their respective dates of employment under two different administrations and as such the Respondents never understood the temporary injunction to mean that they should pay the Applicants' salary.
29. It is the 1st Contemnor's contention that on 28th May 2024, this court issued new orders directing the Respondents to file affidavits by heads of departments showing where the Claimants were deployed and also to confirm that they had been given work in their respective positions and that they are earning a salary. In addition, the 1st Contemnor contended that the court ordered that the ongoing recruitment be suspended until the Respondents confirm that the Claimants had been deployed, allocated work and paid.
30. According to the 1st Contemnor, the Respondents complied with the said orders to the extent that it required them to allow the Applicants back to their workstations and assign them duties. It is contended that further in compliance therewith, on the 21st June 2024, the Chief Officers swore affidavits demonstrating compliance with the Court Orders directing the heads of departments to file affidavits to confirm that the Claimants had been deployed and allocated work.
31. It is therefore the 1st Contemnor's averment that the allegation that the Applicants have not been allocated duties and have been denied access to their work stations was malicious.
32. The 1st Contemnor further contended that the orders dated 28th May 2024 requiring the County Government of West Pokot to pay salaries to the Claimant is untenable under the Constitution, the County Government Act 2012 and the PFMA Act 2012 and the Regulations made thereunder as the County Government is required by law to budget for monies allocated to it and to incur expenditure according to its budget.
33. It is the 1st Contemnor's position that as much as the County Government is willing to comply with this Honorable Court's orders of 28th May, 2028 to pay the claimants' salary, it cannot legally do so.
34. On her part, the 2nd Contemnor in her Replying affidavit sworn on 6th September 2024 deposed that West Pokot County Public Service Board is well aware of the temporary injunction issued by this honorable court on the 15th February 2023 which stayed the coming into effect of the termination letters issued to the Applicants on 3rd January, 2023 and is further fully aware that any attempt to terminate their employment while the said order still subsisted would be null and void and of no legal effect.



35. The 2nd Contemnor contends that on the 7th February 2024, the 3rd Respondent advertised 159 vacant positions in the County Public Service seeking to fill 159 vacant positions in addition to and not in substitution of those held by the Applicants.
36. It is her averment that the Applicants, who are only 40 in number, moved this Honorable Court vide an application dated 26th February, 2024 seeking an injunction restraining the County Public Service Board from carrying out the recruitment process. That the court on 27th February 2024 granted them an ex parte interim order restraining the Respondents from filling any of the positions held by the Applicants or in any way interfering with their employment contracts pending inter parties hearing of that Application.
37. The 2nd Contemnor maintained that in compliance with the said orders and despite the fact that there was no intention to replace the Applicants to begin with, the 3rd Respondent shortlisted candidates for only 118 out of the 159 positions advertised, thus leaving out 41 positions.
38. It is averred that as per the said shortlist which was publicized on the 17th May 2024 interviews for the shortlisted positions were to commence on the 27th May 2024 and end on the 28th June 2024 but after the court on 28th May 2024 ordered the Respondents suspend the recruitments, the Respondents suspended the whole recruitment exercise with immediate effect and that no interviews were conducted from 29th May 2024.
39. The application was canvassed by way of written submissions. The Contemnors filed their submissions dated 19th September 2024.
40. Upon considering the application, the affidavits filed in response and the submissions on record, I find that the only issue that presents itself for determination is whether the 1st and 2nd Contemnors are in contempt of the orders of this court.
41. A brief background to this case is that the Claimants approached this court by way of a Statement of Claim dated 7th February 2023 claiming that they were employed by the 1st Respondent from 1st April 2022. That by notices dated 3rd January, 2023 and issued to the Claimants on 16th January 2023 the Respondents purported to unfairly, unprocedurally and unlawfully terminate their services vide one month's termination notices allegedly on account of redundancy. That the Respondents refused to pay their salary arrears, terminal dues and accrued benefits.
42. Together with the Statement of Claim, the Claimants filed a Notice of Motion dated 7th February 2023 under Certificate of Urgency seeking temporary injunctive orders against the Respondents staying the coming into effect of the one-month termination notices dated 3rd January 2023 issued to the Claimants on 16th January 2023. The court considered the application and, in its ruling, delivered on 15th February 2023, the court granted a temporary order of injunction staying the coming into effect of the one-month termination notices dated 3rd January 2023 issued to the claimants as from the 16th January 2023.
43. Several other applications were filed in this cause where the court issued orders. For instance, on the 27th February 2024, the Court ordered that the Respondents, their agents, servants, or any person acting on their behalf are restrained from filling any positions held by the Applicants or in any other way interfering with their employment contracts pending the inter parte hearing of this application
44. On the 28th May 2024, the court ordered the Respondents to file Affidavits by heads of all department in which the Claimants were deployed to confirm that they had been given work in their respective offices and were receiving salary with proof of both deployment and allocation of work and payment



of salaries before any further directions by the Court. The court further directed that the ongoing recruitment be suspended until the Respondents confirmed that the Claimants had been deployed, allocated work and paid.

45. It is these orders that the Claimants allege have been disobeyed by the Respondents.
46. The test applicable in an application for contempt, was stated in Samuel M. N. Mweru & Others v National Land Commission & 2 others [2020] eKLR where the court held that:-

“40. It is an established principle of law that in order to succeed in civil contempt proceedings, the applicant has to prove (i) the terms of the order, (ii) Knowledge of these terms by the Respondent, (iii). Failure by the Respondent to comply with the terms of the order. Upon proof of these requirements the presence of willfulness and bad faith on the part of the Respondent would normally be inferred, but the Respondent could rebut this inference by contrary proof on a balance of probabilities. Perhaps the most comprehensive of the elements of civil contempt was stated by the learned authors of the book Contempt in Modern New Zealand who succinctly stated:-

There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that:-

- a. the terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant;
- b. the defendant had knowledge of or proper notice of the terms of the order;
- c. the defendant has acted in breach of the terms of the order; and
- d. the defendant's conduct was deliberate.”

47. The Contemnors in their affidavits averred that the orders of the court were complied with save for the order requiring that the Claimants be paid their salaries as the County Government is required by law to budget for monies allocated to it and to incur expenditure according to its budget. Noting that contempt is an offence for which an individual may be denied their liberty and/or condemned to pay a fine, the failure by the 1st Respondent to pay the Claimants their salary as ordered by the court cannot be attributed to the Contemnors herein personally by virtue of the offices that they hold.
48. With regard to the allegation made by the Claimants that the 2nd Contemnor published a list of shortlisted candidates inviting them for interviews on various dates starting 27th May 2024 despite being aware of the injunctive orders against the unlawful recruitment process to replace the Claimants, the 2nd Contemnor stated that upon learning of the orders of the court of 28th May 2024, the Respondents suspended the whole recruitment exercise with immediate effect and no interviews were conducted from 29th May 2024.
49. It is worth noting that no evidence was tendered in court to show that the recruitments were not suspended as ordered by the court. The Claimants further did not rebut the averments by the Contemnors that they had been deployed and allocated duties as directed by the court.



50. It is my considered view based on the foregoing analysis and findings that the contempt of Court application herein has not been proved to the standard required based on the law and judicial pronouncements. I accordingly dismiss the application dated 3rd June 2024 with no order as to costs.
51. In conclusion, both the notice of preliminary objection and the contempt application are dismissed with no orders for costs.

DATED, DELIVERED AND SIGNED AT ELDORET HIS 3RD DAY OF JULY, 2025.

M. ONYANGO

JUDGE

