



Republic v Chief Finance Officer, County Government of Homa Bay & 2 others; Kenya Medical Practitioners Pharmacists and Dentists Union & 3 others (Exparte Applicants) (Judicial Review E042 of 2023) [2024] KEELRC 559 (KLR) (13 March 2024) (Judgment)

Neutral citation: [2024] KEELRC 559 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
JUDICIAL REVIEW E042 OF 2023
S RADIDO, J
MARCH 13, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

**CHIEF FINANCE OFFICER, COUNTY GOVERNMENT OF HOMA
BAY 1ST RESPONDENT
EXECUTIVE MEMBER FOR FINANCE, COUNTY GOVERNMENT OF HOMA
BAY 2ND RESPONDENT
COUNTY GOVERNMENT OF HOMA BAY 3RD RESPONDENT**

AND

**KENYA MEDICAL PRACTITIONERS PHARMACISTS AND DENTISTS
UNION EXPARTE APPLICANT
KENYA UNION OF CLINICAL OFFICERS EXPARTE APPLICANT
KENYA NATIONAL UNION OF NURSES EXPARTE APPLICANT
KENYA NATIONAL UNION OF MEDICAL LABORATORY
OFFICERS EXPARTE APPLICANT**

JUDGMENT

1. The Court granted leave on 30 November 2023 to the Kenya Medical Practitioners, Pharmacists and Dentists Union, the Kenya Union of Clinical Officers, the Kenya Union of Nurses and the Kenya National Union of Medical Laboratory Officers (*ex-parte* applicants) to commence judicial review proceedings against the Chief Finance Officer, County Government of Homa Bay, Executive Member for Finance, County Government of Homa Bay and County Government of Homa Bay.



2. The Motion was filed on 21 December 2023.

Brief background

3. The County Government of Homa Bay sued the Respondents in Kisumu Petition No. 30 of 2020, alleging breach of contract and violation of Constitutional provisions by members of the ex-parte applicants on going on strike.
4. The Cause was withdrawn on 13 April 2021, and the Court awarded the ex-parte applicants costs.
5. As a result, the ex-parte applicants taxed their costs on 7 September 2023 in the sum of Kshs 445,015/-. A Certificate of Costs was issued on 7 September 2023. A Certificate of Order against the County Government of Homa Bay was also issued on the same day.
6. The ex-parte applicants then engaged the Respondents to settle the taxed costs to no avail, prompting the instant proceedings.
7. The Respondents filed Grounds of Opposition dated 12 February 2024, and the *ex-parte* applicants filed their submissions on 20 February 2024.
8. The following facts are not in dispute.
9. The Court awarded the ex-parte applicants costs. The ex-parte applicants caused their costs to be taxed at Kshs 445,015/-. A Certificate of Costs was issued and it was followed with a Certificate of Order against the County Government of Homa Bay.
10. The Respondents have not sworn any affidavit to respond to the assertions that it has failed to satisfy the costs.
11. It follows therefore that the ex-parte applicants have made a case for the grant of an order of mandamus to compel the Respondents to satisfy the costs.

Conclusion and Orders

12. In light of the above, the Court orders:
 - (i) An order of judicial review by way of mandamus is hereby issued directing the Chief Officer, Finance, County Government of Homa Bay, the Executive Committee Member Finance, County Government of Homa and the County Government of Homa Bay to pay the ex-parte applicants the sum of Kshs 445,015/- together with interest at court rates at 14% per annum from 7 September 2023.
13. Costs of these proceedings awarded to the *ex-parte* applicants.

DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 13TH DAY OF MARCH 2024.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For ex-parte applicants Mauwa & Co Advocates

For Respondents Otieno, Yogo, Ojuro & Co. Advocates

Court Assistant Chemwolo

