



Egerton University v Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals & Allied Workers (KUDHEIHA) & another (Petition E002 of 2022) [2024] KEELRC 1680 (KLR) (27 June 2024) (Judgment)

Neutral citation: [2024] KEELRC 1680 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
PETITION E002 OF 2022
DN NDERITU, J
JUNE 27, 2024**

BETWEEN

EGERTON UNIVERSITY PETITIONER

AND

**KENYA UNION OF DOMESTIC, HOTELS, EDUCATIONAL INSTITUTIONS,
HOSPITALS & ALLIED WORKERS (KUDHEIHA) 1ST RESPONDENT**

KUDHEIHA – EGERTON UNIVERSITY 2ND RESPONDENT

JUDGMENT

1. Through Sheth & Wathigo Advocates, the petitioner, a public university established under the [Universities Act](#), commenced these proceedings by way of a petition dated 27th October, 2022 filed in court on even date seeking the following –
 1. A declaration that the strike called for by the Respondents is unprotected hence illegal., the same having been called for prior to parties attempting conciliation.
 2. A temporary and permanent order of injunction restraining the Respondents from striking on 31st October, 2022 be issued.
 3. A declaration that any form of strike by the Respondents be suspended pending the hearing and determination of the instant Application.
 4. A declaration that the parties in dispute be ordered to have a meeting with a conciliator in an attempt to resolve the dispute at hand.
 5. An order directing the 1st respondent’s secretary general and the 2nd respondent’s chairman to sign the 2013-2017 CBA and have it registered for implementation by the petitioner.



6. An order be issued allowing the parties to get into Joint Negotiation Committee meeting in respect to the 2017 - 2021 CBA once the 2013 - 2017 CBA has been registered for implementation.
7. That the costs of this petition and of all other proceedings associated thereto, be borne by the respondents.
2. Contemporaneously, the petitioner filed a notice of motion of even date seeking for temporary orders stopping the members of the 2nd respondent from taking part in the intended strike which was to commence on 31st October, 2022. Interim orders stopping the strike were granted and later on confirmed pending the hearing and determination of the petition.
3. Upon service of the petition on the respondents, as per the affidavit of service on record, the respondents, duly registered trade union under the *Labour Relations Act*, did not respond to the same and as such the hearing proceeded unopposed.
4. On 27th March, 2023 the court directed that the petition be canvassed by way of written submissions. Miss Oteyo for the petitioner filed her written submissions on 23rd May, 2023.
5. The petition is expressed to be anchored on Articles 10(1)(c), (2)(a), 22, 23, 41, 47, & 232 of *the Constitution* and various sections of the *Labour Relations Act* and the *Fair Administrative Actions Act*.
6. The facts and the law relied upon are set out in the body of the petition.
7. However, the court notes that the petition is not supported with an affidavit as is required in law and as such the allegations made remain unsubstantiated and unsupported with any evidence. The affidavit supporting the application cannot be presumed to be in support of the petition as well.
8. For the foregoing reason, the court finds that the petition is incurably defective and the same is hereby struck out with no order as to costs.

DELIVERED VIRTUALLY, DATED, AND SIGNED AT NAKURU THIS 27TH DAY OF JUNE, 2024.

.....

DAVID NDERITU

JUDGE

