



**Kanake v Kenya Film Commission & another (Judicial Review E014 of 2023) [2024] KEELRC 2411 (KLR) (27 September 2024) (Ruling)**

Neutral citation: [2024] KEELRC 2411 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
JUDICIAL REVIEW E014 OF 2023  
AN MWAURE, J  
SEPTEMBER 27, 2024**

**BETWEEN**

**JOSYLINE KANAKE ..... PETITIONER**

**AND**

**KENYA FILM COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**CHIEF EXECUTIVE OFFICER ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

**Introduction**

1. The respondent/applicant Kenya Film Commission and another filed a notice of motion application dated 16<sup>th</sup> October 2023 seeking for the following prayers:
  1. That due to the urgency hereof, service of this application be dispensed with, the same be certified urgent and be heard ex parte in the first instance.
  2. That this honourable court be pleased to issue an order staying the ruling delivered on 9<sup>th</sup> August, 2023 pending the hearing and determination of this application inter parties.
  3. That this honourable court be pleased to discharge/vary/set aside the ruling delivered on 9<sup>th</sup> August, 2023 pending the hearing and determination of the substantive motion dated 13<sup>th</sup> April, 2023.
  4. That this honourable court be pleased to stay the proceedings until such time the board of directors in place reviews and makes a determination in the applicants interdiction/show cause.
  5. The costs of this applicant be provided for.
2. The respondent in the application who is the applicant in the Judicial review application filed a replying affidavit dated 16<sup>th</sup> November 2023.



3. The ruling of the above application by the respondent/applicant dated 16<sup>th</sup> October 2023 was given a ruling dated scheduled for 1<sup>st</sup> March 2024.
4. In the meantime the court was notified by the respondent/applicant that the applicant Josyline Kanake tendered a resignation from the respondents employment by a letter of resignation dated 22<sup>nd</sup> January 2024.  
  
The said resignation letter was accepted by the respondent by their letter dated 23<sup>rd</sup> January 2024. The final working day was 22<sup>nd</sup> February 2024.
5. On 22<sup>nd</sup> February 2024 the respondent made an oral application in court to withdraw his application as it was no longer necessary since it was overtaken by events after the applicant tendered her resignation.
6. However the respondent opposed the said application to withdraw the respondents/applicant's application and also indicated he was not aware the applicant (her client) had tendered a resignation. He also indicated he was entitled to his costs.
7. The court has been furnished with evidence that the applicant tendered her resignation. The court sees no reason to proceed with the application which is already overtaken by events. The applicant has not denied that she tendered her resignation. The respondent/applicant did apply to withdraw the application.
8. In view of the foregoing, the court orders the respondent/applicant application dated 16<sup>th</sup> October 2023 is hereby withdrawn since the applicant is no longer an employee of the respondent.
9. The applicant did claim that the judicial review application is still pending determination.
10. The court orders that if the applicant still is bent on proceeding with the judicial review application as per the chamber summons application dated 16<sup>th</sup> October 2023 she will mention the matter before a Judge in this docket in order to be given further directions.
11. Since the respondents/applicants application was withdrawn because the same was overtaken by events after the applicant resigned from her employment it is right that each party meet their respective costs. It is so ordered.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 27<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

Order

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the *Civil Procedure Rules*, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the *Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the *Constitution* and the provisions of Section 1B of the *Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of



the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

**ANNA NGIBUINI MWAURE**

**JUDGE**

