



Kariuki & 16 others v County Government of Kiambu & 2 others (Employment and Labour Relations Petition E168 of 2023) [2024] KEELRC 2380 (KLR) (26 September 2024) (Ruling)

Neutral citation: [2024] KEELRC 2380 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS PETITION E168 OF 2023
MN NDUMA, J
SEPTEMBER 26, 2024**

BETWEEN

**ANTHONY KARIUKI 1ST PETITIONER
WASHINGTON GITONGE NGUNJIRI 2ND PETITIONER
JOSEPH MUNGAI KABOGO 3RD PETITIONER
ABRAHAM NGURU KARANJA 4TH PETITIONER
PRISCILLA KARIMI MIRITI 5TH PETITIONER
KURA HUSSEIN ABDI 6TH PETITIONER
MARTIN NJOROGE GACHOHI 7TH PETITIONER
DINAH KABURA NDERITU 8TH PETITIONER
MARY WAMBUI WAWERU 9TH PETITIONER
MARY WANJIRU NJOROGE 10TH PETITIONER
JANE WANJIRU CHEGE 11TH PETITIONER
JOHN MBURU GITHIRI 12TH PETITIONER
ALICE WANGARI NJOROGE 13TH PETITIONER
GEORGE NDIANGUI KAMAU 14TH PETITIONER
MURICHU JOHN MUNYUI 15TH PETITIONER
CHARITY SINTAMIE TOROME 16TH PETITIONER
NJOROGE KIRUTU JOHN 17TH PETITIONER**

AND

COUNTY GOVERNMENT OF KIAMBU 1ST RESPONDENT



**THE COUNTY SECRETARY, COUNTY GOVERNMENT OF
KIAMBU 2ND RESPONDENT**

**THE SECRETARY KIAMBU COUNTY PUBLIC SERVICE
BOARD 3RD RESPONDENT**

RULING

1. The petitioner/applicant filed notice of motion application dated 17/10/2023 seeking the court to hold the respondents in contempt of interim orders of the court issued on 6/6/2023 in which the court ordered.

"Pending hearing and determination of the application interpartes an order of temporary injunction is hereby granted restraining the respondents by themselves or agents, from demoting, re-designating, revoking and/or in any way interfering with the promotion letters dated 24th April 2019, or any other date."
2. The court had on various dates listed the matter for mention to allow the respondent to demonstrate compliance with that order of the court.
3. In the replying affidavit by Waithira Waiyaki, County Attorney, Kiambu County deposes that the respondents take court orders seriously and as such the respondent had duly complied with the court order issued by Rika J. on 6th June 2013.
4. The deponent stated that after consideration, the Board at its regular meeting held on 31st January 2024, under minute number MIN/ICBU/CPSB/3/2024(5) (8), resolved to uphold the court's order and recall the revocation of the officers' promotions communicated vide its memo Ref. No. CPSB/ST/7/i/Vol. VII/349 dated 9th November 2022 and revert the four (4) medical engineering staff and twenty-one/21 public health staff back to initial designation and job groups until the court matter is determined. The memo dated 8/2/2024 to the said effect is attached to the replying affidavit.
5. The applicant however in the further affidavit in response to the replying affidavit of the County Legal Officer reiterate that despite those averments the respondents have failed to comply with the court orders by unilaterally proceeding to pay the petitioners' salary for the month of September 2023 up to and including salary for March 2024 pursuant to the impugned demotion letters dated 29th November 2022.
6. The two depositions are in stark contrast of each other. It is clear that the respondents are aware of the court order dated 6th June 2023 and in their deposition affirm that they have complied with the said court orders vide the memo dated 8th February 2024.
7. In the event there has not been full compliance with this memo, it is clear that the same must be for any other reason other than willful intention to disregard the court order dated 6th June 2023.
8. Accordingly, the court directs the respondents to demonstrate full payment of the salary of the applicant in accordance with the memo by the Kiambu County Public Service Board dated 8th February 2024, from the month of September 2023 to date at a date to be determined on the date of delivery of this ruling.



9. Failure to provide pay slips and/or copies thereof signifying full compliance with the court order the respondents shall be held with effect from that date guilty of contempt of court order dated 6th June 2023 and the court will proceed to sentence them accordingly.
10. In other words, the court has given the respondents the benefit of doubt on the contested facts subject to production of documentary prove of compliance with the court order dated 6th June 2023.

DATED AT NAIROBI THIS 26TH DAY OF SEPTEMBER, 2024

MATHEWS NDERI NDUMA

JUDGE

Appearance:

M/s. Wambua for petitioners/applicant

Mr. Munene for respondent

Mr. Kemboi - Court Assistant

