



**Cherono & 18 others; County Public Service Board of Baringo & 2 others (Respondent)
(Petition E022 of 2024) [2024] KEELRC 13458 (KLR) (17 December 2024) (Ruling)**

Neutral citation: [2024] KEELRC 13458 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
PETITION E022 OF 2024**

**J RIKA, J
DECEMBER 17, 2024**

IN THE MATTER OF

DAVID CHERONO	1ST PETITIONER
SAMUEL KULEI	2ND PETITIONER
LUKA CHERUTICH	3RD PETITIONER
ALICE CHELAGAT	4TH PETITIONER
DORCAS CHONGWO	5TH PETITIONER
IVVONE JEROP RONO	6TH PETITIONER
DANIEL KEMEI	7TH PETITIONER
BENSON KIPLANGAT	8TH PETITIONER
JOHNSTONE KANDIE	9TH PETITIONER
KENDAGOR ISAAC	10TH PETITIONER
DOUGLAS CHEPCHIENG	11TH PETITIONER
NICHOLAS TOROITICH	12TH PETITIONER
WINNIE CHEBON	13TH PETITIONER
MOSES KOSGEI	14TH PETITIONER
AUGUSTINE TOROITICH	15TH PETITIONER
ALFRED KIPLAGAT	16TH PETITIONER
JUDY KIPLAGAT	17TH PETITIONER
WINNIE KEMBOI	18TH PETITIONER
ANTHONY KIBET	19TH PETITIONER



AND

COUNTY PUBLIC SERVICE BOARD OF BARINGO RESPONDENT
COUNTY SECRETARY, BARINGO RESPONDENT
COUNTY GOVERNMENT OF BARINGO RESPONDENT

RULING

1. The Petitioners have approached the Court for injunctive and conservatory measures, under certificate of urgency.
2. They pray in main, for orders, that: -
 - a. The Application is certified urgent and service is dispensed with in the first instance.
 - b. Pending inter partes hearing and determination of the Application, a temporary order of injunction issues, restraining the Respondents, their agents, officers and /or servants from terminating the employment of the Petitioners.
 - c. Pending hearing and determination of the Petition, a conservatory order issues, restraining the Respondents from harassing [the Petitioners], recruiting, employing or otherwise filling the positions held by the Petitioners and /or otherwise interfering with their continued employment.
3. The Petitioners, through the Lead Petitioner David Cheron, state that they were engaged by the 3rd Respondent, through Kabarnet Municipality, in various positions, including ICT officers, cleaners, security guards, drivers, building inspectors, receptionists and general clerks.
4. They were engaged for periods from 2 to 10 years.
5. The Auditor General and the Municipal Manager engaged the County Public Service Board, asking for regularization of the Petitioners' service. The Respondents continued to classify them as Casual Employees, against the provisions of the Employment Act.
6. Despite the undertaking previously given by the 3rd Respondent to regularize their service, the 1st Respondent has advertised some of the positions held by the Petitioners.
7. Their substantive prayers are that, the Court declares their constitutional rights have been violated by the Respondents; that they merit conversion to permanent and pensionable service; and an order prohibiting the Respondents from replacing them, among other substantive orders.

The Court Finds:-

8. The Petitioners have established a strong prima facie case, warranting injunctive and conservatory measures.
9. They have exhibited bank statements to show that they are on the payroll of the Respondents. They have exhibited instructions given by the 3rd Respondent's Municipal Manager, authorising payment of their wages. The authorisation lists, refer to them as Casual Employees. They have exhibited muster rolls showing continuous monthly service.



10. There is documentary evidence, showing that the employment status of the Petitioners, has long been discussed by the Respondents and other relevant authorities.
11. On 28th April 2023, the Municipal Manager wrote to the Chairman, Baringo County Assembly Labour Committee, submitting a list of the Petitioners, seeking regularization of their service.
12. The 2nd Respondent wrote an advisory dated 7th July 2023, again asking for a complete list of the Petitioners, to enable the Respondents deliberate and ratify their decision on the Petitioners.
13. The Report of the Auditor General, dated 16th May 2024, confirms that the Respondents had engaged Employees on casual terms for over 12 months, against the Employment Act. It is an audit query which does not seem to have been addressed by the Respondents, necessitating the presentation of this Petition.
14. The Petition, against this background, was long in coming.
15. The Petitioners merit the orders sought.

It is ordered : -

- a. The Application is certified urgent, and service dispensed with in the first instance.
- b. The Application and Petition, shall be served upon the Respondents.
- c. The Respondents shall file and serve their Responses to the Application and the Petition, within 21 days of service.
- d. Pending hearing and determination of the Application inter partes, an order of temporary injunction is granted, restraining the Respondents, their agents, officers and / or servants, from terminating the employment of the Petitioners.
- e. Pending hearing and determination of the Application inter partes, a conservatory order is granted restraining the Respondents from recruiting, employing, or otherwise filling the positions held by the Petitioners and/ or interfering with the Petitioners' continued employment.
- f. Hearing of the Application inter partes, on 4th February 2025.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAKURU, THIS 17TH DAY OF DECEMBER 2024.

JAMES RIKA

JUDGE

