



**Matakwa v Kenya Revenue Authority (Cause 1395 of 2018)
[2023] KEELRC 167 (KLR) (31 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 167 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1395 OF 2018
J RIKA, J
JANUARY 31, 2023**

BETWEEN

EMY AMWAYI MATAKWA CLAIMANT

AND

KENYA REVENUE AUTHORITY RESPONDENT

RULING

1. Judgment was delivered in favour of the claimant, on March 29, 2022. The respondent was ordered to re-engage or compensate the claimant, for unfair termination.
2. The claimant wished to be re-engaged, but she states, the respondent has not re-engaged her.
3. She has filed an application dated May 19, 2022, asking the court to find the respondent in contempt of court, and to imprison its Deputy Commissioner-HR, Patience Njau, for 6 months.
4. The respondent opposes the application on the grounds that it has filed an application for stay of execution at the Court of Appeal, and that there is no evidence of service of the decree and judgment on Patience Njau, who is subject of the contempt proceedings.

The Court Finds: -

5. Patience Njau swore an affidavit on June 3, 2022, confirming that she is a deputy commissioner-HR of the respondent, and that she is conversant with the issues in dispute.
6. She is aware of judgment delivered on March 29, 2022 and submissions by the respondent about service of the decree and judgment, cannot be relevant. The respondent filed at the Court of Appeal, application No E130 of 2022, which was certified urgent by that court, on May 13, 2022.



7. There is an e-mail from the Court of Appeal to the parties, to this effect, exhibited in the affidavit of Patience Njau. Parties were advised that the president, Court of Appeal would constitute a bench to hear the application. They would be notified of the hearing date.
8. The court does not think it is proper to grant the orders sought to commit Patience Njau to civil jail for contempt of court, while an application for stay of execution is pending at the Court of Appeal. Let the Court of Appeal determine its application, and the parties can revert to this court after that, on contempt proceedings. Although there is no stay of execution, the court and the parties ought to defer to the proceedings before the Court of Appeal.

It Is Ordered: -

- a. The application dated May 19, 2022, is stayed, pending hearing and outcome of Court of Appeal application 130 of 2022 between the parties herein.
- b. The claimant shall renew her application once there is a ruling of the Court of Appeal on the subject from the Court of Appeal.
- c. Costs in the cause.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI,
UNDER THE MINISTRY OF HEALTH JUDICIARY AND COVID-19 GUIDELINES, THIS 31ST
DAY OF JANUARY 2023**

JAMES RIKA

JUDGE

