



**Ochieng v Migori County Secretary & 2 others (Miscellaneous Application
E065 of 2022) [2023] KEELRC 80 (KLR) (25 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 80 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
MISCELLANEOUS APPLICATION E065 OF 2022**

**S RADIDO, J
JANUARY 25, 2023**

BETWEEN

SAMUEL OTIENO OCHIENG APPLICANT

AND

MIGORI COUNTY SECRETARY 1ST RESPONDENT

GOVERNOR, MIGORI COUNTY 2ND RESPONDENT

COUNTY PUBLIC SERVICE BOARD, MIGORI 3RD RESPONDENT

RULING

1. On 6 September 2022, the Respondents issued a notice of termination to the applicant who was then serving as a Chief Officer with the County Government of Migori.
2. The applicant challenged the notice in Court through judicial review proceedings.
3. On 16 November 2022, the Court dismissed the judicial review proceedings for lack of jurisdiction.
4. As a consequence of the judgment, the applicant lodged an appeal with the Public Service Commission on or around 24 November 2022.
5. On 6 December 2022, the Respondents instructed the applicant to hand over/clear from office to enable the processing and payment of gratuity.
6. Alarmed with the turn of events, the applicant moved this Court through a notice of motion on 13 December 2022 seeking orders:

(1) ...



- (2) Pending the hearing and determination this application, the Respondents be restrained from terminating the services of the applicant and/or removing the applicant from the payroll of the County Government of Migori.
 - (3) Pending the hearing and determination of the applicant's complaint before the Public Service Commission in PSC County Appeal No. 101 of 2022, the Respondents be restrained from terminating the services of the applicant and/or removing the applicant from the payroll of the County Government of Migori.
 - (4) The costs of this application be provided for by the Respondents.
7. The Respondents filed Grounds of Opposition on 15 December 2002 and on the same day, the Court issued directions on the filing and exchanging of submissions ahead of Ruling today.
 8. The Governor filed a replying affidavit in opposition to the motion on 19 December 2022.
 9. On 10 January 2023, the applicant filed a Notice of Intention to Act in Person together with a Notice of Withdrawal of the Application.

Conclusion and Orders

10. In light of the above, the Court marks the application dated 9 December 2022 as withdrawn. Costs to the Respondents.

Delivered virtually, dated and signed in Kisumu on this 25th day of January 2023.

Radido Stephen, MCI Arb

Judge

Appearances

For applicant Bruce Odeny & Co. Advocates

For Respondents Okongo Wandago & Co. Advocates

Court Assistant Chrispo Aura

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