



REPUBLIC OF KENYA



KENYA LAW
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**Bett v Governor Bomet County & 2 others (Employment and Labour Relations
Petition E001 of 2020) [2023] KEELRC 369 (KLR) (16 February 2023) (Ruling)**

Neutral citation: [2023] KEELRC 369 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
EMPLOYMENT AND LABOUR RELATIONS PETITION E001 OF 2020
DN NDERITU, J
FEBRUARY 16, 2023
IN THE MATTER OF CONSTITUTION OF KENYA
AND
IN THE MATTER OF ARTICLES 2, 3, 10, 27, 73, 159, 165, 226, 232, 235, 236,
258 AND 259 OF THE CONSTITUTION OF KENYA
AND
IN THE MATTER OF THE ALLEGED CONTRAVENTION OF ARTICLES 10,
226, 232, 235, AND 236 OF THE CONSTITUTION OF KENYA
AND
IN THE MATTER OF COUNTY GOVERNMENTS' ACT NO 17 OF 2012
AND
IN THE MATTER OF PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT
NO 1A OF 2015
AND
IN THE MATTER OF SALARIES AND REMUNERATION COMMISSION
ACT NO 10 OF 2011
AND
IN THE MATTER OF PUBLIC FINANCE MANAGEMENT ACT NO
18 OF 2012
BETWEEN
LEONARD SIGAI ARAP BETT PETITIONER
AND



GOVERNOR BOMET COUNTY 1ST RESPONDENT
COUNTY GOVERNMENT OF BOMET 2ND RESPONDENT
BOMET COUNTY PUBLIC SERVICE BOARD 3RD RESPONDENT

RULING

1. In a notice of motion dated September 8, 2022 (the application) the 3rd respondent (the applicant) is seeking to set aside orders made by the court (O Makau J) on February 9, 2022 dismissing the applicant's notice of motion dated November 22, 2021 for non-attendance.
2. The application is expressed to be brought under rule 22 of the *Employment and Labour Relations Court (Procedure) Rules* and is founded on the grounds contained on the face of the application.
3. The application is supported by the affidavit of Chepng'eno Milkah, Advocate, who is in the conduct of this matter for the 3rd respondent explaining the circumstances under which the said application was dismissed for non-attendance.
4. Counsel has filed written submissions in support of the application dated October 5, 2022.
5. There is an affidavit of service of the said application upon the other parties but no response(s) has been filed.
6. This court has gone through the said application, the supporting affidavit, and the written submission by counsel. The reasons given purportedly explaining the circumstances, under which the notice of motion dated November 22, 2021 was dismissed on February 9, 2022 are not understandable, excusable, and or reasonable.
7. There is no explanation whatsoever as to why no action was taken between February 9, 2022, when the notice of motion dated November 22, 2021 was dismissed, and September 14, 2022 when the instant application was filed,. A period of about seven (7) months.
8. The judgment in this matter was delivered way back on November 18, 2021 and no appeal was preferred against the same.
9. The said judgment gave orders that are merely declaratory and there is nothing to be executed.
10. There is no good explanation as to why there was no court attendance on the part of the 3rd respondent or counsel on February 9, 2022 and no explanation has been proffered for the delay of over seven (7) months in filing of the instant application. The delay in filing the instant application is clearly inordinate.
11. For the foregoing reasons the application by the 3rd respondent dated September 8, 2022 is hereby dismissed with no orders as to costs.

DATED, DELIVERED VIRTUALLY, AND SIGNED AT NAKURU THIS 16TH DAY OF FEBRUARY, 2023.

DAVID NDERITU

JUDGE

