



REPUBLIC OF KENYA



**KENYA LAW**  
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**Putwai v Narok Diploma Training College (Petition E005 of 2022)  
[2023] KEELRC 317 (KLR) (7 February 2023) (Ruling)**

Neutral citation: [2023] KEELRC 317 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU  
PETITION E005 OF 2022  
HS WASILWA, J  
FEBRUARY 7, 2023**

**BETWEEN**

**PURITY NOLODI PUTWAI ..... PETITIONER**

**AND**

**NAROK DIPLOMA TRAINING COLLEGE ..... RESPONDENT**

**RULING**

1. This Ruling is in respect of the Petitioner/Applicant's Notice of Motion dated November 28, 2022, brought pursuant to section 3(1) of the [Employment and Labour Relations Court Act](#), Section 5(1) of the [Judicature Act, Contempt of Court Act 1981\(England\)](#), the [English Civil Procedure Rules](#) and all other enabling provisions of the law, seeking for the following Orders; -
  - a. Spent.
  - b. This Honourable Court be pleased to find and hold that the Respondent herein Narok Diploma Teachers Training College through its Chief Principal and Secretary to the Board of the management Mr Joseph Oloishuroh Ole Ndadayu Kiminta is in contempt of Court Ruling and or order issued herein on the October 4, 2022.
  - c. The said Respondent's principal and secretary of the Board of management be subsequently committed to civil jail for a period not exceeding 6 months pending the compliance with the Honourable court's judgement/ Decree.
  - d. The Respondent be ordered to pay for the costs of this Application.
2. The application is based on the fact that this Court delivered a ruling on October 4, 2022 in this case, ordering for the lifting of the indefinite suspension and for the payment of back salaries and allowances to the Applicant.



3. That the said ruling was served upon the Respondent on the October 6, 2022 but they have failed to comply with the Court's Orders to date and therefore that they are in contempt of Court Orders.
4. The application is further supported by the Petitioner's affidavit which was sworn on the November 28, 2022. In the said affidavit, the applicant stated that after serving the ruling and orders of this Court upon the Respondent, she reported to Narok TTC from Tuesday October 11, 2022 up until October 14, 2022, but she was ordered by the principal to go back home and wait for their communication.
5. Subsequently, that she was terminated from employment vide the letter of October 27, 2022 with effect from October 26, 2022 before the orders of the Court were enforced.
6. The application is opposed by the Respondent who filed a replying affidavit sworn on December 9, 2022 by Joseph Oloishuroh Ole Ngadayu, the chief principal of the Respondent and the secretary of the Respondent's Board and filed on December 13, 2022.
7. In the said affidavit, the affiant avers that the Respondent has not disobeyed any of the Orders granted by this Court to warrant the contempt of Court proceedings herein.
8. It is stated that the applicant in her application of January 21, 2022 sought for an array of orders which were granted except prayer 3 on resumption of duties. Instead that the Court directed the Respondent to expedite disciplinary proceeding to be completed within 3 months which was done in compliance of the Orders of the Court.
9. The deponent stated that the applicant had been sent on indefinite leave during Covid pandemic that led to closure of the college as the college could not sustain itself being that students were at home and the Government had failed to release the Grant from October, 2020, and therefore they were unable to pay the non-teaching staff.
10. It is indicated that on resumption of duty, the Respondent received complaints against the applicant and communicated the same vide a notice to show cause letter of September 8, 2021, which allegation after investigation were confirmed on February 4, 2022 and the board recommended immediate suspension.
11. The Affiant maintained that he has not disobeyed any Court orders because the Orders did not mention any reinstatement of the applicant.
12. I have examined the averments and submissions of the parties herein vide an application dated June 21, 2022, the applicant sought various orders before this court.
13. The court upon considering the averments therein, made a finding and vide its ruling of October 4, 2022 directed that the respondent's decision to keep the applicant on suspension for over a year infringed upon her rights and the suspension was lifted accordingly.
14. The respondents were directed to pay her back pay. The import of this decision was to reinstate the applicant to her position with pay but with a catch that the respondents were free to institute fresh disciplinary processes against her whilst following due process.
15. The applicant contends that she was never reinstated to work nor were the orders of the court followed.
16. The respondents contend that they have not disobeyed court orders.
17. They aver that after the applicant resumed duty, fresh complaints were received against her. These were communicated to her vide a Notice to Show Cause letter of September 8, 2021.



18. That these allegations were confirmed against her after investigations on February 4, 2022 and the board commended immediate suspension.
19. My understanding of the chronology of events show that the Notice to Show Cause being referred to proceeds events leading to the filing of this petition and application therein which the court deliberated upon and found was irregular.
20. The court's ruling of October 4, 2022 was clear that the respondents were free to initiate fresh transparent disciplinary proceedings.
21. There is no indication that these disciplinary proceedings have been done and therefore the respondent have been in disobedience of the order of the court made on October 4, 2022.
22. In the circumstances, it is my finding that indeed the contemnor, the respondent through its Chief Principal and Secretary to the Board Mr Joseph Oloishuroh Ole Ndadayu Kiminta is guilty of contempt and is liable to punishment.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 7<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

**Museve for Petitioner/Applicant – present**

**Onduso for Respondent – present**

**Court Assistant – Fred**

