



**Kenya County Government Workers Union v County Public  
Service Board of Kiambu (Employment and Labour Relations Cause  
1068 of 2015) [2023] KEELRC 2007 (KLR) (9 August 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2007 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE 1068 OF 2015  
AN MWAURE, J  
AUGUST 9, 2023**

**BETWEEN  
KENYA COUNTY GOVERNMENT WORKERS UNION ..... APPLICANT  
AND  
COUNTY PUBLIC SERVICE BOARD OF KIAMBU ..... RESPONDENT**

**RULING**

1. The claimant filed an application vide a notice of motion dated September 29, 2023.
2. He seeks the following prayers:
  1. That this application be certified urgent and same be heard ex parte in the first instance.
  2. That this honourable court do find and hold the respond herein in contempt of court for disrobing and defying the orders directing that the respondent pays the seventeen (17) grievants the total sum of Kenya shillings one million, one hundred and eighty is thousand, three hundred and forty seven shillings (kshs 1,186,347) to cater for: four days salary for December 2012, one month's salary in lieu of notice, three months salary as compensation for unfair termination as tabulated hereafter:

No

Names

Payslip

Last Payslip



Four Days Salary Fpr Dec 2012

One Months Salary In Lieu Of Notice

Three Months Salary As Compensation On For Unfair Termination

Total

A Agatha Mwihaki Warachi

16,925.00

2,689.00

16,925.00

50,775.00

70.389.00

B Josphat Ndegwa Mwihaki

15,055.00

2428.00

15,055.00

45,165.00

62,648.00

C Wambugu Damaris Muthoni

15,055.00

2428.00

15,055.00

45,165.00

62,674.00

D Kirubu Monicah Mbaire

15,055.00

2454.00

15,055.00

45,165.00

62,674.00

E Mary Njoki Kariuki

15,055.00

2,428.00

15,055.00

45,165.00



	62,648.00
F	Mwangi Catherine Wangui
	18,900.00
	2,439.00
	18,900.00
	56,700.00
	78,028.00
G	Anne Njeri Gathage
	15,055.00
	2,428.00
	15,055.00
	45,165.00
	62,648.00
H	Josphine Wambui Munjogu
	16,925.00
	2,428.00
	16,925.00
	50,775.00
	70,128.00
I	Mar Njambi Ndugu
	15,055.00
	2,868.00
	15,055.00
	45,165.00
	63,088.00
J	Karanja Reuben Mukuria
	15,055.00
	2,448.00
	15,055.00
	45,165.00
	62,648.00
K	Ngugi Gabriel Njoroge
	15,055.00



2,448.00  
15,055.00  
45,165.00  
62,648.00

L Muguri Mary Mugure  
18,816.00  
2,448.00  
18,816.00  
56,448.00  
77,692.00

M Mbuji Virginai Wanjiku  
18,816.00  
2,448.00  
18,816.00  
56,448.00  
77,692.00

N Kuria Dorcans Njeri  
18,816.00  
2,448.00  
18,816.00  
45,165.00  
77,692.00

O Gahirugu Humprey Mbui  
18,816.00  
2,448.00  
18,816.00  
56,448.00  
77,692.00

P Kinyanjui Patrick Nguyai  
18,816.00  
2,448.00  
18,816.00  
56,448.00  
77,692.00



Q	Mwathaia Kelvin Njoroge
	18,816.00
	2,448.00
	56,448.00
	77,692.00
	Total
	1,186,347.00

3. That this honourable court do find and hold the respondent herein in contempt of court for disobeying and defying the orders directing that the respondent pays costs of the claim caped at Kenya shillings two hundred and eight thousand, five hundred and sixty four (kshs 208,564) and interests caped at two hundred and thirty two thousand and sixty nine shillings ( 232,069).
4. That an order for committal to jail for a maximum of six months for contempt of court be issued against the county secretary, country public service board of Kiambu County; Dr Martin Njogu and Chief Finance officer, County Public Service Board Of Kiambu County; William Kimia for knowingly and internationally disobeying orders of this honourable court.
5. That the court make an order that until the respondent purge their contempt to the satisfaction of the court, the respondent ought not to be heard by this honourable court or participate in these proceedings.
6. That cost of this application be provided for.

3. The same is as tabulated in the said application for the 17 grievants and as extracted from the judgment delivered by Justice Maureen Onyango on January 26, 2022.
4. The applicants testify that the respondents have been aware of the judgment of the court which was delivered in the presence of their advocates.
5. The claimant state that on August 31, 2022they instructed a licenced court process server John Opiyo Okello to serve the judgment, certificate of taxation dated November 21, 2021and final decree issued on January 26, 2022and certificate of order against the government dated February 4, 2022.
6. The said process server served the same through their official email pursuant to order 6 rule 22B and 22 C and the Civil Amendment Rules 2020 and section 1(ii)E of Civil Procedure Rules.
7. The claimant says despite knowledge of the court order in cause no 1068 of 2015 the respondent has failed and/ or refused to settle the same. The decretal sum is kshs 1,186,347 and costs of Kshs 232,069/-.
8. The claimant says the said judgment has not been appealed against nor set aside by any court. The application is supported by the affidavit deponed by Hon. Roba S. Duba dated September 27, 2020.

### **Respondent replying affidavit**

9. The respondent's replying affidavit dated February 9, 2023 is deponed by William Kimani Chief Finance officer of the County Government of Kiambu.



10. In his affidavit the deponent says the suit was previously handled by Kiugu & Company advocates and the office of Country Assembly took the conduct of the suit much later. He admits the delay in remitting the decretal sum was due to lack of adequate information.
11. So they request for time to re-organise themselves as they are currently experiencing financial constraints and this is a development common to most county governments. They request to be allowed to organise themselves and budget for this amount in the 2023/2024 budget.
12. He also prays the application hereto be dismissed with costs.

### **Submissions.**

13. The court considered the applicant's submissions dated April 6, 2023 and the respondents submissions dated April 24, 2023.

### **Determination**

14. The issue for determination is whether the respondent has disobeyed court order and so is liable to be cited for contempt.
15. The application emanates from judgment delivered by the honourable court in June 2020 in favour of the claimant. The judgment was read in the presence of the advocates of respondents as they then were Messrs Kiugu & Company Advocates.
16. The decree was served on the respondents in January 2022 and the certificate of costs as well as certificate of order in favour of the respondent were served on February 4, 2022.
17. Since then there is no evidence adduced by the respondent that they did not receive these documents and that they were not aware of the judgment and the decree.
18. The respondent in his replying affidavit did admit the delayed payment was occasioned by lack of adequate information by their previous advocates. Clearly that is a very shallow explanation and does not give details and evidence of the so called inadequate information. The court finds the reason given is lacking depth and is not convincing in the least.
19. The court notices there was a change of respondent's advocates on January 23, 2023 and the legal department of the County Government of Kiambu took over the conduct of the case. Regretably there is no evidence by the respondent of efforts made in the last seven months or so even assuming there was inadequate information by their previous advocates to attempt to settle that decretal sum. The court has no evidence that the judgment of the court has been appealed or set aside. It is of paramount importance that a judgment of the court be obeyed.
20. The respondent in his submissions raises the issue that the claimant did not serve the Government with thirty days' notice as provided in section 30 of the [Contempt Of Court Act](#) No 46 of 2016. The [Contempt of Court Act](#) was invalidated in the case of [Attorney General & another](#) (2018) eKLR where Justice Mwita declared the said act invalid for lack of public participation as required in article 10 and 118(b) of the [Constitution](#) of Kenya and was encroaching on the independence of the judiciary. So that contention is not valid and it is dismissed accordingly.
21. The respondent requests to be allowed to factor this amount in the 2023/2024 budget as there is shortage of money currently.



22. That as it may be these grievants have been awaiting the fruits of their judgment since 2020. In the case of *Econet Wires Kenya Ltd v Minister of Information & communication* (2005) eKLR the court held:
- “it is essential for maintenance of law and order that the authority and the dignity of our courts be upheld at all times. The court will not condone deliberate disobedience of its orders and will not shy away from tis responsibility to deal firmly with proved contemnnor”
23. In the case of *Sharif Molena Habib Mohammed v The County Government of Kilifi* (2017) eKLR the court held:
- ” the courts orders must be obeyed. Courts cannot hold their hand as their orders are disobeyed with impunity left, right and centre. This would amount to an abdication of the sacrosanct duty bestowed upon the courts by the *Constitution*.”
24. Looking at this present case and being persuaded by the pleadings of the respective parties and their submissions the court is convinced the respondent deliberately ignored the orders of the court from 2020 when this judgment was delivered and this exposes vulnerable employees to desperate situation. The claimant have proved their case beyond reasonable doubt. Therefore the court holds the respondents are in contempt of court for disobeying the court order directing that the respondent pays the seventeen grievants the total sum of Kenya shillings one million one hundred and eighty six thousand three hundred and forty seven shillings (ksh 1,186,347) being their salary for December 2012, one month salary in lieu of notice and three months’ salary compensation plus costs of Kshs 232,069/-.
25. Having held this the respondent’s County Secretary Dr Martin Njogu and Chief Finance Officer Mr William Kimani are summoned in court on 12/10/2023 to show cause why they should not be committed to jail for disobeying court order unless they purge this contempt before the aforesaid date.
26. The costs will be borne by the respondents.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 9<sup>TH</sup> DAY OF AUGUST, 2023.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

**ANNA NGIBUINI MWAURE**



**JUDGE**

