



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kenya Union of Commercial, Food and Allied Workers v National Museums of Kenya  
(Cause 1156 of 2016) [2023] KEELRC 2891 (KLR) (15 November 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2891 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1156 OF 2016  
JK GAKERI, J  
NOVEMBER 15, 2023**

**BETWEEN**

**KENYA UNION OF COMMERCIAL, FOOD AND ALLIED  
WORKERS ..... CLAIMANT**

**AND**

**NATIONAL MUSEUMS OF KENYA ..... RESPONDENT**

**RULING**

1. By a judgement delivered on February 6, 2023, the court made the following monetary awards;
  - a. Unpaid salary during suspension.
  - b. 3 months' notice pay.
  - c. Equivalent of 2 and 3 months' salary as follows;
    - i. Saningo Meshuki 2 months
    - ii. Ernest Mburu 2 months
    - iii. Philomena Nthenya 2 months
    - iv. Julius Sankale 3 months
    - v. Sarah Wambui 2 months
    - vi. Martha Kivava 3 months
    - vii. Raphael Sinoyia 2 months
  - d. Interest at court rates from date of judgement till payment in full.



2. The foregoing awards were based on the finding that termination of the claimant's employment was unfair for want of procedural propriety.

3. On unpaid salary during suspension, it is clear that the claimants were suspended and dismissed as follows;

Dismissal

- i. Sankale May 10, 2014 11/11/2015
- ii. Sanningo May 10, 2014 11/11/2015
- iii. Makiti May 10, 2014 11/11/2015
- iv. Sinoyia May 10, 2014 11/11/2015
- v. Mburu May 10, 2014 11/11/2015
- vi. Kivava September 12, 2014 11/11/2015
- vii. Gatonye September 12, 2014 11/11/2015

4. None of the parties provided all the payslips of the grievants.

5. Similarly and intriguingly, the Respondent adduced no evidence of payment during the suspension and the suspension letters were silent on the terms of suspension.

6. It is unclear to the court as to what transpired. If any amount was paid, the same is deductible from the amount awarded by the court to obviate the danger of unjust enrichment.

1. Sanningo Meshuki Kshs 447,966.00
  2. Mburu Ernest Waithaka Kshs 428,850.00
  3. Kivava Martha Kshs 315,000.00
  4. Gatonye Sarah Kshs 506,520.00
  5. Sankale Julius Isaac Kshs 428,850.00
  6. Masindet Raphael Kshs 867,816.00
  7. Makiti Nthenya Kshs 405,000.00
- Total Kshs 3,400,002.00

7. As regards compensation for unlawful termination, the grievants are awarded as follows;

1. Sanningo Meshuki  $(24,887 \times 2) =$  Kshs 49,774/=
2. Mburu Ernest  $(23,825 \times 2) =$  Kshs 47,650/=
3. Kivava Martha  $(22,500 \times 3) =$  Kshs 67,500/=
4. Gatonye Sarah  $(36,180 \times 2) =$  Kshs 72,360/=
5. Sankale Julius  $(23,825 \times 3) =$  Kshs 71,475/=
6. Raphael Masindet  $(48,212 \times 2) =$  Kshs 96,424/=
7. Philomena Makiti Nthenya  $(22,500 \times 2) =$  Kshs 45,000/=



Total Kshs 450,183/=

8. Consequently, the grievants total awards are computed as follows;
  1. Saningo Meshuki Senteyiam Kshs 497,740.00
  2. Mburu Ernest Waithira Kshs 476,500.00
  3. Philomena Nthenya Makiti Kshs 450,000.00
  4. Julius Sankale Isaac Kshs 500,325.00
  5. Martha Kivava Kshs 382,500.00
  6. Sarah Wambui Gatonye Kshs 578,880.00
  7. Raphael Sinoyia Sarinke Kshs 964,240.00
  8. Total award in favour of the grievants is assessed at Kshs 3,850,185.00.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 15<sup>TH</sup> DAY OF NOVEMBER 2023**

**DR. JACOB GAKERI**

**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 *Civil 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.

**DR. JACOB GAKERI**

**JUDGE**

