



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. E031 OF 2020

KENYA COUNTY GOVERNMENT WORKERS UNION

CLAIMANT

v

COUNTY GOVERNMENT OF NYAMIRA

1st RESPONDENT

NYAMIRA COUNTY PUBLIC SERVICE BOARD

2nd RESPONDENT

COUNTY SECRETARY, NYAMIRA COUNTY

3rd RESPONDENT

RULING

1. The Kenya County Government Workers Union (the Union) sued the Respondents on 23 December 2020 seeking orders:

- (a) An order compelling the Respondents to pay the Claimants members as per the report of the Transitional Authority and Intergovernmental Relations Technical Committee.
- (b) An order compelling the Respondents to pay the Claimants members a total of Kshs One hundred and seventy nine million and sixty two thousand five hundred and ninety six (Kshs 179,062,596/-).
- (c) A declaration that the Respondents violated the Claimants rights under Articles 40 and 41 of the Constitution, 2010.
- (d) Exemplary damages.
- (e) An order that the Respondents shall pay general damages for the violation of the Claimant's members constitutional rights and other legal guarantees.
- (f) Costs of the suit.
- (g) Interest on prayers (b), (d) and (f) above at court rates.

2. Despite service of Summons and Statement of Claim, the Respondents did not enter Appearance or file Responses.

3. On 6 October 2021, the Court directed the Union to file submissions on a jurisdictional question arising from Article 234(2)(i) of the Constitution as read with section 77 of the County Governments Act and sections 85, 86 and 87 of the Public Service Commission Act.

4. The Union filed the submissions on 24 November 2021 but it did not address the jurisdictional question. The submissions were on the merits of the Cause.

5. Further, the Union filed a Motion seeking leave to introduce more documents. The Motion can only be determined after the Court renders itself on the jurisdictional questions.

6. The Court will therefore direct the Union, once again to file submissions:

- (a) On the jurisdictional question.
- (b) Whether the cause of action is statute/time barred considering that the cause of action accrued in 2012.

(c) Whether the dispute was taken through conciliation as envisaged under the Labour Relations Act before the Court was moved.

7. The submissions to be filed before 26 January 2022 and Ruling to be delivered on 16 February 2022.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 19TH DAY OF JANUARY 2022.

RADIDO STEPHEN, MCIArb

JUDGE

Appearances

For Union Benard Odera & Co. Advocates

Respondents did not participate

Court Assistant Chrispo Aura