



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NYERI

ELRC CAUSE NO.14 OF 2020

(Before D.K.N.Marete)

KENYA UNION OF PRE-PRIMARY EDUCATION TEACHERS.....CLAIMANT

-VERSUS-

SECRETARY, LAIKIPIA COUNTY

PUBLIC SERVICE BOARD.....1ST RESPONDENT/APPLICANT

COUNTY SECRETARY,

LAIKIPIA COUNTY GOVERNMENT.....2ND RESPONDENT/APPLICANT

R U L I N G

The contest between the parties here is one of adoption of the report by the Commissioner of Labour dated 18th November, 2021. It is also dubbed as Conciliation Report.

This report is made and submitted pursuant to order No.6 in the judgment of this court on the matter dated 25th February, 2021. It reads as follows;

6. That the Commissioner of Labour be and is hereby further ordered to be architectural and articulate in the implementation of this delicate exercise of execution of these orders of court and report back in 120 days.

This matter come to court on diverse dates until the 10th March, 2022 when a contest on its implementation ensued. The claimant was of the submission that the report should be adopted whereas the respondent opposed an adoption of the same.

The Respondents opposition to adoption was on grounds that the report was worded as an agreement *inter partes* and from the quantum and representation at the meeting, the respondent did not attend. He is the implementing authority of the County Government, if he refused to sign the report, he must have found fault with the report as is expressed in the respondent's letter dated 4th March, 2022.

Again, the Respondent submits that even with an adoption, the report would not be implementable. Further, much progress had been used in auditing the teacher population with a view to resolving the issues at hand.

She prayed that parties return to the drawing board and come up with a more concrete report on this.

Mr.Opiyo in rejoinder countered the Respondent's position. He was of the view that Mr.Wamiti, the secretary, County Public Service Board was not a party to the meeting and therefore his execution of the report was irrelevant. It was not necessary, or at all.

This court made a judgment in favour of the claimant on 25th February, 2021. In this piece, the court directed an involvement of the Commissioner of Labour in the articulation and implementation of the judgment of court and report back in 120 days.

The conciliator, on the authority of the Commissioner of Labour pursued the letter of the order of court and issued a report dated 17th December, 2021 and filed on the 18th instant. It would appear that the Respondent was not keen on the conciliation process and her star official, Mr.Wamiti declined to attend the meeting. She has herself to blame.

The court's judgment, orders and directions were even not the claims of any of the parties. They were not for liking or at all. They were for application and implementation in the spirit of good governance and the role of law. This is inescapable for all of us. The law is cross-cutting and totally blind. It does not appreciate colour, creed or status.

Again, it is trite law and practice litigation must come to an end. Courts and tribunals must always be abreast of this in their dealings on matters litigation.

I am therefore inclined to order an adoption of the conciliator's report with further orders as follows;

- i) The Commissioner of Labour shall continue her indulgence in the implementation of the judgment of court as earlier ordered.
- ii) The commissioner shall file a follow up report in 90 days.
- iii) Mention on 20th July, 2022 for a review of the report by the Commissioner for Labour.

DATED AND DELIVERED AT NYERI THIS 16TH DAY OF MARCH, 2022.

D.K.Njagi Marete

JUDGE

Appearances

1. Mr.Samuel Opiyo for the Claimant Union/Objector.
2. Miss Mutungi instructed by Mutungi Kithinji & Company Advocates for the Respondent.