



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 25 OF 2019

KENYA TERTIARY AND SCHOOLS

WORKERS UNION.....CLAIMANT

v

THE UNIVERSITY COUNCIL, .

UNIVERSITY OF NAIROBI.....RESPONDENT

RULING

1. The Kenya Tertiary & Schools Workers Union (Union) moved the Court on 21 January 2019 against the University Council, University of Nairobi (Respondent) seeking orders

1.

2. **THAT**, the unprocedural and unfair mass termination of the Respondent's unionisable staff employees without issuing of written notices as enshrined under section 35(1)(c) and/or Section 40 of the Employment Act, 2007, Laws of Kenya is a violation of workers' rights ab initio and hence declared NULL and VOID forthwith.

3. **THAT**, pending the hearing and determination of this suit and/or until further orders of this Court, an order do issue forthwith quashing the unprocedural and unfair mass terminations of Sixty Eight (68) plus unionisable staff employees of the Respondent.

4. **THAT**, pending the hearing and determination of this suit and/or until further orders of this Court, an order do issue forthwith for "REINSTATEMENT" of all the Sixty Eight (68) plus unionisable staff employees of the Respondent.

5. **THAT**, costs of the application and suit be provided for.

2. On the same day, the Court directed the Union to serve the Respondent for *inter partes* hearing on 28 January 2019.

3. Despite service (affidavit of service on record), the Respondent did not attend Court for the hearing. The Court allowed the Union to urge the application.

4. The affidavit in support of the application deposes that the contracts of the 68 grievants were terminated on 2 January 2019.

5. The effect of the substantive orders sought by the Union would be reinstatement of the already dismissed employees.

6. The 68 employees were in an ordinary employment relationship with the Respondent and it would not be prudent to reinstate them before a hearing on the merits.

7. Reinstatement in such circumstances is a final remedy.

8. The Court therefore declines to grant the orders sought.

9. The Union should be at liberty to cause the Cause listed for directions as to hearing on a priority basis after the close of pleadings.

10. No order as to costs.

Delivered, dated and signed in Nairobi on this 5th day of February 2019.

Radido Stephen

Judge

Appearances

For Union Mr. Agura, Secretary Union

Respondent did not participate

Court Assistant Lindsey