



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAKURU
CAUSE NO. 372 OF 2016

LUCY WANGARI METHU.....CLAIMANT

v

COUNTY COMMISSIONER NYANDARUA COUNTY.....1ST RESPONDENT

CABINET SECRETARY, MINISTRY OF INTERIOR .

AND COORDINATION OF NATIONAL GOVERNMENT.....2ND RESPONDENT

PUBLIC SERVICE COMMISSION.....3RD RESPONDENT

HONOURABLE ATTORNEY GENERAL.....4TH RESPONDENT

HONOURABLE WANJIKU MUHIA

NYANDARUA COUNTY WOMEN REPRESENTATIVE.....5TH RESPONDENT

RULING NO. 3

1. On 26 October 2016, the Court issued an order suspending the interdiction of Lucy Methu (Claimant) as the Chief of Kipipiri Location pending the hearing and determination of the instant Cause.
2. The order was issued after hearing both parties on 24 October 2016 during which appearance the Respondents did not disclose that any precipitate action had been taken. The 2nd Respondent had purported to dismiss the Claimant on 21 October 2016 while the interdiction letter had indicated that the interdiction was to facilitate further investigations.
3. When the Court's attention was drawn to the dismissal, the Court heard brief oral addresses from the parties and issued Ruling No. 2 on 10 November 2016 in which it was ordered and directed *inter alia*, that the Claimant be restored to her office and the officer who signed the dismissal letter to appear in Court within a fixed time in order to maintain and preserve the integrity of the judicial process.
4. The orders and directives were not complied with and on 1 November 2016 the Claimant moved Court to commit certain named officers to jail for contempt (though motion was to be urged on 9 December 2016 it is yet to be urged).
5. Before the contempt application could be heard, the Respondents moved Court on 16 November 2016

under certificate of urgency seeking stay of the orders of 26 October 2016 and 10 November 2016 pending an appeal preferred to the Court of Appeal.

6. On 2 December 2016, the Respondents filed another application seeking that this Court recuses itself from further handling the matter.

7. When the parties appeared in Court on 22 November 2016, the Court directed that the pending applications by the Respondents would be stayed pending the enforcement of warrants of arrest issued against the 1st Respondent and another officer in the 2nd Respondent's office.

8. The warrants were not enforced and on 2 December 2016, the Court extended the same with a mention scheduled for 16 January 2017 (at the same appearance, the Respondents notified the Court of the application for recusal and the Claimant was given time to file responses thereto).

9. On 16 January 2017, the State Counsel representing the Respondents informed the Court that the Inspector General of Police was not reluctant to enforce the warrants of arrest but required more time.

10. The Court therefore gave the Inspector General more time and scheduled a mention for 20 January 2017 to confirm enforcement.

11. However on 20 January 2017, Mr. Kirui State Counsel informed Court that he had communicated with the Inspector General but when asked for evidence of the communication, responded that the communication was confidential.

12. The Court in that respect directed that he file an affidavit that he had communicated with the Inspector General and placed the file aside.

13. When the file was called out later, Mr. Kirui was not in Court and there was no explanation for his absence and the Court issued summons for the Inspector General to appear in Court after an application by the Claimant with a return date of 1 March 2017.

14. On 14 February 2017, Mr. Nguyo State Counsel moved the Court in Nairobi seeking that the recusal application be determined.

15. The Court however directed that the file be returned to Nakuru because there was no proper or competent application before it and when the file was placed before this Court on 1 March 2017, the Court allowed the recusal application to be urged.

16. The Court will not discuss the merits of the recusal application which was urged with much fervent passion by Mr. Nguyo State Counsel, for reasons which will become clear hereunder.

17. Although Mr. Nguyo urged his application with unparralled passion and zeal, not unlike that of a high priest, and during which address he even cajoled that the Court should rely on a draft code of conduct for judicial officers, a public official directly implicated in the proceedings had, in the intervening period made thinly disguised approaches to the Court in respect of the pending warrants of arrest.

18. Being a public officer, the said officer should have known better than make the disguised approaches if he were to be truthful to ethical standards expected of his office and the public service.

19. It is on the basis of the approaches that the Court has come to the conclusion that it recuses itself from handling this file any further and because the nearest Employment and Labour Relations Court station to where the Claimant was performing her contract is situate in Nyeri, the Court orders that this file be transferred to the Employment and Labour Relations Court sitting in Nyeri for hearing and determination.

20. Costs in the cause.

Delivered, dated and signed in Nakuru on this 10th day of April 2017.

Radido Stephen

Judge

Appearances

For Claimant Mr. Kihiko, instructed by Stanley Henry Advocates

For 1st – 4th Respondents Mr. Nguyo, Senior State Counsel, Office of the Attorney General

For 5th Respondent did not enter appearance/participate

Court Assistant Nixon