



**REPUBLIC OF KENYA**

**IN THE INDUSTRIAL COURT OF KENYA AT NAKURU**

**CAUSE NO. 509 OF 2014**

**THOMAS JOSEPH ONYANGO**

**CLAIMANT**

**v**

**HON. ATTORNEY GENERAL**

**1<sup>st</sup> RESPONDENT**

**REUBEN OCHAKO**

**2<sup>nd</sup> RESPONDENT**

**RULING**

1. Thomas Joseph O Onyango (Claimant) filed a Memorandum of Claim against the Attorney General (1<sup>st</sup> Respondent) and Reuben Ochako (2<sup>nd</sup> Respondent) on 14 October 2014 seeking punitive damages of Kshs 5,000,000/-, salaries and allowances, implementation of the judgment of Court in Nakuru Cause No. 407 of 2013, *Thomas Joseph O. Onyango v the State & Teachers Service Commission*, contempt of Court against the Chief Executive Officer, Teachers Service Commission, and other reliefs.
2. Principally, the reliefs sought by the Claimant arise directly out of the judgment of Court delivered in Nakuru Cause No. 407 of 2013 on 13 June 2014 by Ongaya J. The Court awarded the Claimant Kshs 1,389,539/60 and salary arrears to be computed and ordered that he resume duties.
3. Together with the Memorandum of Claim, the Claimant filed a motion under urgency on the same day. I heard the motion on 23 October 2014 and directed that ruling would be on notice.
4. In submissions, the Claimant stated that the Respondent had not complied with Court orders granted in Nakuru Cause No. 407 of 2013 and that he was suffering financially.
5. Although not cited as a Respondent, the Court allowed Ms. Ruto to submit on behalf of the Teachers Service Commission. She stated that the Teachers Service Commission had appealed the decision in Nakuru Cause No. 407 of 2013 and that in any case, the Respondent had not shown that he reported to the school as ordered.
6. Ms. Kariuki for the 1<sup>st</sup> Respondent submitted that the Hon Attorney General was not a proper party to the dispute and it was not aware of the dispute.
7. If the reliefs granted by the Court on 13 June 2014 have not been complied with, the legal option available to the Claimant is to commence execution process or contempt in Nakuru Cause No. 407 of 2013 and not institution of fresh action against the Honourable the Attorney General.
8. The present claim is therefore incompetent and an abuse of the Court process. The Court hereby strikes out the instant Motion and Memorandum of Claim with costs to the Respondent.

**Delivered, dated and signed in Nakuru on this 18<sup>th</sup> day of December 2014.**

**Radido Stephen**

**Judge**

**Appearances**

Claimant in person

Respondent Ms. Kariuki, Litigation Counsel, Office of the Attorney General