



COUNTY GOVERNMENT OF KISUMU
COUNTY ASSEMBLY OF KISUMU

THIRD ASSEMBLY – SECOND SESSION
COMMITTEE ON LABOUR AND SOCIAL WELFARE SERVICES

COMMITTEE REPORT

ON

PETITIONS BY KENYA MEDICAL PRACTITIONERS AND DENTISTS UNION (KMPDU) NYANZA BRANCH AND HEALTHCARE WORKERS UNIONS (KNUN, KNUMLO, KUCO & KNUPT) ON DELAYS IN PAYMENT OF SALARIES AND THE GENERAL STATUS OF HEALTHCARE WORKFORCE AND SERVICE PROVISION IN PUBLIC HEALTH FACILITIES IN KISUMU COUNTY.

Prepared By Clerks Chambers,
County Assembly Kisumu

March, 2023

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PREFACE

Background Information

Right to petition; Constitution of Kenya 2010/ County Governments Act 2012/ Standing Orders No. 210 of Kisumu County Assembly Standing Orders

In November 2022, the County Assembly received two petitions on similar matters about the welfare of health workers and the status of healthcare in Kisumu County. The petition on the welfare of health workers was submitted by the Nyanza branch of the Kenya Medical Practitioners and Dentists Union (KMPDU), and it sought the indulgence of the County Assembly in addressing allegations of perennial delays in payment of salaries due to the employees of the County Government. The petition was reviewed and tabled before this House on the 2nd November 2022 after which it stood committed to the Committee on Labour and Social Welfare for legislative processing. Another petition by a section of Healthcare Workers Union in Kisumu County equally petitioned the County Assembly to intervene on allegations of status of healthcare workforce and healthcare service provision across public health facilities within Kisumu County. The petition was tabled on 9th November 2022 and stood committed to the committee on Labour and Social Welfare. The healthcare workers union, the petitioners, included; the Kenya National Union of Nurses (KNUN), Kenya National Union of Medical Laboratory Officers (KNUMLO), Kenya National Union of Clinical Officers (KUCO) & Kenya National Union of Pharmaceutical Technologists (KNUPT).

In the petitions, the petitioners raised, in the two petitions, pertinent concerns around; allegations of delays in payment of salaries due to health workers; allegations of refusal by the County Government to promote and re-designate all healthcare workers; allegations of an illegal withholding of salaries of some healthcare workers, and allegations of employment of healthcare workers under illegal and discriminatory terms.

The committee has comprehensively reviewed, analyzed and legislative processed the petitions including but not limited to hearing from and receiving both oral and written submissions from all the relevant stakeholders and petitioners. This report is therefore a documentation of the findings and recommendations of the committee in its quest to offer solutions to the prayers put forward by the petitioners.

Establishment and Mandates of the Committee

The Committee on Labour and Social Welfare is established pursuant to Standing Order No. 193 of the Kisumu County Assembly Standing Orders and is mandated to oversight over all matters relating to labour, trade union and relations, manpower or human resource planning, gender, social welfare and National Youth Service.

Committee Membership

As is constituted by this House, the committee on Labour and Social Welfare is currently made up of the following members;

	Names	Designation
1.	Hon. Zack Okoyo	Chairperson
2.	Hon. Vincent Jagongo	Member
3.	Hon. Alice Wajewa	Member
4.	Hon. Benson Adegga	Member
5.	Hon. Eunice Alando	Member
6.	Hon. Carren Odhiambo	Member
7.	Hon. Mildred Ajumbo	Member
8.	Hon. Nancy Matara	Member
9.	Hon. Emily Oginga	Member
10.	Hon. Boitone Ratib	Member
11.	Hon. Joachim Oketch	Member
12.	Hon. Jennipher Obonyo	Member
13.	Hon. Reuben Rakwach	Member
	Secretariat	Designation
1.	Pst. David Ochieng'	Senior Clerk Assistant
2.	Oguta Chrispine	Committee Clerk
3.	Raphael Juma	Researcher
4.	Jesca Otieno	Hansard Reporter
5.	Zackary Nyalalo	Sergeant –at- Arms
6.	Bill Omondi	Legal Counsel

Acknowledgement

The Committee wishes to thank the offices of the Speaker and the Clerk of the Assembly for the support extended to it in conducting its meetings and investigations. The Committee also thanks the petitioners, the county government departments of Health, Finance and Economic Planning, and the County Public Service Board and all other stakeholders for their valuable indulgence in the matter.

It is now my pleasant duty to present this Report of the Committee on Labour and Social Welfare on the Petitions by Kenya Medical Practitioners and Dentists Union (KMPDU) Nyanza Branch and Joint Healthcare Workers Union, Kisumu on delays in payment of salaries and the general status of healthcare workforce and service provision in public health facilities in Kisumu County.

Signed..... Date.....

HON. ZACK OKOYO
MCA, & CHAIRPERSON, COMMITTEE ON LABOUR AND SOCIAL WELFARE
SERVICES

1.0 INTRODUCTION

1.1 Background Information

Pursuant to Article 119 of the Constitution of Kenya, Section 15 of the County Governments Act No.17 of 2012, and the County Assembly of Kisumu Standing Order No. 209, 210(1)(a), the Office of the Clerk received two petitions from various unions of healthcare workers in Kisumu County. The 1st petition was submitted by the Kenya Medical Practitioners and Dentists Union (KMPDU) concerning allegations of perennial delays in payment of salaries due to employees of the County Government of Kisumu. The petition alleged that salaries due for August 2022 were paid in September 2022, one month late, while salaries due for the month of September were paid in October 2022, to justify their claims for perennial delays. The petition which was signed by 4 officials of the KMPDU union in Western region, prayed that the County Assembly causes the executive to put in place adequate mechanisms to ensure that their members are paid on or before 5th of every month. This petition was tabled on 2nd November 2022 and committed to the Committee on Labour for legislative processing.

Another petition on almost similar grievances was equally submitted to the Office of the clerk on 7th November 2022 and tabled on 9th Nov. 2022. The petition presented various grievances relating to the status of healthcare workforce and healthcare service provision across public health facilities within Kisumu County. The petition was submitted by a joint unions comprising of; Kenya National Union of Nurses, Kenya National Union of Medical Laboratory Officers, Kenya National Union of Clinical Officers and the Kenya National Union of Pharmaceutical Technologists.

Pursuant to Standing Orders No. 217(1), the two petitions were both committed to the County Assembly Committee on Labour and Social Welfare for legislative processing and reporting. Consequently and in line with Standing Order No. 217 (2), this report now-in constitutes the response of the County Assembly of Kisumu on the two petitions by various health workers unions on various grievances on status of healthcare and healthcare workforce in Kisumu County.

1.2 Overview of the Petitions

Statements of the Problem

Despite the similarity on the issues advanced by the petitioners, the committee herein unpacks each of the petitions, the grievances presented and the prayers advanced in each petition.

The 1st petition by the Kenya Medical Practitioners and Dentists Union (*attached as annexure 01*), drew the attention of the Assembly to the following issues;

1. THAT employees of the County Government of Kisumu have had to endure perennial delays in payment of salaries
2. THAT the salaries for the month of August 2022 were paid on 26th September 2022 while the salaries for the month of September were paid on 19th October 2022
3. THAT the unprecedented delays in payment of salaries have caused emotional anguish and pecuniary embarrassment to employees
4. THAT the same has also resulted to monthly salary parades and go-slows that has affected service delivery.

The other petition by a joint unions of Kenya National Union of Nurses, Kenya National Union of Medical Laboratory Officers, Kenya National Union of Clinical Officers and the Kenya National Union of Pharmaceutical Technologists (*attached as annexure 02*), presented the following grievances to the Assembly;

The Unions alleged that the County Government of Kisumu has continuously abused the fundamental and basic rights of its employees through;

- (i) Perennial salary delays in contravention of Part IV Section 18 (2) (c) of the Employment Act 2007 and a mutual agreement signed by the county government and deposited with the Labour court
- (ii) That the County Government has refused to promote and re-designate all its healthcare workers
- (iii) Allegations of illegal withholding of salaries of a section of healthcare workers for having participated in an industrial action
- (iv) Allegations of illegal and discriminatory terms of employment and coercion of employees to sign illegal contracts contrary to Labour relations Act and Human Resources Manual.

The Prayers

The petitions requested the intervention of the County Assembly of Kisumu to grant the following prayers;

The petition by KMPDU prayed that;

- I. THAT the County Assembly should cause the County Executive to put in place mechanisms to ensure that salaries and emoluments due to employees, specifically members of KMPDU, be paid on or before 5th of every month AND that the County Assembly should enact any necessary laws for effective execution of their prayer.

The petition by the joint unions of Kenya National Union of Nurses, Kenya National Union of Medical Laboratory Officers, Kenya National Union of Clinical Officers and the Kenya National Union of Pharmaceutical Technologists, advanced the following prayers;

- II. THAT the County Assembly of Kisumu intervenes by tasking the relevant departments of Health, Human Resources, Finance and County Public Services Board to intervene in finding solutions for all the grievances they advanced failure to which they threatened to resort to industrial actions including strikes and disruption of healthcare service provision. AND
- III. THAT the responsible officers of executive be summoned by the County Assembly to explain their actions or inactions with regards to solving the grievances of healthcare workers in Kisumu County.

1.3 Issues for Determination

Hon. Speaker, based on the grievances advanced by the petitioners and the prayers put forth for consideration in the petitions, the committee isolates the following as the key issues for determination in this matter;

- I. The issue of alleged perennial delays in payment of salaries and emoluments due to healthcare workers in Kisumu County
- II. The issue of alleged withholding of salaries due to some healthcare workers in the months of January and February 2021
- III. The issues of promotions and re-designations of healthcare workers in Kisumu County
- IV. The issues of alleged illegal and discriminatory terms of employment and coercion of healthcare workers into illegal employment terms in Kisumu County

1.4 Procedure Adopted

In its quest to provide solutions to the prayers of the petitioners, the committee sort audience with various stakeholders; the County Department in charge of Finance, and Economic Planning, the County Department of Health and the County Public Service Board. The committee also reviewed and analyzed all the relevant literature, regulations and or legislations regarding employee remunerations, health and health service provisions amongst other related literature. The petitioners were also given an opportunity to give their oral and additional submissions on the petition before finalization and report writing.

2.0 LEGAL FRAMEWORK AND LITERATURE REVIEW ON THE PETITIONS

The committee therefore files the following legal framework and literature review on the petitions and the issues raised by the petitioners as guidance to the procedures and decision of the committee on the matter.

2.1 The Constitution of Kenya 2010

- I. Right to petition: Article 37 of the Constitution of Kenya 2010 entitles every person with the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and *to present petitions to public authorities*. This therefore allows the petitioners to petition the County Assembly on any issues including but not limited to the issues advanced in the foregoing petitions.
- II. On issues health service provision: Article 46(1) (a) of the Constitution of Kenya 2010 gives everybody the right to the highest attainable standard of health which includes the right to healthcare services.
- III. On Labour relations and the grievances advanced by the petitions:
 - a. Article 30 (2) the Constitution of Kenya 2010 provides against servitude, slavery and forced labour.
 - b. Article 41 provides for fair labour practices including; the right to fair remuneration, reasonable working conditions, to form, join and participate in activities of trade unions.
 - c. Article 162 provides for establishment of a judicial system for employment and labour relations

2.2 The County Governments Act no.17 of 2012

- I. Right to petition:
 - a. Section 15 of the County Governments Act No. 17 of 2012 bestows upon the citizens the right petition the County Assembly to consider any matter within its authority including but not limited to enacting, amending or repealing any of the county assembly laws
 - b. Section 88 of the County Governments Act No. 17 of 2012 provides for the right of citizens to petition the County Government on any matter within its functions
 - c. Section 89 of County Governments Act No. 17 of 2012 bestows upon the County Government agencies the duty to respond to petitions expeditiously
 - d. Second schedule of County Governments Act 2012 provides for the inclusion of various issues on how to address petitions for inclusion in County Assembly Standing Orders.

II. Employment and Labour relations

- a. Part VII of the County Governments Act 2012 establishes the County Public Service Board and bestows upon the agency roles and powers to undertake all issues related and or incidental to establishment of offices, appointment of officers on various terms including permanents, contracts, deployments, promotions and re-designations, confirmations and secondments amongst others.
- b. Section 55 of the Act makes provisions incidental to the promotion of the values and principles referred to in Articles 10 and 232 of the Constitution, efficiency, quality and productive services for the people of the county; institutions, systems and mechanisms for human resource utilization and development in a manner that best enhances service delivery by county public service institutions; and address staff shortages and barriers to staff mobility between counties; amongst others.

2.3 Employment Act, 2007 (Amendments 2012/ 2014/ 2022)

Provides various provisions relevant to the issues raised in the petitions including but not limited to; Sections 4& 5 on prohibitions against forced labour and discriminations in employment; Section 7 terms of service; Section 15 of employees rights; Section 17& 18 on salaries and wages and when the same are due; Part V on rights and duties in employment; and Section 87 on complaints between employees and employers.

2.4 Labour Relations Act, 2007 (Amendments 2012)

Makes various provisions for the rights of employees to form, associate and participate in trade union actions and activities. It also provides for recognition of trade unions and their collective agreements, and dispute resolution mechanisms

Hon. Speaker, the committee relied on, but not limited to, the foregoing legal framework while processing these petitions.

3.0 SUBMISSIONS BY STAKEHOLDERS

3.1 County Department of Health

In a correspondence dated 10th Feb 2023 ref no. CGK/EXEC.HEALTH/C.ASSEMBLY/34/VOL. I (202) (*attached as annexure 03*), the department of health services submitted as follows on each of the issues raised by the petitioners;

Allegations of delays in payment of salaries

The department of health advised that the matter of delays in payment of salaries be addressed to the department of Finance. Nonetheless the CECM observed that matter was of concern to all County Government employees

Promotions and Re-designations

The CECM health noted that the matter had been addressed by the County Public Service Board and he confirmed receipt of 253 letters of promotions and re-designation of healthcare workers as of December 2022.

Alleged illegal withholding of salaries

The CECM in charge of health services dismissed claims of any illegal withholding of employee salaries. However, he confirmed knowledge three categories of employees whom he termed as whose salaries were lawfully stopped in various circumstances as discussed below;

The case of one Denis Ondego –a clinical officer who allegedly abandoned duty in 2018 but was later reinstated on condition that he would forfeit his withheld salary. It is reported that he later filed a case against the County Government but the same was dismissed with costs.

The case of Maurice Opetu – reportedly an official of Kenya National Union of Nurses Kisumu Branch who allegedly proceeded for training without due approval and refused to report back to work upon being recalled back. He was also reinstated back to duty on condition of forfeiting his salary but instead he filed a case against the County government. The CECM indicated that the matter is still in court and therefore stood sub-judice.

The case of staff who participated in a strike and whose salaries were withheld. The CECM indicated that, pursuant to Section 79 (6) of the Labour Relations Act 2007, the County Government of Kisumu, and the Council of Governors made a decision not to pay workers who engaged on the strike during the period referenced. However, the department did not provide evidence of cabinet decision to withhold the staff salaries and the communiqué from the Council of Governors on any such collective decisions.

Coercion of employees to sign illegal contracts

The department of health could not provide any comprehensive response neither could they provide evidences on the alleged coercion cases.

Inadequate staffing

The CECM Health services accepted the staffing inadequacies in health service provision in Kisumu County. However, he disputed the mechanisms used by the petitioners to calculate the staffing needs in healthcare system in the County and instead advocated for and presented data on staffing health staffing levels based on the Workload Indicating Staffing Need (WISN) system reportedly advocated by World Health Organization (WHO). The following is the data on health sector staffing gaps in Kisumu County as presented by the CECM Health Services as the true reflection on the County's staffing levels with regards to nurses and clinical officers in Level 4 facilities and below;

No of facilities (Dispensaries/ Health centers/ Sub County Hospitals)	Dispensaries		Health Centers		Sub County Hospitals	
	Existing	Gap	Existing	Gap	Existin g	Gap
Kisumu East (7/4/1)	17	6	9	0	3	-2
Kisumu Central (5/1/2)	13	3	6	4	14	0
Kisumu West (4/13/3)	8	4	35	18	22	8
Muhoroni(15/5/2)	30	15	11	6	11	1
Seme (9/9/2)	18	9	23	10	11	4
Nyakach (16/3/2)	28	13	8	4	19	9
Nyando (11/6/3)	27	16	17	10	22	-4
TOTAL (94/41/16)	141	66	109	52	102	16

The CECM health services indicated that the County Government has consistently made budgetary adjustments aimed at improving health services staffing citing a consistent three year consecutive budgetary increases of Kshs. 1.9b in 2018/2019, to Kshs. 2.6b in 2019/2020 and ksh.2.8b in 2020/2021.

However, the committee notes that both the petitioners and the department presented conflicting and unverified data on the status of healthcare workers staffing levels. Having reviewed the data on staffing levels, the committee registers its dissatisfaction with data presented by both parties on the status of healthcare workforce. It is necessary that a more comprehensive and specific enquiry be conducted on the same and reported to the House for subsequent decision making and action.

3.2 County Department of Finance and Economic Planning

On the 2nd Feb 2023, the CECM Finance and Economic Planning appeared before the committee, upon invitation, to respond to the following issues with regards to the foregoing petition;

Perennial Salary Delays

The CEC admitted that in some instances salaries have delayed as alluded by the petitioners and this is always due to delay in disbursement of funds to the counties from the National Government. Further implying that, as at the date of his appearance before the committee, the County Government of Kisumu had not received funds for the last three months totaling to about Kshs. 2 Billion. He further clarified that the County Government of Kisumu, with the approval of the County Assembly, used to get credit from a local commercial bank that was meant for servicing salaries in cases of delays in disbursement of funds by the national government but at some point the program was stopped due to high charges on bank overdrafts. This occasioned the salary delays alleged by the petitioners during the months referenced by the petitioners. However, the CECM indicated that the program was resumed in the month of October, 2022 with new structures guaranteeing reduced charges in overdrafts and that this has since ensured that the county has paid its salaries promptly.

Illegal Withholding of Salaries

The petitioners alleged concerns of illegal withholding of salaries due to some section of health workers. The committee sought clarifications from the CECM Finance on the said allegations and he responded that the issue around decisions as to who is paid and who is not paid is a decision of the County Secretary, Human Resource and the Payroll and not the County Treasury. However, the Human Resource Director, who was present in the meeting, admitted that indeed the County Government of Kisumu through a cabinet decision, withheld the salaries of a section of healthcare workers for a period of two months. And that the salaries were withheld due to abscondment of duty.

3.3 County Public Service Board

The Committee therefore invited the County Public Service Board to respond to the some of the issues raised by the petitioners which were directly relevant to their mandates and functions. The issues highlighted for response by the Board included;

- i. Inadequate staffing of healthcare workers
- ii. Re-designations and promotions
- iii. Allegations of discriminations and illegal terms of employment

The Board appeared before the committee on the 8th December 2022 and provided the responses as indicated below;

Failure of the County Government of Kisumu to Employ Adequate Healthcare Staffs

The County Public Service Board indicated that recruitments are done on need basis and upon requests by relevant departments i.e. Health department for this case. The Board indicated that any gap in recruitment cannot be blamed on them as the same can only be acted upon receipt of official requisitions and budgetary allocations and availability of funds within the departments for purposes of recruitment.

The Board responded thus any gaps in staffing in health facilities can only be due to either financial inadequacies and or lack of requisitions for additional staff from the department of health.

Re-designations and Promotions

On re-designations, the Board indicated that they had actualized requests from the department of health to re-designate and promote various staffers within the department. The Board indicated that on 24th June, 2020, the Health department did a letter Ref: CGK/CS/ADM.57/CPSB/VOL. III/ 31 requesting for re-designations and promotion of its staffs across different health facilities in the County and on 23rd July, 2020, the board in response then did a letter Ref: KCPSB/38/07/2020 with a list and copies of letters of 234 healthcare staffs who had been re-designated and another list of personnel already re-designated by August 2022. (*Documents availed to the committee*). The list of promoted healthcare workers was submitted to the committee for review and noting.

Employment of Healthcare Workers under Illegal and Discriminatory Terms

The petitioners also alleged that the Board was employing healthcare workers in a discriminatory manner and engaging them on illegal employment terms. While appearing before the committee, the Board clarified the procedures and processes used in employment in public service for purposes of clarity and noting by the committee. It was noted that upon receipt of official requisitions and confirmations of availability of funds for recruitment, the Board does public advertisement outlining the terms and conditions for any such vacancies for any willing and qualified persons to apply without any form of coercion.

3.4 The Petitioners {(Kenya Medical Practitioners and Dentists Union, Kenya Health Workers Union – {Kenya National Union of Nurses (KNUN), Kenya National Union of Medical Laboratory Officers (KNUMLO), Kenya National Union of Clinical Officers (KUCO) & Kenya National Union of Pharmaceutical Technologists (KNUPT)}

The petitioners made both oral and written submissions on the key issues of their petitions before the Committee. A part from submitting the petition and the issues raised therein, the petitioners (with the exemption of KMPDU) appeared before the committee on 3rd March 2023 and buttressed their earlier submissions.

In summary, the petitioners submitted the following;

- I. That the promotions reported by the County Public Service Board had not been effected on the payslips of the affected officers up to the time of meeting the petitioners
- II. They registered their dissatisfaction with the action(s) of the County Assembly in their previous attempts at addressing the same issues in previous similar petitions.
- III. They indicated that their previous attempts and the grievances they registered with the County Assembly bore very little if not any fruit in resolving the challenges affecting the health workers in Kisumu County

Specifically, the following issues emerged from the submissions by the petitioners;

- IV. Staff Shortages:** The healthcare workers decreed a biting staff shortage in majority of health facilities. They provided sample data (attached) demonstrating the requisite number of healthcare staff required in selected facilities Vis a Vis the number of workers available and engaged in the same. A sample included; Ahero sub county hospital which was reportedly having a deficit of 115 nurses, Kombewa county hospital with a deficit of 37 clinical officers, Chulaimbo County hospital with a deficit of 35 lab technicians, Nyang'ande sub county hospital having only 6 nurses against a required number of 26, and Jaramogi Oginga Odinga Teaching and Referral Hospital with 312 nurses against a requisite number of 502.
- V. Delays in payment of salaries:** This was observed to be a frequent occurrence with an example given of salaries for the month of August 2022 which was paid on 26th September 2022 while the salaries for the month of September which was paid on 19th October 2022.
- VI. Promotions and Re-designations of Healthcare workers:** The union presented sampled list of officers who received letters of promotions in the month of December 2022 and whose promotions were reportedly supposed to commence with effect from Dec 2022 but has never been effected in their terms of employment nor their pay slips (*attached as annexure 04*).

VII. Withholding of salaries of some healthcare workers: The committee learnt that the issues of withholding of salaries of some healthcare workers emanated from an industrial strike whose notice was issued on 23rd Nov 2020 pursuant to Section 76 (c) of the Labour Relations Act 2007 and which took effect on 7th Dec 2020. The issues for which the strike was called included matters related to occupational health and work place safety following the effects of and outbreak of the Covid-19 pandemic. The matter was handled by way of dispute resolution mechanisms within the frameworks of the Ministry of Labour under trade dispute numbers; ML/LD/IR/34/8/2021 and ML/LD/IR/34/2/2022 *(attached as annexure 05 and 06 respectively)*.

The strike was called off on 24th Feb 2021 upon which members of the unions resumed work. However, it is reported that 193 health workers were never paid their dues for the months of January and February 2021 for having participated in the strike. The County Government submitted that they were not under any obligation to pay workers for the time they engaged on strike. The matter was heard before a conciliator under the ministry of labour who observed that the action was discriminatory based on the fact that some members of the striking unions were paid while others were not paid. The conciliator recommended the County Government out to pay all the workers whose salaries were withheld.

VIII. Discriminations in terms of employment: The union presented sampled data of cases of officers serving under the same job groups but being paid in different scales of salaries *(attached as annexure 07)*.

4.0 COMMITTEE FINDINGS

Pursuant analysis of the foregoing submissions from various stakeholders, literature review and legal framework, the Committee makes the following findings on each of the issues for determination;

I. The issue of alleged perennial delays in payment of salaries and emoluments due to healthcare workers in Kisumu County

The Committee notes that County Executive admitted to the allegations of delays in payment of salaries due to all County Government employees and not only to the healthcare workers. The committee further noted that the delays are occasioned by the financial framework of engagement between the County Governments and the National Government which has seen cases of delays in disbursement of funds from the National Treasury to the County Treasury in a timely manner.

The committee also learnt of a financial arrangement between the County Government and local commercial banks that enables the County to access short term credit facilities to bridge on gaps of delays in disbursement of funds from national treasury.

II. The issue of alleged withholding of salaries due to some healthcare workers in the months of January and February 2021

The Committee noted that indeed salaries due to some healthcare workers in various categories have previously been withheld. These included cases of abscondment of duty as well as industrial strikes. Two cases of individual staff members have been reported as well as category of staffs that were involved in December 2020 health workers strike. However, the committee notes that two of the cases were handled by the courts in which one was concluded, another is still active and subjudice. The third category of employees who participated in industrial strike of December 2020 claims salaries due for the months of January and February 2021 which were withheld by the County Government of Kisumu on grounds of collective decision of the Council of Governors and Cabinet on the grounds of Section 79 (6) of Labour Relations Act 2007. The Committee noted that the County Executive indicated that workers whose salaries were withheld had absconded duty during the period of the strike and that they would not be paid as the said budget allocations for their payments were used to engage other short term health workers who offered the health services required by the people during that time (LOCUMS).

The committee also noted that the matter was discussed by way of dispute resolution mechanisms within the frameworks of the ministry of labour under trade dispute numbers; ML/LD/IR/34/8/2021 and ML/LD/IR/34/2/2022 in which both parties were represented and various resolutions were made.

III. The issues of promotions and re-designations of healthcare workers in Kisumu County

The committee noted that the County Government of Kisumu, through the County Public Service Board reported to have re-designated a total of 234 healthcare workers as at 23rd July 2020, 156 promotions by Feb 2021 and 144 promotions by Feb 2022. However, evidence before the committee points to the fact that the promotions and re-designations undertaken by the County Public Service Board may have not all been effected in the payroll details of the individual officers.

IV. The issues of alleged illegal and discriminatory terms of employment and coercion of healthcare workers into illegal employment terms in Kisumu County

The committee finds no evidence by the petitioners to justify the allegations of coercing of employees into signing illegal employment terms and contracts.

The committee notes that due to the biting shortage of healthcare workers in the County and based on limited resources balanced against the need to bridge the huge gaps necessary for provision of healthcare services, the County Government has the right to engage employees on various terms and conditions including but not limited to short term contracts in order to bridge gaps around staff shortage.

On different payment of salaries for officers under the same job descriptions, the Committee notes that due to the different payment entry scales within various job-groups, it is possible for employees within the same job group to be paid different basic salaries depending on their entry point.

V. Inadequate staffing of healthcare workers

The Committee finds that there is inadequate and unverified data on the status of healthcare workforce in Kisumu County. The department of Health in a letter referenced CGK/EXEC.HEALTH/C.ASSEMBLY/34/VOL.1 (202) submitted to the committee data on the existing healthcare staffing levels and the gaps according to the Workload Indicator for Staffing Needs (WISN) which the committee is in disagreement with.

5.0 COMMITTEE RECOMMENDATIONS

Based on the a foregoing findings, the committee makes the following recommendations with respect to each prayer;

- I. **PRAYER 01 (BY KMPDU PETITION): THAT the County Assembly should cause the County Executive to put in place mechanisms to ensure that salaries and emoluments due to employees, specifically members of KMPDU, be paid on or before 5th of every month AND that the County Assembly should enact any necessary laws for effective execution of their prayer.**

The committee finds merit and GRANTS this prayer. The Committee therefore RECOMMENDS that the CECM Finance undertakes the necessary procedures and arrangements to enable the County Government to enter into a financial agreement with a local commercial bank for granting of short term credit facilities for purposes of timely payment of monthly salaries due to employees in case of delay in disbursement of funds from the National Government AND that evidence of the said arrangements be submitted to the County Assembly within a period of 14 days after the arrangement is undertaken.

- II. **PRAYER 02 (PETITION BY KNUN, KNUMLO, KUCO& KNUPT): THAT the County Assembly of Kisumu intervenes by tasking the relevant departments of Health, Human Resources, Finance and County Public Services Board to intervene in finding solutions for all the grievances they advanced failure to which they threatened to resort to industrial actions including strikes and disruption of healthcare service provision. The grievances advanced were;**

- a. **The issue of alleged perennial delays in payment of salaries and emoluments due to healthcare workers in Kisumu County:** The Committee GRANTS this prayer and RECOMMENDS as stated in recommendation (I) above.
- b. **The issue of alleged withholding of salaries due to some healthcare workers in the months of January and February 2021:** The committee DISMISSES this prayer on the following grounds;
 - (i) The petitioners failed to provide specific details of the officers whose salaries were withheld and specific reasons in each case thereof.

(ii) The petitioners also failed to provide details as to whether the issues in respect of which the petition was made are pending before any court or other constitutional or legal body contrary to Standing Order No. 213 (g) of Kisumu County Assembly Standing Orders. The Committee has since noted that some of the issues raised in the petition with regards to this prayer are still pending before court while others are still open for conclusive discussions by way of possible appeals on the previous decisions by the dispute resolutions mechanisms by the Ministry of Labour.

(iii) The committee observes that there are three categories of the officers whose salaries were withheld in the recent past including; a Mr. Dennis Ondago (whose case was handled by the court up to its conclusion); a Mr. Maurice Opetu (whose matter is still subjudice) & a category of healthcare workers whose salaries were withheld for having participated in a Dec 2020 industrial strike and whose case has been conclusively addressed by various bodies including the ministry of labour. That despite the conciliatory agreement dated 3rd Dec 2021 No. ML/LD/IR/34/8/2021 of the Ministry of Labour and Social Protection, the Committee notes that the County Government has indicated its commitment not to honor the agreement citing the provisions of Section 79 (6) of Labour Relations Act 2007, and a Kisumu County Government Cabinet decision and a collective decision by the Council of Governors.

(iv) The petitioners are hereby advised to proceed as follows with respect to each category of employees whose salaries were withheld;

- Mr. Dennis Ondego –seek for the implementation of the court order as per the case in which this matter was determined.
- Mr. Maurice Opetu –the matter is subjudice until its logical conclusion by the court.
- Employees who participated in strike: seek for guidance of the ministry of labour for the logical conclusion of the matter in the wake of non-implementation of the resolutions of dispute no. ML/LD/IR/34/8/2021. The committee believes that there are still open avenues that can be pursued on this matter before resorting to the interventions of the County Assembly by way of petition.

- The Committee believes that the petitioners would be in contravention of the civil procedures by subverting the process and filing this petition instead of appealing the previous decision by the dispute resolutions mechanisms procedurally in court.

c. The issues of promotions and re-designations of healthcare workers in Kisumu County

The Committee GRANTS this prayer and RECOMMENDS that County Secretary immediately effects (on pays lips) the promotions and re-designations of officers who were already promoted and re-designated as communicated by the County Public Service Board and evidence of having effected such promotions and re-designations be submitted to both the petitioners and County Assembly within 30 days upon adoption of this report.

d. The issues of alleged illegal and discriminatory terms of employment and coercion of healthcare workers into illegal employment terms in Kisumu County

The Committee DISMISSES this prayer and recommends that the petitioners (through the Secretary of joint unions of KNUN, KNUMLO, KUCO & KNUPT) provides comprehensive evidence of any such discriminations and or coercing and illegal terms of employment(s) to the County Assembly within 30 days upon adoption of this report for further consideration and action.

e. Inadequate staffing of healthcare workforce

The Committee due to unavailability of accurate and verifiable data on the staffing levels in Kisumu County therefore requests to be given more time to immediately conduct a specific inquiry on the status of healthcare labour workforce in Kisumu County and reports to this House within 60 days upon adoption of this report.

III. PRAYER 02 (PETITION BY KNUN, KNUMLO, KUCO& KNUPT): THAT the responsible officers of executive be summoned by the County Assembly to explain their actions or inactions with regards to solving the grievances of healthcare workers in Kisumu County.

The Committee GRANTS this prayer and confirms that all relevant County Government Officers appeared before the County Assembly Committee on Labour and Social Welfare for purposes of legislative processing of these petitions. However, the Committee advises the petitioners that the officers were merely invited and that the County Assembly did not invoke the provisions of Article 195 of the Constitution of Kenya 2010.

Conclusion

The Committee would like to implore upon parties to this petition that is the County Secretary, County department of Health, Finance and Economic Planning, Public Service Board and the petitioners (Health Care Workers Unions) to ensure that the recommendations contained herein are implemented and evidences of such implementations be submitted before the House within the aforementioned timelines.

ANNEX 01

Branch Secretary

Dr. Aggrey Orwenyo Nyabuti

Branch Chairperson

Dr. Steve Onyango Ndonga

Branch Treasurer

Dr. Lyndah Kemunto Manoti



Tumonia Kaiti-Ring-Ges

Milima in Kiser

1st Floor, Room 1

Cell phone 072-00370

Email: nyanzakmpdu@gmail.com

Website: www.kmpdu.org

Ref: KMPDU/NB/61/2022

31st October, 2022

PETITION TO THE COUNTY ASSEMBLY OF KISUMU CONCERNING THE PERENNIAL DELAY IN PAYMENT OF SALARIES DUE TO EMPLOYEES OF THE COUNTY GOVERNMENT OF KISUMU.

To,

THE CLERK,

COUNTY ASSEMBLY OF KISUMU,

P.O BOX 86-40100,

KISUMU.

FINANCE
15/10/2022
16/10/2022
17/10/2022
18/10/2022
19/10/2022
20/10/2022
21/10/2022
22/10/2022
23/10/2022
24/10/2022
25/10/2022
26/10/2022
27/10/2022
28/10/2022
29/10/2022
30/10/2022
31/10/2022

We, the undersigned, Citizens of the Republic of Kenya and Nyanza branch officials of the Kenya Medical Practitioners, Pharmacists and Dentists Union;

Draw the attention of the County Assembly to the following:

THAT employees of the County Government of Kisumu have had to endure perennial delays in payment of salaries.

THAT the salaries for the month of August 2022 were paid on 26th September 2022 while the salaries for the Month of September 2022 paid on 19th October 2022.

THAT these unprecedented delays in payment of salaries owed to employees were hitherto unheard of in the county of Kisumu in close to a decade of devolution.

THAT these delays have occasioned a lot of emotional anguish and pecuniary embarrassment employees of the County Government of Kisumu including our members- medical practitioners, pharmacists and dentists who offer essential services to the people of Kisumu.

THAT due to the delays in payment of salaries, monthly salary parades and go slows has become a commonplace and this has affected service delivery to the people of Kisumu.

THAT efforts have been made to have this matter addressed by the County Executive but they have failed to give a satisfactory response.

Branch Secretary

Dr. Aggrey Orwenyo Nyabuti

Branch Chairperson

Dr. Steve Onyango Ndouga

Branch Treasurer

Dr. Lyndah Kemunto Manoti



Tumaini Mall Bure Kariakoo

Muhimbi Kariakoo

1st Floor Room 111

Cell phone 072 0157 111

Email: nyenzi@kisumu.go.ke

Website: www.kisumu.go.ke

PETITION TO THE COUNTY ASSEMBLY OF KISUMU CONCERNING THE PERENNIAL DELAY IN PAYMENT OF SALARIES DUE TO EMPLOYEES OF THE COUNTY GOVERNMENT OF KISUMU

THAT issues in respect of which this petition is made are not pending before any court of law,
constitutional or legal body.

WHEREFORE your humble petitioners pray that the County assembly:

1. Cause the county executive to put in place mechanisms to ensure that salaries and emoluments due to employees of the county government of Kisumu and in particular our members- medical practitioners, pharmacists and dentists are paid on or before 5th of every month at no extra cost to the employees.
2. Make any laws that are necessary for or incidental to the effective execution of prayer 1 above as provided under Article 185(2) of the Constitution of Kenya.
3. Make any other order that it may deem fit in the circumstances of this petition.

And your PETITIONERS will ever Pray.

Name	Address	ID No.	Signature
Dr. Steve Onyango	P.O Box 721-40100, Kisumu	25983472	
Dr. Aggrey Orwenyo	P.O Box 721-40100, Kisumu	27392894	
Dr. Linda Kemunto	P.O Box 721-40100, Kisumu	289844 66	
Dr. Collins Omollo	P.O Box 721-40100, Kisumu	27876941	

ANNEX 02



Clerk
Check and print HRC
7/11/2022



Angio
For L/m
Hable me
any one
7/11/2022

KENYA NATIONAL UNION OF
PHARMACEUTICAL TECHNOLOGISTS

Reported by the Speaker *
Pursuant to Standing Orders
No. 215 (2) (b)

TO
THE SPEAKER OF THE COUNTY ASSEMBLY,
COUNTY ASSEMBLY OF KISUMU,
P.O BOX 86-40100
KISUMU.

Date: 7th November, 2022



Dear Sir/Madam,

**PETITION TO THE COUNTY ASSEMBLY OF KISUMU BY HEALTHCARE WORKERS UNIONS
ON THE STATUS OF HEALTHCARE WORKFORCE AND HEALTHCARE SERVICE
PROVISION ACROSS PUBLIC HEALTH FACILITIES WITHIN KISUMU COUNTY.**

WE, THE UNDERSIGNED bonafide members and registered Branch Officials of a section of Healthcare workers' unions within Kisumu County, comprising of The Kenya National Union of Nurses (KNUN), The Kenya National Union of Medical Laboratory Officers (KNUMLO), The Kenya National Union of Clinical Officers (KUCO) & The Kenya National Union of Pharmaceutical Technologists (KNUPT).

DRAW the attention of the County Assembly of Kisumu to the following: -

AWARE THAT, Article 185 of the constitution of Kenya vests on the County Assembly the role to oversight the Executive;

THAT WHEREAS, part 2 of the Fourth Schedule of the Constitution of Kenya 2010 assigns specific roles to the County governments, including provision of Health Services;

THAT, the County government of Kisumu has failed in its duty to provide for adequate healthcare services to its citizens, by failing to employ adequate healthcare staff, a situation that has seen perennial staff shortage across all healthcare facilities (See sample data attached), straining the available staff, who subsequently cannot provide quality services.

THAT WHEREAS, the employment Act 2007 (Amended 2022) declares and defines the fundamental rights of employees, provides for basic rights of employees and all matter contained therein;

THAT, the County government of Kisumu has continuously abused the fundamental and basic rights of its employees as provided for in the employment act as follows:

- (a) Perennial salary delays in total contravention of Part IV Section 18 (2) sub section (i) of the employment Act 2007 which stipulates that in the case of employees employed for a period exceeding one month, wages or salaries shall be deemed to be due at the end of each month or thereof. The perennial delay also contravenes a mutual agreement signed before and deposited with the labor court by the unions and the

b) The County government has blatantly refused, with no reason at all, to promote and redesignate all its healthcare workers, despite promotions and redesignation being an employee's right, and a court order being issued to the executive to effect all promotions and redesignations two years ago.

c) Illegally withholding salaries of a section of healthcare workers for having participated in a legally instituted industrial action. This is despite the Ministry of labor finding and terming this act an illegality and advising the county government to put it aside and pay the withheld salaries.

d) Employment of healthcare workers under illegal and discriminatory terms of employment, with employees being coerced and forced to sign illegal contracts that are contrary to the employment and labor relations Act and Human Resources Manual.

THAT WHEREAS, petitioners, confirm that efforts have been made to have these matters addressed through both internal mechanisms and by the relevant external bodies such as the courts and the labor offices, but failed to yield satisfactory solutions;

AND THAT, all the matters in respect of which the petition is raised is not pending before any court of law or constitutional body;

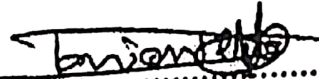
HEREFORE, your humble Petitioners **PRAY** that the County Assembly of Kisumu intervenes and; -

- a) Task the relevant departments of Health, Human Resources, Finance and the County Public Services Board to speedily find a permanent solution to the grievances listed above, failure to which Healthcare Workers Unions will be forced to revert to industrial actions including strikes, thereby disrupting provision of healthcare services.
- b) The responsible officers in the executive be summoned to appear before the Honorable house and explain their actions or inactions in this regard, and be compelled to provide a clear roadmap to a permanent solution to these perennial problems that have bewildered the health sector within the County of Kisumu

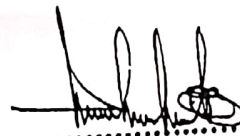
And your Petitioners will forever Pray.

Presented by:

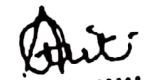
Hilary Awill,
(Branch Secretary, KNUMLO)

Sign..........Date....7/11/2022

Crause Okumu ,
(Branch Secretary, KUCO)

Sign..........Date...7/11/2022

Anne Owiti,
(Branch Secretary, KNUN)

Sign..........Date....7/11/2022

Tony Aol,

Sign..........Date....7/11/2022

CC:

1. The Governor, Kisumu County.
2. The County Secretary, Kisumu County.
3. The Chairperson, Committee on Health and Sanitation, County Assembly of Kisumu.
4. The Chairperson, Committee on Labor, County Assembly of Kisumu.
5. The Public Service Board, Kisumu County.

**SAMPLED DATA DEMONSTRATING THE LEVEL OF BITTING STAFF SHORTAGES
ACROSS A SECTION OF HEALTH FACILITIES WITHIN THE COUNTY OF KISUMU**

AHERO COUNTY HOSPITAL			
Nurses	Available	Ideal	Deficit
	39	154	115
Clinical Officers	7	44	37
Lab tech.	8	40	32
Pharm Tech.	5	14	9
Anesthetists	4	12	8
KOMBEWA COUNTY HOSPITAL			
Nurses	28	154	126
Clinical Officers	7	44	37
Lab tech.	7	40	33
Pharm Tech.	4	14	10
Anesthetists	3	12	9
MUHORONI COUNTY HOSPITAL			
Nurses	28	154	126
Clinical Officer	8	44	36
Lab Tech.	4	40	36
Pharm Tech.	3	14	11
Anesthetist	2	12	10
CHULAIMBO COUNTY HOSPITAL			
Nurses	23	154	131
Clinical officers	5	44	39
Lab tech.	5	40	35
Pharm tech.	4	12	8
KATITO SUBCOUNTY HOSPITAL			
Nurses	14	26	12
Clinical officers	3	11	8
Lab tech.	1	10	9
Pharm Tech.	2	5	3
MIRANGA SUBCOUNTY HOSPITAL			
Nurses	6	26	20
Clinical Officers	2	11	9
Lab tech.	1	10	9
Pharm tech.	1	5	1
MASOGO SUBCOUNTY HOSPITAL			
Nurses	4	26	22
Clinical officers	3	11	8
Lab tech.	1	10	9
Pharm tech.	2	5	3
NYANGANDE SUB COUNTY HOSPITAL			
Nurses	6	26	20
Clinical Officers	3	11	9
Lab Techs	1	10	9
Pharm Techs.	2	5	3

SAMPLED DATA DEMONSTRATING THE LEVEL OF BITTING STAFF SHORTAGES
ACROSS A SECTION OF HEALTH FACILITIES WITHIN THE COUNTY OF KISUMU

JARAMOGI OGINGA ODINGA TEACHING AND REFERRAL HOSPITAL			
Nurses			
Clinical Officers	312	502	210
Laboratory	20	73	53
Pharmacy	32	50	18
Anesthetists	34	47	13
	18	21	3
SANGO ROTA HEALTH CENTRE			
Nurses	3	30	27
Clinical officer	1	6	5
Laboratory	0	10	10
Pharmacy	0	5	5
OPAPLA DISPENSARY			
Nurses	1	14	13
Clinical officers	0	2	2
Laboratory	0	2	2
Pharmacy	0	1	1



REPUBLIC OF KENYA
HEALTH
COMMITTEE
DECL
COUNCIL

ANNEX



03

THE COUNTY GOVERNMENT OF KISUMU

County Executive Committee Member for Medical Services, Public Health and Sanitation

OUR REF: CGK/EXEC.HEALTH/C. ASSEMBLY/34/VOL.I(202)

10th February, 2023

Office of the Clerk
County Assembly of Kisumu
P.O. Box 86-40100
Kisumu.



Dear Sir/Madam,

RE: RESPONSE TO PETITIONS DATED 31ST OCTOBER 2022 AND 7TH NOVEMBER 2022 FILED TO THE COUNTY ASSEMBLY BY KMPDU AND A SECTION OF HEALTHCARE WORKERS RESPECTIVELY.

Reference is made to the above subject matter and to your letter dated 1st February 2023 and the attached Petitions therein.

It is noted that the Petition dated 31st October 2022 filed by the Nyanza Branch officials of the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) to the County Assembly of Kisumu raises concerns about the perpetual delay of Kisumu County Government employees' salary since August 2022. The department responsible for payment of all employee salaries, including that of the members of KMPDU Nyanza Branch, the Petitioners herein, is the Department of Finance. Therefore, the CECM responsible for the Department of Finance is better placed to give a response on the issue of delayed salaries that has been raised through the said Petition.

It is also noted that the Petition dated 7th November 2022 by a section of Healthcare Workers Unions within Kisumu County raises concerns touching on the following:

1. Salary delays
2. Lack of promotions and redesignations,
3. Illegal withholding of salaries of a section of healthcare workers for having participated in lawful industrial action
4. Employment of healthcare workers under illegal and discriminatory terms such as coercion of employees to sign illegal contracts
5. Inadequate staffing

And I wish to respond as follows:

1. SALARY DELAYS

This is an issue touching on all Kisumu County Government employees and can be best addressed by the CECM for Finance as explained herein above.

2. LACK OF PROMOTIONS AND REDESIGNATIONS

This issue has been overtaken by events as promotion letters have been issued by the Kisumu County Public Service Board since December 2022 to 253 healthcare workers within the County. Any healthcare worker who feels aggrieved on the issue of promotions and redesignations ought to follow up on the same through the proper established channels.

3. ILLEGAL WITHHOLDING OF SALARIES

The Department of Health and Sanitation is not aware of any healthcare workers whose salaries are currently being withheld illegally apart from the current delays in payment of salaries. In the recent past, however, the salaries of certain employees have been lawfully stopped upon abscondment and/or abandonment of duties. Case in point is that of Denis Ondago, a clinical officer who abandoned duty sometime in 2018 and upon resurfacing and undergoing disciplinary hearing, was reinstated back to duty on condition that his withheld salary shall be forfeited. He later filed a case in court claiming his withheld salary but Court found no merit in his case and dismissed it with costs sometime in 2021.

A more recent case is that of Mr. Maurice Opetu, an official of the Kenya National Union of Nurses Kisumu Branch, who proceeded on unauthorized study leave in 2020 and upon being recalled back to duty, refused to comply. This led to his salary being stopped and him being subjected to disciplinary process upon his return. Similarly, he was reinstated back to duty on condition that all his withheld salaries be forfeited. He returned back to duty on those terms but later filed a case in Court in 2022 claiming for withheld salaries. The case is still alive in Court as it has not been determined and therefore, I am prohibited from divulging any further information on it.

The final category of staff are those who participated in a strike. I wish to draw your attention to the labour relations act 2007, section 70 subsection 6 that states that "an employer is not obliged to remunerate an employee for services not rendered during a protected strike or lockout". It was a decision of the executive, and of the council of governors, not to remunerate workers who did not offer services during the period of the strike. All workers were remunerated from their date of return to work and therefore there is no case of any salary withheld. The savings made were thus used to hire more staff to cover the duties during the period of strike. These new staff have since had their contracts extended.

Therefore, the allegations of illegal withholding of staff salaries are baseless and untrue and, in the case where an employee's salary is withheld, it is done so according to existing laws and procedures.

4. COERCION OF EMPLOYEES TO SIGN ILLEGAL CONTRACTS

The Petitioners are not clear on what manner of illegalities exist in any employment contracts or contracts of engagement complained of. The department is therefore at pains to respond to this allegation as no further explanation has been offered by the complainants. We therefore wish to be provided with more information on this issue before we can adequately address it.

5. INADEQUATE STAFFING

Whereas staffing needs are inadequately covered in the county, the method used by the petitioners to derive the numbers and deficits are outdated. Traditional ways to determine staffing requirements include calculating population-to-staff ratios (for example, X number of nurses per 10 000 population) and facility-based staffing standards (for example, X number of nurses and Y number of doctors for a health centre). These methods have serious disadvantages. Above all, they fail to take into account both the wide local variations in the demand for services and the work that health workers actually do. The Workload Indicators of Staffing Need (WISN) is a newer method advocated by the world health organization that gives a better outlook of staff requirements. It is a human resource management tool that provides a systematic way to make staffing decisions in order to manage their valuable human resources.

WISN gives an accurate indication of staffing requirements based on actual workloads and expert professional opinion, and its results can be used in the determination of staffing norms and standards.

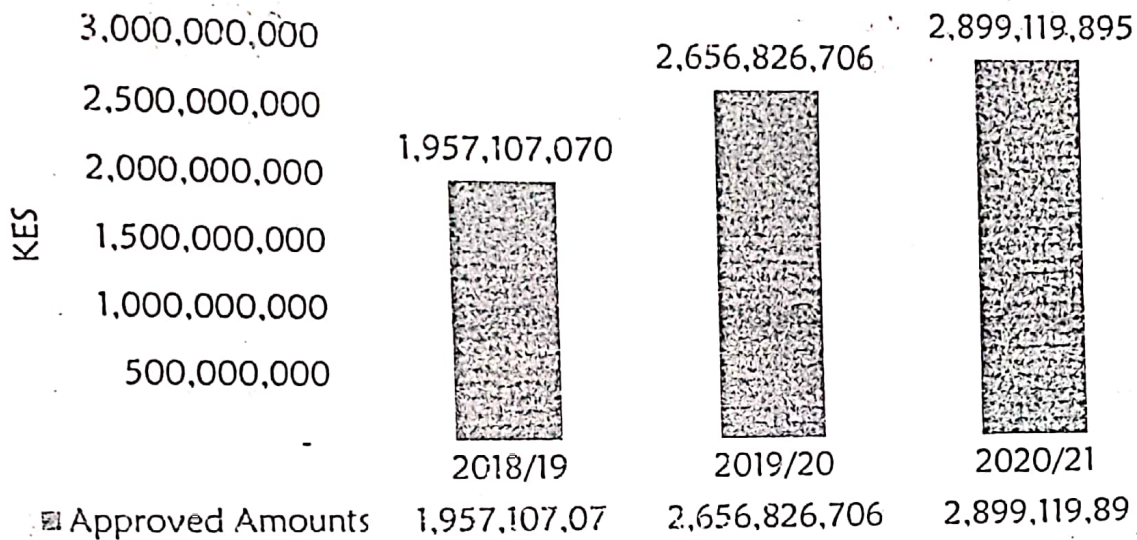
From 23rd to 25th august 2021 the department of medical services, public health & sanitation conducted Workload Indicator for Staffing Needs (WISN) survey for Clinical officers and Nurses in all the facilities within the county and a comparative analysis done to access the level of staffing as indicated below.

We in Kisumu have applied the WISN to our facilities in terms of nurses and clinical officers in Level 4 facilities and below. Attached, please find the output from the above.

WISN Recommendation for Nurses

No. of Dispensaries, Health Centres & sub County Hospitals; respectively	Dispensaries		Health Centre's		Sub County Hospitals	
	Existing	Gap	Existing	Gap	Existing	Gap
Kisumu East (7, 4, 1)	27	6	9	0	3	-2
Kisumu Central (5, 1, 2)	13	3	6	4	14	0
Kisumu West (4, 13, 3)	8	4	35	18	22	8
Muhoroni (15, 5, 2)	30	15	11	6	11	1
Seme (9, 9, 2)	18	9	23	10	11	4
Nyakach (16, 3, 2)	28	13	8	4	19	9
Nyando (11, 6, 3)	27	16	17	10	22	-4
TOTAL (94, 41, 16)	141	66	109	52	102	16

APPROVED BUDGETS FOR HUMAN RESOURCES FOR HEALTH



The executive is clearly making efforts to bridge that gap.

(Signature)

DR. GREGORY GANDA
CECM, MEDICAL SERVICES, PUBLIC HEALTH AND SANITATION
KISUMU COUNTY

CC.

COUNTY SECRETARY

Prosperity House (Former Nyanza Provincial Headquarters Building) 7th Floor Wing B
P.O. Box 2738-40100 Kisumu City
E-mail: cechealth2019@gmail.com



ANNEX 04



1st March, 2023

TO
THE COUNTY SECRETARY,
COUNTY GOVERNMENT OF KISUMU,
P.O. BOX 2378 – 40100,
KISUMU.



RE: NAMES OF HEALTHCARE WORKERS RECENTLY PROMOTED WITH NO ACCELERATED PROMOTIONS.

The above subject matter refers.

This is a follow up letter as a consequence of a meeting between the Executive and Healthcare workers unions namely KNUN, KNUMLO, KNUPT and KUCO held on the 15th February 2023 in the County Secretaries' boardroom. In the said meeting, the Deputy County Human Resources Officer stated that all Healthcare workers who were recently promoted were given an accelerated promotion, a statement which the unions rejected as untrue and not factual.

Consequently, you directed that both parties present before you evidential support of their claims. In that regard, we the aforementioned unions have attached for your perusal, a list of our members indicating the job groups they were in prior to the promotions and the new job groups, illustrating that they were never given accelerated promotions.

We are committed to a harmonious working relationship to improve healthcare service delivery.

We look forward to your assistance to resolve this long standing issue once and for all.

Yours Truly,

Yours faithfully,

HILARY AWILI
(Secretary, Joint Unions Secretariat)

LIST OF HEALTHCARE WORKERS PROMOTED ON 21 DECEMBER 2022

1. NURSING OFFICERS

	NAME	P/NO	ID	FROM	TO	ACC?
1	ASENATH A. ONYANGO	1997097501	13235791	L	M	NO
2	JACOB OBIERO	1990012788	7019976	L	M	NO
3	SARAH NDONDI	2004006244	21775384	M	N	NO
4	DOROTHY OCHIENG OBIET	20150066774	22130124	H	J	NO
5	NANCY CHEMUTAI CHUMO	2009138232	22054245	H	J	NO
6	DAULPHINE AKINYI ONYANGO	2009134791	21690949	J	K	NO
7	EDITH AKINYI OKOTH	2009134709	20926638	K	L	NO
8	PATRICK ROBERT GUMBA	1992024197	8820163	L	M	NO
9	SCHOLASTICA NYAMAMU MZERA	1995068289	10755085	L	M	NO
10	BEATRICE AWINJA MUKUNZI	1990097380	5652572	L	M	NO
11	SUSAN ACHIENG ONYANGO	1990102088	3951053	L	M	NO
12	DORCAS ANYANGO OCHIENG	2001051046	21688690	L	M	NO
13	RISPER BITUTU BABU	2010165894	22315879	J	K	NO
14	EDNA KEMUNTO ONSARE	2010149775	27336266	J	K	NO
15	BELINDA ATIENO OPIYO	2010146858	22975991	J	K	NO
16	RHODA ADHIAMBO WANGANGA	1990013352	5780808	L	M	NO
17	VIOLET KEMUNTO OMARI	2010144254	22349476	H	J	NO
18	ESTHER OKWENGU	2010158596	23545744	J	K	NO
19	LUCIA KALUKI MUTWIKI	2009094527	22233403	K	L	NO
20	JOSPHINE ADHIAMBO ODHIANG	1993040439	10842250	L	M	NO
21	CHARLOTTE NAFULA LUYALI	1993034315	10858080	L	M	NO
22	JOSPHINE OSORE	20150099853	8223547	H	J	NO
23	ROSE ANYANGO OCHIENG	1988081616	7869745	L	M	NO
24	LIDA MBUYA NYAOKE	2009117480	21745514	L	M	NO
25	SELINE OWITI	2009134717	21252142	K	L	NO
26	RISPER AWINO OGWE	1990105109	5957673	L	M	NO
27	ELIZABETH OLOLO	20011051135				
28	MELAB SAMBASI WANYAMA	1997092551	13579183	L	M	NO
29	GLORIA AWUOR ACHIRO	1997018426	13440115	K	L	NO
30	ELIZABETH OYIEKO	1993018157	9398455	M	N	NO
31	GETRUDE CHOGO	2002026808	21730620	L	M	NO
32	ROMANA ABUTO	2009140263	22367610	K	L	NO
33	WINFRED AMWAYI NASIO	2002031277	13865747	L	M	NO
34	NAOMI AKINYI DULO	2002002228	10822961	L	M	NO
35	MARY ANYANGO OUMA	1991067304		L	M	NO
36	JAPHETH DIMBA MENYA	1993018199	5956720	L	M	NO
37	NICHOLAS OTIENO ALALA	20150067299	27082029	H	J	NO
38	PAMELA ADHIAMBO AJOWI	2009071333	8339396	J	K	NO
39	MASELA A. OTIENO	2013111718	11089501	H	J	NO
40	CATHERINE ACHIENG OKOTH	2009137163	22345850	J	K	NO
41	EUNICE ADHIAMBO	20150099595	23880078	H	J	NO
42	LOICE SANG	2009140255	13260796	K	L	NO
43	GILBERT WAFULA SIMIYU	2009137090	12939722	K	L	NO

2. MEDICAL LABORATORY TECHNOLOGISTS

1	DANIEL ODHIAMBO MWALO	2013026550	24409315	J	K	NO
2	CARREN RENYCE MIRUKA	20120248332	224049552	J	K	NO
3	SYLVIA AWINO ODWAR	20150067959	13876816	H	J	NO
4	CAROLYNE ACHIENG AOCH	2005042421	22208775	K	L	NO
5	EDWARD OULA ODHIAMBO	20150100084	24097692	H	J	NO
6	GEORGE OLOO ACHOLA	2009090654	10809287	K	L	NO

3. CLINICAL OFFICERS

1	MAUREEN AKINYI ODIERO	20150099808		H	J	NO
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ANNEX 05

REPUBLIC OF KENYA

MINISTRY OF LABOUR AND SOCIAL PROTECTION

Telephone: 057-2024661

COUNTY LABOUR OFFICE
UHURU STREET, HAKI HOUSE
P O BOX 1209, KISUMU

When replying please quote

Ref: ML/TD/CIG/091/2021

Date 3rd December, 2021

✓ The General Secretary
KNUN
P.O. Box 56900-00200
NAIROBI.

The CEO/Secretary
County Public Service Board
Kisumu County Government
P.O. Box 2738-40100
KISUMU.

The County Secretary
Kisumu County Government
P.O Box 2738- 40100
KISUMU.

RE: TRADE DISPUTE – ML/LD/IR/34/8/2021

Please refer to a letter from the Chief Industrial Relations officer ML/LD/1R/34/8/2021 dated 23rd August, 2021. The letter appointed me as a conciliator in a dispute between yourselves over

1. Discrimination in payment of salaries between the months of January and February, 2021.
2. Refusal by the Kisumu County Public Service Board to pay some of the Union members their salaries for the Months of January and February, 2021.

Subsequent to the above, I chaired a conciliation meeting between yourselves on 30th November, 2021 in my office in Kisumu. In attendance were the following:-

- | | |
|------------------------|---|
| 1. Dr. G.Ganda | - Chief officer, Health & Sanitation |
| 2. Philip Jalang'o | - County public Service Board Kisumu representative |
| 3. Ann Owiti | - Branch secretary Kisumu KNUN |
| 4. Andrew Amolo Otieno | - Deputy Branch secretary KNUN Kisumu |
| 5. John Karakacha | - I.R. Officer Kisumu |
| 6. Peris Wanjiku | - I.R officer KNUN |

The County Secretary did not attend the meeting despite having been invited neither did he send any apologies.

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UNION SUBMISSION

The Union submitted a detailed memorandum and also made verbal submissions on the date of the meeting to support its case.

To begin with, the Union stated that it gave a nationwide strike notice dated 23rd November, 2020 which was served on the employer and the Ministry of Labour as provided for in Section 76 (c) of the Labour Relations Act, 2007. As a result of this, members of the Union who are employees of the Public Service Board of Kisumu engaged and participated in the nation-wide strike which commenced on 7th December, 2020. The issues detailed in the strike notice related to matters of Occupational safety and Health in the workplace especially during this COVID-19 times.

The Union quoted Section 14 of the Occupational Safety and Health Act, 2007 which states:-

"14 (1) Every employee shall report to the immediate supervisor any situation which the employee has reasonable grounds to believe presents an imminent or serious danger to the safety or health of that employee or any other employee in the same premises, and until the occupier has taken remedial action, if necessary, the occupier shall not require the employee to return to a work place where there is continuing or imminent or serious damage to safety or health of the employee

(2) An employee who has left a work place, which the employee has reasonable justification to believe presents imminent and serious danger to life and health ***shall not be dismissed, discriminated against or disadvantaged for such action by the employer.***

(3) It shall be an offence for a person on whom a duty is imposed under this section to fail to carry out that duty.

The Union attached the following documents to support this issue:-

1. A letter dated 28th July, 2020 addressed to the County Secretary, County Government of Kisumu, The CEC Health through the Chief officer of health. The letter demanded for an immediate withdrawal and replacement of substandard type of surgical masks supplied to health facilities for use by healthcare workers within Kisumu County. This letter was written by one Hilary Awili, Secretary, and steering committee of the UKCS, KNUMLO, KUCO, KNUUN and KNUPT.
2. A letter from KEBS addressed to National Nurses Association of Kenya citing feedback after investigations were carried out after a complaint had been made over substandard surgical masks. In this letter KEBS had indeed confirmed that the quality of surgical masks being used by health workers in Kisumu failed to comply with the requirements of **KS 2636:2016 Kenya standard- surgical masks specifications**. This was proved by laboratory Test Reports.
3. Similarly, the union said that the employer did not communicate to the workers about the withholding of the salaries before it was done.

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The Union called off the strike on 24th February, 2021 and recommended all members to resume work immediately which they did.

Despite the workers having resumed work, the Union laments that the employer has refused to pay 193 workers who are members of KNUN their salaries for the months of January and February, 2021. This, The Union believes this is Unjustifiable.

The union states that the employer paid some members of the union and left the 193 nurses, whose names have been listed, which action to the union amounts to discrimination.

The Kenya National Union of Nurses further stated that the Employer contravened Article 10 (2) 270, 41 (1) and (2) of the Constitution of Kenya. Similarly Section 5(2),(3) and (5) of the Employment Act(Discrimination).

The Union finally claimed for the following:-

1. The employer to be directed to pay salaries and attendant benefits for all the nurses for the months of January and February, 2021.
2. The employer to be directed not to discriminate any of its members for reasons relating to the strike.
3. The employer to be directed to refrain from victimizing any member by arbitrary re-deployments due to these proceedings.

MANAGEMENT SUBMISSIONS

The management did not submit any written submissions. But during the meeting the Chief Officer Health and Sanitation was categorical that the employer was not obliged to pay for the time the workers were on strike. He stated that the Union was told to appeal but it didn't, instead insisting that the unpaid salaries were not the employees' right. The Chief Officer mentioned that he found the Union's demand to be sheer arrogance. He was therefore categorical that the County Government will not pay.

FINDINGS

It was found out that the Kenya National Union of Nurses members in the County went on strike majorly because of the issue of surgical masks which KEBS found out after a complaint that the ones in use by healthcare workers in Kisumu were sub-standard. This was confirmed by the correspondences that had been addressed by KEBS to the Union.

It was also found out that indeed the Occupational safety and Health Act, 2007 stated very clearly what should be done when there were reasonable grounds to be believe there was imminent or

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serious danger to the safety or health of employees. The employer in this case could not therefore
compel the employees to return to their workplace until the situation had been addressed and
proper surgical masks provided to the healthcare workers.

It was therefore apparent that the workers could not continue working in such an environment and
the Occupational Safety and Health act, 2007 firmly protects the vulnerable workers in such
situations

RECOMMENDATIONS

I therefore firmly believe that the County Government erred in refusing to pay the workers for the
period they stayed away from work.

Similarly the action of discrimination by paying some members and leaving out others was not only
unjustifiable as all members should be treated the same.

My recommendation therefore is that all the members should be paid their January and February,
2021 salaries.

I hope both parties shall accept my recommendation as the basis of settlement to this dispute.

Yours faithfully

C .I. GONDOSIO
CONCILIATOR



cc. The Chief Officer Health
County Government of Kisumu

The County Human Resource Director
County Government of Kisumu

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REPUBLIC OF KENYA
MINISTRY OF LABOUR

ANNEX 06

Telephone: 057-2024661

COUNTY LABOUR OFFICE
UHURU STREET, HAKI HOUSE
P O BOX 1209, KISUMU

When replying, please quote

Ref: ML/TD/CIG/010/2022

Date: 6th May, 2022

The General Secretary
Kenya National Union of Nurses
P.O. Box 56900-00200
NAIROBI.

The Secretary
County Public Service Board
Kisumu County Government
P.O. Box 2738-40100
KISUMU.

The County Secretary and Head of
Public Service
County Government of Kisumu
P.O. Box 2738-40100
KISUMU.

RE: TRADE DISPUTE – ML/LD/IR/34/2/2022

Please refer to above referenced letter from the Chief Industrial Relations officer dated 15th March, 2022. This letter appointed me as a Conciliator in a dispute between yourselves over "unlawful withholding of duly earned salaries and entitled benefits for Mr. Maurice Opetu, P/No.997012682 from the month of April, 2021 to date."

As a Conciliator, I invited the parties for two meetings, the first of which was on 13th April 2022 and the second on 27th April, 2022. As a result of the two (2) meetings, I have prepared the following report:-

UNION'S SUBMISSION

The Union started by stating that Mr. Maurice Opetu, P/No.1997012682 is a Kenya Registered Community Health Nurse employed by the Kisumu County Public Service Board and currently stationed at Kisumu County Referral Hospital, Psychiatric Unit. He is also an elected official of Kenya National Union of Nurses as the National Deputy General Secretary.

Mr. Maurice Opetu applied for admission to the Kenya Medical Training College to pursue a one-year Higher Diploma course in Psychiatric Nursing at Mathare Campus in Nairobi. As a result of that, he immediately commenced the process of grant of study leave and approval with the hospital

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administration at his place work and with a letter dated 3rd September, 2020, he applied for release from duties and executed a training bond to attend this training.

Accordingly, the Kisumu County Referral Training Committee held a meeting on 4th September, 2020, wherein his application was deliberated and subsequently approval was granted as per minutes of the same meeting.

On 17th September, 2020 when following up on the second approval to proceed on his study leave and similarly to procure an official release letter, Mr. Opetu was notified that the County government officer had been shut down due to lack of funds and advised that the letters would be delayed..... He continued following up on the matter until in August, 2020 when he was informed by the department of health officials to proceed because the first approval had already been granted. He proceeded for the training on 19th August, 2020.

Further to that, the Kisumu Department Human Resource Advisory Committee held a meeting on 16th November, 2020. The meeting was ordinarily supposed to take place immediately after the 1st Training Committee meeting but was delayed due to the closure of offices. Despite the delay, the committee deliberated on the training approval of Mr. Maurice Opetu and others. Dr. Gregory Ganda was present in this committee meeting which granted Mr. Opetu's request for training approval. Mr. Opetu was accordingly notified of his second and final approval.

When following up on the official release letter, he was given hope that the same would eventually be done.

On 19th January, 2021 the Chief Officer Health and Sanitation, Mr. Ganda wrote a letter to the County Secretary and give a list of names whose training was approved by the Department Human Resource Advisory Committee which had met on 16th November, 2021, requesting the County Secretary to process their release letters to enable them pursue their studies. Mr. Opetu's name was on the list of names.

On 28th January, 2021 while heading to his classes in MTC Mathare campus Nairobi, Mr. Opetu was involved in a road traffic accident. He sustained severe back injuries resulting in him being admitted at Aga Khan University Hospital in Nairobi from 28th January, 2021 until 2nd February, 2021. He notified the employer of the accident.

In a shocking turn of events during his recuperative period, Mr. Opetu received a letter dated 28th January, 2021 from Dr. Gregory Ganda, the Chief Officer Health and Sanitation asking him to report back to his work station with immediate effect as it had been established that he had left his work station before getting the requisite documents and being officially released. Mr. Opetu responded by saying he had indeed obtained all the necessary approvals and that the only thing that remained was the official letter of release which had inordinately been delayed by the consistent shut down of the County offices. Mr. Opetu could not understand how the Kisumu

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County Government, through its authorized officials such as Dr. Gregory Ganda who sat in meetings and approved his study leave, notified him of the said approvals and advised him to commence his studies pending the processing of the official release letter could now turn around and say the same was not approved. The union feels that it is the County Public Service Board that failed or neglected to issue him with the official release letter through their own inactions or omissions. To them Mr. Opetu was not at fault. In furtherance of the above, the same Dr. Ganda Gregory, Chief Officer Health and Sanitation, through a letter dated 31st March, 2021 wrote to the grievant a show-cause letter based on the grounds that he was absent from duty without leave or reasonable or lawful cause. The letter stated that Mr. Opetu had proceeded on leave without course of approval and had absconded duty from 15th September, 2020, thus contravening the Human Resource Procedure Manual 2016 Section H8, K8(1)-(3).

The letter further imposed a disciplinary action of stopping his salary immediately, without giving him a chance to defend himself.

On 22nd April, 2021 Mr. Opetu served the employer his response to the show cause explaining that he had not absconded work but had indeed been released to attend the course. However, the County went ahead and stopped his salary in the month of April, 2021. At this time he was still recuperating from the back injuries he sustained in the accident. With the stoppage of salary, he could not get access to his medical insurance.

The grievant continued visiting the County offices severally from May, 2021 in order to have his salary reinstated and was always informed that investigations were still ongoing. The employer took an inordinate amount of time investigating and initiating disciplinary proceedings contrary to the Human Resource Policies and Manual which requires that the same be done within 21 days.

The Opetu reported back to work on 6th September, 2021 having completed his training. He reported to the office of the Director Nursing Services Kisumu Referral Hospital and was immediately authorized to resume duty. He was assigned duty based on his newly acquired skills where he is working to date as a psychiatric nurse.

On 15th September, 2021, the grievant appeared before the Disciplinary committee and responded as he had done earlier. He was informed to await for communication.

To date, no formal communication has ever been made regarding his fate and the outcome of the investigations. Further, the County has continued to withhold his salaries and emoluments without justifiable reason. The grievant, the union says, has financial obligations which he has been unable to fulfill as a result. He is also repaying a bank loan through his salary and having withheld his salary for more than a year, the loan has accumulated huge arrears and interest. The union further reports that Mr. Maurice Opetu is back to work discharging his duties as a nurse working in a busy

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hospital which exposes him to occupational hazards and with salary withheld, he has no access to medical cover nor means to sustain his and his family's basic needs.

The union ended its submissions by saying that the employer had commenced an unfair and wrongful administrative action against their member because the county's authorized officers approved his request for study leave in the training committee meeting held on 4th September, 2020 and in the Department Human Resource Advisory Committee held on 16th November, 2020. The Union feels that the same officials had failed, refused, declined or neglected to process the official release letter within the stipulated timelines. The same officials had also declined to finalize the disciplinary action within the stipulated timelessness and/or take or communicate its decision within stipulated times. Continuing to withhold his salary is not only unfair, but it's also unjust. Similarly disciplinary action should always be just, efficient, expeditious and procedurally fair at all times.

The union therefore asked for the following:-

1. The show-cause letter dated 14th April, 2021 and the disciplinary procedure undertaken be rescinded, set aside or quashed.
2. The employer be directed to reverse the decision to withheld the salaries and emoluments due to Mr. Maurice Opetu. Similarly the employer to be directed to pay all the withheld salaries and emoluments from the month of April, 2021 to date. Thereafter the employer to continue paying salaries and emoluments entitled and dully earned by Mr. Maurice Opetu.
3. The employer be directed to pay the accrued interest on the loan.
4. Mr. Opetu should not be victimized or subjected to any form of victimization, intimidation or arbitrary redeployment due to these dispute proceedings.

MANAGEMENT SUBMISSIONS

Mr. Maurice Opetu of P/No.1997012682 is a senior registered nurse, who was seconded to the County Government of Kisumu with effect from 1st January, 2014.

Through a letter dated 3rd September, 2020, addressed to the County Secretary and Chief officer of Health, Mr. Opetu applied to be released to pursue a one year Higher Diploma in Psychiatric Nursing course at MTC Mathare Campus commencing on 15th September, 2020. As is procedure, management stated, his course approval to pursue further training and his application for release was first deliberated at the institutional level by the Kisumu County Referral Training Committee on 4th September, 2020 and the Committee's recommendations were forwarded for consideration at the departmental Human Resource Advisory Committee(DHRAC). The Departmental Human Resource Advisory Committee considered Mr. Opetu's application and the recommendations of the Kisumu County Referral Training Committee and made its recommendation.

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Upon both committees approving Mr. Opetu's application for training, the Chief Officer Health made a request vide letter dated 19th January, 2021 to the County Secretary to process release letters for those whose trainings had been approved, including Mr. Opetu's. However, upon discovery that Mr. Opetu had irregularly proceeded for training without the requisite release letter from the County Secretary, the Chief Officer for Health recalled him back to duty via letter dated 28th January 2021. Soon after, on 4th February, 2021, Mr. Opetu addressed a letter to the chief officer health reporting he had been involved in a road accident while on duty as he was a full-time student at the Mathare Campus. Mr. Opetu later responded to the letter from the Chief Officer Health recalling him back to duty via letter dated 3rd March, 2021 wherein he acknowledged having proceeded for training despite not having been officially released by his employer. Technically, the management insisted that the grievant refused to honour the employer's order to come back on duty which action amounted to insubordination.

Due to his defiance despite being given adequate time to report back to duty which he didn't, the County Secretary was requested to process the stoppage of Mr. Opetu's salary with immediate effect from 6th April, 2021 as the County commenced disciplinary proceedings.

On 15th April, 2021, communication was made to Mr. Opetu by the Chief Officer Health informing him that his request for training was not approved by the County Human Resource Management Advisory Committee meeting held on 31st March, 2021.

Management in its final submissions stated as follows:-

1. Mr. Opetu failed and/or refused to abide by set procedures to obtain the training approval to warrant his absence from work with effect from 15th September, 2020. He wrote his application on 3rd September, 2020. He did not start the process early enough to get all necessary approvals from the institutional, departmental and then the County Committee approvals in that order, after which he was to be released by the County Secretary.
2. Mr. Opetu has never shown evidence that he attended such a course as he had applied for. This should be done when an employee reports back

Management insisted that the grievant's actions and/or inactions of abandoning duty without leave and refusing to report back to duty after being recalled warrants summary dismissal. For this reason, he

has been subjected to a disciplinary process that is in its final stages. The employer prayed that the grievant's demands be dismissed and management be allowed to finalize Mr. Opetu's disciplinary process and make a final determination on the same.

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FINDINGS

After carefully perusing the parties submissions, the following was found out:-

That indeed Mr. Maurice Opetu applied for admission to the Kenya Medical Training College to pursue a one-year higher diploma course in psychiatric Nursing at Mathare Campus in Nairobi. The grievant immediately commenced the process of grant of study leave and approval. He applied for release from his duties.

It was confirmed that on 4th September, 2021, his application was deliberated and subsequently his course approval granted by Kisumu County Referral Training Committee. A copy of the minutes was provided by both the employer and the Union.

Evidence was adduced by the union that when the grievant was following up on his second approval, he was notified that the County government offices had been shut down due to lack of funds and that the meeting and letters of approval would be delayed. This was confirmed vide a letter CGK/CS/ADM/18/VOL.II/65 dated 17th September, 2020 signed by the County Secretary.

It was also confirmed that the Kisumu Departmental Human Resource Advisory Committee held a meeting on 16th November 2020. This meeting ought to have taken place immediately after the 1st training committee but was delayed due to the closure of offices. Despite the delays, there was sufficient evidence to show that the committee deliberated on the training approval of Mr. Opetu and others. The Chief Officer Health was present in the committee meeting. This was evidenced by the copy of the minutes that was annexed by both the employer and union.

The union further produced a copy of a letter from the Chief Officer Health and Sanitation Mr. Gregory Ganda had addressed to the County Secretary. The letter, dated 16th November, 2020 was asking the County Secretary to process the pending release letters of Mr. Maurice Opetu and others.

It was also apparent that Mr. Opetu, while heading to his classes was involved in a road traffic accident and admitted to the Aga Khan University Hospital in Nairobi on 28th January, 2021. Evidence of the same was captured through a clinic summary discharge which was also forwarded to his immediate supervisor. Upon discharge on 2nd February, 2021, Mr. Opetu was advised to take total bed rest to recuperate.

Strangely, and after the two(2) committees having given approval for his study in Nairobi, the Chief Officer Health and Sanitation wrote to the grievant a letter asking him to report back to his work-station with immediate effect. The grievant responded to this letter by explaining that he had

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obtained all the necessary approvals. The only thing pending was the release letter which the same chief officer had informed the County Secretary to write.

It was also strange that the Kisumu County Public Service Board, through its authorized officials like Dr. Gregory Ganda, could organize meetings and approve a study leave then write to the County Secretary to write release letters and later write to the grievant telling him to report back on duty saying the study leave was not approved.

The question one would ask here is why tell the grievant to report back when the approval procedure had been keenly followed and what remained was the letter of release only. The release letter took too long not because of the complaints fault but was as a result of the County governments laxity.

I also found that there was malice when the Chief Officer Health and Sanitation wrote a letter to Mr. Opetu asking him to report back. The grievant responded by stating that he had been involved in a road traffic accident which he had reported to the Medical Superintendent in writing. A copy of the letter, which was produced as proof shows that it was received on 8th Feb, 2021. Similarly, Mr. Opetu wrote to the Chief Officer upon receiving the recall letter and explained the accident.

The employer mentioned that there was a county Human Resource Advisory Committee meeting which was held on 31st March, 2021 which resolved that the training was not approved. It's a little confusing for the county government to have given Mr. Opetu the final approval, as it was called through a meeting held on 16th November, 2020, then turn around months later and say "not approved"

Prior to that, the Chief officer Health and Sanitation wrote a letter to the County Secretary on 19th January, 2021 and gave a list of names, whereby Mr. Opetu's name was included requesting him to process their pending release letter. It was therefore not fair that much after this letter, the matter was taken back to the County Human Resource Management Advisory Committee. Why a committee meeting can be held more than four (4) month's after the final approval leaves so many questions unanswered. Minutes of the meeting were never submitted to me by the County government despite having requested for them. The action by the County government can lead one to assume that the officials deliberately refused or declined to process the official release letter.

On the issue of the disciplinary proceedings, it was discovered that the employer has not done anything to ensure that the process is just, fair and expeditious. Having taken too long to finalize the disciplinary action within the stipulated time line is an unfair and wrongful administrative action. Mr. Opetu was invited to a County disciplinary committee meeting on 15th September, 2021. More than seven (7) month's later nothing has been reported or the matter has never been dispensed with. You will agree that this is a long time indeed.

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It was also found out that the grievant reported back to work after the training and the same could be ascertained through the daily attendance records. It was also not correct for the County government to say that they were not even sure whether the grievant indeed attended the course because Mr. Opetu did his clinical practice at Kisumu County Referral hospital. Similarly he filed his certificate with his immediate supervisor after completing the course.

In a nutshell, the County Government made a glaring error by notifying Mr. Opetu so late in the day that his course study leave had not been approved after the initial approval. So by extend it also made a grave error in stopping his salary.

RECOMMENDATIONS

I thereby recommend the following:-

1. The show-cause letter dated 14th April, 2021 and the disciplinary procedure undertaken be rescinded, set aside or quashed by management.
2. The employer to pay all the withheld salaries and emoluments for the month of April, 2021 to date.
3. The employer to continue paying monthly salaries and emoluments.
4. Mr. Maurice Opetu should not be victimized or subjected to any form of intimidation due to these dispute proceedings.
5. The employer should always be expeditious, reasonable, just and procedurally fair when dealing with issues concerning employees.

I hope that both parties shall accept my recommendations as the basis of settlement to this dispute.

Yours faithfully

C. J. GONDOSIO
CONCILIATOR



✓cc: The Chief Industrial
Relations officer
Box 40326-00100
NAIROBI

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Pay Slip (Feb-2023)

ANNEX 07

PF-Num: 20150067664 MRS CARREN ATIENO OGWELA
Station: Kisumu :
0342-042-0311 Incr: SEP RoD: 11-DEC-2042
Desig: F04BH Pharmaceutical Technologist[3]
ID-Num: 22496515 Tax-PIN: A003944047Z 40 Yrs (P&P)

KCB - Kisumu

Basic Salary	32,570.00
Rental House Allowance	4,500.00
Commuter Allowance	4,000.00
Health Risk Allowance	2,000.00
Health Workers Extraneous Allowance	15,000.00
Health Service Allowance	20,000.00
TOTAL Earnings	78,070.00
Pension (Auto) - LAP Trust- Contribution Scheme (5560)	-4,448.40
PAYE Auto (MPR=2400)	-14,469.85
NHIF Contribution	-1,400.00
TOTAL Deductions	20,318.25
NET Pay: February - 2023	57,751.75

www.ghris.go.ke 22/02/2023 20:36:28

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Kisumu County - Executive



Pay Slip (Feb-2023)

PF-Num: 20150099684 MISS SUSAN OKONJI
Station: Kisumu :
0342-042-0311 Incr: AUG RoD: 30-NOV-2046
Desig: F04BH Pharmaceutical Technologist[3]
ID-Num: 24625290 Tax-PIN: A005396392I 36 Yrs (P&P)

COOP Bank - Kisumu

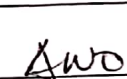
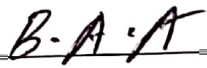
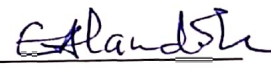
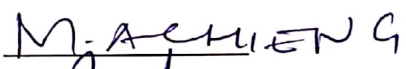
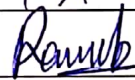
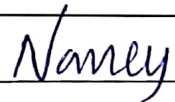
Basic Salary	33,950.00
Rental House Allowance	4,500.00
Commuter Allowance	4,000.00
Health Risk Allowance	2,000.00
Health Workers Extraneous Allowance	15,000.00
Health Service Allowance	20,000.00
TOTAL Earnings	79,450.00
Pension (Auto) - LAP Trust- Contribution Scheme (5767)	-4,614.00
Commercial/Bank Loan Recovery - Cooperative Bank of Kenya (1348195)	-28,685.00
PAYE Auto (MPR=2400)	-14,834.15
NHIF Contribution	-1,400.00
TOTAL Deductions	49,533.15
NET Pay: February - 2023	29,916.85

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ADOPTION SCHEDULE

We the Hon. Members of the Committee on Labour and Social Welfare Services hereby append our signatures in affirmation that these are the true deliberations of the committee.

MEMBER	POSITION	SIGNATURE
Hon. Zack Okoyo	Chairperson	
Hon. Jennipher Obonyo	Member	
Hon. Alice Wajewa	Member	
Hon. Benson Adega	Member	
Hon. Eunice Alandoh	Member	
Hon. Emily Oginga	Member	
Hon. Mildred Ajumbo	Member	
Hon. Ratib Boitone	Member	
Hon. Reuben Rakwach	Member	
Hon. Vincent Jagongo	Member	
Hon. Joachim Oketch	Member	
Hon. Nancy Matara	Member	
Hon. Carren Odhiambo	Member	