



**Nyang'ongo & another v Cabinet Secretary, Ministry of Education & 8 others
(Petition 7 of 2022) [2025] KEELRC 3526 (KLR) (10 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3526 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISII
PETITION 7 OF 2022
JK GAKERI, J
DECEMBER 10, 2025**

BETWEEN

EVANS MORARA NYANG'ONGO 1ST PETITIONER

CHARLES MORARO MOGUNDE 2ND PETITIONER

AND

THE CABINET SECRETARY, MINISTRY OF EDUCATION .. 1ST RESPONDENT

**THE PRINCIPAL SECRETARY, MINISTRY OF EDUCATION, DEPARTMENT
OF VOCATIONAL & TECHNICAL TRAINING 2ND RESPONDENT**

THE ATTORNEY GENERAL 3RD RESPONDENT

**DIRECTOR, DIRECTORATE OF TECHNICAL EDUCATION, MINISTRY OF
EDUCATION 4TH RESPONDENT**

**ELICANAH M MISIORI, DIRECTOR, HUMAN RESOURCES
MANAGEMENT 5TH RESPONDENT**

**THE CHAIRMAN, KISII NATIONAL POLYTECHNIC GOVERNING
COUNCIL 6TH RESPONDENT**

PRINCIPAL, KISII NATIONAL POLYTECHNIC 7TH RESPONDENT

TEACHERS SERVICE COMMISSION 8TH RESPONDENT

PUBLIC SERVICE COMMISSION 9TH RESPONDENT

RULING

1. Before the court for determination is the Applicant's Notice of Motion dated 24th August 2025 filed under Certificate of Urgency seeking Orders that:-



1. Spent.
 2. Spent.
 3. Spent.
 4. Spent.
 5. This Honourable Court issues a notice to show cause against the respondents/Judgment Debtors requiring them to appear in court to show cause why execution should not issue against them.
 6. In default execution do issue against the Judgment Debtors by way of attachment of their properties, garnishee proceedings, committal to civil jail or any other lawful means.
 7. The interim garnishee Order nisi attaching the respondents accounts in Kenya Commercial Bank, Co-operative Bank of Kenya and Central Bank of Kenya be made absolute.
 8. The respondents be compelled to file within 14 days a full computation and written statement accounting how they arrive at the purported scaling down of the Petitioners salaries and allowances.
 9. This Honourable Court issues a permanent Order restraining the respondents, their agents or assigns from unilaterally revising or reducing the Petitioners salary, allowances and benefits without lawful justification.
 10. This Honourable court do issue a permanent Order compelling the respondents to reinstate the 2nd Petitioner to his rightful position at Kisii National Polytechnic in full compliance with the decree herein and restrain any further unlawful transfer or redeployment.
 11. This Honourable Court do award the Petitioners general damages for financial distress, hardship and loss occasioned by the respondents' unlawful conduct including arbitrary stoppage of salaries, reduction of allowance and irregular transfer.
 12. The respondent do pay costs of this application.
2. The Notice of Motion is expressed under Articles 41, 47, 50 and 236 of *the Constitution* of Kenya; Section 3, 12 and 20 of the *Employment and Labour Relations Court Act* and Order 22 and 23 of the Civil Procedure Rules and is based on the grounds enumerated on its face and the Supporting Affidavit of the 2nd Petitioner sworn on 24th August 2025.
 3. The applicant contends that judgment and decree were issued by the court reinstating the Petitioners with full salary, allowances and benefits and the respondent had wilfully failed to comply with the decree and had arbitrarily reduced the Petitioners salaries and allowances.
 4. That the respondents had irregularly redeployed the 2nd Petitioner contrary to the reinstatement Order and failed to account for the salary reductions and Petitioners were owed Kshs.783,176 plus continuing interest at 14% per annum.
 5. That the respondents' conduct had subjected the Petitioners to financial hardship, emotional distress, loss of legitimate expectation, career growth, loss of income and job grade.
 6. That the Petitioners stand to suffer irreparable harm if the court did not intervene.
 7. In his Supporting Affidavit the applicant deponed that the court's Judgment dated 18th April 2024 reinstated the Petitioners to their positions at Kisii National Polytechnic with full salary allowances and



- benefits but the 8th respondent reduced his basic salary from Kshs.96,130.00 to Kshs.59,084.00, house allowance from Kshs.28,000.00 to Kshs.21,000.00 and commuter allowance from kshs.120,000.00 to Kshs.6,00.00.00 and deployed him to Bobaracho Secondary School contrary to the reinstatement Order and the 9th respondent had disclaimed responsibility in violation of the decree.
8. That the 2nd, 5th and 8th respondents failed to pay salary and benefits owed to the applicant for the month of November 2024 and 2nd and 8th respondents refused to pay house allowance at Kshs.28,000.00 of Kisii National Polytechnic and used Kshs.21,000.00 leading to arrears of Kshs.783,176.00
 9. That the 8th respondent knew the applicants grades from the Public Service Commission (PSC), 9th respondent as Grade 7 attained on 3rd September 2024 but reversed the grades and redesignated his job grades below the expected Grade D4 scale 14 point 4.
 10. The Notice of Motion and Supporting Affidavit had no attachments.
 11. In a Supplementary Affidavit sworn on 3rd November 2025, in response to the 9th respondent's response, the affiant deponed that the decree had not been complied with and the letter by Dr. Esther Tharaa Mworira,. The Principal Secretary State Department of VTT was hearsay and inadmissible and referred to another officer not the applicant.
 12. That the Principal of Kisii National Polytechnic refused to assign him duties on 7th May 2024 as he had no instructions form the Principal Secretary.
 13. That the letter attached referred to Mr. Evans Nyangongo P/No.1998045811 and the decree had not been complied with.
 14. That the 2nd respondent failed to disclose to the 9th respondent the true position regarding payment of salary for November 2024 and mislead the 9th respondent on reinstatement invoking a 2018 case to justify acts of vengeance and retaliation and misinterpreting ELRC Petition 7 of 2022.
 15. That the 9th respondent's allegation of releasing the applicant back to the TSC with different salary and allowances was a substitution of the court decree.
 16. According to the applicant a total of 3780 teachers/trainers were left in the PSC.
 17. That officers of the applicant's rank were not affected by any changes in salary and benefits.
 18. That the PSC was aware of the Decree and neglected its duty by relying on the Principal Secretary and the Human Resource Manager to implement the Decree.
 19. According to the Applicant the respondents had picked the Petitioners leaving behind the 3780 in the Ministry of Education whose salaries had been enhanced.
 20. That the salary reduction had caused career regression back to 2012, a loss of 14 years of service and failure to enforce the decree will occasion substantial and irreparable loss.
 21. That the applicant was now being forced to work under junior officers in Secondary Schools inconsistent with his training and experience, which was embarrassing, demoralizing and resulted in career stagnation.
 22. That his bank loan had attracted a penalty of Kshs.156,612.s

8th Respondent's response

23. By a Replying Affidavit sworn by Mr. Fredrick Mwaniki on 28th November 2025, the affiant deposed that no execution could issue against the 8th respondent on account of the [*Government Proceedings Act*](#)



and Order 29 Rule 2 and 4 of the Civil Procedure Rules and the applicant had not specified the extent of the garnishee Order sought.

24. That the 8th respondent's mandate included registering trained teachers, employing them assigning employed teachers in any public school or institution and recruitment and appointment of trainers for Technical and Vocational Education training was vested in the governing bodies of those institutions.
25. The affiant deposed that the court's Judgment in Kisumu ELRC Petition No. 7 of 2022 Evans Morara Nyang'ongo & another V The CS Ministry of Education & 6 others declared the transfer instituted by the PSC illegal and unconstitutional and directed that the Petitioners salaries be reinstated and they be allowed to report back to work. That the judgment echoed the decision of Abuodha J in Nairobi Petition No. 97 of 2018 which nullified the circulars transferring the services of the applicant to the Ministry of Education.
26. The affiant further deposed that applicant had been directed to report to the Commission for posting vide letter dated 28th August 2024 and was posted to Bobaracho Secondary School and reported on 21st November 2025.
27. That posting the applicant to Kisii Training College requested by the applicant was not possible as the institution was not within the mandate of the Commission and thus it complied with the Orders of the court.
28. That the applicant had failed to prove any reduction of salary as the grading for teachers was governed by the law, CBAs and circulars of the SRC.
29. The affiant further deposed that the Commission's grading structure was C1, C2, C3, C4, D1, D2, D3, D4, and D5 for professional teachers while the Public Service Commission Job Groups were J, K, L, M, N for its officers and the Commission could not place or pay a teacher into a PSC job as it would distort the grading structure.
30. That the operations of the TSC and Technical, Vocational and Educational Training institutions was different as per the statutory arrangements in place and the Commission acted in good faith and the applicants interpretation of the court Judgment was wrong, skewed and selfish.

9th Respondent's case

31. Mr. Paul Famba, the Secretary/Chief Executive Officer of the 9th respondent deposed that it had complied with the Judgment in Kisumu ELRC PET. No. 7 of 2022 and the 2nd respondent had informed it as much vide letter dated 5th August 2025 as well as the applicant's annexures releasing them back to the TSC and payslips.
32. That the 9th respondent had no role in determining their conditions of service or placement.

Applicants submissions

33. The applicant highlighted nine issues for determination.
34. On existence a valid, clear and binding decree issued on 18th April 2024, the applicant submitted that the decree required that he be reinstated to Kisii National Polytechnic wilful pay, allowances and benefits and it was served and brought to the knowledge of the 2nd, 4th, 5th, 6th, 7th and 9th respondents and they had wilfully and deliberately disobeyed the decree of the court as they were aware of the terms of reinstatement and their conduct was deliberate and intentional by dispatching him to the TSC'S payroll and his transfer to Bobaracho Secondary School.



35. Reliance was placed on the sentiments of the Court in *Newton Kagira Mukuha V Charles Mukuha Gashwe & 14 others* [2023] KECA 1482 (KLR), on deliberate conduct of a party as were those in *Econet Wireless Kenya Ltd V Minister for Information & Communications of Kenya & another* [2005] eKLR, on the essence of rule of law and authority and dignity of courts and *Basil Criticos V Attorney General and others* [2017] eKLR, on knowledge of a court Order.
36. Other decisions cited included *Teachers Service Commission V Kenya National Union of Teachers & 2 Others* [2013] eKLR on disobedience of court orders.
37. According to the applicant, the court decree ordered his reinstatement to Kisii National Polytechnic with full salary allowance, seniority and benefits. That reinstatement was a substantive remedy and discretionary as held in *Kenya Airways Ltd V Aviation and Allied Workers Union Kenya & 3 others* [2014] eKLR.
38. Sentiments of the Court of Appeal in *Kenya Power & Lighting Co. Ltd V Aggrey Lukorito Wasike* [2017] eKLR and *Kenya Revenue Authority V Mwongela* [2025] KECA 262 (KLR), on reinstatement, were also cited to urge that since the court directed reinstatement the applicant should have been restored to the full employment status.

8th respondents submissions

39. Mr. Mulaku for the Teachers Service Commission submitted that 8th respondent had complied with the court judgment in *Kisumu ELRC PET No.007 of 2022* and no decree against the Commission for the sum of Kshs.783,176.00 had been made and no debt was owing.
40. Reliance was placed on the provisions of Section 21(1) of the *Teachers Service Commission Act* and Section 21(4) of the *Government Proceedings Act* on enforcement against the Commission, as were the provisions of Order 29 Rule 2 of the Civil Procedure Rules.
41. Reliance was further placed on the sentiments of the court in *Kennedy Wainaina Ngenga V County Government of Nairobi & Co-operative Bank of Kenya (Garnishee)* [2019] eKLR and *Takaful Insurance of Africa Ltd (Kenya) V County Government of Garissa & 2 others Governor Central Bank of Kenya (Garnishee)* [2021] eKLR to urge that no garnishee proceedings could ensue against the Commission.
43. On compliance with the Judgment in *Petition No. 7 of 2022*, counsel submitted that the Commission had taken reasonable steps to reinstate the applicant after he was released by the Ministry of Education and he could only be absorbed back to a Secondary School under the applicable grading structure and the decision in *Evans Morara Nyangongo V Public Service Commission & another* [2023] KEELRC 2559 (KLR) affirmed the institutional independence of Technical and Vocational Training Management bodies.
44. Finally, on remuneration of the applicant, counsel cited the decisions in *Kenya National Union of Teachers V TSC* [2021] eKLR and *Salaries & Remuneration Commission V TSC* [2023] eKLR, to urge that different sectors had distinct remuneration structures and the TSC could not pay a teacher the salary paid to those under the PSC job group.
45. That the applicant had not adduced evidence of any salary reduction from the salary he was earning at the TSC prior to secondment to the PSC and subsequent release back to the TSC.
46. That the judgment ordered reinstatement of salary and return to duty not to post the teacher to a technical college citing the decision in *Republic V Attorney General & another ex parte Stephen Wanyee Roki* [2016] eKLR on interpretation of court Orders.



47. Counsel urged the court to dismiss the application as no deliberate disobedience of court orders had been demonstrated.

Applicant's supplementary submissions

48. In response to the 8th Respondent's response, the applicant submitted hugely on contempt of court and meaning and effect of reinstatement, an issue he had submitted on earlier but additionally argued that the *Government Proceedings Act* did not bar the court from issuing orders such as punishment for contempt and the 8th respondent was obligated to operate within the law.

49. According to the applicant, the 8th respondent had the mandate to deploy, assign and post teachers to public institutions including post secondary institutions under Article 237 of *the Constitution* of Kenya and its response that it had no role was misleading.

Analysis and determination

50. The Petitioner had sought reliefs pending the hearing and determination of the application dated 24th August 2025 but none was granted, namely garnishee Order nisi injunction on reducing or review or reduction of salary and or allowances, direction to continue paying salary as before and compliance with the Judgment dated 18th April 2024.

51. It is common ground that the applicant was at all material remains an employee of the 8th respondent the Teachers Service Commission (hereinafter "TSC").

52. It is equally not in dispute that the TSC transferred the applicant from Naigera Secondary School to Mawego Technical Training Institute and an attempt by the PSC and TSC to transfer the services of the applicant (together with others) from itself to the Ministry of Education under the Public Service Commission (hereinafter "PSC" in July 2018 failed in Petition 97 of 2018 but the transfer proceeded which the applicant and 2 others challenged in Kisumu ELRC Petition No. 7 of 2022 where the sought inter alia a declaration that they were employees of the TSC and not PSC and their transfer was illegal and unconstitutional.

53. They also sought special and exemplary and aggravated damages and certificate of service.

34. By a judgment delivered on 18th April, 2024, the court made three Orders:

- i. A declaration that the transfer of the instituted by the PSC against the Petitioners is illegal and unconstitutional.
- ii. The Petitioners salaries be reinstated forthwith and they be allowed to report back to work with immediate effect.
- iii. Cost be by the respondents jointly and severally.

35. These Orders are the genesis of the instant application and while the applicant deposed and submitted that the respondents had not complied with the judgment and owed him Kshs.783,176.00 being basic salary and allowances due to him after the revision of salary by the TSC.

36. The applicant's case is that the salary and allowances payable under the PSC Grade 7 ought to have been retained by the TSC after the transfer back to the TSC, which TSC resists on the premise that the salary structures of the two bodies were different and the applicant being a registered teacher could only be remunerated as a teacher under the TSC salary structure otherwise it would be in violation of *the Constitution* of Kenya.



37. Documents on record reveal that applicant was transferred to Mawego Technical Training Institute by the TSC effective 29th January 2014 having been promoted to Graduate Teacher I effective 14th January 2012.
38. By letter dated 17th July 2019, the Principal Secretary, Ministry of Education deployed the applicant to Kisii National Polytechnic with immediate effect, to teach Physics (Electronics) and Chemistry.
39. The Letter cited the Human Resource Procedure Manual for the Public Service, May 2016, as the basis upon which transfers allowance was not payable as he had requested it.
40. The applicant did not contest the contents of the letter which inter alia cited his Ref. No. as 2009141691.
41. Evidence also reveals that vide letter dated 11th November 2021, the applicant was deployed to Sotik Technical Training Institute from Kisii National Polytechnic by the Principal Secretary Ministry of Education Department of Vocational and Technical Training on recommendation of the Ministerial Human Resource Management Committee, as a Senior Vocational & Technical Trainer (Mathematics), with immediate effect.
42. The applicant appealed the deployment/transfer on grounds of an aged and ailing father who required attention, his children had not settled since he left Mawego TTI and his wife was attending Clinics at the Kisii Teaching and Referral Hospital.
43. In an earlier letter dated 26th November 2021, the applicant appealed the transfer/deployment from Kisii National Polytechnic and preferred to go to either Kasarani TVC, Kamukunji TVC, PC Kinyajui TTI or Nairobi TTI so as to safeguard house allowance.
44. From his two letters it is surmisable that the transfer to Kisii National Polytechnic was by the Principal Secretary.
45. Strangely, none of the two letters was copied to the TSC or submitted through the TSC and the applicant indicated his PSC No. 2009141691 as opposed to his TSC No.503405 as per the offer of employment on permanent terms dated 24th December 2008.
46. Equally, the applicant did not question or resist the transfers to the Kisii National Polytechnic and Sotik ATTI from the Principal Secretary as opposed to the TSC.
47. From these letters, it is evident that the applicant had moved from the TSC to the Ministry of Education payroll in all but name.
48. The Petition dated 12th February 2022 (amended) was challenging Circular NO. PSC/SEC/93/37/VOL 4/(37) dated 30th July 2018 and the court awarded the Orders reproduced elsewhere in this ruling.
49. It is notable that by the time the court delivered its judgment, the applicant was already under the Ministry of Education/Public Service Commission as evidenced by the payroll number and copy of payslip on record and evidently, the declaration issued meant that the applicant had to revert to the TSC payroll as the two constitutional Commissions have different pay structures.
50. After the Judgment, the Principal Secretary, State Department for Technical, Vocational Education and Training released the applicant back to the TSC vide letter dated 24th October 2024 and paid salary and accrued arrears until 31st October 2024 and the TSC vide letter dated 13th November 2024 directed him to report to the Director Staffing for purposes of posting and was posted to Bobaracho Secondary School vide letter dated 15th November 2024 to teach Physics and Chemistry and he reported.



51. The salient issue for the court to determine is who was to reinstate the applicant's salary and at what level?
52. The easier part is that since the court declared that the purported transfer by the PSC was unconstitutional and illegal, the Ministry of Education/PSC could not have been the parties to reinstate the applicant's salary ostensibly because they were not his employer.
53. A copy of the applicant's payslip for October 2024 shows that his salary was being paid by the Ministry of Education Vocational and Technical Training at Kshs.96,130.00 (basic salary), rental house allowance Kshs.21,000.00 and commuter allowance at Kshs.12,000.00 total Kshs.129,130.00.
54. Comparatively, payslip for December 2024 by the TSC had a gross salary of Kshs.87,084.00.
55. It is unclear to the court how the transition from Job Group 7 of the PSC morphed to Secondary Teacher I. Mr. Fredrick Mwaniki's Replying Affidavit sworn on 28th November 2025 was silent on the transition of the applicant's earnings and position from Principal Vocational and Technical Trainer, with over 12 years teaching experience, to Secondary Teacher I. A detailed explanation would enlightened the court more.
56. In the court's view, having disowned the Ministry of Education, Department of Vocational & Technical Training, the TSC was not obligated to adopt or implement the Ministry of Education/PSC salary and the applicant had to revert to the position of a Secondary School teacher of his experience the technical qualifications notwithstanding. He was a teacher not a trainer a designation the Petitioner in ELRC PET No. 7 of 2022 complained of.
57. Be that as it may, it is also important to state that only two Petitioners challenged the transfer and sought a declaration that they were employees of the TSC and not the PSC or the Ministry of Education and the Ministry had no option but to release them back to the TSC their employer.
58. Their colleagues who opted not to contest secured a promotion in 2023 effected by the PSC, the employer the applicant distanced himself from. He cannot complain about the decision he made. He preferred the old home and the court obliged him and could only envy the goodies he denied himself.
59. It is common ground that the *Technical and Vocational Education and Training Act*, though assented to on 14th January 2013 was not implemented until after 2018, and removed the employment registration and posting of trainers from the TSC and vested it in the Board of Governors and Councils under Section 27 and 28 of the Act and Principals (CEO) of those institutions are appointed by the Cabinet Secretary on recommendation of the Board of Governors or Council after a competitive process. Under Section 29 of the Act, the Board of governors and councils are incharge of recruiting and appointing trainers among qualified professionals and practising trades persons in the relevant sectors of industry and determining suitable terms and conditions of service for support staff, trainers and instructors.
60. Such names are forwarded to the PSC for formal employment.
61. Contrary to the Applicant's contention that TSC retained the role of posting teachers in Post Secondary Institutions that the *Teachers Service Commission Act* had not been amended, the applicant made no reference to the Technical and Vocational Education Training Act which is a latter statute and which established the Technical and Vocational Education Training Authority whose mandate include regulation and co-ordinating of technical and vocational education training and registration of trainers.



62. Contrary to the applicants contention that the court directed his reinstatement at the Kisii National Polytechnic, this court is of a different view. The learned Judge directed that the Petitioners “be allowed to report back to work”.
63. The court did not order reinstatement perhaps because the Petitioner’s employment had not been terminated. Stoppage of salary does not amount to termination of employment and more so, in the public service where all actions and decision taken must be in writing.
64. Reinstatement is a substantive relief under section 12(1) of the Employment and *Labour Relations Act* read with Section 49(3) of the *Employment Act* and can only be invoked in cases of unfair termination of employment or wrongful dismissal.
65. The court directed that the applicant be allowed to go back to work. The court did not indicate how or who was to do so among the principal respondents that is, Ministry of Education, PSC or the TSC, but as adverted to elsewhere in this Judgment having disowned the Ministry of Education/PSC, they could not legally do so nor the Principal Secretary who was not the employer. Only the TSC could do so and as evidence revealed, it took positive steps to ensure the Orders were complied with and even paid part of the costs of the case.
66. Could the TSC allow the applicant to go back to work at the Kisii National Polytechnic?
67. The answer to this question is in the negative bearing in mind that he had already been released to the TSC his employer.
68. The 8th respondent’s understanding of the court Orders, cannot, in the court’s view be faulted.
69. There was no Order for reinstatement at any place of work and the 8th respondents letters on the applicants reporting to the Director Staffing for posting, which the applicant acted on revealed its commitment to implement the Orders.
70. The court is in agreement with the 8th respondents submissions that the TSC could only post the applicant to a primary or Secondary School under its mandate, the previous practice notwithstanding.
71. Statutes are enacted by the legislature for a purpose, generally to serve society in a particular manner, and having been enacted in 2013, there was need to operationalize the *Technical and Vocational Education and Training Act* and the TSC lost the mandate to post teachers to Technical and Vocational Education training institutions, including national polytechnics.
72. To this extent, the court is not persuaded that the applicant has demonstrated that the respondents or any of them violated the Orders of the court intentionally, wilfully or deliberately to be cited for contempt of court.

Appropriate reliefs

i. Notice to show cause

73. Contrary to the applicant’s Notice of Motion, none of the respondents had been adjudged as a debtor by the court. The court merely directed reinstatement of the applicant’s salary and no debt was evidentiary demonstrated as owing by any of the respondents save the salary for November 2024, if it had not been paid already.

The prayer is declined.



ii. Attachment of respondents property garnishee and committal to civil jail

74. On committal to civil jail, the application had not styled the suit as civil contempt suit and the court is aware that the 1st Petitioner in Kisumu ELRC Petition No. 7 of 2022 had filed a civil contempt motion dated 17th July 2025, which the court declined vide ruling delivered on 1st December 2025 and when the court pointed out the issue to the applicant, he argued vociferously that the two cases were different.
75. Civil contempt applications require service of the demand for compliance with a penal notice in case of non-compliance a requirement the applicant did not show nor demonstrate that the elements of civil contempt captured in many decisions including Republic V Attorney General & another ex parte Mike Maina Kamau [2020] eKLR, Samuel M. N. Mweru & others V National Land Commission & 2 others [2020] eKLR, among others including the Court of Appeal decisions in Mutitika V Baharini Farm Ltd [1985] KLR on the heavy standard of proof of civil contempt.
76. The applicant failed to prove that his application satisfied the requirements of civil contempt.
77. On garnishee proceedings, the Notice of Motion lacked particulars on who the garnishee was amount decreed as due and the bank account to be garnished.
78. The purpose of garnishment, which is commenced ex parte against 3rd party, mostly banks holding monies on account of the Judgment Debtor, is to ensure that the amount is frozen to prevent it use by the Judgment Debtor pending conclusion of the garnishee proceedings and the 3rd party can only deal with the monies as directed by the court.
79. No garnishee Order nisi had been issued for confirmation as absolute or discharge.
80. On attachment of properties and garnishees as well, the provisions of section 21 of the [Government Proceedings Act](#) prevent execution against the Government and as correctly submitted by Mr. Mulaku.
81. Section 21 of the [Teachers Service Commission Act](#) provide:
 1. Proceedings against the Commission shall be deemed to be proceedings against the Government and shall be subject to the [Government Proceedings Act](#) (Cap 40).
 2. Any notice or other processes in respect of legal proceedings under sub-section (1) shall be served upon the Secretary to the Commission.
82. The [Government Proceedings Act](#) require a Certificate of Order Against the Government, which ought to be served upon the Attorney General and the accounting officer of the relevant officer of the relevant Department, Ministry or organ.
83. Similarly, and as submitted by Mr. Mulaku, the provisions of Order 29 Rule 2 prohibits impounding of documents, execution of decrees and Orders attachment of debts and appointment of receivers against the Government except as provided under the [Government Proceedings Act](#).
84. The prayer for attachment of properties or garnishee are dismissed.

iii. Computation of how the applicants salary was arrived

85. The court adverted to this issue elsewhere in this ruling. The TSC is required to avail to the applicant a detailed statement of how it arrived at the applicant's grade and salary including the circumstances it took into consideration.
86. The statement be furnished within 30 days.



iv. Permanent injunction to restrain revision or reduction of salary or allowances

87. Such an injunction is pre-emptive and undesirable in circumstances in which changes may occur.
88. Significantly, the applicant has not demonstrated that the 8th respondent was planning or was likely to reduce or adjust or revise his salary or allowances downwards.

The prayer lacks supportive evidence and is declined.

v. Reinstatement to Kisii National Polytechnic

89. The court has already addressed this issue. Suffice to add that analogous to other remedies under Section 49 of the *Employment Act*, the remedy of reinstatement is discretionary as held by the Court of Appeal in *Kenya Airways Ltd V Aviation & Allied Workers Union (Kenya) & others* [2014] eKLR
90. Having found that the provisions of Section 49 of the *Employment Act* could not be invoked, the remedy of reinstatement was not available and notably the applicant had appealed against the transfer to Sotik TTI but the outcome was not filed.

The prayer is declined.

vi. General damages for financial distress, hardship and loss of career progression

91. The applicant tendered no evidence of any financial distress or hardship or how his career progression had been compromised by the respondent's actions.
92. Similarly, a copy of a payslip on record revealed that the Ministry of Education, Department of Technical and Vocational Education Training paid the applicant all outstanding salary and arrears until October 2024 and as admitted by Mr. Mulaku in court, returning the applicant to the 8th respondent's payroll took long.
93. Regarding career progression, the applicant's progress would have been faster if he had remained at the Ministry of Education and had since learnt that those who remained at the Ministry were awarded a salary increment by the PSC in 2023, which he disowned and sought a declaration that he was an employee of the TSC.

The prayer was unproved and it is declined.

94. For the foregoing reasons it is the finding of the court that the applicant has failed to demonstrate entitlement to any of the reliefs sought.

95. In the upshot, the application dated 24th August 2025 is devoid of merit and it is accordingly dismissed.

Parties shall bear their own costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KISUMU ON THIS 10TH DAY OF DECEMBER 2025.

DR. JACOB GAKERI

JUDGE

Order

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They



have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

DR. JACOB GAKERI

JUDGE

