

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
CAUSE NO. 257 OF 2018

**INTER-PUBLIC UNIVERSITIES' COUNCILS
CONSULTATIVE FORUM OF FEDERATION
OF KENYA EMPLOYERS.....CLAIMANT/APPLICANT**

VERSUS

UNIVERSITIES' ACADEMIC STAFF UNION.....RESPONDENT

AND

**MINISTRY OF EDUCATION.....1ST INTERESTED PARTY
NATIONAL TREASURY.....2ND INTERESTED PARTY
MINISTRY OF LABOUR.....3RD INTERESTED PARTY
ATTORNEY GENERAL.....4TH INTERESTED PARTY
SALARIES AND REMUNERATION COMMISSION.....5TH INTERESTED PARTY**

(In open court on the 16th day of March, 2018 before Hon. Justice Onesmus Makau)

ORDER

APPLICATION FOR ORDERS

1. **THAT** this Honourable Court certifies this Application as urgent and the service of this Application upon the Respondent be dispensed with in the first instance and the application be heard ex-parte.
2. **THAT** this Honourable Court be pleased to issue an order restraining the Respondent by themselves, their officials, agents and/or members from taking part in, calling instigating or inciting others to take part in an unprotected strike or any form of industrial action pending the hearing and determination of this application.

3. **THAT** this Honourable Court be pleased to issue an order restraining the Respondent by themselves, their officials, agents and/or members from taking part in, calling, instigating or inciting others to take part in unprotected strike or any form of industrial action pending the hearing and determination of the claim herein.
4. **THAT** this Honourable Court declares the strike called by the Respondent in their notice dated on 21st February, 2018 unlawful and therefore unprotected.
5. **THAT** this Honourable Court do allow the Claimant to serve the Respondent by way of substituted service by way of emails provided, registered post and or advertisement through the Nation daily newspaper.
6. **THAT** the Respondent be condemned to pay the costs of this Application.

This matter coming up for ruling on Claimant's application dated 1st March, 2018 before Hon. Justice Onesmus Makau on the 16th day of March, 2018 in the presence of the representative for the Claimant, the Respondent, the 1st to 4th Interested Party and the 5th Interested Party;

IT IS HEREBY ORDERED:

1. **THAT** an order is hereby issued restraining the Respondent by themselves, their officials, agents and/or members from taking part in, calling, instigating or inciting others to take part in unprotected strike or any form of industrial action pending the hearing and determination of the claim herein.
2. **THAT** the strike called by the Respondent in their notice dated on 21st February, 2018 is hereby declared unlawful and therefore unprotected.
3. **THAT** the Claimant is hereby allowed to serve the Respondent by way of substituted service by way of emails provided, registered post and or advertisement through the Nation daily newspaper.
4. This dispute is hereby referred to the Cabinet Secretary Labour to assist the parties to resolve the 2017-2021 CBA dispute under Section 70 of the Act within 60 days of today.
5. **THAT** the Cabinet Secretary Labour should not appoint Mr. G.A Omondi who had earlier been appointed as the Conciliator.

6. THAT the parties are directed and ordered to act in good faith and do the following without failure;
- i. THAT the Respondent to call off the strike forthwith and the employees to resume work on Monday 19th March, 2018 at 008.00 hours.
 - ii. THAT the Claimant to present to the C.S Labour her counter proposal for the 2017-2021 CBA and serve the Respondent within 30 days from the date hereof for use in the conciliation process.
 - iii. THAT if the Respondent complies with the order (i) herein above her members shall not be victimized in any way for participating in the unprotected strike.
7. THAT each party shall bear his or her own costs.
8. THAT the suit will be mentioned on 17th April, 2018 to confirm compliance.

Given under my hand and seal of this court at Nairobi this 16th day of March, 2018.

Issued at Nairobi this 21st day of March 2018.


DEPUTY REGISTRAR

EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

PENAL NOTICE.

TAKE NOTICE that this is a valid court order and any party whosoever served and disobeys it will be in contempt of court and is liable to imprisonment for a term not exceeding 6 months.

Certified True copy of the Original
Sign:..... 
Deputy Registrar Employment and
Labour Relations Court
Date:..... 21/03/18