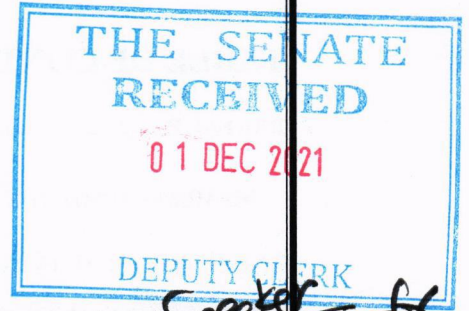




REPUBLIC OF KENYA



CO1  
Recommended for approval  
for tabling.

THE SENATE

eg 01/12/21

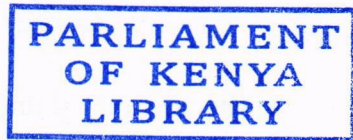
TWELFTH PARLIAMENT – FIFTH SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

Rt. Hon. Speaker  
You may approve for  
tabling.  
01/12/21

Approved  
[Signature]  
2/12/2021

REPORT ON THE PETITION BY MR. ISAAC SIKONYAKERIGA  
ON ALLEGED NON-PAYMENT AND FAILURE TO BE CONFIRMED BY KISII  
COUNTY GOVERNMENT



Clerk's Chambers,  
The Senate,  
Parliament Buildings,  
NAIROBI

PAPERS LAID	
DATE	2/12/2021
TABLED BY	Chair
COMMITTEE	Labour
CLERK AT THE TABLE	Kwate M.

November, 2021

DC-EG  
Recommended & Forwarded for approval  
01/12/2021

## TABLE OF CONTENTS

PREFACE .....	3
MEMBERSHIP OF THE COMMITTEE .....	3
EXECUTIVE SUMMARY .....	4
CHAPTER ONE: INTRODUCTION.....	6
1.1 CONCERNS RAISED .....	6
1.2 PETITIONER'S PRAYERS .....	6
CHAPTER TWO: UNDERTAKINGS OF THE COMMITTEE .....	7
2.1 MEETING WITH THE PETITIONER AND THE KISII COUNTY PUBLIC SERVICE BOARD .....	7
2.2 COMMITTEE ANALYSIS.....	8
2.2.1 POLICY AND LEGAL FRAMEWORK .....	8
2.2.2 EMPLOYMENT ACT, 2007 .....	9
2.2.3 THE COUNTY GOVERNMENTS ACT, 2012 .....	10
CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS.....	12
3.1 COMMITTEE OBSERVATIONS.....	12
3.2 COMMITTEE RECOMMENDATIONS .....	ERROR! BOOKMARK NOT DEFINED.

### Annexes

Annex A: Minutes of the sittings of the Committee

Annex B: Copy of the petition

Annex C: Submission from the Petitioners

Annex D: Submission from the Kisii County Public Service Board

## PREFACE

The Standing Committee on Labour and Social Welfare is established under standing orders 187 and 218 (3) of the Senate Standing Orders.

The Committee is mandated to consider all matters related to *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

### *Membership of the Committee*

- |   |                           |
|---|---------------------------|
| 1. Sen. Sakaja Johnson Arthur, MP, CBS    | - <b>Chairperson</b>      |
| 2. Sen. Mwaruma Johnes Mwashushe, MP      | - <b>Vice Chairperson</b> |
| 3. Sen. Madzayo Stewart Mwachiru, MP, CBS | - Member                  |
| 4. Sen. Mwangi Paul Githiomi, MP          | - Member                  |
| 5. Sen. Kihika Susan Wakarura, MP         | - Member                  |
| 6. Sen. Makori Beatrice Kwamboka, MP      | - Member                  |
| 7. Sen. (Dr.) Mwaura Isaac, CBS, MP       | - Member                  |
| 8. Sen. (Dr.) Milgo Alice Chepkorir, MP   | - Member                  |
| 9. Sen. Masitsa Naomi Shiyonga, MP        | - Member                  |

In executing its mandate, the Committee oversees the Ministries of:

- a) Labour;
- b) Public Service, Gender Affairs, Senior Citizens Affairs and Social Protection;  
and,
- c) Sports, Culture and Heritage.

## **EXECUTIVE SUMMARY**

**Mr. Speaker Sir,**

The Petition concerning Non-Payment and Failure to be confirmed by Kisii County Government of Mr. Isaac Siko Nyakeriga was presented to the Senate on Thursday, 7<sup>th</sup> October, 2021, by the Speaker of the Senate.

The salient issues raised by the petitioner are as follows-

1. That he was employed by the Kisii County Government on 19<sup>th</sup> January, 2017, as a clerical officer in the letter reference No. KCPSAP3101/2017 after successfully attending an interview and was deployed to Nyaribari Masaba Sub-County on 20<sup>th</sup> March, 2017;
2. That he reported to the Nyaribari Masaba Sub-County office on 27<sup>th</sup> March, 2017, and was thereafter deployed to Nyamasiba Ward office as a clerical officer;
3. That he has allegedly never been paid any salary to date and has never received his personal number despite having been approved by the Kisii County Public Service Board on 20<sup>th</sup> July, 2017 to be included in the payroll;
4. Further, the county government has never confirmed his offer of appointment after his successful completion of the probationary period as stipulated by the Kenya labour laws;
5. That the County Government of Kisii has violated his rights as enshrined in the Constitution which has caused him inconveniences and much trauma in his daily undertakings; and
6. That he has made all efforts to have the matter addressed by the relevant bodies upon which they have raised directives to the County Government of Kisii on the non-payment of his salary and the confirmation of his employment but the directive has not been implemented.

**Mr. Speaker Sir,**

The Petitioner's humbly prayed that the Senate investigates into these issues and find out:

- (a) why his personal number is missing and why it was not processed by the county government;
- (b) Find out why his salary is not remitted by the county government yet he was assigned duties; and
- (c) Make appropriate recommendations for his confirmation of his employment and compensation during the period.



**Mr. Speaker Sir,**

Pursuant to Standing Order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Labour and Social Welfare.

Pursuant to Article 37 and 119(1) of the Constitution, section 5(2) of the Petition to Parliament (Procedure) Act and Standing Order 232 of the Senate Standing Orders, the Committee is mandated to consider the Petition and respond to the Petitioner within the prescribed period.

To enable judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard, the Committee invited the Petitioner to a meeting on 10<sup>th</sup> November, 2021 to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same as well as the County Secretary and the Chairperson of the Kisii County Public Service Board and requested for written responses on the said matter.

**Mr. Speaker Sir,**

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter.

Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this report.

**Mr. Speaker Sir,**

It is now my pleasant duty, pursuant to Standing Order 232 to table the report of the Standing Committees of Labour and Social Welfare in relation to the petition by Mr. Isaac Siko Nyakeriga on alleged non-payment and failure to be confirmed by Kisii county government.



**SIGNATURE:.....**

**DATE: SATURDAY, 27<sup>TH</sup> NOVEMBER, 2021**

**CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS, MP.**

**STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

## **CHAPTER ONE: INTRODUCTION**

At the sitting of the Senate held on 7<sup>th</sup> October, 2021, the Speaker of the Senate reported to the Senate a Petition submitted by Mr. Isaac SikoNyakeriga concerning Non-Payment and Failure Be Confirmed by Kisii County Government.

### **1.1 Concerns raised**

The salient issues raised in the said Petition are as follows-

- (1) That Mr. Isaac Siko Nyakeriga was employed by the Kisii County Government on 19<sup>th</sup> January, 2017, as a clerical officer in the letter reference No. KCPSAP3101/2017 after successfully attending an interview and was deployed to Nyaribari Masaba Sub-County on 20<sup>th</sup> March, 2017 by the Kisii County Government;
- (2) That he reported to the Nyaribari Masaba Sub-County office on 27<sup>th</sup> March, 2017, and was thereafter deployed to Nyamasiba Ward office as a clerical officer;
- (3) That he has allegedly never been paid any salary to date and has never received his personal number despite having been approved by the Kisii County Public Service Board on 20<sup>th</sup> July, 2017 to be included in the payroll;
- (4) Further the county government has never confirmed his offer of appointment after his successful completion of the probationary period as stipulated by in the Kenyan labour laws;
- (5) That the County Government of Kisii has violated his rights as enshrined in the Constitution of Kenya which has caused him inconveniences and much trauma in his daily undertakings; and
- (6) That he has made all efforts to have the matter addressed by the relevant bodies upon which they have raised directives to the County Government of Kisii on the non-payment of his salary and the confirmation of his employment by the directive has not been implemented.

### **1.2 Petitioner's Prayers**

The Petitioner's humbly prays that the Senate investigates into these issues and find out:

- (a) why his personal number is missing and why it was not processed by the county government and resolve
- (b) Find out why his salary is not remitted by the county government yet he was assigned duties and resolve.
- (c) Make appropriate recommendations for his confirmation of his employment and compensation during the period.

Pursuant to Standing Order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Labour and Social Welfare.

## CHAPTER TWO: UNDERTAKINGS OF THE COMMITTEE

This section contains highlights of the deliberations of the Committee, Petitioner and the Kisii County Government Deliberations were informed by the relevant laws that guide the relationships between an employer and employee as articulated in the Constitution of Kenya and other supporting legislations.

### **2.1 Meeting with the Petitioner and the Kisii County Public Service Board**

The Committee held a sitting on Wednesday, 10<sup>th</sup> November, 2021 at 10.00 am with the Petitioner, Mr. Isaac SikoNyakeriga and the Kisii County Public Service Board. The Board was represented by the County Secretary, Mr. Patrick Lumumba and the Ag. Chairperson of the Kisii County Public Service Board, Ms. Nancy Nyamwange.

#### **(a) Presentation by the Petitioner, Mr. Isaac SikoNyakeriga**

Mr. Isaac S. Nyakeriga informed the Committee that-

1. The Kisii County Public Service Board (CPSB) advertised for clerical jobs on 3<sup>rd</sup> October 2016 in which he applied and was called for interviews in November;
2. He received his appointment letter on 19<sup>th</sup> January 2017 and was posted to Nyaribari-Masaba Sub County on 20<sup>th</sup> March 2017. He reported to work on 27<sup>th</sup> March 2017;
3. He was in charge of Nyamasiri ward and was reporting to Mr. Daniel Ondara who was the sub county administrator;
4. The Kisii CPSB approved his offer of appointment and request to be included in the payroll on 20<sup>th</sup> July 2017, but this has never been implemented;
5. He was requesting the Committee to assist him in establishing why the Kisii CPSB has not given him his payroll number and why he has not been receiving salary for three (3) years despite rendering services to the county diligently;
6. He was verbally dismissed by Mr. Patrick Lumumba and his team; and
7. He was employed together with Ms. Lilian Moraa Omanga, Ms. Emma Moraa Ongaga, Mr. Edwin Nyakwara and Norris Ong'era who have been drawing salaries and have payroll numbers.

#### **(b) Presentation by the Kisii County Public Service Board**

The Kisii County Public Service Board was represented in the meeting by Mr. Patrick Lumumba, as follows-

1. Mr. Isaac Siko Nyakeriga was among officers who had been irregularly offered letters of appointment;
2. Mr. Nyakeriga would not be added into the county payroll after the Directorate of County Human Resource established that; there was no interview conducted to Mr. Nyakeriga as alleged in his petition and he does not appear in any previous county databank on job application, shortlist or interviews;
3. On realization that Mr. Nyakeriga did not meet the above criteria, he was advised to vacate the county government offices;
4. If the CPSB had regularized the county secretary's and board secretary's wrongs, they would have accepted and endorsed a process that was irregular;
5. After the 2017 general elections, the county leadership embarked on the evaluation and review of appointments done during the electioneering period and all anomalies were addressed appropriately. Mr. Nyakeriga's case was among the ones that were addressed;
6. Even if it took three years for the appointment to be terminated, the county government took the right decision as endorsing the case and other similar ones would have far reaching implications;
7. The Kisii CPSB requested for empirical evidence in form of adverts, interviews, application letters and letter for interview invite to show that the County conducted an interview for Mr. Nyakeriga as he alleges;
8. After 2017 elections, the county realised that the then secretary to CPSB and county secretary had issued many appointment letters fraudulently and that this would inflate the county wage bill. The services of the county secretary were terminated and he proceeded to court to challenge the decision. He lost the case on grounds of abuse of office; fraudulent issuance of appointment letters and not involving the board in decision making;
9. The colleagues mentioned by Mr. Nyakeriga were legally hired since investigations showed that they met the criteria; and
10. The Kisii County is suffering from a bloated wage bill and is striving to weed out fraudulent cases of recruitment;

## **2.2 Committee Analysis**

### **2.2.1 Policy and Legal Framework**

Deliberations were informed by the relevant laws that guide the relationships between and employer and employee as articulated in the Constitution of Kenya and other supporting legislations like the Employment Act, 2007 and the County Governments Act, 2012. The committee relied on the following provisions among others-

Article 41 of the Constitution provides the constitutional basis of the labour law in Kenya as follows-

- (1) *Every person has the right to fair labour practices.*
- (2) *Every worker has the right—*
  - (a) *to fair remuneration;*
  - (b) *to reasonable working conditions;*
  - (c) *to form, join or participate in the activities and programmes of a trade union;*  
*and*
  - (d) *to go on strike.*
- (3) *Every employer has the right—*
  - (a) *to form and join an employer's organization; and*
  - (b) *to participate in the activities and programmes of an employers' organization.*
- (4) *Every trade union and every employers' organization has the right—*
  - (a) *to determine its own administration, programmes and activities;*
  - (b) *to organize; and*
  - (c) *to form and join a federation.*
- (5) *Every trade union, employers' organization and employer has the right to engage in collective bargaining.*

### **2.2.2 Employment Act, 2007**

The Employment Act, 2007 defines the fundamental rights of employees, provides the basic conditions of employment for employees and provides the basic standards of employment in Kenya. As regard the petition on the alleged non-payment of salary, section 5 of the Employment Act, 2007 provides *inter alia*-

- (3) *No employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee —*
  - (a) *on grounds of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status;*
  - (b) *in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment...*
- (5) *An employer shall pay his employees equal remuneration for work of equal value.*
- (6) *An employer who contravenes the provision of the section commits an offence.*

In regards to terms of pay for work done, the right to equal pay, for equal work or work done is recognized as a fundamental human right. This right is recognized under Article 41 of the Constitution.

Further, Section 5(4) of the Employment Act, 2007, provides as follows- *(4) an employer shall pay his employees equal remuneration for work of equal value.*

### **2.2.3 The County Governments Act, 2012**

#### ***i) Functions of a County Public Service Board***

The County Governments Act, 2012 on the authority to appoint persons to hold or act in those offices, and confirming appointments at the County level is bestowed upon the County Public Service Board prescribes the functions of the County Public Service Board in *Section 59 (1)-that the functions of the County Public Service Board shall be, on behalf of the county government, to, among others,—*

- (a) establish and abolish offices in the county public service;*
- (b) appoint persons to hold or act in offices of the county public service including in the Boards of cities and urban areas within the county and to confirm appointments;*
- (c) exercise disciplinary control over, and remove, persons holding or acting in those offices;*
- (d) prepare regular reports for submission to the county assembly on the execution of the functions of the Board;*
- (e) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties; and*
- (f) advise the county government on human resource management and development.*

Section 63 of the County Governments Act further provides that a County Public Service Board has the power to make appointments including promotions in respect of offices in the county public service.

#### ***ii) Advertisements to fill a public office***

Section 66 provides that if a public office is to be filled, a County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged.



***iii) Appointment or assignment of a duty to be in writing***

Section 67 provides that no appointment or assignment of a duty in a county public service shall be valid unless it is evidenced in writing.

***iv) Maintaining a data base of all job applications***

Section 68 provides that a County Public Service Board shall, for a specified period, maintain a record of all applications received in response to advertisements inviting applications and such record may be inspected by any person.

***v) Confirmation of appointment on lapse of probation period***

Section 71 provides that if the relevant authority fails to confirm an appointment of a public officer initially appointed on probationary terms, and the term has lapsed with or without an extension, the officer shall stand confirmed in the appointment on the due date.

***vi) Action on irregularity of process***

Section 75 provides that if it comes to the attention of the County Public Service Board that there is reason to believe that any process or decision under county public service may have occurred in an irregular or fraudulent manner, the County Public Service Board shall investigate the matter and, if satisfied that the irregularity or fraud has occurred, the County Public Service Board may—

- (a) revoke the decision;
- (b) direct the concerned head of department or lawful authority to commence the process afresh; or
- (c) take any corrective action including disciplinary action.

## **CHAPTER THREE: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

### **3.1 Committee Observations**

Following the Committee's engagement with the petitioner and the Kisii County Public Service Board regarding the petition and subsequent deliberations, the Committee makes the following observations –

1. The petitioner failed to submit support documents as requested. This documents include the interview schedule, proof of invitation for interview, proof of delegation of duties by supervisors and proof of service delivered for three years.
2. The petitioner presented stamped documentation that include the offer of appointment, recall/redeployment letter, leave application form and transfer letters. However, the authenticity of these documents could not be ascertained;
3. That the recruitment process that the petitioner claim led to his appointment was nullified by a Court of Law;
4. The Kisii County Public Service Board is the body responsible for competitively sourcing and recommending employees for employment and further ensuring appropriate remuneration;
5. A County Public Service Board is expected to, for a specified period, maintain a record of all applications received in response to advertisements inviting applications and such record may be inspected by any person; and
6. Section 75 of the County Governments Act, 2012 provides that if it comes to the attention of the County Public Service Board that there is reason to believe that any process or decision under county public service may have occurred in an irregular or fraudulent manner, the County Public Service Board shall investigate the matter and, if satisfied that the irregularity or fraud has occurred, the County Public Service Board may—
  - (a) revoke the decision;
  - (b) direct the concerned head of department or lawful authority to commence the process afresh; or
  - (c) take any corrective action including disciplinary action.

### **4.1 Committee Recommendations**

The Committee therefore recommends that –

1. Mr. Isaac Siko Nyakeriga was properly dismissed by the Kisii County Public Service Board;
2. Kisii County Public Service Board going forward must comply with the rules on recruitment and employment as prescribed in the County Governments Act, 2012; and
3. County Public Service Boards which fail to comply with the law and persons engaging in illegal recruitment processes must take personal culpability in accordance with the law.

**MINUTES OF THE 91<sup>ST</sup> MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON SATURDAY, 27<sup>TH</sup> NOVEMBER 2021 AT 12.45 PM IN CONFERENCE ROOM 1B, TRADEMARK HOTEL, VILLAGE MARKET, KIAMBU COUNTY.**

**MEMBERS PRESENT)**

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| <b>1. Sen. Johnson Sakaja, CBS</b>    | <b>- Chairperson</b>              |
| <b>2. Sen. Johnes Mwaruma</b>         | <b>- V. Chairperson (Virtual)</b> |
| 3. Sen. Madzayo Stewart Mwachiru, CBS | - Member (Virtual)                |
| 4. Sen. Paul Mwangi Githiomi          | - Member                          |
| 5. Sen. Susan Kihika                  | - Member (Virtual)                |
| 6. Sen. Makori Beatrice Kwamboka      | - Member (Virtual)                |
| 7. Sen. Naomi Masitsa Shiyonga        | - Member                          |
| 8. Sen. (Dr.) Milgo Alice Chepkorir   | - Member                          |

**ABSENT WITH APOLOGIES**

- |                                 |          |
|---------------------------------|----------|
| 1. Sen. (Dr.) Isaac Mwaura, CBS | - Member |
|---------------------------------|----------|

**SENATE SECRETARIAT**

- |                       |                           |
|-----------------------|---------------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant         |
| 2. Mr. Kevin Kibet    | - Clerk Assistant/HO      |
| 3. Ms. Marale Sande   | - Senior Research Officer |
| 4. Mr. Jeremy Chabari | - Legal Counsel           |
| 5. Mr. Frank Mutulu   | - Media Relations Officer |
| 6. Ms. Fatuma Abdi    | - Audio Officer           |
| 7. Mr. Ruben Kimosop  | - Serjeant-At-Arms        |
| 8. Ms. Lydia Nyagol   | - Secretary               |
| 9. Mr. Hassan Adow    | - Office Assistant        |

## **MINUTE SEN/SCLSW/393/2021: PRELIMINARIES**

The Chairperson called the meeting to order at 12.50 p.m. followed by a word of prayer.

## **MINUTE SEN/SCLSW/394/2021: ADOPTION OF THE AGENDA**

The agenda of the Meeting was adopted after it was proposed by Sen. Makori Beatrice Kwamboka, MP and seconded by Sen. Paul Mwangi Githiomi, MP as follows—

### **AGENDA**

1. Preliminaries (Prayers);
2. Adoption of the Agenda;
3. **Consideration and adoption of Reports;**
  - (a) **Report on the petition by Mr. Daniel Matendechere concerning unfair dismissal and lack of compensation by Broadway Bakery Limited;**
  - (b) **Report on the petition by Mr. Isaac Sikonyakeriga on alleged non-payment and failure to be confirmed by Kisii County Government; and**
  - (c) **Report on the Petition concerning the Recruitment and Remuneration of Early Childhood Development (ECD) Teachers in Kericho County; and**
4. Any Other Business & Adjournment.

**MINUTE SEN/SCLSW/395/2021: ADOPTION OF THE REPORT ON THE PETITION BY MR. DANIEL MATENDECHERE CONCERNING UNFAIR DISMISSAL AND LACK OF COMPENSATION BY BROADWAY BAKERY LIMITED**

The Committee considered the report on the petition by Mr. Daniel Matendechere concerning unfair dismissal and lack of compensation by Broadway Bakery Limited. The Report was adopted after being proposed by Sen. Masitsa Naomi Shiyonga, MP and seconded by Sen. Paul Mwangi Githiomi, MP.

**MINUTE SEN/SCLSW/396/2021: ADOPTION OF THE REPORT ON THE PETITION BY MR. ISAAC SIKONYAKERIGA ON ALLEGED NON-PAYMENT AND FAILURE TO BE CONFIRMED BY KISII COUNTY GOVERNMENT**

The Committee considered the report on the petition by Mr. Isaac Sikonyakeriga on alleged non-payment and failure to be confirmed by Kisii County Government. The Report was adopted after being proposed by Sen. (Dr.) Alice Chepkorir Milgo, MP and seconded by Sen. Paul Mwangi Githiomi, MP.

**MINUTE SEN/SCLSW/397/2021: ADOPTION OF THE REPORT ON THE PETITION CONCERNING THE RECRUITMENT AND REMUNERATION OF EARLY CHILDHOOD DEVELOPMENT (ECD) TEACHERS IN KERICHO COUNTY**

The Committee considered the report on the petition concerning the Recruitment and Remuneration of Early Childhood Development (ECD) Teachers in Kericho County. The Report was adopted after being proposed by Sen. (Dr.) Alice Chepkorir Milgo, MP and seconded by Sen. Naomi Shiyonga, MP.

**MINUTE SEN/SCLSW/398/2021: ANY OTHER BUSINESS AND  
ADJOURNMENT**

There being no other business, the meeting was adjourned at 2.30 p.m.



**SIGNATURE:** .....

**(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)**

**DATE: Saturday, 27<sup>th</sup> November, 2021**



**MINUTES OF THE 86<sup>TH</sup> (ZOOM ONLINE) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY, 10<sup>TH</sup> NOVEMBER 2021 AT 10.00 A.M.**

**MEMBERS PRESENT**

1. **Sen. Johnson Sakaja, CBS** - **Chairperson**
2. **Sen. Johnes Mwaruma** - **Vice-Chairperson**
3. Sen. Susan Kihika - Member
4. Sen. Naomi Masitsa Shiyonga - Member
5. Sen. (Dr.) Milgo Alice Chepkorir - Member

**ABSENT WITH APOLOGIES**

1. Sen. Paul Mwangi Githiomi - Member
2. Sen. Madzayo Stewart Mwachiru, CBS - Member
3. Sen. Makori Beatrice Kwamboka - Member
4. Sen. (Dr.) Isaac Mwaura, CBS - Member

**IN-ATTENDANCE**

1. Sen. (Prof.) Samson Ongeru
2. Mr. Patrick Lumumba - County Secretary, Kisii
3. Ms. Nancy Nyamwange - Ag. Chairperson, Kisii County Public Service Board
4. Mr. Isaac Siko Nyakeriga - Petitioner

**SENATE SECRETARIAT**

1. Ms. Mwanate Shaban - Clerk Assistant
2. Mr. Kevin Kibet - Clerk Assistant/ HO
3. Ms. Marale Sande - Senior Research Officer
4. Mr. Jeremy Chabari - Legal Counsel
5. Ms. Fatuma Abdi - Audio Officer
6. Mr. Ruben Kimosop - Serjeant-At-Arms
7. Ms. Cynthia Wanjiku - Pupil, Directorate of Legal Services

### **MINUTE SEN/SCLSW/372/2021: PRELIMINARIES**

The Chairperson called the meeting to order at 10.12 a.m. followed by a word of prayer. This was followed by introductions by all present.

### **MINUTE SEN/SCLSW/373/2021: ADOPTION OF THE AGENDA**

The agenda of the Meeting was adopted after it was proposed by Sen. Johnes Mwaruma, MP and seconded by Sen. Naomi Shiyonga, MP as follows-

#### **AGENDA**

1. Preliminaries (Prayers & Introductions);
2. Adoption of the Agenda;
3. **Meeting with Kisii County Public Service Board on the petition by Mr. Isaac Nyakirega on non-payment of salary and failure to confirm his position by the Kisii County Government; and**
4. Any Other Business & Adjournment.

### **MINUTE SEN/SCLSW/374/2021: MEETING WITH KISII COUNTY PUBLIC SERVICE BOARD ON THE PETITION BY MR. ISAAC NYAKIREGA ON NON-PAYMENT OF SALARY AND FAILURE TO CONFIRM HIS POSITION BY THE KISII COUNTY GOVERNMENT**

#### **(a) Presentation by the Petitioner, Mr. Isaac Siko Nyakeriga**

Mr. Nyakeriga presented as follows;

1. He stated that the Kisii County Public Service Board (CPSB) advertised for clerical jobs on 3<sup>rd</sup> October 2016 in which he applied and was called for interviews in November.
2. He received his appointment letter on 19<sup>th</sup> January 2017 and was posted to Nyaribari-Masaba Sub County on 20<sup>th</sup> March 2017. He reported to work on 27<sup>th</sup> March 2017.
3. He was in charge of Nyamasiri ward and was reporting to Mr. Daniel Ondara who was the sub county administrator.

4. He added that the Kisii CPSB approved his offer of appointment and request to be included in the payroll on 20<sup>th</sup> July 2017, but this has never been implemented.
5. He requested the Committee to assist him in establishing why the Kisii CPSB has not given him his payroll number and why he has not been receiving salary for three (3) years despite rendering services to the county diligently.
6. He claims that he was verbally dismissed by Mr. Patrick Lumumba and team.
7. He added that he was employed together with Ms. Lilian Moraa Omanga, Ms. Emma Moraa Ongaga, Mr. Edwin Nyakwara and Norris Ong'era who have been drawing salaries and have payroll numbers.

#### **(b) Presentation by the Kisii County Public Service Board**

Mr. Patrick Lumumba, the County Secretary presented as follows;

1. Mr. Isaac Siko Nyakeriga was among officers who had been irregularly offered letters of appointment.
2. Mr. Nyakeriga would not be added into the county payroll after the directorate of county human resource established that; there was no interview conducted to Mr. Nyakeriga as alleged in his petition and he does not appear in any previous county databank on job application, shortlist or interviews.
3. On realization that Mr. Nyakeriga did not meet the above criteria, he was advised to vacate the county government offices.
4. The irregular offer of appointment was conducted in 2017 during the electioneering period. The former county secretary and board secretary took advantage of the situation and issued irregular offer of appointment letters and as a result, their services were terminated.
5. The former board secretary proceeded to court to challenge his termination of employment but the court ruled against him.
6. If the CPSB had regularized the county secretary's and board secretary's wrongs, they would have accepted and endorsed a process that was irregular.
7. After the 2017 general elections, the county leadership embarked on the evaluation and review of appointments done during the

electioneering period and all anomalies were addressed appropriately. Mr. Nyakeriga's case was among the ones that were addressed.

8. Even if it took three years for the appointment to be terminated, the county government took the right decision as endorsing the case and other similar ones would have far reaching implications.

**(c) Members' Interventions.**

1. Members noted that prior to 2017 general elections, Kisii County was flagged for high staff recruitment and sought establish if Mr. Nyakeriga was among those hired by the exiting CPSB administration.
2. Members sought to be apprised on why those employed together with Mr. Nyakeriga were still on the payroll.
3. Members asked if the Kisii CPSB could reconsider Mr. Nyakeriga's case and hire him on humanitarian grounds.
4. Members asked Mr. Nyakeriga to provide evidence or proof for service delivered for the three (3) years.

**(d) Responses by Mr. Patrick Lumumba, County Secretary**

1. The Kisii CPSB asked for empirical evidence in form of an adverts, interviews, application letters and letter for interview invite to show that the County conducted an interview for Mr. Nyakeriga as he alleges.
2. After 2017 elections, the county realised that the then secretary to CPSB and county secretary had issued many appointment letters fraudulently and that this would inflate the county wage bill. The services of the county secretary were terminated and he proceeded to court to challenge the decision. He he lost the case on grounds of abuse of office; fraudulent issuance of appointment letters and not involving the board in decision making.
3. The colleagues mentioned by Mr. Nyakeriga were legally hired by the CPSB. Mr. Nyakeriga was fraudulently hired by the then County Secretary through decisions he made without involving the Board.
4. Hiring Mr. Nyakeriga on humanitarian grounds will set a bad precedent since it will open a floodgate for others who were dismissed on grounds of fraudulent recruitment.

5. The Kisii County is suffering from a bloated wage bill and is striving to weed out fraudulent cases of recruitment.

**Way Forward**

1. The County to provide the court ruling on the dismissal of the former county secretary who was accused for gross misconduct which included the charges of illegally appointing officers to county offices.
2. Mr. Nyakeriga to provide evidence of any correspondences, evidence of services rendered, assignment of duties and any additional information that include invitation to attend an interview, leave approval letters and transfer letters.

**MINUTE SEN/SCLSW/375/2021: ANY OTHER BUSINESS AND ADJOURNMENT**

1. Members were asked to attend a physical meeting scheduled to take place the following day with the Cabinet Secretary (CS), Ministry of Sports, Culture and Heritage, Football Kenya Federation and other football stakeholders on the statement sought by Sen. Mutula Kilonzo Jnr. on the impromptu inspection of FKF.
2. Sen. Mwaruma sought to know the status of a Statement he sought from the Committee regarding the status of the Dawson Mwanyumba Stadium in Taita Taveta County.
3. There being no other business, the meeting was adjourned at 11.15 a.m.



**SIGNATURE:** .....

**SEN. JOHNSON SAKAJA, CBS, CHAIRPERSON**

**STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

**DATE: SATURDAY 27<sup>TH</sup> NOVEMBER, 2021**

PETITION TO THE SENATE CONCERNING NON PAYMENT OF SALARY AND FAILURE TO CONFIRM MY POSITION BY KISII COUNTY GOVERNMENT

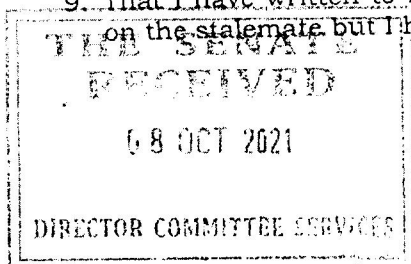
THE CLERK OF THE SENATE  
PARLIAMENT BUILDINGS  
P.O BOX 41842-00100  
**NAIROBI.**

Email: [cscenate@parliament.go.ke](mailto:cscenate@parliament.go.ke)

**RE: PETITION TO THE SENATE CONCERNING NON PAYMENT OF SALARY  
AND FAILURE TO CONFIRM MY POSITION BY KISII COUNTY  
GOVERNMENT**

I, the undersigned, **Isaac SikoNyakeriga**, a citizen of the republic of Kenya draw the attention of the Senate to the following-

1. That I was employed by the Kisii County Government on January 19<sup>th</sup>, 2017 as a clerical officer in their letter Ref.No KCPSB/APP/31/01/2017 after successfully attending an interview.
2. That I was deployed to NyaribariMasaba Sub-County on 20/03/2017 by the Kisii County Government as a clerical Officer.
3. That I reported to NyaribariMasaba sub-County on 27/03/2017 and I was assigned duties.
4. That after reporting to NyaribariMasabaCounty Headquarters, I was redeployed toNyamasibi Ward office as a clerical Officer in charge of Nyamasibi.
5. That I have never been paid any salary to date and I have never received by personal number despite having been approved by the Kisii County Public Service board on 20/07/2017 to be included in the payroll.
6. That the County Government has never confirmed my offer of appointment despite successful completion of my probationary period as stipulated in the Kenyan Labour laws.
7. That I request you through the Senate of the republic of Kenya to intervene and find out as to why am being given unfair treatment despite working tirelessly without any payment.
8. That the County Government of Kisii as violated my rights as enshrined in the Kenyan Constitution and this has caused inconveniences and much trauma in my daily undertakings.
9. That I have written to Public Service Commission of Kenya for intervention on the stalemate but I have never received any satisfactory response.




CAS - Labour  
Kindly Seal  
DB/15/2021



PETITION TO THE SENATE CONCERNING NON PAYMENT OF SALARY AND FAILURE TO CONFIRM MY POSITION BY KISII COUNTY GOVERNMENT

10. That the Kisii County Public service Board duly approved my offer of appointment to be included in the payroll on 20/07/2017 to date the County Government has never implemented the directive.
11. That on 27<sup>th</sup> August, 2019 Ochoki and Company Advocates did a letter to the Human resource Manager and the County secretary on my missing salary and confirmation of employment but there was no satisfactory response.
12. That the Commission on Administrative Justice (office of the Ombudsman) did a letter to the County Secretary of Kisii County Government but there was no satisfactory response given in respect to my salary and confirmation.
13. That, I have made the best efforts to have these matters addressed by the all other relevant authorities all of which have failed to give a satisfactory response.
14. That, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.
15. That I humbly pray that the Senate of the Republic of Kenya to investigate into these issues and-
  - (i) find out why my personal number is missing or why it was not processed by the County Government and resolve.
  - (ii) find out why my salary is not remitted by the County Government yet I was assigned duties and resolve.
  - (iii) Make appropriate recommendations for my confirmation of employment and compensation during the period.

Date this 14 Day of SEPTEMBER 2021

NO	NAMES	ADDRESS	ID.NO	SIGNATURE
1	Mr. Isaac SikoNyakeriga Tel. no.: <u>0708507248</u> Email: .....	75, Magwagwa	21971605	

# COUNTY GOVERNMENT OF KISUMU



Telephone: 011-254-20 271 000

Fax: 011-254-20 271 000

OFFICE OF THE COUNTY SECRETARY  
DEPARTMENT OF COUNTY PUBLIC SERVICE

Our Ref:            /            /            Vol.            Date:           

J.M. Nyogenye, CBS  
Clerk of the Senate  
Parliament Buildings  
P.O. BOX 41842-00100  
Nairobi, Kenya

Dear Sir,

**RE: RESPONSE TO A PETITION SUBMITTED TO THE SENATE BY ONE  
ISAAC SIKO NYAKERIGA ID: 21971605.**

Reference is made to your letter, Ref: SBN/SCLSW/2021/89, dated 8<sup>th</sup> November 2021

As regards to the petition by the above person, we wish to state as follows:-

1. That Mr. Isaac Siko Nyakeriga was irregularly offered letter of appointment.
2. That there were others who were also irregularly issued with letters of offer of appointment.
3. That Mr. Nyakeriga would not be introduced into the County Payroll after the directorate of County Human Resource established that:
  - i. No interview was conducted for him, as alleged in his petition for that period.
  - ii. He does not appear in any previous County databank on Job Applications, Shortlists or Job interviews.
4. That on realization that Mr. Nyakeriga did not meet the above criteria, he was advised to vacate Government offices.
5. That the irregular offer of appointments was conducted in 2017 during the electioneering period. The former County Secretary and Board Secretary took advantage of the situation and issued the irregular offer of appointment letter. As a result their services were terminated.
6. That the former Board Secretary proceeded to Court to challenge his termination of employment but the Court ruled against him.
7. That, if we had regularized the County Secretary's and Board Secretary's wrongs, we could have accepted and endorsed a process that was irregular.



