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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025


PARLIAMENT
OF KENYA
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PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 63 OF 2023 REGARDING FORMER
WORKERS OF BOHEMIAN FLOWERS LIMITED IN NAKURU COUNTY

APRIL, 2025

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 APR 2025	DAY. Wen
TABLED BY:	CHAIR, PUBLIC PETITION Committee
CLERK-AT THE-TABLE:	P Muiga

Directorate of Legislative & Procedural Services
Clerk's Chambers
Main Parliament Buildings
NAIROBI

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ABBREVIATIONS AND ACRONYMS

KEPAWU	Kenya Planters Association Workers Union
ODCL	Oserian Development Company Limited
OFL	Oserian Flowers Ltd
TLPs	The Two Lakes Packing Services
TMC	The Manpower Company

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the Public Petition No. 63 of 2023 regarding Former workers of bohemian flowers limited in Nakuru County. The petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Speaker of the National Assembly, The Rt. Hon. (Dr.) Moses F. M. Wetang'ula, EGH, MP on behalf of former employees of the bohemian flowers limited, Nakuru County.

The Committee conducted an inquiry on the dismissal of the petitioners by Bohemian Flowers Limited and concurs with the Labor Office that due process was not followed with regards to termination of service on the ground of redundancy based on provisions of section 40 of the Employment Act. The recommends that the Ministry of Labour and Social Protection assists the petitioners in their outstanding claims to obtain recourse for their un-procedural termination within sixty (60) days.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.



HON. KAGESI ERNEST OGESI KIVAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....22nd April 2025......

PART ONE

1 PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was first constituted in October 2022 and re-constituted in March 2025 and comprises the following Members:

Chairperson

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency
Amani National Congress (ANC)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. Beatrice Kadeveresia Elachi, CBS,
M.P.
Dagoretti North Constituency
Orange Democratic Movement (ODM)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South
Jubilee Party (JP)

Hon. Bernrd Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. John Bwire Okano, M.P.
Taveta Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
Wiper Democratic Movement-Kenya
(WDM-K)

Hon. Peter Irungu Kihungi, M.P.
Kangema Constituency
United Democratic Alliance (UDA)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

1.3 Committee Secretariat

The Public Petitions Committee was facilitated members of the secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Ms. Isaac Nabiswa
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Ms. Nancy Ouma
Research Officer III

Ms. Roselyne Njuki
Senior Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Mr. Paul Shana
Serjeant-at-Arms

Mr. Peter Mutethia
Audio Officer

PART TWO

2 BACKGROUND OF THE PETITION

2.1 Introduction

1. Public Petition No. 63 of 2023 regarding Former workers of Bohemian Flowers Limited in Nakuru County was presented to the House on 5th December, 2023 by the by the Speaker of the National Assembly, Rt. Hon. (Dr.) Moses F. M. Wetang'ula, EGH, MP on behalf of former employees of the Bohemian Flowers Limited, Nakuru County.
2. The Petitioners cited unfair redundancy, summary dismissal and suspension from employment.
3. The Petitioners state that the management of Bohemian Flowers Limited based their dismissal criteria on a violent strike that had occurred at the premises, and which there were not part of.
4. The Petitioners further state that former workers sought for assistance with the Labour Office in Naivasha Sub County under Section 71 of the Employment Act on 19th April 2023, whose plights were unsuccessful. Immediately thereafter, the petitioners aver that their positions were advertised immediately after they were dismissed and recruitment done despite various correspondences between the Labour Office, Naivasha Sub County and the management of Bohemian Flowers Limited.
5. The Petitioners further aver that after dismissal it has become extremely impossible for them to access their pension scheme funds from Kenindia Assurance Company.
6. The Petitioners decry that the Bohemian Flowers Limited did not use payroll numbers on transmitting their wages and salaries but rather were being paid through biometric machines that have no back-up for purposes of identifications.
7. The Petitioner thus seeks the intervention of this House to investigate whether the whole process of summary dismissal and suspension from employment was done within the law and whether it was just and fair. Further, the Petitioners prays that this House makes appropriate recommendations it deems fit in addressing the circumstances raised in this Petition.

2.1 Petitioner's Prayers

- 8. The Petitioners prayed that the National Assembly through the Public Petitions Committee–**
 - (i) Investigate whether due process contemplated in the law was followed referred in dismissing the employees as indicated in the petition; and**
 - (ii) Recommends that the company honours the recommendations of the labour officer in Naivasha Sub County to pay any outstanding claims owned to the employees by the company.**

PART THREE

3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 Petitioners

On Wednesday, 12th June, 2024, the Chairperson, Mr. Erick Kabuyefu accompanied by the former workers of Bohemian Flowers Limited, appeared before the Committee and submitted as follows—

9. The petitioners were about 589 employees of Bohemian Flowers Limited in Olkaria Ward, Naivasha Sub County, Nakuru County.
10. Following unlawful dismissal from employment, the petitioners lodged a complaint on the matter at Naivasha Sub County labour office under section 71 of the Employment Act, 2007 vide a letter dated 19th April 2023. The labour officer responded through a letter dated 4th May, 2023 inviting the management of Bohemian Flowers Ltd for a meeting.
11. On 18th May 2023 the Labour Officer chaired between the Senior management of Bohemian Flowers Limited and the petitioners at Naivasha Sub County labour office. At the meeting, it was agreed that tabulation of payment should reflect in the redundancy letter and a certificate of service be issued.
12. The petitioners contend that their freedom from slavery and servitude was violated as their employer wrote them letters in the month of December 2022 communicating that they would be on suspension and receive half pay based on resistance to utilize the biometric system and participating in a strike protesting the system.
13. The petitioners learnt of their dismissal via an advertisement of their positions by Bohemian Flowers Limited management.
14. It has become difficult for the employees to access their monthly deductions from the pension scheme.
15. The action of the respondents and the regulators has subjected them to a situation where their inherent human dignity is violated. They are unable to provide for their households and face challenges to secure alternative employment due to the suspension and summary dismissal record under Bohemian Flowers Limited.

Vide a letter dated 6th July 2023 to the Director, Bohemian Flowers Ltd., the Sub County Labour Officer in Naivasha communicated that in the meeting held on 18th May 2023, the following issues were highlighted—

16. *Poor Communication from Management:* Failure by the management to issue investigation report to workers who were sent away on suspension for participating in a strike. Instead, **the management of Bohemian Flowers Ltd invited them to a disciplinary hearing whereby they did not produce**

evidence- (according to the workers) implicating them for being involved in a strike. The workers were later issued with redundancy letters.

17. **Terminal dues:** The management paid the employees their terminal dues on the morning of that meeting, that is on 18th May 2023, after they lodged a complaint with the labour office. Their redundancy letters were back dated to 17th April 2023 before some of them had cleared with company, without the management forwarding to the Ministry of Labour list/numbers/names of the workers that their positions had been declared redundant and without issuing the workers their final tabulation letters and final pay slips.
18. **Pension scheme:** The management was not willing to assist the petitioners on how to access their contributions bearing in mind that the pension scheme was introduced to the workers by the management.
19. **Poor Human Resource Management:** The management of Bohemian Flowers Limited disowned the Human Resource policy that the workers made reference to. The same policy is displayed on the organisation's notice board. Further, the management has a tendency of summoning workers to appear or report to the Human Resource for disciplinary hearing/matters only to keep them a whole day waiting and worse still attend to them past official working hours, between 8 to 11 pm or are told to come back severally without being attended to.
20. In view of the above-mentioned grievances, the Labour Office recommended that the employee redundancy was constructive dismissal and consequently, advised the management either to pay them 12 months' salary compensation for unfair termination or reinstate them without prejudice under the Employment Act 2007 Section 49(1)(c), 3(a), (b).

3.2 Bohemian Flowers Limited

On 25th September, 2024, the the Head of Human Resource Management of Bohemian Flowers Limited, Ms. Loreen Kimiyu, appeared before the Committee and submitted as follows–

21. Bohemian Flowers Limited, located in Naivasha Sub- County, specializes in the cultivation and export of fresh cut flowers. The company took over Oserian Farm on 5th December, 2021. At the time, the labour force was managed by four different companies: The Manpower Company (TMC), Oserian Flowers Ltd (OFL), Oserian Development Company Limited (ODCL), and The Two Lakes Packing Services (TLPs), all of which supplied labour to Oserian Development Company Limited. Each labour provider supervised its own workforce, leading to significant disparities in terms and conditions of employment. The labour force was bloated, and there was no structured approach to managing it effectively.
22. Bohemian Flowers Ltd. had been operating for two years and nine months, employing a workforce of 3,100 persons.
23. The Petitioners, who are former workers of Bohemian Flowers Ltd, raised concerns which the company was already addressing through the Naivasha

Labour Office. However, Bohemian had not signed a certificate of disagreement at the Labor Office.

24. After Bohemian Flowers Ltd took over the workers of Oserian Farm in 2021, the workers were introduced to a biometric clock-in system, which raised some concerns. The company responded by educating and training workers on the system through printed materials. Employees were informed that clocking in and out via the biometric system was necessary since the payroll was directly linked to it, with no human intervention. In November 2022, some employees missed their salaries due to failure to clock in and out correctly, but the company continued training and planned to reimburse the deducted amounts.
25. Before the missing payments could be reimbursed, some workers went on strike on 5th December, 2022, causing significant property damage, including to the biometric machines. As a result, some workers were sent home. The Kenya Planters Association Workers Union (KEPAWU), representing the workers, declared the strike illegal as no notice had been issued. Despite this, the company proceeded to pay the deducted wages and reiterated the importance of using the biometric system.
26. The strike occurred because the workers felt the company was being too strict. However, some employees in the vast farm had been clocking in, sneaking away, and returning only to clock out, prompting the company to enforce strict monitoring of clocking in and out times to ensure accurate payroll records.
27. Despite continued resistance from the workers, the company maintained its stance, believing that adequate training and support had been provided for the new system.
28. Following the strike, it was decided that all biometric machines on the farm would be centralized at the company's main entrance, where workers arrived via the company bus.
29. After assessing the damage, the company suspended several employees suspected of incitement and initiated a disciplinary process, issuing show-cause letters. However, during this process, management decided to declare some redundancies due to business and market challenges, as the company planned to uproot flowers on its twenty (20) acres of land.
30. Consequently, the disciplinary process was halted, and some employees involved in the process were included in the redundancy. A notice was issued, and the Labour Office was informed. Employees who completed the disciplinary process received verdicts. Those found guilty were dismissed, while others continued their employment.
31. In selecting employees to join Bohemian Fowers Ltd., the company assessed departmental needs and declared redundant those with unresolved issues. **Final dues were paid to all employees who were declared redundant.**
32. In selecting the employees for redundancy, management was unable to apply first in last out principle as all the employees at that time had the same period

of employment, therefore the departmental labour requirements and conduct of the employee was used as a selection guide.

33. In May 2023, some employees reported the dispute to the Labour Office. The dispute resolution process was ongoing at the time the petition was presented. The organization received complaint letters by seventy (70) employees from the labour office in Naivasha. Final dues were paid to all the employees who were declared redundant.

Vide a letter dated 4th October 2024, Ms Loreen Kimuyu, Head of Human Resource on behalf of Bohemian Flowers Limited submitted as follows—

Whether Bohemian Flowers Limited failed to remit pension deductions for a period of one and a half years

34. Bohemian Flowers Limited started deduction of pension funds from the month of July 2022 and for the six (6) months up to December 2022). A lumpsum amount for the six (6) months was paid up on the 12th January 2023 to GA Life Insurance.

35. Upon reviewing documents from the accounts, it came to the attention of Bohemian Flowers Ltd. that funds for the sixth month (December) were not remitted earlier and therefore was paid on the due date, contrary to the allegations that the same were not remitted for a period of one and a half years. For context the company clarified as follows—

- a) Initially the plan was to join Bohemian Flowers Limited under Kenindia Insurance but this plan changed hence the process of registration and getting approvals from Kenya Revenue Authority (KRA) and Retirement Benefits Authority (RBA) took a longer period than expected.
- b) Eventually Bohemian Flowers Limited joined the GA Life Insurance umbrella scheme which had less bottlenecks and deposited funds.
- c) Within the five (5) months, no employee claimed his/her pension funds from GA Life Insurance Scheme and as a result they were not been paid. However, Bohemian Flowers Limited deposited the funds to GA Life Insurance Scheme.

Whether Oserian Development Company effected payments to the affected employees and whether the affected employees were absorbed under similar terms

36. Oserian Development Limited indeed effected payments to the employees who were declared redundant. Further upon the employee's absorption to Bohemian Flowers Limited they were absorbed in similar positions as previously held with Oserian Development Company.

Whether former Bohemian Flowers Limited employees participated in an illegal strike

37. Bohemian Flowers Limited is cognizant of the law regarding trade union actions and legal strikes as contained in the Employment Act, 2007 and Labor Relations, 2007. Section 46 of the Employment Act, 2007, contains unique provisions that protect an employee engaged in the lawful activities of a trade union.
38. Bohemian Flowers Limited wish to clarify that the strike that took place on 5th December 2022 was an illegal strike for failure to meet the requisite notice as required by law in terms of section 76 of the Labor Relations Act, 2007, which outlines the conditions under which strikes and lockouts are considered protected.
39. Notably, the aggrieved petitioners were unionized employees by Kenya Plantation and Agricultural Workers Union. The strike notice was not issued and Kenya Plantation and Agricultural Workers Union, which is the recognized union, was not privy to the strike. Unfortunately, the union officials did not document their views on the illegality of the strike.

3.3 Ministry of Labour and Social Protection

On 29th October 2024, the Cabinet Secretary for the Ministry of Labor and Social Protection Hon. (Dr.) Alfred Mutua, EGH submitted on the Petition as follows—

3.3.1 Background

40. Bohemian Flowers Limited is situated in Naivasha Sub-County and is in the business of growing and exporting of fresh cut flowers.
41. It acquired ownership and management of Oserian Development Company Limited on 5th December 2021, and absorbed all the 3000 Workers. The company adopted the biometric machines as a structured way of managing the huge labor force backed by the manual attendance registers that had been used by Oserian Development Company Limited.
42. In the month of November 2022, the company phased out the manual registers only retaining the biometric machines. This brought about numerous salary complaints.
43. According to the management many employees did not follow the simple steps of checking in and out to mark them present for the day. There were several absent days that were automatically deducted from their pay.
44. The workers faulted the biometric machines for failure to capture majority of the workers. They claimed that the machines were old, faulty and worn out and as a result recorded them absent. They claim the management went ahead and paid them November, 2022 salaries for the days captured without issuing pay slips to confirm the amount paid, as provided in the law.

45. On the 5th December, 2022, workers went on strike in protest which turned out to be violent and destructive. The management after the strike took stock of the damage caused and suspended several employees suspected of incitement. Show-cause letters were issued and disciplinary proceedings were initiated.

46. According to the workers, several cases were reported to the County Labor Office in Naivasha without success.

47. The Directorate of Labor in the Ministry of Labor and Social Protection became aware of the petition through social media and instituted investigations by summoning the subcounty Labor Officer and thereafter the employer.

48. After investigation the cases of petitioners were analyzed as follows—

No	Name	Date of employment	Designation	Date of show-cause/suspension letter	Date of disciplinary hearing	Date of redundancy
1.	Julius Ondungu Oketch	5/12/2021	Supervisor	9/12/2022	10/2/2023	17/4/2023
2.	Enock Simiyu	5/12/2021	Pump operator	11/1/2023	20/2/2023	17/4/2023
3.	Reuben Muchana Masee	5/12/2021	Drip operator	11/1/2023	20/2/2023	17/4/2023
4.	Justus Ote Obiri	5/12/2021	Drip operator	11/1/2023	10/2/2023	17/4/2023
5.	Moses Juma Barasa	1/12/2021	Foreman	18/1/2023	13/2/2023	17/4/2023
6.	Eric K Zaakayo	5/12/2021	Foreman	19/1/2023	13/2/2023	17/4/2023
7.	Rodgers W. Wasike	5/12/2021	Manager	15/3/2023	To report to HR 22/3/2023	17/4/2023
8.	Joseph M. Gakuru	1/12/2021	Foreman	7/12/2022	9/2/2023	17/4/2023
9.	Mary N. Njau	1/12/2021	Forelady	7/12/2022	7/2/2023	17/4/2023
10	Nicholas O. Matara	5/12/2021	Drip operator	20/2/2023	20/2/2023	17/4/2023
11	Nancy A. Otieno	5/12/2021	Quality control	11/1/2023	21/2/2023	17/4/2023
12	Grace A. Onyino	5/12/2021	Forelady	7/12/2022	7/12/2023	17/4/2023
13	Njoroge	5/12/2021	Supervisor	17/12/2022	9/2/2023	17/4/2023

	Kamore					
14	John N. Kinyanjui		Drip operator	8/12/2022	20/2/2023	17/4/2023
15	Naomi K. Shivambo	5/12/2021	Forelady	18/1/2023	20/2/2023	17/4/2023
16	James O. Adero	5/12/2021	Foreman	19/1/2023	13/2/2023	17/4/2023
17	Isaiah Kangara	5/12/2021	Foreman	7/12/2022	9/12/2022	17/4/2023
18	Geoffrey N. Oganga	5/12/2021	Foreman	8/12/2022	10/12/2022	17/4/2023
19	Evans K. Liyai	5/12/2021	Foreman	18/1/2023	No date of hearing	17/4/2023
20	Nickson Kipkorir Ngeno	5/12/2021	Senior manager	27/1/2022	10/12/2022	17/4/2023
21	George N. Mwangi	1/12/2021	Supervisor	19/1/2023	21/2/2023	17/4/2023

49. The above workers were served with show-cause/suspension letters between December 2022 and January 2023 and were subjected to disciplinary hearings between February and March 2023 before being declared redundant on 17th April 2023.

3.3.2 Findings on the Petitioners

50. It was established that ten (10) workers from the above list reported their cases to the Sub-County Labor Office before petitioning Parliament, namely—

- (i) Erick Kabuyefu Zakayo
- (ii) Justus Ote Obiri
- (iii) Reuben Muchama Masese
- (iv) Mary Njambi Njau
- (v) Joseph Mukiria Gakuru
- (vi) Moses Juma Baraza
- (vii) Evans Kadenge Liyai
- (viii) Nicholas Ondieki Moatara
- (ix) John Ngige Kinyanjui
- (x) Geoffrey Ndege Kangara

51. The following ten (10) workers from the above list petitioned Parliament without reporting any cases at the Sub-County Labor office—

- (i) Julius Ondungu Okech
- (ii) Enock Simiyu Khwatenge
- (iii) Rodgers Wamalwa Wasike
- (iv) Nancy Awour Otieno
- (v) Grace Andeyo Onyino
- (vi) Kamore Njoroge

- (vii) Naomi Khandasi Shivambo
- (viii) James Ochieng Adera
- (ix) Isaiah Kangara
- (x) George Njuguna Mwangi

52. The management while declaring redundancies to the petitioners referred to an ongoing disciplinary process in regard to a violent strike that they actively participated in.

53. They were paid as follows—

- (i) Salaries up to and including 17th April 2023
- (ii) One-month notice
- (iii) 15 days of severance pay for every year worked
- (iv) Unutilized leave
- (v) Suspension (1/2 pay refund)

54. From the above findings it is evident that **the management did not follow due diligence in the process of terminating the services of the affected employees on account of redundancy.** It was recommended that all the twenty (20) workers be treated equally, that they be paid two (2) months salaries for unfair termination. The management tabulated and deposited their final dues at the County Labor Office in Nakuru.

55. As for Nickson Kipkorir Ngeno who was a Senior Manager, the management committed to negotiate with him and settle his case at their own level.

3.3.3 Workers in the Security Department

56. Apart from the above twenty-one (21) petitioners several other cases were reported to the Sub-County Labor Office in Naivasha.

57. These included seven (7) workers in the security department who were suspended from 7th February 2023 to 6th March 2023 and were required to report on 7th March 2023 at 11:00 a.m. for disciplinary hearings which unfortunately did not take place. The reason for suspension was to allow for investigation into various occurrences of theft within the firm. They were paid as follows—

- (a) Salaries up to and including 17th April 2023
- (b) One-month notice
- (c) 15 days of severance pay for every year worked
- (d) Unutilized leave
- (e) Suspension (1/2 pay refund)

58. The workers in the security department reported a case to the Sub-County Labor Office in Naivasha on unfair termination. The management replied they were part of the ongoing redundancies, reported to the local Labor Office, through redundancy notices dated 1st March 2023 and 3rd April 2023.

59. The Ministry established that the above employees were not subjected to disciplinary hearing. The letters produced by the management indicated they were declared redundant on 17th April 2023. While declaring their services redundant the letters made reference to “...ongoing disciplinary process following various occurrences of theft within the firm...”
60. Therefore, the management did not follow due diligence in the process of terminating the services of the affected employees.
61. It was recommended that each of the above seven (7) affected workers be paid two (2) months salaries for unfair termination. The management tabulated and deposited their final dues at the County Labor Office in Nakuru.

3.3.4 Summary Dismissal Cases

62. Forty-three (43) workers were issued with show-cause/suspension letters in January and February 2023 for insubordination. They were subjected to disciplinary hearings and dismissed for walking out of a meeting addressed by the General Manager.
63. Their final dues were tabulated as follows—
- (a) Days worked up to 10th February 2023
 - (b) Outstanding leaves as at 10th February 2023
 - (c) Any overtime/bonus worked and not paid
 - (d) Less any statutory deductions and outstanding claims (if any)
64. They received the above payments and did not follow up their cases at the Labor Office.
65. Some of the above forty-three (43) workers had worked for less than thirteen (13) months to qualify for compensation for unfair termination as per the provisions of section 45(3) of the Employment Act 2007.
66. It was agreed that the management compensate all the forty-three (43) with two-months’ salary as a mode of settling their cases. The payments were tabulated and deposited with the County Labor Office in Nakuru.
67. On 27th October 2023, the Kenya Plantation and Agricultural Workers Union reported a labor dispute to the Ministry pursuant to section 62(1) of the Labor Relation Act 2007. A conciliator was appointed and the case was ongoing regarding suspension/dismissal/termination of 400 employees. If the dispute is not resolved after conciliation, the aggrieved party may refer the dispute to the Employment and Labor Relations Court for arbitration.

PART FOUR

4 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioners, Bohemian Flowers Ltd., and the Ministry of Labor and Social Protection, the Committee observed that—

68. The actions of Bohemian Flowers Limited of suspension of workers, initiating of disciplinary process and later halting it by declaring some of the employees redundant did not follow due process in the termination of the services of the affected workers contrary to the provisions of section 40 of the Employment Act, CAP 226.
69. The twenty-one (21) Petitioners were part of the former workers of Bohemian Flowers Limited dismissed by the company. The company alleged their involvement in inciting other workers to participate in strike leading to destruction of property. Out of the twenty-one (21) Petitioners, ten (10) reported cases at the subcounty Labor Office.
70. The Committee notes that the Ministry of Labour and Social Protection confirmed settlement of outstanding dues by Bohemian Limited as per the recommendations of the Labour Officer for some petitioners.
71. The introduction of the new biometric clock-in system linked to the payroll system by Bohemian Flowers Limited was the cause of the industrial action and a major concern for the former workers as they did not understand how it works and consequently resulted in reduction of their pay.
72. There was inadequate communication from Bohemian Flowers Limited to its workers regarding joining the new GA Life Insurance Scheme from Kenindia Assurance Company. This hindered the workers from claiming their pension funds from GA Life Insurance Scheme as they joined Bohemian Flowers Limited under Kenindia Assurance Company.

PART FIVE

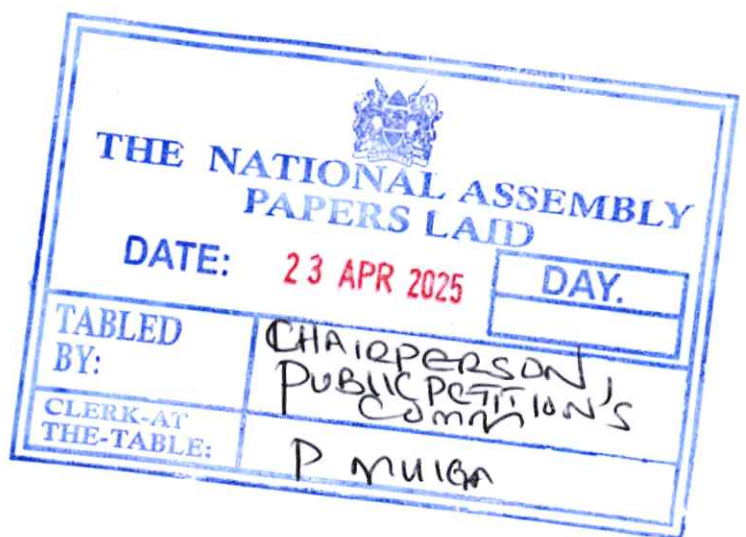
5 COMMITTEE RECOMMENDATIONS

73. Pursuant to the provisions of Standing Order 227, the Committee responds to the Petition as follows—

- (i) On the prayer that the Committee investigates whether due process contemplated in the law was followed in dismissing the employees as indicated in the petition, the Committee conducted an inquiry on the dismissal of the petitioners by Bohemian Flowers Limited and concurs with the Labor Office that due process was not followed with regards to termination of service on the ground of redundancy based on provisions of section 40 of the Employment Act.
- (ii) On the prayer that the company honours the recommendations of the labour officer in Naivasha Sub County to pay any outstanding claims owed to the employees by the company, the Committee recommends that the Ministry of Labour and Social Protection assists the petitioners in their outstanding claims to obtain recourse for their un-procedural termination within sixty (60) days.

Signed:  Date: 22nd April 2025

HON. ERNEST KIVAI OGESI KAGESI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE



ANNEXURES

- Annex 1: The Adoption List**
- Annex 2: Public Petition No. 63 of 2023 regarding former workers of Bohemian Flowers Limited in Nakuru County**
- Annex 3: Minutes of 40th Sitting of 2024 held on 12th June 2024**
- Annex 4: Minutes of 54th Sitting of 2024 held on 25th September 2024**
- Annex 5: Minutes of 8th Sitting of 2025 held on 8th April 2025**



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 63 OF 2023
REGARDING FORMER WORKERS OF BOHEMIAN FLOWERS LIMITED IN NAKURU
COUNTY

DATE.....11-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding **Former Workers of Bohemian Flowers Limited in Nakuru County** to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (SECOND SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 63 of 2023)

**PETITION REGARDING FORMER WORKERS OF BOHEMIAN
FLOWERS LIMITED IN NAKURU COUNTY**

1. **Honourable Members**, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member.
2. In this regard, **Honourable Members**, I wish to report to the House that my office has received a petition from former employees of *Bohemian Flowers Limited, in Nakuru County*. The Petitioners are citing unfair redundancy, summary dismissal and suspension from employment.
3. The Petitioners state that the management of *Bohemian Flowers Limited* based their dismissal criteria on a violent strike that had occurred at the premises, and which they were not part of.
4. **Honourable Members**, the Petitioners further state that former workers sought for assistance with the *Labour Office in Naivasha Sub County under Section 71 of the Employment Act on 19th April 2023*, without success. The petitioners aver that immediately thereafter, their positions were advertised immediately after they were dismissed and recruitment done despite various correspondences between the Labour Office, Naivasha Sub County and the management of Bohemian Flowers Limited.

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 40TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, JUNE 12, 2024, IN COMMITTEE ROOM 12, NEW WING, MAIN PARLIAMENT BUILDINGS AT 12.00. P.M

PRESENT

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.
3. Hon. Maisori Marwa Kitayama, MP
4. Hon. Edith Vethi Nyenze, M.P.
5. Hon. Bidu Mohamed Tubi, M.P.

APOLOGIES

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Ernest Ogesi Kivai, M.P.
3. Hon. Patrick Makau King'ola, M.P.
4. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
5. Hon. John Walter Owino, M.P.
6. Hon. Peter Mbogho Shake, M.P.
7. Hon. Sloya Clement Logova, M.P.
8. Hon. Suzanne Ndunge Kiamba, M.P.
9. Hon. Caleb Mutiso Mule, M.P.
10. Hon. John Bwire Okano, M.P.

SECRETARIAT

- | | |
|-------------------------|------------------------|
| 1. Mr. Ahmad Kadhi | Senior Clerk Assistant |
| 2. Ms. Anne Shibuko | Clerk Assistant I |
| 3. Mr. Willis Obiero | Clerk Assistant III |
| 4. Ms. Patricia Gichane | Legal Counsel II |
| 5. Ms. Nancy Akinyi | Research Officer III |
| 6. Mr. Derrick Cheboi | Audio Officer |
| 7. Mr. Alex Kiplagat | Audio Officer |

INATTENDANCE**PETITIONERS (KOIBEM COMMUNITY)**

- | | | |
|------------------------------|---|-----------------------------|
| 1. Hon. Josses Lelmengit, MP | - | Member, Emgwen Constituency |
| 2. Mr. James Yego | - | Chairman |
| 3. Mr. Joel Songol | - | Vice Chairman |
| 4. Mr. Alfayo Mutai | - | Secretary |
| 5. Mr. David Kosgei | - | Treasurer |

PETITIONERS (WORKERS OF BOHEMIAN FLOWERS)

1. Mr. Wycliffe Araka
2. Ms. Mary Njambi
3. Mr. Justus Obiri
4. Mr. Philip Oyondi
5. Mr. Ibrahim Saitoti
6. Mr. Erick Kabuyefu

PETITIONERS (ABSA)

1. Hon. Moses Kirima, M.P. - Member, Central Imenti Constituency
2. Mr. Gerald Kiilu - Petitioner

MIN./PPETC/2024/252: PRELIMINARIES

The Chairperson called the meeting to order at 12:00 noon. and proceedings began with prayers by Hon. Ernest Kagesi, M.P.

MIN./PPETC/2024/253: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of P/No.69 of 2023 on Resettlement of Squatters in Koibem Village, Chepkumia Location, Nandi County.
 - *Meeting with the Petitioner (Hon. Josses Lelmengit, MP and Mr. Joel Songol)*
6. Consideration of Public Petition No.67 of 2023 Dismissal from Employment of Mr. Gerald Muli Kiilu by ABSA Bank (Formerly Barclays Bank) Prestige Centre
 - *Meeting with the Petitioner (Hon. Moses Kirima, MP)*
7. Consideration of P/No. 63 of 2023 regarding Former Workers of Bohemian Flowers Limited in Nakuru County
 - *Meeting with Petitioner (Mr. Erick Kabuyefu)*
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Joshua Kandie, M.P. and seconded by Hon. Edith Nyenze, M.P.

MIN./PPETC/2024/254: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

Meeting with the Petitioner(s)

Upon invitation by the Chairperson, the Hon. Josses Lelmengit, MP on behalf of the petitioners, residents of Koibem Village presented the Petition as follows–

Background

- i. In 1996, a presidential directive was issued for the relocation of residents in a forested area to new locations closer to the main road. The excision process began with one of the excision surveys paid for and excision authority was in 1999 via letter dated 22nd March 1999. The Koibem village is already on the new land.
- ii. The administration in 2002 delayed the process, and no meaningful progress was made until the passage of the 2010 Constitution and the land related legislations and the National Land Commissions Act. The enactment of the Forest Conservation and Management Act of 2016 marked a change in the procedure leading up to the degazettment and titling of forest land.
- iii. The delay in issuance of titles has caused challenges for the community including suffering losses and damage spanning two decades.
- iv. In 2016, the County Land Management Board (CLMB) conducted a validation process, which was favourable for the occupants/beneficiaries. The Senate recommended the conclusion of the exchange program, and the National Land Commission offered the conclusive recommendation which was gazettelement on 1st March 2019.
- v. Whereas all the interventions were noble and in the best interest of the community, they have not been implemented hence the request for the Committee to intervene with a view of delivering justice to the community.

Prayers

The Committee engages:

- i. The Cabinet Secretary for the Ministry of Lands, Physical Planning, Urban Development and Public Works to proceed to gazette the intended excision area;
- ii. The Cabinet Secretary for Environment, Forestry and Climate Change to secure Cabinet Approval for the intended de-gazettelement and seeks Parliamentary approval under Section 34 of the Forest Management and Conservation Act of 2016;
- iii. The Cabinet Secretary for the Ministry of Lands, Physical Planning, Urban Development and Public Works to facilitate the issuance of new title deeds in the new registration area;

- iv. The relevant government agencies to consider waiving the registration costs for the new titles given the years of frustrations; and
- v. The relevant government agencies to consider reallocating alternative lands within the same area to the seven (7) individuals whose parcels are inhabitable and the two (2) individuals who received less acreage by amending the initial excision survey.

Upon invitation by the Chairperson, the Petitioners made clarifications as follows—

- i. Chepkumia land was surrounded by hilly, rocky forests and tea farms, making it difficult and dangerous for the community to access the main road. Therefore, the government decided to resettle the residents from the hilly and rocky forest to an area near the main road that is safer and more suitable for agricultural production.
- ii. For about 27 years, the process has never been finalized, and the community has never received titles for the exchanged lands they occupy after being resettled.

Committee Concerns

- i. **Regarding the current title deeds and the number of settlers in the area,** the Petitioners clarified that they possessed title deeds registered as Nandi/Chepkumia for approximately 108 people who were resettled in the lower ground.
- ii. **Regarding interference from the Kenya Forest Service (KFS) in the occupied area,** the Petitioners stated that the KFS had no issues with the community settled in the area. The only concern for the community was acquiring title deeds for the new area they have settled in for 27 years.
- iii. **Regarding the status of the lands,** the Petitioners stated that they were resettled on forest land with an equivalent acreage to their original land, about 1040 hectares for the 108 people. The newly occupied area is still forest land but not a forest and has not been degazetted to officially allow for settlement. However, the government has taken over the original land as a forest and has even planted trees.
- iv. **Regarding any pending legal matters or efforts to address their concerns,** the Petitioners clarified that there was no matter in court. However, they had engaged the National Lands Commission (NLC), which gazetted its recommendation on 1st March 2019 for formalizing the process. Additionally, the community had engaged the Ministries in charge of Lands and Forestry to seek the de-gazettement of the area they have occupied.
- v. **Regarding the loss and damages the community has suffered over two decades,** the Petitioners clarified that in the twenty-seven (27) years, most of the original landowners had passed away, leaving their dependents unable to inherit, subdivide, or sell the lands due to uncertainty and lack of collateral. Additionally, they have spent resources seeking justice by visiting various government offices.

- vi. Regarding the matter being handled by the Senate, the Petitioners clarified that the only time the matter was brought up in the Senate was in the previous Parliament by the area Senator, but there was no conclusive documentation on how it was dealt with.
- vii. Regarding the seven (7) individuals whose parcels are uninhabitable and the two (2) with less acreage, the Petitioners clarified that despite being given similar acreage, the seven individuals' land was more rocky and wet, making it unsuitable for farming. The two individuals with less acreage noticed this after clearing the bushes, hence the need for a re-survey.

**MIN./PPETC/2024/256: CONSIDERATION OF PUBLIC PETITION NO.67 OF 2023
DISMISSAL FROM EMPLOYMENT OF MR. GERALD MULI
KIILU BY ABSA BANK (FORMERLY BARCLAYS BANK)
PRESTIGE CENTRE**

Meeting with the Petitioner(s)

Upon invitation by the Chairperson, the Hon. Moses Kirima, MP. presented as follows on behalf of Mr. Gerald Kiilu, the petitioner—

Background

- i. The petitioner served Absa Bank for twelve (12) years. However, through a letter dated 31st January 2005, one Mr. Gerald Muli Kiilu was wrongly terminated by Absa Bank (formerly, the Barclays Bank of Kenya Ltd) after the bank claimed that in the course of duty, Mr. Gerald Muli Kiilu incurred a loss of Kshs. 149,000, money which was borrowed from him by the then Retail Manager who was his supervisor;
- ii. On the spot investigations done on 30th November 2004 by the Senior Retail Manager, revealed that Mr. Gerald Muli Kiilu had a shortage of only Kshs. 366.10;
- iii. Mr. Gerald Muli Kiilu lodged a trade dispute with the Ministry of Labour and Social Protection who recommended that he be reinstated without loss of benefits or break in years of service, be paid ten (10) months gross salary as compensation for wrongful and /or unfair termination; and, any other relief the management would deem fit in a judgement dated 7th February 2008;
- iv. The Petitioner is a victim of witch-hunting, discrimination, intimidation, nepotism and malice;
- v. The matter presented in the petition was not pending before any Court of law or any constitutional or legal body;
- vi. The petitioner had exhausted other means hence turning to the Committee for assistance.
- vii. The Committee recommends that what was awarded by the labour tribunal to be the basis of the calculation. Further, even if the petitioner is

reinstated, he may not get a fair ground to practice as a banker due to the bad relationship between the two parties. Therefore, the Petitioner seeks compensation according to the tribunal ruling.

Prayers

That the Committee—

- i. Inquiries into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank (formerly, the Barclays Bank of Kenya Ltd);
- ii. Recommends that Absa Bank considers reinstating the Petitioner without loss or break in years of service; and,
- iii. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioner.

Upon invitation by the Chairperson, Mr. Gerald Kiilu made clarifications as follows—

- i. That after the matter was resolved through the Ministry of Labour and Social Protection, the bank had not honoured the directives.
- ii. The evidence of investigation revealed a loss of Kshs366 through a process that appeared to target an individual. The report of investigation of other colleagues were found culpable of a larger amount of about Kshs 30,000 as a shortage but was not terminated from employment hence the discrimination.
- iii. That after frustrating a forgery of about Kshs700,000, the account was siphoned through Kshs3.6 million by the manager.

Committee Concerns

- i. **The Committee inquired whether there was any internal conflict resolution procedures or disciplinary measures and whether the petitioner had engaged any union.** The petitioner clarified that the matter was heard through internal mechanism of Absa Bank who are the ones who dismissed unsatisfactorily hence the petitioners appeal in the labour tribunal.
- ii. **Regarding whether the court case was conclusive,** the petitioner stated that there was no case or judgement directing the committee not to act on the case. Further, the petition was not an appeal of a court case but rather the court did not hear the case brought by the petitioner based on a preliminary objection. Therefore, the case in its merit was not heard hence fairness not accorded to the petitioner.
- iii. **Regarding whether the petitioner had engaged institutions directed to implement the labour tribunal judgement,** the Petitioner clarified that the

help he needed was to have justice and deserved compensation for the years he had served before dismissal.

- iv. **Regarding the stakeholders the committee could engage**, the petitioner stated that the Committee could invite the labour tribunal, Absa Bank management to clarify the circumstances for dismissing Mr. Kiilu and any other relevant agency or authority.
- v. **Regarding the prayer for compensation vis-à-vis reinstatement by Absa Bank**, it was clarified that the plight of the petitioner concerned the unconducive environment to work for the bank again. Therefore, the petitioner requested that despite the prayer for reinstatement as recommended by the tribunal, the Committee would consider up to date compensation for the period recommended by the tribunal. That the calculations they had made were about Kshs46 million.

MIN./PPETC/2024/257: CONSIDERATION OF P/NO. 63 OF 2023 REGARDING FORMER WORKERS OF BOHEMIAN FLOWERS LIMITED IN NAKURU COUNTY

Meeting with the Petitioner(s)

Upon invitation by the Chairperson, Mr. Erick Kabuyefu presented the petition as follows—

Background

- i. The petitioners were about 589 employees of Bohemian Flowers Limited in Olkaria Ward, Naivasha Sub County, Nakuru County.
- ii. Following unlawful dismissal from employment, the petitioners lodged a complaint on the matter at Naivasha Sub County labour office under section 71 of the Employment Act, 2007 vide a letter dated 19th April 2023. The labour officer responded through letters dated 4th May, 2023, 23rd May 2023 and 29th May 2023 to Bohemian Flowers Limited director.
- iii. The labour officer held a meeting dated 18th May 2023 at Naivasha Sub County labour office between Bohemian Flowers Limited senior management and the complainants (the petitioners).
- iv. The petitioners were dismissed as per a memo by Bohemian Flowers Limited management advertising positions for recruitment, immediately after their exit.
- v. It had become difficult for the employees to access their monthly deductions from the pension scheme which they were coerced to join.
- vi. The Petitioners were put on suspension on half pay contrary to the company policy.

Prayers

The Committee—

- i. Investigate whether due process contemplated in the law was followed referred in dismissing the employees as indicated in the petition;
- ii. Engages the Bohemian Flowers Limited management to provide the investigation report into the conduct of the employees referred to in the redundancy letters for justification.
- iii. Engages the Bohemian Flowers Limited management with a view of establishing whether their human resource officers were registered with the Institute of Human Resource Management (IHRM) following the alleged unprofessionalism;
- iv. Engages the Bohemian Flowers Limited management with a view of assessing their biometric machine's effectiveness.
- v. Recommends that the company honours the recommendations of the labour officer in Naivasha Sub County to pay any outstanding claims owned to the employees by the company.

Committee Concerns

- i. **Regarding the employees affected and the terms of employment**, the Petitioners clarified about the 589 employees were on different terms including permanent and pensionable contracts who had served for one year after probation of six (6) months.
- ii. **Regarding the duration it took before the Company readvertised the positions**, the Petitioners clarified the positions were fielded within one month without clearing the dismissed employees.
- iii. **Regarding the pension contributions and the scheme**, it was clarified that the deductions were made for retirement and medical purposes upon conclusion of the probation period, but no sensitization had been carried out on the pension scheme.
- iv. **Regarding the cause of the labor relations disagreement**, the petitioners clarified that the employees were previously employed by Oserian Development Company on permanent and pensionable terms before being acquired by Bohemian Flowers Limited in December 2021. Bohemian Flowers Ltd introduced a biometric system to manage workers without any backup, causing problems when the system was faulty. This resulted in some workers being registered for fewer hours than they actually worked, despite physically reporting to duty early. The company's directive to use the system in November 2022 was implemented without any civic education for the employees.

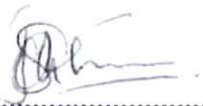
Occasionally, the system had multiple errors in recording the hours worked, leading to reduced payments for the employees. In response, the workers went on strike to demand that the injustice be addressed. The matter was investigated, and stakeholders agreed on a return-to-work formula. However, the management isolated several individuals they claimed were the perpetrators of the strike and suspended them. During the period of suspension, the petitioners received half their pay for six (6) months against the Company policy, after which they were issued redundancy letters.

Committee Resolution

After deliberations, the Committee resolved to invited the relevant stakeholders including Bohemian Flowers Limited and Labour Relations Office.

MIN./PPETC/2024/258: ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 03:10 p.m. The next meeting will be held on Thursday, 13th June 2024 at 12:00 p.m.

Sign: 

(CHAIRPERSON)

Date.....18-06-2024.....



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 54th SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, SEPTEMBER 25, 2024, IN CONFERENCE ROOM 12, NEW WING, MAIN PARLIAMENT BUILDINGS AT 11.00. A.M

PRESENT

- | | |
|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | Vice Chairperson |
| 3. Hon. Joshua Chepyegon Kandie, M.P. | |
| 4. Hon. John Walter Owino, M.P. | |
| 5. Hon. Ernest Ogesi Kivai, M.P. | |
| 6. Hon. Maisori Marwa Kitayama, MP | |
| 7. Hon. Edith Vethi Nyenze, M.P. | |
| 8. Hon. Caleb Mutiso Mule, M.P. | |
| 9. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | |
| 10. Hon. Peter Mbogho Shake, M.P. | |
| 11. Hon. John Bwire Okano, M.P. | |

APOLOGIES

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. Bidu Mohamed Tubi, M.P.
3. Hon. Suzanne Ndunge Kiamba, M.P.
4. Hon. Sloya Clement Logova, M.P.

IN ATTENDANCE

SECRETARIAT

- | | |
|-------------------------|------------------------------|
| 1. Mr. Ahmed Kadhi | Principal Clerk Assistant II |
| 2. Ms. Roselyn Njuki | Senior Sergeant-at-Arms |
| 3. Ms. Anne Shibuko | Clerk Assistant I |
| 4. Ms. Peninnah Simiren | Legal Counsel II |
| 5. Mr. Isaac Nabiswa | Legal Counsel II |
| 6. Mr. Willis Obiero | Clerk Assistant III |
| 7. Mr. Martin Sigei | Research Officer III |
| 8. Ms. Nancy Akinyi | Research Officer III |
| 9. Mr. Peter Mutethia | Audio Officer |
| 10. Mr. Calvin Karungo | Media Relations Officer III |

PETITIONERS (KUPPET)

- | | |
|----------------------|----------------------------------|
| 1. Mr. Akelo Misori | Secretary General |
| 2. Mr. Julius Murgor | Vice Chairperson |
| 3. Mr. Paul Maingi | Organizing Secretary |
| 4. Mr. John Onyando | Director Communications/PA to SG |

Kenya National Union of Teachers (KNUT)

- | | |
|--------------------------|---------------------------|
| 1. Mr. Joseph Langat | Chairperson |
| 2. Mr. Collins Oyuu | Secretary General |
| 3. Mr. Hesbon Otieno | Deputy Secretary General |
| 4. Mr. Kennedy Nyamwanda | Deputy National Treasurer |
| 5. Ms. Mercy Kiambati | |
| 6. Mr. Mark Oseno | Senior Executive Officer |
| 7. Mr. John Machio | Senior Executive Officer |
| 8. Mr. John Oballah | Executive KNUT Officer |

Bohemian Flowers Limited

- | | |
|-----------------------|------------------------------------|
| 1. Mr. Camillo Serano | Director |
| 2. Ms. Loreen Kimuyu | Head of Human Resource |
| 3. Mr. Fay Odoo | Legal Counsel |
| 4. Mr. Vimset Gamani | HR Officer |
| 5. Mr. Okwech Achando | Advocate |
| 6. Mr. Arthur Mwangi | Payroll Manager |
| 7. Mr. Wesley Siele | Agricultural Employees Association |

MIN./PPETC/2024/337: PRELIMINARIES

The Chairperson called the meeting to order at 11:00 am. and proceedings began with prayers by Hon. (Eng.) Bernard Muriuki Nebart, M.P.

MIN./PPETC/2024/338: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of P/No. 62 of 2024 regarding Stagnation of Teachers' Progression P/No. 62 of 2023
 - *Meeting with the Petitioners (KUPPET)*
6. Meeting with KNUT in consideration of-
 - *P/No. 47 of 2023 regarding Deployment of Classroom Teachers as Head Teachers in Schools across the Country; and*
 - *P/No. 62 of 2024 regarding Stagnation of Teachers' Progression P/No. 62 of 2023.*
7. Consideration of P/No. 63 of 2024 regarding Former Workers of Bohemian Flowers Limited in Nakuru County
 - *Meeting with Bohemian Flowers Ltd*
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Ernest Ogesi Kivai, M.P. and seconded by Hon. John Walter Owino, M.P.

MIN./PPETC/2024/339:

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The agenda was deferred.

MIN./PPETC/2024/340:

CONSIDERATION OF P/NO. 62 OF 2024 REGARDING STAGNATION OF TEACHERS' PROGRESSION P/NO. 62 OF 2023

Meeting with the Petitioners (KUPPET)

The General Secretary, KUPPET, Mr. Akelo Misoro appeared before the Committee and submitted as follows:

1. KUPPET is the largest and most influential professional association in Kenya given that it draws its members from teachers serving secondary schools and teacher training colleges across the country.
2. The perennial stagnation of teachers that has led to situations where teachers remain in one job grade for more than five years. In extreme cases, some teachers have not been promoted for 15 years.
3. The Teachers Service Commission (TSC) has failed to promote thousands of teachers despite the existence of unambiguous policies that clearly provide for teachers' career progression, despite numerous unsuccessful engagements.
4. Thus, they have sought the urgent intervention of this House in resolving the ongoing teachers' promotion stagnation and challenges in career progression.
5. Stagnation has been a big concern to members over the years. In 2023, KUPPET conducted a survey that revealed a truly dire situation. By that time, more than 60,000 teachers had served in one job group for more than five years-which constitutes stagnation.
6. The findings of our research to the Education Committee that saw Parliament appropriate a budget for promotions in 2023/2024 budget.
7. The Sh1 billion allocated enabled the Teachers Service Commission to promote 4,000 teachers who had stagnated in service. Together with common cadre and annual increments, the Commission promoted more than 50,000 teachers in the last financial year.
8. However, out of the qualified teachers who were shortlisted and interviewed, the TSC left out 130,000 teachers due to financial constraints.
9. The number of teachers who have stagnated in Service is approximate 180,000, from both secondary and primary schools.
10. The TSC sought a budget of Sh2.3 billion for promotions this year. Along with the annual increments, that would benefit another 50,000 teachers.
11. Unfortunately, Honourable Members, no money was provided for this budget line. In fact, out of this house, not many people seem to know how much

money has been provided for employment of teachers, for JSS and other programmes including teachers' medical cover.

12. The education budget for 2024/2025 has been amended through the Appropriations, Act, the first supplementary budget and other circulars from the Treasury and the Ministry of Education. These many documents have left KUPPET and key stakeholders in the dark.
13. Promotions was a major grievance for KUPPET in our recently concluded strike The Court Consent we entered with the Teachers Service Commission is based on the two parties' expectation that the House will provide funds to the Commission.
14. KUPPET urged Parliament to support administrative reforms at the TSC, such as the abolition of Career Progression Guidelines, to make it easier for teachers to grow even if they do not become administrators.

Committee Concern

The Committee noted with concern that matters submitted in the Memorandum did not have specific prayers that KUPPET sought from the Committee. The Petitioners requested more time to present clear prayers on the Petition within one week.

Committee Resolution

After deliberations, the Committee resolved that the Petitioners, KUPPET presents clear prayers on the Petition within one week.

MIN./PPETC/2024/341: MEETING WITH KENYA NATIONAL UNION OF TEACHERS (KNUT)

The Secretary General of KNUT, Mr. Collins Oyuu appeared before the Committee and made submissions on the two petitions as follows—

P/No. 47 of 2023 regarding Deployment of Classroom Teachers as Head Teachers in Schools across the Country

1. Kenya National Union of Teachers (KNUT) is a Trade Union and professional organization that participates in all matters calculated to lead to improvement of Education and to promote the establishment of a common system of Education in in the country.
2. The Union provides means for co-operation among teachers and the expression of their collective opinions, views and decisions upon matters affecting the interest of Education and the Teaching profession in Kenya.
3. KNUT is also charged with the responsibility of settling disputes between members of the Union or between its members and their employer and to regulate relations between them by collective and constitutional means.
4. The petitioners pray that the National Assembly through the Public Petitions Committee engages the Teachers Service Commission (TSC) to review the

salaries and allowances of the concerned deployed teachers and place them at par with their colleagues who went through the same interviews and became Headteachers before the commencement of the 2017/2021 Collective Bargaining Agreement (CBA).

5. Kenya National Union of Teachers in 2018, and later in 2021 sought to be furnished with full information and data on classroom teachers who were deployed as Headteachers across the country.
6. The union was aptly briefed that the Commission in consultation with Salaries and Remuneration Commission (SRC) conducted Job Evaluation for the Teaching Service in 2015/2016. Based on the findings of the Job Evaluation, SRC submitted recommendations on a new grading structure and remuneration of teachers.
7. The cardinal objective of Job Evaluation was to determine the relative worth of jobs within the Teaching Service with a view to linking remuneration and benefits to responsibility assigned to a teacher.
8. The Teaching Service was categorized into two major groups: - Administrators and Non-Administrators. The Administrators in Primary schools comprised of Headteachers (C5 to D1 - Job Group G - N); Deputy Headteachers (C4 to D1 - Job Group G to N); Senior teachers (C2 to D1 - Job Group G to N); Non-Administrators comprised of classroom teachers in Job Group H, G and J - B5 to C1).
9. Teachers adopted new job titles and related grades. Thereafter, in 2018 the Commission developed Career Progression Guidelines (CPGs) for teachers and policy on appointment and deployment of teachers as institutional administrators.
10. Therefore, classroom teachers who were deployed to headship positions qualified, and indeed deserved salary and allowance increase based on the 2017/2021 CBA. However, the CBA expired before all of them were considered for enhanced salary and allowance.
11. Through established channels and correspondences, KNUT sought the remedy from the Commission over what would happen to teachers who were not promoted yet the CBA had expired, but TSC asserted that these teachers were not promoted but only deployed, as such, since they already had grades that are commensurate to the Headteachers' grades. They were deployed later when vacancies arose.
12. For instance, there exist discrepancies where some senior graduate teachers are Headteachers yet others with the same qualifications are still in Job Group C5 instead of Grade D1. Additionally, their monthly salary and allowance difference is about KShs. 25,000 at the lowest and KShs. 36,000 at the highest. The salary is different because these teachers are in different pay grades (pay points)-C5 and D1.
13. Where the petitioner states that classroom teachers who were deployed to headship were neither factored in the advertised TSC promotion for 14,738 teachers, nor in the 12,634 tutors for promotion. According to Labour

Relations Act (2007), promotion means an elevation to a higher post usually with an increase in salary and/or benefits.

14. These teachers were not promoted but deployed, as such, since they already had grades that are commensurate to the Headteachers grade. They were deployed when vacancies arose.
15. Moreover, through established channels and correspondences, KNUT has made the best efforts to have the misunderstanding between TSC and classroom teachers who were deployed to headship addressed and resolved once and for all. The Union has also engaged the Commission and affected teachers in a face-to-face discussion to resolve the matter. The Commission has remained adamant that these teachers were only deployed and not promoted where the affected already had teachers grades that are commensurate to the Headteachers' grade-hence were deployed when vacancies arose, thus they don't deserve a pay rise.
16. For the sake of clarity, promotion of teachers in the Public Service is premised on Regulation 73 of the Code of Regulations for Teachers and the Career Progression Guidelines.

Prayers

17. The Secretary General presented KNUT prayers as follows—

- (i) The Commission should promote teachers based on existing policy guidelines;
- (ii) Promotion of teachers from B5 to C1 should be automated. After three years, this should be Common Cadre for Primary school teachers;
- (iii) Advertisements for administrative positions should be done above board with the Commission indicating where vacancies are available;
- (iv) Teachers appointed or deployed to acting positions should be holding substantive qualifications for the same position or thereabout; and
- (v) Acting period for a teacher should be in accordance and in compliance with existing policy guidelines and other relevant laws.

P/No. 62 of 2024 regarding Stagnation of Teachers' Progression P/No. 62 of 2023

1. Kenya National Union of Teachers remains the largest, most formidable and exceedingly influential professional association in Kenya. Unlike other trade movements, the Union draws its members from Comprehensive schools (PP 1 to Grade 9) - this means from Pre-Primary, Primary schools and Junior Schools; including Senior Schools (Secondary Schools).
2. It is true as stated by KUPPET that stagnation in the Teaching Service, whereby teachers stay in one Job Grade for several years has reached catastrophic levels.

3. Despite teachers having sat for promotion interviews, and accordingly shortlisted for promotions the TSC only promoted 36,000 teachers, while over 130,000 were not promoted. Over 15,000 teachers submitted their complaints to KNUT. Some of the cases involve teachers who have stagnated for over 10 years in the same Job Group, yet they have less than 5 years to retire.
4. For instance, in 2023 alone the 130,000 teachers successfully sat for promotion interviews and were shortlisted for various Job Grades, but for unexplained reasons, the Commission declined to effect the promotions. This was one of the many reasons that led KNUT to issue a Strike Notice on August 16th, 2024.
5. However, the Commission has since assured KNUT that teacher promotion is ongoing until all pending cases are fully addressed. In spite of the pledge by TSC that it would address all cases due for promotion, KNUT will not rest until teachers are moved to the job grades they deserve.
6. At this point in time, it is equally important to note that there are some teachers despite possessing the requisite qualifications, skills and the necessary experiences have not earned any promotion in over 15 years.
7. Privately, KNUT engaged education experts, economists, policy developers and specialists in Human Resource Management to establish what could be the bane for teachers stagnating in the same Job Grades for long periods. It was established that besides laxity by TSC to live to its commitment as provided for in Article 237(2) (d) of the Constitution of Kenya 2010; inadequate funding from the National Treasury to address salary/allowance increments and Career Progression Guidelines which were developed in 2018 by TSC are also an impediment to professional growth of teachers, and their promotions.
8. The Aims of Career Progression Guidelines for Teachers (2018) were to provide for—
 - (i) Minimum requirements for selection, appointment, recruitment and promotion. The Career Progression Guidelines have failed to address these areas.
 - (ii) A defined career structure that will attract, motivate and facilitate retention of competent teachers. The Career Progression Guidelines have failed to attract, motivate and facilitate retention of competent teachers. Teachers in the Public Service are only serving because they have no other options.
 - (iii) With the introduction of Competency Based Education system, Career Progression Guidelines have not provided clearly defined job description for teachers, and specifications with clear duties and responsibilities at all levels of learning.
 - (iv) The Career Progression Guidelines are not clear on teacher deployment and assignment of duties.

- (v) The Career Progression Guidelines are not crystal clear on alignment of work performance to career progression.
 - (vi) The Career Guidelines lack clear policy on the provision of minimum qualifications for career advancement and progression.
 - (vii) The Career Guidelines lack a clear mechanism for monitoring and evaluating career progression.
 - (viii) Worse still, Career Guidelines are supposed to offer professional development of teachers through Teacher Professional Development (TPD). For unexplained reasons, this is not happening.
9. Based on the facts, and experiences, KNUT made a stand that Career Progression Guidelines should either be reviewed comprehensively or TSC reverts to the Schemes of Service for Teachers Common Cadre Establishment Promotion, and the Competitive Promotion as outlined in Regulations 73, 74, 75 and 76 of Part VI of the Code of Regulations for Teachers (2015).

Committee Concerns

Regarding the justification of automatic progressions for lower cadre, KNUT clarified that automatic promotion for the lower cadre is justified by the history of the teaching profession, which traditionally included a common cadre for promotions. In contrast, higher job groups require competitive promotion based on performance. KNUT emphasized that automatic promotion at the lowest job group is necessary to motivate teachers, many of whom leave the profession for other careers.

MIN./PPETC/2024/341:

CONSIDERATION OF P/NO. 63 OF 2024
REGARDING FORMER WORKERS OF BOHEMIAN
FLOWERS LIMITED IN NAKURU COUNTY

Meeting with Bohemian Flowers Limited

The Management of Bohemian Flowers Limited led by Ms. Loreen Kimuyu, the Head of Human Resource appeared before the Committee and submitted as follows—

1. Bohemian Flowers Limited, located in Naivasha Sub-county, specializes in the cultivation and export of fresh cut flowers. The company took over Oserian Farm on 5th December, 2021. At the time, the labour force was managed by four different companies: The Manpower Company (TMC), Oserian Flowers Ltd (OFL), Oserian Development Company Limited (ODCL), and The Two Lakes Packing Services (TLPs), all of which supplied labour to Oserian Development Company Limited. Each labour provider supervised its own workforce, leading to significant disparities in terms and conditions of employment. The labour force was bloated, and there was no structured approach to managing it effectively.
2. Bohemian Flowers Ltd had been operating for two years and nine months, employing a workforce of 3,100.

3. Former workers of Bohemian, the Petitioners, raised concerns that the company was already addressing through the Naivasha Labour Office. However, Bohemian had not signed a certificate of disagreement at the Labor Office.
4. After Bohemian's 2021 takeover, the workers were introduced to a new biometric clock-in system, which raised some concerns. The company responded by educating and training workers on the system through printed materials. Employees were informed that clocking in and out via the biometric system was necessary since the payroll was directly linked to it, with no human intervention. In November 2022, some employees missed their salaries due to failure to clock in and out correctly, but the company continued training and planned to reimburse the deducted amounts.
5. Before the missed payments could be reimbursed, some workers went on strike on 5th December, 2022, causing significant property damage, including to the biometric machines. As a result, some workers were sent home. The Kenya Planters Association Workers Union (KEPAWU), representing the workers, declared the strike illegal as no notice had been issued. Despite this, the company proceeded to pay the deducted wages and reiterated the importance of using the biometric system.
6. The strike occurred because the workers felt the company was being too strict. However, some employees had been clocking in, sneaking away, and returning only to clock out, prompting the company to enforce strict monitoring of clocking in and out times to ensure accurate payroll records.
7. Despite resistance from the workers, the company maintained its stance, believing that adequate training and support had been provided for the new system.
8. Following the strike, it was decided that all biometric machines on the farm would be centralized at the company's main entrance, where workers arrived via the company bus.
9. After assessing the damage, the company suspended several employees suspected of incitement and initiated a disciplinary process, issuing show-cause letters. However, during this process, management decided to declare some redundancies due to business and market challenges, as the company planned to uproot 20 acres of land.
10. Consequently, the disciplinary process was halted, and some employees involved in the process were included in the redundancy. A notice was issued, and the Labour Office was informed. Employees who completed the disciplinary process received verdicts—those found guilty were dismissed, while others continued their employment.
11. In selecting employees to join Bohemian, the company assessed departmental needs and declared redundant those with unresolved issues. Final dues were paid to all employees who were declared redundant.
12. In May 2023, some employees reported the dispute to the Labour Office, and the process was still ongoing at the time the Petition was presented.

13. In selecting the employees for redundancy, management was unable to apply first in last out principle as all the employees at that time had the same period of employment, therefore the departmental labour requirements and conduct of the employee was used as a selection guide.
14. Final dues were paid to all the employees who were declared redundant. In May 2023, the organisation received complaint letters by 70 employees from the labour office in Naivasha.

Committee Concerns

15. **Concerning what happens when the biometric system fails**, Bohemian explained that there were over 30 synchronized machines, allowing employees to clock in at any of them. If one machine failed, employees would be redirected to a functioning one. In the event of a total failure, such as during a power outage, backup generators were on standby.
16. **On whether workers received adequate training on the new system**, the company stated that it had sensitized employees during the transition. This was not only an important policy tool but also empowered staff to ensure they received accurate pay for work done without human interference.
17. **Regarding sick leave within the biometric system**, the company clarified that employees were informed about the changes, which included individual printouts for monthly clock-ins. For cases of absenteeism, sick leave, official assignments, or emergencies, the relevant documentation, such as medical reports, would be uploaded into the system and passed to payroll to ensure accurate compensation.
18. **On how redundancies were determined**, the company explained that the process had already begun due to the restructuring of about 20 acres, and the relevant authorities had been notified. That redundancy was a better option for employees than dismissal over the strike, as it allowed them to receive benefits they otherwise would not have received.
19. **Regarding dues owed to employees**, the company stated that Oserian had already settled the dues for the period employees worked for them, based on the length of service. As a result, Bohemian inherited workers with no outstanding claims, and the employees voluntarily joined Bohemian in equivalent roles to those they held at Oserian.
20. **Regarding confirmation by the Kenya Planters Association Workers Union (KEPAWU) on the legality of the strike**, the company clarified that it did not possess the letter confirming the illegality of the strike.
21. **Concerning the remittance of employees' pension deductions for over a year and a half before termination**, the company explained that employees joined the pension scheme after a six-month probation period. Therefore, all staff in question were entitled to pensions for the ten months they worked after probation. The company requested additional time to present evidence of the remittances made to the pension scheme.

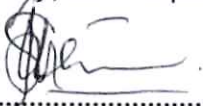
Committee Resolution

After deliberations, the Committee resolved that Bohemian Flowers Limited furnishes information regarding remittances of employees' deductions to the relevant pension scheme.

MIN./PPETC/2024/342:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 3:30 p.m. The next meeting will be held on Thursday, 26th September 2024 at 11:00 a.m.

Sign: 

for (CHAIRPERSON).

Date 19-11-2024



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

**MINUTES OF THE 8TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON
FRIDAY, APRIL 11, 2025, IN ACACIA A CONFERENCE ROOM, SAWELA LODGE,
NAIVASHA AT 4.00 PM**

PRESENT

1. Hon. Ernest Ogesi Kivai, M.P.	Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.	Member
3. Hon. Maisori Marwa Kitayama, M.P.	Member
4. Hon. Edith Vethi Nyenze, M.P.	Member
5. Hon. Bidu Mohamed Tubi, M.P.	Member
6. Hon. (Eng.) Bernard Nebart Muriuki, M.P.	Member
7. Hon. Peter Irungu Kihungi, M.P.	Member

APOLOGIES

1. Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice-Chairperson
2. Hon. Patrick Makau King'ola, M.P.	Member
3. Hon. Nimrod Mbithuka Mbai, M.P.	Member
4. Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member
5. Hon. Peter Mbogho Shake, M.P.	Member
6. Hon. Suzanne Ndunge Kiamba, M.P.	Member
7. Hon. John Bwire Okano, M.P.	Member
8. Hon. Sloya Clement Logova, M.P.	Member

SECRETARIAT

1. Mr. Ahmed Kadhi	Principal Clerk Assistant II
2. Ms. Roselyne Ndegi	Senior Serjeant-At-Arms
3. Ms. Patricia Gichane	Legal Counsel II
4. Mr. Willis Obiero	Clerk Assistant III
5. Mr. Calvin Karungo	Media Relations Officer
6. Ms. Nancy Akinyi	Research Officer III
7. Mr. Peter Mutethia	Audio Officer

MIN./PPETC/2025/040:

PRELIMINARIES

The Chairperson called the meeting to order at 4:00 pm. and proceedings began with prayers by Hon. Peter Irungu Kihungi, M.P.

MIN./PPETC/2025/041:

ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No. 63 of 2023 regarding Former Workers of Bohemian Flowers Limited in Nakuru County;
6. Consideration of Public Petition No. 67 of 2023 regarding Dismissal from Employment of Mr. Gerald Muli Kiilu By Absa Bank (Formerly Barclays Bank) Prestige Centre
7. Any Other Business
8. Adjournment

The Agenda was adopted to constitute business of the Meeting having been proposed by Hon. Peter Irungu Kihungi, M.P. and seconded by Hon. Edith Vethi Nyenze, M.P.

MIN./PPETC/2025/042:

CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

MIN./PPETC/2025/043:

CONSIDERATION OF PUBLIC PETITION NO. 63 OF 2023 REGARDING FORMER WORKERS OF BOHEMIAN FLOWERS LIMITED IN NAKURU COUNTY

The Committee considered the draft report and made the following observations—

- (i) The actions of Bohemian Flowers Limited of suspension of workers, initiating of disciplinary process and later halting it by declaring some of the employees redundant did not follow due process in the termination of the services of the affected workers contrary to the provisions of section 40 of the Employment Act, CAP 226.
- (ii) The twenty-one (21) Petitioners were part of the former workers of Bohemian Flowers Limited dismissed by the company. The company alleged their involvement in inciting other workers to participate in strike leading to destruction of property. Out of the twenty-one (21) Petitioners, ten (10) reported cases at the subcounty Labor Office.
- (iii) The Committee notes that the Ministry of Labour and Social Protection confirmed settlement of outstanding dues by Bohemian Limited as per the recommendations of the Labour Officer for some petitioners.
- (iv) The introduction of the new biometric clock-in system linked to the payroll system by Bohemian Flowers Limited was the cause of the industrial action and a major concern for the former workers as they did not understand how it works and consequently resulted in reduction of their pay.

- (v) There was inadequate communication from Bohemian Flowers Limited to its workers regarding joining the new GA Life Insurance Scheme from Kenindia Assurance Company. This hindered the workers from claiming their pension funds from GA Life Insurance Scheme as they joined Bohemian Flowers Limited under Kenindia Assurance Company.

Committee Resolutions

After deliberations, the Committee resolved to adopt the report with the following response to the Petition—

- (i) On the prayer that the Committee investigates whether due process contemplated in the law was followed in dismissing the employees as indicated in the petition, the Committee conducted an inquiry on the dismissal of the petitioners by Bohemian Flowers Limited and concurs with the Labor Office that due process was not followed with regards to termination of service on the ground of redundancy based on provisions of section 40 of the Employment Act. The Committee recommends that Bohemian Flowers Limited ensures strict adherence to labor laws on termination as provided in section 40 of the Employment Act CAP 226.
- (ii) On the prayer that the company honours the recommendations of the labour officer in Naivasha Sub County to pay any outstanding claims owed to the employees by the company, the Committee recommends that the Ministry of Labour and Social Protection assists the petitioners in their outstanding claims to obtain recourse for their un-procedural termination within sixty (60) days.

MIN./PPETC/2025/043:

CONSIDERATION OF PUBLIC PETITION NO. 63 OF 2023
REGARDING FORMER WORKERS OF BOHEMIAN
FLOWERS LIMITED IN NAKURU COUNTY

The Committee considered the draft report and made the following observations—

- (i) The matter is a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship. Then, the resolution of such dispute was governed section 87 of the Employment Act (Cap. 226) (repealed). The Act provided that an aggrieved party may lodge a complaint with the labour officer or file a suit in the Industrial Court.
- (ii) When the labour officer failed to resolve the dispute, the Petitioner filed a suit with the Industrial Court which was dismissed based on the limitation of actions pursuant to section 90 of the Employment Act (Cap. 226) (repealed). An appeal to the Court of Appeal was also struck out on the same basis.
- (iii) The subsequent suits by the Petitioner were unsuccessful based on the doctrine of *res judicata*. This doctrine is enshrined under section 7 of the Civil Procedure Act (Cap. 21) and it bars a court from trying a suit involving same parties raising

the same issues which have been sufficiently determined by another court of competent jurisdiction.

- (iv) The Petitioner's dues totaling Kshs992,894.20 which was subject to PAYE and other statutory deductions and loans was calculated and paid.

Committee Resolutions

After deliberations, the Committee resolved to adopt the report with the following recommendations—

- (i) On the prayer that the Committee inquires into the dismissal of Mr. Gerald Muli Kiilu by Absa Bank (formely, the Barclays Bank of Kenya LTD), the Committee undertook this inquiry by listening to the petitioner and the management of ABSA Bank and notes that this was a dispute between an employer and employee that arose in 2005 out of an employer-employee relationship.
- (ii) On the prayer that Absa Bank considers reinstating the Petitioner without loss or break in years of service, the Committee rejects this prayer on the premise that various courts, which have jurisdiction to determine employment disputes, have pronounced themselves sufficiently over this matter.

MIN./PPETC/2025/044:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 5:00 p.m. The date of the next meeting will be Friday, 11th April 2025.

Sign: 

(CHAIRPERSON)

Date.....17/4/2025.....