

39



Library

PARLIAMENT
OF KENYA
LIBRARY

Speaker	
Deputy Speaker	
Clerk	
Deputy Clerk	
President	
Secretary	
Editor	
Press	

37

KENYA NATIONAL ASSEMBLY

EIGHTH PARLIAMENT - SIXTH SESSION (2002)

**REPORT OF THE DEPARTMENTAL COMMITTEE ON
HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE ON
THE LABOUR DISPUTE BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF KENYA AND THE KENYA NATIONAL
UNION OF TEACHERS**

National Assembly
Parliament Buildings
NAIROBI

April 15, 2002

Preface

Mr. Speaker, Sir,

The Departmental Committee on Health, Housing, Labour and Social Welfare is established pursuant to Standing Order 151(1).

The Schedule to the Standing Orders assign the following functions to the Committee:-

Labour and trade union relations; manpower planning; housing policy and development; public health, medical care and insurance; culture and social welfare.

Accordingly, the functions mentioned above put the following Ministries and Departments under the Committee's purview;

- (i) The Ministry of Health
- (ii) The Ministry of Labour and Human Resource Development
- (iii) The Department of Housing in the Ministry of Roads and Public Works
- (iv) The Ministry of Home Affairs, Heritage and Sports

Mr. Speaker, Sir,

It was in recognition of the Committee's functions under the labour and trade union relations portfolio that the Kenya National Union of Teachers (KNUT) representing 240,000 teachers countrywide formally wrote to the Committee through the Clerk of the National Assembly requesting its indulgence in a salary dispute between KNUT and the Government of Kenya.

The Committee, therefore, took up the matter procedurally and rightfully pursuant to Standing Order No. 151(4)(a),(b),(e) and (f) and in the Schedule.

Mr. Speaker, Sir,

The Committee separately held two meetings with the Kenya National Union of Teachers, two meetings with the Minister for Labour and one meeting with the Minister for Education in a bold, determined and deliberate effort to break the impasse between the KNUT and the Government over the pay package agreed upon between the parties concerned in 1997.

The Committee had scheduled a tripartite meeting between all the parties to the dispute namely, the KNUT, the Minister for Education and the Minister for Labour on Tuesday, April 02, 2002. However, the Ministers for Labour and that of Education blatantly refused to appear for the meeting to the utter disappointment of the Members of the Committee.

The failure by the Ministers to attend the planned tripartite meeting completely shut the door for any amicable settlement to the matter. The Committee took great exception to the most discourteous and arrogant manner in which the Permanent Secretary, Ministry of Education turned down its invitation to the meeting. The Permanent Secretary even suggested that the Committee had no *locus standi* in the matter. (His letter is attached).

Mr. Speaker, Sir,

Let me now take the House through the paces of the background to the disagreement between the KNUT and the Government to assist Honourable Members to clearly understand the matter in question.

Notes and Observations

The Minister for Education, in exercise of powers conferred on him by section 13(1) of the Teachers Service Commission Act (Cap 212) established the Teachers Service Remuneration Committee (TSRC) in 1997 consisting of the following:-

1. Hon. Dr. Taaita Toweett, MP - Chairman
2. Mr. John M. Katumanga
3. Mr. Ambrose A. Adongo
4. Mr. John B. Mboga
5. Mr. Francis M. Ng'ang'a
6. Mr. Peter M. Mutulu
7. Mr. Jackson Kang'ali
8. Mr. Ezekiel M. Kegode
9. Mr. Sammy P. M. Kyungu
10. Mr. Idris M. Farah
11. Mr. Edward K. Kimari
12. Mr. Wilfred Muthuri

The Committee reviewed the remuneration of teachers pursuant to the provisions of section 14(1) of the TSC Act (Cap. 212) and transmitted their recommendations to the Minister for Education as stipulated by section 14(2) of the same Act.

However, in total contravention to section 14(3) of the Act, the Minister for Education unilaterally and without any consultations proceeded to prepare a draft Order (No. 180 of 1997) purporting to give effect to the recommendations of the TSRC.

In response to the above apparently illegal act by the Minister, the KNUT called for a national strike on October 01, 1997 effectively paralysing operations in all public schools, countrywide.

Subsequently, during Moi Day on October 10, 1997, His Excellency the President, Hon. Daniel Arap Moi appointed a Committee headed by Mr. Fares M. Kuindwa, former Permanent Secretary, Secretary to the Cabinet and Head of the Public Service. Other Members of the Committee included Mr. Simeon S. Lesirma, former Permanent Secretary, the Treasury, and Hon. Justice Aaron Ringera, then Solicitor General. The Committee was detailed to meet with KNUT and get a solution to the teachers' salary problems within 48 hours.

The Committee appointed by the President met with KNUT on October 11, 1997 and came up with a Memorandum of Agreement on the same day. (The Agreement is appended to this report) Following the agreement between the Government of the Republic of Kenya and the KNUT, the Minister acted in accordance with the provisions of TSC Act (Cap. 212) and made the Teachers Service Commission (Remuneration of Teachers) Order as contained in Legal Notice No. 534 of 1997.

The Agreement referred to above led to the suspension of the strike and the resumption of normal operations in schools.

As a result of the agreement between the Government of Kenya and the KNUT and as reflected in Legal Notice No. 534 of 1997, the teachers were to be paid their salary increments in five phases with effect from July 01, 1997 up to July 2001.

The Government paid phase one of the salary award. However, it has subsequently failed to pay the remaining four phases of the agreement, and has, even worse, adamantly and stubbornly refused to open negotiations on the implementation of the remaining phases of the agreement.

The handling of the volatile situation by the Ministry of Education, particularly by the casual disposition of the Permanent Secretary, Prof. Japheth Kiptoon leaves a lot to be desired.

In September 1998, the KNUT issued a twenty one (21) day strike notice to the Minister for Labour as provided by section 26(a) of the Trade Disputes Act (Cap. 234) due to the Government's intransigence and failure to implement the pending phases of the TSRC recommendations and to abide by the Memorandum of Agreement.

Upon receipt of the strike notice, the Minister for Labour referred the matter to the Industrial Court. The Committee noted with grave concern that the Minister for Labour made no effort, whatsoever, to arbitrate between the parties to the dispute. In particular, the Minister completely

failed to implement the Trade Disputes Act (Cap. 234) and having reviewed the cascade of events surrounding the labour dispute, the Committee finds it extremely difficult to justify the competence of the management of the Ministry.

Section 11(3) of the Trade Disputes Act, for example, provides as follows:

Every employer or organization of employers that has entered into a collective agreement shall secure that a copy thereof is lodged with the Minister within fourteen days of its execution.

Section 11(7) states as follows:

Any employer who, or organization of employers which, fails to secure that a copy of a collective agreement is lodged with the Minister within twenty-eight days of its execution in accordance with subsection (3), or who or which fails to comply with any of the requirements of any regulation made under subsection (6), shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings in respect of a first offence and to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months or to both in respect of a second or subsequent offence.

The Minister for Labour never took any step to enforce the above and specifically to secure the collective agreement from the employer. His decision to refer the matter to the Industrial Court was, therefore, ill advised as he had not registered the agreement with the Industrial Court. His was an ambitious effort to scuttle the objective of the KNUT.

Section 7(1) of the same Act provides as follows:

Where the Minister is satisfied that any trade dispute exists or is apprehended he may, whether or not the dispute has been reported to him under this Act, investigate any matter appearing to him to

be relevant to the dispute, or refer any such matter for investigation by an investigator, or by a committee of investigation, appointed by him for the purpose.

In addition, the Minister claimed that to date, the dispute has not been reported to him even after the KNUT issued a 21-day strike notice in September 1998.

Section 29 of Cap. 234 further states as follows:

Where it appears to the Minister that there is an actual or a threatened strike or lockout arising out of a trade dispute in any section of industry, and the Minister is of the opinion-

- (a) that the matters to which that trade dispute relates have been settled by an agreement or award; and
- (b) that a substantial proportion of the employers and a substantial proportion of the employees in that section of industry are, either directly or through their respective organisations of employers or employees, parties to that agreement or award; and
- (c) that that agreement or award is expressed to have effect until a date which has not been reached,

the Minister may by order-

- (i) require the parties to that dispute to comply with that agreement or award; and
- (ii) declare any strike or lockout (whether actual or threatened) in that section of industry to be unlawful until a date specified in the order, being a date on which, in the opinion of the Minister, the agreement or award ceases to have effect.

The Committee notes with grave concern that the Government has not made any genuine tangible attempt to settle the dispute. The whole exercise has been characterised by ineptitude and buck passing between one Ministry to another, especially the Ministry of Labour and Education.

It is more perturbing considering that the Government has never indicated in writing that it is unable to fulfil its side of the bargain.

The Committee notes that the remaining four phases would cost the Exchequer a mere kshs.23.4 billion which the Committee finds reasonable and which can easily and realistically be accommodated through mutually agreed phases. (The breakdown is appended to this report).

Based on the foregoing and on the presentations to the Committee by the KNUT, the Minister for Labour and the Minister for Education, the Committee makes the following recommendations for adoption by this House and implementation by the Government.

Recommendations

1. The Committee strongly recommends that the Government should first apologise to the teachers for the financial inconvenience and psychological distress it has caused them since the salary agreement was signed in 1997
2. The Committee also recommends that the Government should as a matter of urgency commence negotiations with KNUT on the implementation of the remaining phases of the teachers' pay. **The question of negotiating a new agreement should not arise.**

The KNUT has expressed a willingness to negotiate the implementation of the agreement in view of the unfavourable economic situation. This is the only sure way of avoiding the impending industrial unrest in the education sector.

3. The Committee also recommends that the Ministry of Labour should provide leadership and be an independent arbiter in labour disputes whether or not the offending employer is the government.
4. The Committee also recommends that the Government should always honour and implement contractual agreements entered into with other parties.
5. Contrary to section 21 of the Powers and Privileges Act (Cap. 6), the Minister for Education informed the Committee that the Ministry would consult the KNUT on March 11, 2002 to map out the way forward which turned out to be untrue.

The Committee recommends that the House takes appropriate action against the Minister.

6. Contrary to the same Act, the Minister for Labour informed the Committee that the dispute had never been reported to him. Correspondence between KNUT and the Minister for Labour dated September 02, 1998 proved that the Minister deliberately misled the Committee.

The Committee recommends that the House takes appropriate action against the Minister in accordance with the National Assembly Powers and Privileges Act.

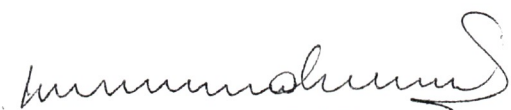
Conclusion

Mr. Speaker, Sir,

The Government made a lawful commitment to the teachers in a lawful process in 1997. The Government has since made fruitless attempts to renege on the agreement. This is not only unacceptable but also immoral as it erodes the very tenets on which the principle of government is founded. The Government is on trial with respect to

industrial relations particularly on the links between employers and employees.

Without any shade of doubt, the Government should set a good example to all employers. The labour dispute between the KNUT and the Government proves that the Government needs to put its act together in dealing with labour matters generally. Amicable settlement of this dispute will vindicate the image of the Government whose handling of the issue has been found wanting to the detriment of the provision of an essential service.



Hon. (Dr.) N. W. Kulundu, MP - Chairman
Departmental Committee on Health, Housing, Labour and Social Welfare

Signature:

Date: April 15, 2002

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

Telegrams: "EDUCATION", Nairobi

Telephone: Nairobi 334411

When replying please quote

Ref. No. C/8/VOL V/88
and date



60

THE PERMANENT SECRETARY
JOGOO HOUSE "B"
HARAMBEE AVENUE
P.O. Box 30040
NAIROBI

25th March, 2002 20...

Mr. S.W. Ndindiri,
Clerk,
National Assembly,
NAIROBI.

Dear

Mr. Ndindiri,

**MEETING BETWEEN THE DEPARTMENTAL COMMITTEE ON
HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE AND THE
MINISTERS FOR LABOUR, EDUCATION AND THE KENYA
NATIONAL UNION OF TEACHERS (KNUT)**

Reference is made to your letter NO. NA/HHL&SW/02(56) of
22nd March, 2002, inviting the Ministers for Labour and Education;
and the KNUT to a meeting with the Departmental Committee on
Health, Housing, Labour and Social Welfare, on Tuesday 2nd April, 2002.

The Minister for Education has already appeared before the
Departmental Committee on Health, Housing, Labour and Social
Welfare. The Minister presented all the facts relating to the TSC
implementing the remaining phases of the Teachers Service
Remuneration Committee recommendations of 1997. The
agreement which stipulated salary wage bill of 200% increase based
on Kshs.23.6 billion would raise the annual wage bill to Kshs.70.8
billion which Kenya's economy cannot sustain. The figures agreed on
were clearly unworkable from the start.

It is rather unfair for the union to use the Parliamentary Committee
to negotiate for the teachers' Terms and Conditions of service when
the law stipulates that Terms and Conditions of service can only be
negotiated with the employer. KNUT should be discouraged from
misusing Parliament and be advised to go back to the negotiating
table with the teachers' employer – the TSC.

The Minister has given all the information to the Departmental Committee on Education and therefore any other committee can obtain the Minutes from this Committee if they need more clarification.

Yours *Sincerely,*



PROF. J.C. KIPTOON, EBS, Ph.D
PERMANENT SECRETARY

CC.

The Minister for Education,

Dr. S.J. Kosgei, EGH, CBS,
Permanent Secretary/Secretary to the
Cabinet & Head of Public Service,
Office of the President,
NAIROBI.

Mr. Mwaghazi Mwachofi,
Permanent Secretary,
Ministry of Finance & Planning,
NAIROBI.

Amb. J. K. Terer,
Permanent Secretary,
Ministry for Labour & Human Resource Management,
NAIROBI.

KENYA NATIONAL UNION OF TEACHERS (KNUT)

ESTIMATED ADDITIONAL BUDGET FOR IMPLEMENTING THE REMAINING FOUR PHASES OF TEACHERS 1997 AWARDS (KSHILLINGS BILLION)

Component	Phase II	Phase III	Phase IV	Phase V	Total
Basic Salaries	5.701	5.109	5.332	4.570	20.712
House Allowances	0.510	0.255	-	-	0.765
Medical Allowances	0.137	-	-	-	0.137
Responsibility Allowances	0.073	0.074	0.049	-	0.196
Special Duty Allowance	-	-	-	-	-
Hardship Allowance	-	-	-	-	-
Commuter Allowance	1.654	-	-	-	1.654
Total All	8.075	5.438	5.381	4.570	23.464
Total Without House Allowance	7.565	5.183	5.381	4.570	22.712
Total Without Any Allowance	5.701	5.109	5.332	4.570	20.712

NB: Computation Principles:

- (a) The reductions are based on teachers population decrease of 13% between 1998 and 2002;
- (b) The percentage awards are based on the 1996/1997 salaries on the basis of which the awards were made;
- (c) Special Duty and Hardship Allowances were fully paid in phase I while Medical and Commuter Allowances were to be fully paid in Phase II. House allowances adjustments were to be completed with Phase III. Responsibility Allowances ended in Phase IV.

KNUT Headquarters
12th February, 2002

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF KENYA AND THE KENYA NATIONAL UNION OF
TEACHERS (K.N.U.T.)

Following intensive and very frank negotiations between the Government of the Republic of Kenya and the Kenya National Union of Teachers as directed by His Excellency the President, Hon. Daniel T. Arap Moi, on the occasion of Moi Day on the 10th October, 1997, it has been agreed as follows:-

1. That the Government accepts the recommendations of the Teachers Service Remuneration Committee (1997) submitted to the Minister for Education on 2nd July, 1997, and
2. The Minister for Education will prepare a remuneration Order directing that the remuneration of teachers shall be determined in accordance therewith, and
3. The recommendations embodied in the remuneration order will be implemented over a period of five (5) years with effect from 1st July, 1997, as per the schedule annexed hereto, and
4. The remuneration of Teachers order made on 25th September, 1997, by the Minister for Education and published as Legal Notice No. 180 of 1997 shall be revoked.

.../2

AAA

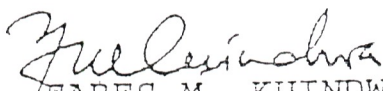
[Handwritten signature]


The following return to work formula has also been agreed:-

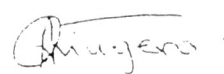
- a) The teachers strike is called off with immediate effect, and
- b) Normal teaching services will resume on Monday 13th October, 1997, at 8:00 a.m., and
- c) There will be no victimization of any teacher on account of any strike related act or omission.

Dated at Nairobi this 11th Day of October 1997.

SIGNED by:-

1. 
MR. FARES M. KUINDWA,
PERMANENT SECRETARY, SECRETARY TO THE
CABINET AND HEAD OF THE PUBLIC SERVICE

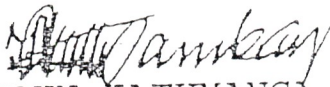
2. 
MR. SIMEON S. LESRIMA,
PERMANENT SECRETARY, TREASURY

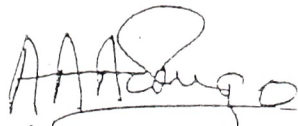
3. 
HON. JUSTICE AARON RINGERA
SOLICITOR-GENERAL


for and on behalf of the Government of the
Republic of Kenya

.../3

SIGNED by:-

1. 
JOHN KATUMANGA
NATIONAL CHAIRMAN

2. 
AMBROSE ADONGO
SECRETARY - GENERAL

3. 
JOHN BOSCO MBOGA
NATIONAL TREASURER

for and on behalf of the Kenya National Union of Teachers.

.....

SCHEDULE

A. SALARIES

	<u>Highest earning</u>	<u>Lowest earning</u>
1ST JULY 1997	25%	45%
1ST JULY 1998	35%	45%
1ST JULY 1999	35%	40%
1ST JULY 2000	35%	40%
1ST JULY 2001	20%	30%



B. ALLOWANCES

	1997	1998	1999	2000	2001
House Allowance:	35%	10%	5%		
Medical	15%	5%			
Responsibility	100%	150%	150%	100%	
Special allowance	10%				
Hardship Allowance	30%				
Automatic Commuter Allowance		10%			

N.B.

The following other allowances to be effected as follows:-

1. Accommodation allowance with effect from 1st July, 1998.
2. Transfer allowance with effect from 1st July, 1998.
3. Advances for purchase of motor vehicles according to Treasury regulations with effect from 1st July, 1998.

MINUTES OF THE SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM NO.9, PARLIAMENT BUILDINGS ON TUESDAY, 12TH FEBRUARY, 2002 AT 2.40 P.M.

PRESENT: The following Members were present:

Dr. the Hon. N.W. Kulundu, MP - Chairman
Hon. Joshua Toro, MP
Hon. Njehu Gatabaki, MP
Hon. Norman M.G.K. Nyagah, MP
Hon. Z. Opore, MP

ABSENT:

Hon. Frederick Kalulu, MP
Hon. Mrs Grace Mwewa, MP
Hon. Kihara Mwangi, MP
Hon. J.J. Mugalla, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. S. Njenga - Third Clerk Assistant

MIN.04/02: MEETING WITH KNUT

The Chairman of KNUT, Mr. John Katumanga, accompanied by Messrs Joseph Chirchir, David N. Ngoco, Francis M. Ng'ang'a, Lawrence Majali, David Osiany, Peter M. Mutulu, Fred Ontere, Paul Nyambala, Erick Keter, Alex Kaliavu and E. Lorot appeared before the Committee to brief them on the long standing dispute with the government regarding the 1997 salary awards.

The committee was informed as follows:

- (i) The Teachers Service Remuneration Committee made recommendations and forwarded them to the Minister as stipulated in the Teachers Service Commission Act.
- (ii) the Minister however gazetted his own proposals contrary to the law forcing the KNUT to call for a national strike in October, 1997.
- (iii) The President appointed a Task Force under the Chairmanship of Fares Kuindwa on 10th October, 1997 to explore avenues of breaking the stalemate.

- (iv) An agreement was signed and presented to the President who undertook to implement it.
- (v) The Ministry gazetted the salary awards through Legal Notice No.534 of 1997.
- (vi) The government only paid the first phase of the awards but refused to pay the remaining phases.
- (vii) The government has, in addition, refused to negotiate with KNUT.

Members' comments

On the impact of the award on the Exchequer, KNUT responded that it would cost Ksh23.464 billion to pay all the remaining phases.

The committee expressed concern that Section 13 of the TSC Act can be abused to which KNUT responded that it has operated well, so far.

MIN.05/02: ANY OTHER BUSINESS

The Committee resolved to hold a Press Conference in Parliament on Wednesday, 13th February, 2002 to address the labour dispute.

MIN.06/02: ADJOURNMENT

And there being no other business the Chairman adjourned the sitting at Five O'clock.

Confirmed:(Signed).....
(Chairman)

Date:15thApril, 2002.....

MINUTES OF THE EIGHTH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN COMMITTEE ROOM NO.9, PARLIAMENT BUILDINGS ON FRIDAY, 22ND FEBRUARY, 2002 AT 9.00 A.M.

PRESENT: The following Members were present:

Dr. the Hon. N.W. Kulundu, MP - Chairman
Hon. Norman M.G.K. Nyagah, MP
Hon. Z. Opore, MP
Hon. J.J. Mugalla, MP
Hon. Joshua Toro, MP
Hon. Frederick Kalulu, MP

ABSENT:

Hon. Mrs Grace Mwewa, MP
Hon. Kihara Mwangi, MP
Hon. Njehu Gatabaki, MP
Hon. George Nyanja, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. D.K. Zia - Third Clerk Assistant

MIN.19/02: MEETING WITH THE MINISTRY OF LABOUR

The Minister for Labour Hon. Joseph Ngutu, accompanied by Mr. Samson Machuka, Deputy Chief Economist; Mrs B.W. Mwai, Chief Industrial Relations Officer; Mr. J.N. Ndiho, Deputy Chief Industrial Relations Officer; Mr. Mwangi Gakunga, Public Relations Officer and Mr. Mathias Omondi, Senior Assistant Secretary, appeared before the Committee.

Deliberations on the Implementation of the remaining Phases of Teachers Remunerations

After deliberating on the issue for quite some time, the Minister requested the Committee for more time for him to prepare and gather more information on the issues raised by Members.

Members also took issue with the fact that a court ruling submitted before the Committee had not been signed by the judge.

It was agreed that the meeting between the Minister and the Committee be scheduled for Wednesday, February 27, 2001 at 9.00 a.m.

The minister was also asked to submit before the Committee a signed copy of the industrial court ruling on the teachers' dispute.

MIN.20/02: DATE OF NEXT MEETING

The Minister for Labour was scheduled to meet the Committee on Wednesday, February 27, 2002 at 9.00 a.m.

MIN.21/02: ADJOURNMENT

And there being no other business the Chairman adjourned the sitting at Twelve O'clock.

Confirmed:Signed.....
(Chairman)

Date: 15th April, 2002.....

MINUTES OF THE TWELFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN CONFERENCE ROOM NO.9, PARLIAMENT BUILDINGS ON FRIDAY, MARCH 08,2002 AT 10.00 A.M.

PRESENT:

The Hon. Newton W. Kulundu M.P. Chairman
The Hon. Joshua Toro, M.P.
The Hon. Njehu Gatabaki, M.P.
The Hon. Joseph J. Mugalla, M.P.
The Hon. Zebedeo Opore, M.P.
The Hon. Kihara Mwangi, M.P.
The Hon. George Nyanja, M.P.

IN ATTENDANCE - NATIONAL ASSEMBLY

Mr. David K. Ziah Second Clerk Assistant

MINISTRY OF EDUCATION

The Hon. Henry K. Kosgey, EGH, M.P. - Minister
Prof. Japheth C. Kipton, EBS, PHD - Permanent Secretary
Mrs. Naomy W. Wangai - Director of Education

TEACHERS SERVICE COMMISSION

Mr. Benjamin Sogomo - Secretary

MIN.31/02: MEETING WITH THE MINISTRY OF EDUCATION

Introductory remarks were made by the Chairman for the Committee while the minister introduced the officers accompanying him.

The Committee wanted to know from the Minister why the Government had persistently failed to honour the agreement on teacher's remuneration concluded in 1997 between the Kenya National Union of Teachers and the Teachers Service Commission.

The Minister responded by saying that the Agreement was negotiated between the Teachers Union and the Teachers Service Commission and after its conclusion it was forwarded to the Ministry for gazette as required by law. The Ministry did that via Kenya Gazette Notice No.534 of 1997. In 1997 it was agreed that the payment be made in phases and the first phase was implemented. Since then, the Government has been unable to implement other subsequent phases because of a short fall in government revenue.

The Minister was wondering what could have been in the minds of the negotiators at the time of negotiations that made them to accept these

huge increments. To implement phases two, three, four and five the government will require 48,63, 76 and 84 billion shillings respectively.

The Minister added that there was a misconception that teacher's salary has been static. The truth was that teachers have benefited from government initiatives such as the harmonization of salaries of public workers. This year the teachers got 15% salary increment

The Minister was concerned that efforts to have a meeting with the Kenya National Union of Teachers have either been met with walkouts by KNUT officers or non-attendance. The Minister said another meeting had been scheduled on Monday, March 11, 2002 where the issue will be discussed with an aim of breaking the stalemate.

Response by Members of the Committee

Members responded by saying that:

The amount of money needed was not huge as the Minister would like the Committee to believe. They said that those figures had been reached after careful consideration by experienced economists who understood the implications very well. Bad economic indicators were in existence even before the Agreement was negotiated and concluded

The figures quoted by the minister were too high compared to figures given by KNUT. According to KNUT figures Kshs23.464 billion was required to implement all the phases.

Members wondered why the Minister had breached the Trade Disputes Act, Cap 234 of the Laws of Kenya, Section 11(3) and (7) for his failure to notify the Ministry of Labour on the Agreement as required by law.

Evidenced by correspondence by KNUT requesting for dialogue, Members were convinced that it was the Ministry that had refused to meet KNUT and hold dialogue.

The Ministry was not committed to pay anything to the teachers. Members did not accept that bad economic performance was the reason for the Ministry's failure to honor the Agreement. Other cadres of civil servants had been given hefty salary increments so Members were wondering why the teachers had been singled out not to get any of the phases paid. Members suggested that the Ministry could implement at least phase two and then negotiate how to implement the remaining phases.

The Minister was asked to suggest the way forward since the teachers dispute was genuine and given that there is an eminent threat of a national by the teachers. Members assured the Minister that in case the strike becomes a reality the Members of Parliament will support the teachers.

The way forward would be for the Minister to include the teacher's remuneration in the supplementary estimates expected to be tabled in the House soon. Members of Parliament would be willing to approve the expenditure.

Members warned that in the event of a strike by the teachers, the Committee would back them since they couldn't see how it could be declared illegal.

Resolution by the Committee

It was resolved that the Minister meet with KNUT as scheduled on Monday, March 11, 2002 and then brief the Committee on the progress of the negotiations on the dispute in a Week's time.

MIN. 32/02 ANY OTHER BUSINESS

The Chairman briefed the Committee on the overseas trip sponsored by the National Hospital Insurance Fund (NHIF) saying that the budget had been approved and preparations for the trip should take off. A tentative departure date of March 16,2002 was agreed upon.

MIN.33/02 ADJOURNMENT

And the time being 11.45 a.m. the Chairman adjourned the Sitting up to Monday, March 11, 2002

Confirmed.....(Signed).....
Chairman

Date.....15th April, 2002.....

MINUTES OF THE FOURTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH, HOUSING, LABOUR AND SOCIAL WELFARE HELD IN THE MAIN COMMITTEE ROOM, COUNTY HALL, ON TUESDAY, 2ND APRIL, 2002 AT 9.00 A.M.

PRESENT

The following Members of the Committee were present:-

Dr. the Hon. N.W. Kulundu, M.P. **Chairman**
Hon. N. Gatabaki, M.P. M.P.
Hon. Z. Opore, M.P.
Hon. N. Nyagah, M.P.
Hon. K. Mwangi, M.P.
Hon. J. Toro, M.P.
Hon. J. J. Mugalla, M.P.
Hon. F. Kalulu, M.P.

NATIONAL ASSEMBLY

IN ATTENDANCE

Mr. S. Njenga - Clerk Assistant.
Mr. D. Ziah - Clerk Assistant.

MIN.36/02

MEETING WITH THE MINISTERS FOR EDUCATION AND LABOUR AND THE K.N.U.T.

The following Kenya National Union of Teachers Officials appeared before the Committee:-

John M. Katumanga - National Chairman
Joseph Chirchir - 1st Vice National Chairman
David N. Ngoco - 2nd Vice National Chairman
Francis M. Ng'ang'a - Secretary General
Lawrence Majali - Deputy Secretary General
David O. Osiany - Asst. Secretary General
Peter M. Mutulu - National Treasurer
Fred Ontere - Vice National Treasurer
Peter L. Lubulela - Principal Executive
Paul M. Nyambala - Senior Executive Officer 1
Eric Keter - Senior Executive Officer II
Alex N. Kariavu - Senior Executive Officer II
Edward Lorot - Executive Officer II

The Chairman informed the Committee that the meeting was scheduled with the two Ministers and Kenya National Union of Teachers

~~The~~

The Chairman briefed Kenya National Union of Teachers (KNUT) on the progress made in pursuing the matter regarding the non implementation of the Teacher's Salary awards of 1997.

The Chairman further informed Kenya National Union of Teachers (KNUT) that the Committee would proceed to write its report to the House on the matter.

KENYA NATIONAL UNION OF TEACHERS REMARKS

- The Government is avoiding responsibility in fulfilling the terms of the agreement.
- The Government cannot claim inability to pay the salaries as it was fully represented in the TSRC.
- The Government should reopen negotiations with Kenya National Union of Teachers if it is unable to pay the agreed rates immediately. The remaining phases could be staggered.

MIN.37/2002 ADJOURNMENT

And there being no other business for discussion, the Chairman adjourned the Sitting at Twelve O'clock until Friday, 5th April, 2002 at 9.00 a.m.

(Signed)

CONFIRMED

(CHAIRMAN)

15th April, 2002

DATE

