

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF BOMET

COUNTY ASSEMBLY

FIRST ASSEMBLY- FOURTH SESSION

THE COMMITTEE ON LABOUR AND PUBLIC SERVICE
REPORT

PETITION NO. 7 FROM SASETA AREA OF MOGOGOSIEK
WARD, KONOIN SUB COUNTY

22ND FEBRUARY, 2016

*Tabled on 23/2/2016
at 2:30 pm.
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PREFACE

1.0 Executive Summary

The committee on Labour and Public Service is one of the sectoral committees established under the Standing Orders 193(1) and the Second Schedule to the Standing Orders.

1.1 Committee Membership

The Committee on Labour and Public Service as currently constituted comprises of the following Honourable Members:-

- | | |
|-------------------------------|-------------------|
| 1. Hon. Reuben Langat | - Chairperson |
| 2. Hon. Bency Too | -Vice Chairperson |
| 3. Hon. Aurelia Chepkirui | - Member |
| 4. Hon. Christopher Ngeno | - Member |
| 5. Hon. John Ngetich | - Member |
| 6. Hon. David Rotich Big Five | - Member |

1.2 Mandate of the Committee

The Sectoral Committee on Labour and Public Service derives its mandate from provisions of Standing order 193(5) which defines functions of the Committee as being:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

- b) To study the program and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a minister;
- f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 187 (Committee on appointments); and
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

1.3 Petition No. 7 from John Korir (ID N0:14580529) and Paul K.Korir (ID N0:21075994) on behalf of Saseta Area interviewees from Mogogosiek Ward.

Pursuant to the Standing Orders 193(3) all matters relating to Labour, county public service, trade union relations, manpower or human resource planning fall within the mandate of the Committee on Labour and Public Service.

The Committee on Labour and Public service formally received the petition No. 7 from Saseta Area of Mogogosiek Ward in Konoin Sub-County on 21st October, 2015.

In dealing with the matter, the committee held six sittings. The committee was able to engage the Petitioners, the Honourable Member of County Assembly representing Mogogosiek Ward, the office of the County Secretary and the County Public Service Board (CPSB).

Upon deliberating in the said sittings and interrogating the documents submitted to it, the committee came up with a report in response to the petition as provided for under the Standing Order 205 (2)

It is therefore my pleasant duty and privilege, on behalf of the Committee on Labour and Public Service to table this report on the Petition No. 7.

SIGNED 

Date 23rd Feb. 2016

Hon. Reuben Langat

Chairperson, Committee on Labour and Public Service

1.4 OWNERSHIP OF THE REPORT

We, Honourable members of Committee on Labour and Public Service, do hereby append our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity:-

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No.	Name	Position	Signature
1.	Hon. Reuben Langat	Chairperson	
2.	Hon. Bency Too	Vice Chairperson	
3.	Hon. Christopher Ngeno	Member	
4.	Hon. John Ngetich	Member	
5.	Hon. David Rotich Big Five	Member	
6.	Hon. Aurelia Chepkirui	Member	

2.0 Introduction

Background

The Committee formally received the petition from John Korir (Identification number 14580529) and Paul Korir (identification number 21075994), both residents of Saseta Area of Mogogosiek Ward in Konoin Sub-County, on 21st October, 2015. The Petition sought to draw the attention of the County Assembly on the following;

1. Unfair and un-procedural recruitment of Community and Area Administrators within the Ward where persons who had not applied for a position were recruited yet those who applied and were shortlisted were blatantly left out;
2. Unfair and unequal distribution of employment opportunities within the ward (Saseta area) in which people of one village have been considered at the expense of other villages thus leading to marginalization;
3. Omission of applicants to attend the interview yet they were in the publicized shortlist.

2.1 Specific Prayers of the Petitioners

The specific prayers of the Petitioners to the County Assembly were given as follows;

1. To intervene and stop the ongoing recruitment process of Community and Area Administrators within Mogogosiek Ward;

2. To ensure that one person from among the six shortlisted candidates who were interviewed with respect to Saseta Area is considered for the post;
3. To carry out expeditious and proper investigations on the issues raised herein and make fair recommendations;
4. To compel the Konoin Sub-County Office and Mogogosiek Ward Office to act with fairness and to ensure equity is adhered to in all their dealings with the community.

To address the issues raised by the Petitioners (Annex 1), the Committee sat on 3rd November, 2015 and resolved to take the following steps;

- a) To request the Clerk of the County Assembly to invite the two petitioners and other respondents to shed more light on the issues raised and assist the committee prepare a comprehensive report;
 - i.) The two Petitioners namely John Korir and Paul Korir;
 - ii.) The Area Member of County Assembly;
 - iii.) The Sub-County Administrator & Mogogosiek Ward Administrator;
 - iv.) The Panel Members who carried out recruitment in the specific ward;
 - v.) The County Secretary; and
 - vi.) The Bomet County Public Service Board.

2.2 The Legal Framework

Petitions

The right of citizens to petition public authorities is enshrined in the Constitution, 2010. **Article 37** provides that;

“Every person has a right, peaceably and unarmed, to assemble, to demonstrate, to picket and to present petitions to public authorities”

The County Governments Act under **Section 15(1)** makes provision for citizens' right to petition the County assembly. The said section provides that;

“A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.”

The **Standing Orders 205(1)** provides that every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Sectoral Committee.

Standing Order 205(2) further provides that whenever a Petition is committed to a Sectoral Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the County Assembly and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes.

3.0 Submissions

The two petitioners appeared before the Committee on **10th November, 2015** in the following order;

3.1 Mr. John Korir ID No. 14580529

The Chair requested the first Petitioner, Mr. John Korir ID No. 14580529 to give his submissions and he stated as follows:

- That their complaint and subsequent Petition arose from a flawed recruitment process for Area and Community Administrators. The two vacancies were advertised and they applied for the post of Area Administrator in their area of Saseta as required and the following applicants were shortlisted: John Korir, Leonard Ngeno, Paul Yegon and Sharon Kirui.
- That the official shortlist was displayed in a public place as required by law and they came for the interview as stated in the shortlist.
- That after the interviews, none of those shortlisted was successful and they later learnt that **a Mr. Charles Too** had been allowed to do the interviews and yet he had not applied for the Area Administrator for Saseta. After a little background check, it was found that Mr. Too had actually applied for Community Administrator in Mogoget area. How he ended up being interviewed and taken for Saseta Area Administrator was irregular.
- That after perusing all the successful applicants for various positions in Mogogosiek Ward, it was established that one area called Kimori was being favoured as shown by the complaints letter forwarded earlier.
- That they would have been satisfied if one of those interviewed for Saseta Area Administrator was taken. They felt that it was unfair, unjust and unlawful to “import” a person.

- That Mr. Charles Too, who was taken as Saseta Area Administrator, was less qualified compared to those who were shortlisted and interviewed for the post.
- That it was later found out that there were two lists containing different names of applicants who were allowed to attend the interview.
- That he believed the former Sub-County Administrator, one Mr. Terer, was the officer who was in charge of the official shortlist and the fictitious shortlist.
- That the interview panel included the following officers:

Mr. Terer – former Konoin Sub-County Administrator, Mr. Vincent Langat - Current Konoin Sub-County Administrator, Mrs. Jane Rotich - An HR officer from Konoin Education Office, Mr. Baliach - A Civic Educator, Mr. John Kosgei - Current Mogogosiek Ward Administrator among others.

In conclusion, his prayer to the committee was that justice should be seen to have been done.

3.2 Mr. Paul Korir ID No. 21075994

Mr. Paul Korir, the second Petitioner, was invited to give his views and he stated as follows;

- That he has decided to petition the County Assembly of Bomet because of unfair recruitment of Saseta Area Administrator. He emphasized that it was a Constitutional Right to uphold fair employment practice.
- That the recruitment process for Saseta Area Administrator was not fair.
- That he had applied for the advertised position of Area Administrator but was omitted from the shortlist.
- That while checking the list pinned on the Public Notice Board of the office of the Sub-County Administrator for Konoin, he met the Sub-County administrator himself, one Mr. Terer, who took him into the office and seemed to regret that he was not in the publicized shortlist yet he actually qualified. The Administrator

then proceeded to urge him to attend the interviews after showing him a confidential shortlist which actually included his name (Paul Korir.). In that office where he was shown the confidential shortlist that contained his name, there were other people who witnessed the proceedings who included Mr. Ngeno the then Mogogosiek Ward Administrator.

- Finally he appreciated the committee for addressing injustices in recruitment in Bomet County.

Before the witnesses were released to go, the Chair asked all of them to state whether they would have raised a complaint in form of a petition if Mr. Paul Korir, who had not been shortlisted, had been employed as Saseta Area Administrator, and they all stated they would have accepted without raising any issue even though it was clearly irregular or flawed.

They stated that they did not like what they called 'importation' of one Mr. Charles Too from Mogoget Area to Saseta Area. They stated Mr. Too, who was eventually employed the Saseta Area Administrator, did not apply for the post in Saseta but had applied for Community Administrator in Mogoget Zone. Mr. Too also was not even interviewed for any post in Saseta and so they wondered which criteria was used to pick him to fill the post.

3.3 Hon. William Mosonik MCA Mogogosiek ward.

The Honourable Member of County Assembly representing Mogogosiek Ward appeared before the committee on 12th November, 2015. When asked whether he was aware that two of his warders had petitioned the County Assembly due to alleged irregularities in the recruitment process for Saseta Area Administrator, he answered in the affirmative and gave his views as follows:

- That he was the Mogogosiek MCA in whose area Saseta village falls.
- That he was aware that a Petition had been brought to the County Assembly by some of his Warders who complained that

the recruitment process for the post of Area Administrator for Saseta Area was unfair.

- That as he was trying to find out what had really transpired, the whole issue was politicized to the extent that he was sent 3 threatening text messages by someone he believed comes from Saseta Area.
- That the gist of the complaint was that some of his warders felt that some areas within Mogogosiek Ward were being left out in employment opportunities while one area of Kimori had benefitted with several people getting employed by the County Government of Bomet.
- That Mr. Paul Korir, who is one of the petitioners, had initially informed him, but after the issue was politicized with some villagers claiming that both the County Government and the Area MCA were partisan, he refrained from the issue since he was not part of the recruiting panel. He therefore stated that these are wrong accusations because he is not sitting in any employment panel and has never interfered with the recruitment process in his Ward.
- That the fact that one of the Petitioners, who was not officially shortlisted for Saseta Area Administrator, was allowed to attend the interviews shows that the whole recruitment process was flawed and corrupted, especially coming from the petitioner himself. He wondered how the petitioner complained of corruption after partaking of a corrupt process himself. His concern was that the person purporting to champion the rights of Saseta Area was himself allowed to break the law and he did so knowingly.
- That if the committee finds the process to have been compromised, then the due process of the law should be allowed to take its course.

3.4 Konoin Sub-County Administrator and Mogogosiek Ward Administrator

The two invited public officers failed to attend the meeting even after receiving formal invites and a telephone invite from the office of the Clerk of the County Assembly. The committee therefore resolved to request the Clerk of the County Assembly to re-invite the officers to appear again on 24th November, 2015 at 9.00 am which they didn't (Annex 3 & 4). It was then decided that the committee proceeds without their input.

3.5 Bomet County Public Service Board

The team from Bomet County Public Service Board led by the Chairman Amb. Joshua Terer appeared on 1st December, 2015. The Chairman tabled a written submission (Annex 2) and thereafter gave clarification on specific issues raised in the petition as follows:

- That the advert was not placed in a widely circulating daily newspaper, because it was intended for local consumption, hence the local public places and notice boards served well. The publicity and reception by the intended public was good as shown by the numerous applications received from all Wards in Bomet County.
- That CPSB decided to delegate the recruitment of Community and Area Administrators because they believed that delegation was a good thing when managed well and the law allows it as part of public participation and mentorship of officers.
- That they had given very clear procedures and criteria to use in the recruitment of Community and Area Administrators.
- That in this particular recruitment process, delegation was misused as the board was entirely kept in the dark. Neither the list of the various sub-county panelists nor the shortlist of applicants was ever given to the board as required. In the end the purported successful applicants were not known to the board as the law requires.
- When asked whether they were forced to delegate, the team from the CPSB reiterated that they had received a small verbal

request to have the recruitment of the Area and Community Administrators delegated. They then agreed to delegate the process due to the enormous work they had at the time.

- When asked whether the Board was aware that “successful” applicants for the post of Community and Area Administrators were already on duty and others were undergoing training, the Chair stated that the Board will be forced to use the default clause with a strict timeline failure to which the process would be declared null and void. This would force individuals to take responsibility for their action.
- That it should be stated again that all employment of staff in the County Government below the cadre of Chief Officers must be processed through the County Public Service Board. These include Permanent and Pensionable Staff, temporary and even Casuals.
- That the County Public Service Board should demand for another authorized agency to come and carry out a detailed Human Resource Forensic Audit in Bomet County.
- That it was obvious that there were serious irregularities in the recruitment of Saseta Area Administrator because the officers who carried out the process failed to follow the laid down procedure. They did not furnish the CPSB with timely and regular updates of what was being done while the Board was aware that officers had already been “appointed” and were undergoing training.

4.0 Committee Findings

1. It was found out that a Mr. Charles Too, who had applied for the post of Community Administrator in Mogoget Zone, emerged as a purported successful Area Administrator for Saseta, a post he had not applied for. (Annex 5)

2. It was observed that amongst the six candidates interviewed for Area administrator, none was considered for the post.
3. It was noted with concern that Paul Korir who was not shortlisted was later fraudulently allowed to do the interview by the then sub-county Administrator Mr.Terer.
4. It was observed that the Konoin Sub-county Administrator and the Mogogosiek Ward Administrator failed to appear before the committee even after being officially invited twice.
5. It also established that the advertisement for Community and Area Administrators was not placed in a widely circulating mode of communication contrary to section 66 of the County Governments Act 2012.
6. It was further observed that the criteria and procedure provided by the CPSB was not up to the standard required under section 65 of the County Governments Act 2012.
7. The CPSB did not set the conditions for the exercise of the power or performance of the duty as required under Regulation B.1 of the Public Service Regulations 2001.
8. The CPSB accepted a verbal request to delegate a crucial recruitment process that later turned out to be flawed. This shows that CPSB was not in-charge.
9. The CPSB seems to admit that there were serious irregularities in the recruitment process of Saseta Area Administrator.

5.0 Recommendations

Considering that the CPSB admitted that there were irregularities in the recruitment process of Community and Area Administration as evidenced by the following two scenarios;

(a) Mr. Charles Too who had applied for the post of Community Administrator in Mogogot Zone emerged as a purported successful Area Administrator for Saseta, a post he had not applied for;

(b) Mr. Paul Korir who was not shortlisted was later fraudulently allowed to do the interview by the then sub-county Administrator.

(i) The committee therefore recommends that the recruitment process for Saseta Area Administration be repeated.

(ii) The CPSB must always exercise their authority in all recruitment processes and must delegate within the provided regulations.

6.0 Conclusions

The committee did their work expeditiously and found out with a lot of concern that the CPSB failed to carry out its mandate and therefore the sub-county Administrator, Ward Administrator and the purported recruitment Panels took advantage of the lapse in the administrative weakness.

It is the informed opinion of the committee that any recruitment exercise in future must be guided by the legal framework.

Therefore the committee believes that the specific prayers of the two petitioners have been sufficiently answered.