

**SAMBURU COUNTY ASSEMBLY**



**THE HANSARD**

**Thursday, September 26<sup>th</sup>, 2019**

**The County Assembly met at the County Assembly chambers at 2.30 p.m.**

*(Temporary Speaker, (Hon. Stephanie Lanyasunya) in the chair)*

**PRAYERS**

### **COMMUNICATION FROM THE CHAIR**

**Temporary Speaker,** (Hon. Stephanie Lanyasunya): Hon. Members, I would like to acknowledge the presence of pupils and teachers from Lerata Primary School, Samburu East sub-county, Waso ward. On behalf of the County Assembly of Samburu, I welcome you to our Assembly.

### **QUESTIONS AND STATEMENTS**

**MCA Ang'ata Nanyokie Ward,** (Hon. Paul Leshimpiro): Thank you Hon. Speaker. I wish to respond to the Statement that was sought by Hon. Leitore in regard to the salary deductions of nurses. I have the pleasure to respond to the queries raised by the Hon. Member.

In an attempt to provide the clearer and well-illustrated response, I have broken the response into two parts. Part 1 shall deal with background of the strike and shall provide the chronology of events that led to the strike. In part 2, I will try to respond to the specific questions as raised by the Hon. Member.

### **STRIKE NOTICE**

It is important to note that Kenya National Union of Nurses (**KNUN**) declared an intention for a nationwide strike on 19<sup>th</sup> November, 2018 through a circular Ref: No NB/KNUN/MOH/VOL 11.7/650/18 annex 1 and the annex is here which was directed by the KNUN leadership.

In response to the nurses' demands, Samburu County Government gave a commitment to honour the terms of return to work formula; however, on 3<sup>rd</sup> December 2018, through Ref: SCG/CS/SRC/VOL 1/14, the Samburu County Government wrote to the Salaries and Remuneration Commission seeking authority to implement the return to work argument which is in annex No. 2 which shows the County Government of Samburu intended to pay the nurses according to the agreed formula.

After a number of counties expressed commitment to honour the agreement to pay nurses, the strike notice was withdrawn by the national officials of KNUN through a circular Ref: No NB/NKUN/MOH/Vol. 4.1/009/19 dated 9<sup>th</sup> January 2019.

However, on 25<sup>th</sup> January 2019, the KNUN Samburu chapter again gave a strike notice through Ref: No. NBI/KNUN/SMC/Vol.2.1/052/19, that is in annex 3 which describes the strike notice given by KNUN Samburu chapter.

In an effort to forestall the strike, the Health Management Team headed by then, the acting CEC, Julius Leseeto, responded by a series of meetings between the Executive and nurses. Despite the endless effort from the Health Management Team, the nurses were adamant and were determined to proceed with their intended industrial action.

On 30<sup>th</sup> January, 2019 the Council of Governors gave an advisory that all County Governments should adhere to the Salaries and Remuneration Commission letter dated 1<sup>st</sup> December, 2018 and therefore, the County Government could not proceed to pay the said salaries. So, the first time we said that the County Government wrote to the SRC because they wanted to comply with the CBA but then, the Council of Governors were directed according to this and the letter is also available, that is, in annex No. 4.

On first February 2019, by provisions of the Labour Relations Law, the Cabinet Secretary, Ukur Yatani appointed a reconciliatory committee to mediate and resolve the impulses and file with him a report within 30 days. Consequently, the employment and labour relations sitting at Nairobi declared the strike to be illegal and therefore, ordered the following:

1. That the strike notice and any industrial action already commenced by the nurses be suspended for a period of 60 days.
2. That the parties to the dispute through their representatives submit themselves to the reconciliatory process and a report be filed in court at the end of the 60 days.

Madam Speaker, however, this court order was ignored by our nurses as they continued with their intention to strike. On 11<sup>th</sup> February 2019, the nurses in Samburu ignored all the warnings against their intended action and went on strike paralyzing health action both in the County Referral Hospital and Baragoi Sub-county Hospital.

The most painful effects of strike was a case in point when a 900 grams premature baby who was in life-support in the incubator had to be removed from oxygen within the incubator and be referred to Wamba Mission Hospital because the health workers were demanding for more pay.

Subsequently, on 11<sup>th</sup> February, the Council of Governors directed that all counties to issue show-cause letters to all nurses who had ignored court ruling as that was tantamount to the court contempt and that is in annex No. 5

Consequently, on 12<sup>th</sup> February, 2019, the Chief Officer of Health wrote a memo to the striking nurses explaining the consequences of their action and asking them to resume to work as talks and reconciliatory meetings were on-going. Annex No. 6. This too was ignored by the nurses.

On 13<sup>th</sup> February, 2019, H.E the president, Uhuru Kenyatta and the entire leadership of Council of Governors issued a press directing that:

- a.** All nurses should resume duty with immediate effect and in any case, not later than Friday 15<sup>th</sup> February, 2019 at 8:00 am.
- b.** Any nurse who fails to report to work as directed above will be dismissed by the County Governments and the Ministry of Health.
- c.** The respective County Governments shall therefore be at liberty to undertake any action as they deem appropriate against personnel who fail to resume to their duties as directed by the Employment and Labour Relations Act. This again was ignored.

In response to the strike, on 19<sup>th</sup> February, 2019, our Samburu Human Resource and Disciplinary Advisory Committee held a meeting to deliberate on disciplinary issue against the nurses who

had ignored both the court order and the Presidential directive and all the reconciliatory efforts from the department.

H.E the Governor and the Deputy Governor, Samburu County held a meeting which was attended by the following:

1. The County Secretary
2. Chief of Staff
3. Six Chief Officers including Chief Officer of Health
4. The Director of Human Resource

In the deliberations, the Human Resource and Disciplinary Advisory Committee meeting resolved that all nurses who had ignored all the directives and court order were in contempt of court and therefore should face disciplinary action including:

- a. Show-cause letters
- b. Stoppage of salaries

This is found in annex No. 7 which was also ignored by the nurses.

On 7<sup>th</sup> February 2019, National Union of Nurses Samburu County branch wrote to the Chief Officer, Department of Health asking for explanation for the wrong deductions in their pay slips on 26<sup>th</sup> March, 2019 and the Chief Officer responded to their letter explaining the circumstances under which the deductions were made and it is in annex No. 8.

Madam Speaker, having heard the above narrative, it is now clear why the nurses' salaries were deducted and the reasons for deduction were well-explained to the nurses.

Madam Speaker, as nurses absconded duty on said days and therefore did not work as per the law, there are no plans to pay them whatsoever as paying them will be violating labor laws. That is the 10 days. Question number 3, future plans to curb such unnecessary deductions from health workers. Madam Speaker, such scenarios are necessary as the disrupt services subjecting

innocent and vulnerable sick children and mothers to pain and suffering and retards gains made in the overall objective of promoting health and wellness in our County.

However, such can only be curbed in future if all parties adhere to the strict provisions of law and the Nursing Code of Ethics of putting human life ahead of monetary gains. Madam Speaker on 20<sup>th</sup> August, the Department approached some partner to support dialogue between the Department and the Trade Unions. The meeting was organized in Archers and was facilitated by the Labor Officer, Samburu County and the Union Officials Samburu County were in attendance.

The meeting resolved, among other issues, to have frequent communications to resolve all matters that arise. This is a bold step and effort by the Department to prevent the occurrence of such actions in future. Thank you, Madam Speaker. I just want to add a few things.

1. As explained by the CO and the Department as a whole, there is no plan to pay the nurses on legal terms but as a committee of health, we went a step further to try to negotiate with the County Advisory Body that came up with the formula of how to deduct the salaries of the nurses. This is just a consultative forum which we tried to negotiate with the body and it was positive. The only problem was that by the time the Chair to the Advisory Body was the CS, who had a problem with the EACC and that he could not continue with the negotiations because he was out of office.

Those who later on appointed to those offices were also requested to step aside and that has been hindering conclusion of the negotiation to request, not to demand, to request them to pay the nurses some of the 10 days that they worked or even all the days. Thank you, Hon Speaker.

**MCA Maralal Ward**, (Hon. Fred Kiragu): Madam Speaker, I took part in one of the discussions Madam Speaker, to try and find a way out and sort the nurses, I took part in one or two meetings. In fact the Committee on health went a distance trying to sort this issue.

Both sides were not giving us any ground but I would like to request our Chairperson that we try to find out soon because things are calming down. It would not be good for us to say that the ten days would not be paid, we know the conditions our nurses work in, and we know that we need to give them the proper kind of morale to perform. Ten days is not much but it is much for people who got other commitments, loans to service and people who have got children to pay fees for, ten days' wages are a lot of money for the cadre of nurses.

I want to ask the Committee on Health and the Chairperson to move further and find a way because we cannot follow the response brought by the Department of Medical Services, Public Health, and Sanitation. We simply cannot go by rules everywhere, sometime we got to bend the rules to at least satisfy our areas, we must think globally and act locally. This is what happened and this is what one cannot understand about this Department. In some Counties the strike never took place because the Governors honoured the CBA and no salaries were deducted but in some like our Counties the salaries were deducted.

Let us not think of the Act, the directives given by different heads of Departments or different quarters, I think I would call upon that if we could be given more time as the Committee on Medical Services, Public Health and sanitation to engage the Executive again and find a way of how we can assist our nurses I also ask Hon. Leitore to give us time to see. I also request the Chairperson to arrange more meetings for us to discuss about this and see the way forward.

Madam Speaker, the Department has taken steps and plans to avoid such unnecessary deduction, however let me not call it that because in the first place the deductions were necessary, when you do not work and there is loss of life, then yes that is the right way to go. A seminar was recently held in Archers' Post, all the unionist of the Department were present, the labour officers were

present and the Department is keen on cubing this kind of happenings in future, thank you Madam Speaker.

**Chairperson, Committee on Medical Service, Public Health and Sanitation,** (Hon. Paul Leshimpiro): Thank you Madam Speaker, I wish to respond to the questions raised by the Hon. Member for Wamba West. First, the time frame; it has taken us that long because as the Hon. Member for Maralal said, between April and now, there are a number of things that have taken place especially the ones on Ethics and Anti-Corruption, that has been a key thing that hindered our consultations.

Number two; I do not know which one is more important between responding to the statement from the Hon. Member or to have some strategies at the field. A number of things have taken place and that is why the nurses did not continue with the strike, the response has taken long but an action was taken long time ago so do not worry that response has taken five months but rather actions were in place earlier enough.

I want to correct what Hon Member did not understand because I think I read everything and I wish e pays attention so that he does not ask the same question again. Hon. Member for Wamba West Ward, the strike did not take place for the ten days only but I took more than that, the ten days were counted since the day the court gave a directive that the strike is illegal and the last of the ten days was the day the nurses returned to work.

Madam speaker, the Department of Medical Service, Public Health and Sanitation in Samburu County has been considerate to its workers, the council of Governors gave a directive that all striking health workers be given show case letters but the Samburu County Government workers were not issued the letters so that means that we care for them and we did not want to demotivate them because a show case letter is not a good one. The Hon. Member said I am a medic and for that I should have a feeling for the health workers. Yes, I have it but on one side let us also remember those patients who were sick at that time for example the child who was in an

incubator weighing 900 grams and had to be removed from the incubator without oxygen and be transported to Wamba hospital.

You cannot imagine the challenges and the possible occurrences that would have occurred to that baby on the way to Wamba. While we consider and try to motivate our workers, let us also consider and care about the public and the patients, it would not be prudent for us to only care for the medical people and given them all that they need but fail to understand the suffering patients. I went to a catholic institution and worked at a catholic facility and I do not know what a strike is nor have I ever thought of going on a strike with or without a pay. As long as I am alive I have to work. Possibly, that might not be the case for person.

Madam Speaker, I wish to state that the Committee on Medical Service, Public Health and Sanitation is one of the active Committees in this House and is doing all it can to solve this issue and it will be good for the Hon. Member to say that we are sleeping on job and that we are blackmailed, I think that will spoil the gains and the steps we have made as the Committee, the Department and the County Government of Samburu. We did not say we will not pay the ten days but rather we are still negotiating, we do not have a legal background to demand for the ten days pay but we are negotiating with the bodies concerned, thank you Madam Speaker.

**The Majority Leader,** (Hon. Christopher Lentukunye): Thank you Madam Speaker, I want to take this opportunity to thank the chairperson and the entire Committee for finally bringing the response before this House for our deliberation.

Madam speaker, having thanked the chairperson of the Committee for bringing the response to this House, I am however concerned on particular issues as far as the response is concerned especially the timeline the Committee took to bring the response to this House. Madam speaker, five months is a very long time for the Committee to deal with this urgent issue because the nurses involved in the strike also do need a feedback. When you demand for your right and what you get is victimization, I believe that deducting salaries is victimization hence this bring

disturbance in the minds of the people. The Committee should learn to work in speed to ensure that the nurses involved in the strike do get their feedback.

Madam Speaker, I think the chairperson did furnish this House with the information required but there are some excuses he gave instead of being straight with this House, saying they were not able to bring the response because there were issues with the EACC among others, I think that is lame, those who are concerned or charged with the responsibility of ensuring that health services are provided we working, they were not affected by the EACC, it is ignorance and that cannot be tolerated in this House, madam speaker I urge the Hon. Members particularly the Committee on Medical Service, Public Health and Sanitation to learn how to prevent such occurrences rather than waiting to solve, they should take the business of this House seriously because we are the representatives of the people of Samburu and they all really on us and if we sleep here I think nothing will be taking place, thank you Madam speaker.

**Temporary Speaker,** (Hon. Stephanie Lanyasunya): Most welcomed Hon. Majority Leader, what is it again Hon. Member for Angata Nanyekei?

**Chairperson Committee on Medical Service, Public Health and Sanitation,** (Hon. Paul Leshimpiro): Thank you Madam Speaker... (*Interjection by the Temporary Speaker*)

**Temporary Speaker,** (Hon. Stephanie Lanyasunya): I was asking what is it again, you still have burning questions?

**Chairperson, Committee on Medical Service, Public Health and Sanitation,** (Hon. Paul Leshimpiro): Yes, the Member asked.

**Temporary Speaker,** (Hon. Stephanie Lanyasunya): Okay, you are most obliged.

**Chairperson, Committee on Medical Service, Public Health and Sanitation,** (Hon. Paul Leshimpiro): Thank you Madam Speaker. Number one, it took us five months but even after those five months we have not yet concluded the problem. I do not know if it was of any

importance to bring half-baked information. We have not concluded up to now and...

*(Interjection by the Hon. Leitore on a point of order)*

**Temporary Speaker**, (Hon. Stephanie Lanyasunya): What is it Hon. Leitore?

**MCA Wamba West Ward**, (Hon. Benjamin Leitore): Madam Speaker, our Standing Orders No. 87, on a statement of facts requires that any information you bring to this House should be factual and I see that the Chairperson is contradicting this Standing Order because five months down the line and you still claim on issues of EACC and Easter holiday, this is not factual reporting.

Madam Speaker, I wish the Chairperson could report accurately because that is not the reason for bringing half-baked information. It is my indulgence that I request through the chair that the Committee take their time and report to this House on the correct position of this issue and probably on issues of the road map to make sure that such kind of occurrences and deduction will not take place again.

**Temporary Speaker**, (Hon. Stephanie Lanyasunya): Just to add on that, I think what Hon. Leshimpiro is saying is that it is not about the issue of wrong information but the time taken. There is a process; you can go on Hon. Leshimpiro.

**Chairperson, Committee on Medical Service, Public Health and Sanitation**, (Hon. Paul Leshimpiro): Thank you Madam Speaker for your protection and I wish the Member understood well. The Standing Order mentioned does not say time frame. For information of the Member; the advisory body comprises of the Chief Officers and as I read before, the advisory body was the one that gave the directive of deducting the ten days pay and so the Chief Officers who were then in their respective Departments were in the list of the eleven people taken to the court by the Ethics and Anti-Corruption Commission (EACC). I do not know what else I need to be factual about.

Lastly, we have been trying to say that it was not only the question of salary deductions that in most cases our nurses go on strike; at a certain time, we had grievances on job promotions and job re-designation. During the Archers meeting, we made the following conclusions that in the event after CARA if it happens that Samburu County will be allocated more funds than what they had budgeted for then a hundred million will be allocated to the department of Health and it will take care of that job promotion and job re-designation. That is one way of avoiding the future strikes, thank you Madam Speaker.

**Specially Elected MCA, (Hon. Zamzam Ismail):** Thank you Madam Speaker. I stand as a Committee Member in this Hon. House. This Statement has truly taken long and it was because it was taken over by events. Honestly, we had worked tirelessly before and after the strike by engaging the Chief Officers and Human Resource Officers looking for a way forward. We as the Members of the Committee and hon. Members of this House we are the eyes and representatives of the people. It is our obligation. They say that leadership is an obligation. The last meeting, we had on the 19<sup>th</sup> of August we had a very engaging meeting with the Union officials and the department's personnel where we sat down as a team whereby the Executive and the Legislative arms sat down to see that the nurse's deductions has been given back to them.

What the hon. Member has said is true that the members of the Health fraternity overwork. They are people who save lives; we would not want to demoralize or demean them. There was a presidential directive that people should go back to work; when there is such a directive and our people do not take that seriously then the problem arises there. Lastly, the issue of deduction is being worked on, we have engaged the trade union in Samburu County to find solutions and counter attack any looming strikes, thank you Madam Speaker.

**MCA Wamba West Ward, (Hon. Benjamin Leitore):** Madam Speaker just before we proceed, is true what the Chair has said that the lives lost due to the strike should also be taken into consideration but how many lives were saved by these staff before and after the strike? all these should be considered. On the long term plans, there are no elaborate plans to ensure that this will

not occur again. I think the Committee should take back their seat and collaborate with the department and report back to the House because this is an issue that may reoccur because salary increments are always there. We need a concrete solution.

**Temporary Speaker,** (Hon. Stephanie Lanyasunya): I think the Chair should tell us when they will come up with more answers to the Statement. Hon. Member you are amused.

**MCA Ang'ata Nanyekie Ward,** (Hon. Paul Leshimpiro): Madam Speaker the Member has just made some comments that have made me laugh. First he says that even if there were lives lost, they came back and saved more lives as though as there is no justification. We have a big plan for the department. We were in Archers to avoid further strikes. There were issues of concern both nationally and in the County; we address whatever is possible in our County. In health nothing is conclusive, things keep changing, and even the treatment given for Malaria may differ from yesterday.

**Temporary Speaker,** (hon. Stephanie Lanyasunya): Hon. Leshimpiro, in short, do you need more time to come up with more answers.

**MCA Ang'ata Nanyekie Ward,** (Hon. Paul Leshimpiro): Madam Speaker I do not think that there is anything that we have not answered.

**Temporary Speaker,** (hon. Stephanie Lanyasunya): I am saying this because, hon. Leshimpiro is not satisfied.

**MCA Ang'ata Nanyekie Ward,** (Hon. Paul Leshimpiro): Then he needs to be specific.

**MCA Wamba West Ward,** (Hon. Benjamin Leitore): Madam Speaker, it is not about questions and answers from me and the Chair but I think the Chair should be straight to the point. One I am not satisfied as the seeker of the Statement then I need to be given a satisfactory answer. In my third question, I requested for future plans to curb such unnecessary deductions for Health workers but the Chair diverts on that by saying that these issues are always there. You cannot

compare a salary deduction with a clinical prescription on issues diseases. They should sit down and find a way that this deduction will not happen again taking into consideration that it only happened in Samburu. Other Counties made sure that despite the strike, their staff benefited from their dues. I request he Chair to report back to the House and ensure a clear road map and that staff will not be subjected again to such kind of harassment in the future.

**Temporary Speaker**, (hon. Stephanie Lanyasunya): I direct that the Committee has one week to come up with more answers on question 3 that you really want answered. When will you be ready to bring the answers hon. Chair?

**MCA Ang'ata Nanyekie Ward**, (Hon. Paul Leshimpiro): I will try it in one week but I do not know what we are going to bring. We will have a consultative meeting which is also on-going. This will be on 15<sup>th</sup> October, 2019.

**Temporary Speaker**, (hon. Stephanie Lanyasunya): Hon. Leitore is that okay with you?

**MCA Wamba West Ward**, (Hon. Benjamin Leitore): Most obliged.

### **ADJOURNMENT MOTION TO ALTER THE CALENDER**

**Majority Leader**, (Hon. Christopher Lentukunye): Thank you Madam Speaker once again. I beg to move the following Motion that Pursuant to the Provisions of Standing Order number 28/1 /2/3 and 4, this House alters its Calendar and do now adjourn until 8<sup>th</sup> October, 2019 in order to participate in the County Assemblies Sports Association (CASA) as indicated vide letter CAF/27/1/2019 received on 23<sup>rd</sup> September, 2019, thank you Madam Speaker.

*(Hon. Leitore bows to second the Motion)*

**Temporary Speaker**, (hon. Stephanie Lanyasunya): Hon. Members, I now propose the question that Pursuant to the Provisions of Standing Order number 28/1 /2/3 and 4, this House alters its Calendar and do now adjourn until 8<sup>th</sup> October, 2019 in order to participate in the County Assemblies Sports Association (CASA) as indicated vide letter CAF/27/1/2019 received on 23<sup>rd</sup>

September, 2019. Hon. Members I now put the question that Pursuant to the Provisions of Standing Order number 28/1 /2/3 and 4, this House alters it's Calendar and do now adjourn until 8<sup>th</sup> October, 2019 in order to participate in the County Assemblies Sports Association (CASA) as indicated vide letter CAF/27/1/2019 received on 23<sup>rd</sup> September, 2019.

*(Question proposed, put and passed)*

Hon. Members, the time being four o'clock and there being no any other business, this Assembly now adjourns until Tuesday October 8<sup>th</sup> 2019 at 2:30 p.m.