

3rd OCTOBER, 2018

TEACHERS SERVICE COMMISSION



NAIVASHA CONSULTATIVE MEETING BETWEEN TSC AND KNUT

The Naivasha TSC/KNUT consultative meeting was held pursuant to an earlier meeting on 23rd August 2018 to address some issues that have emerged in the course of the implementation of the 2017-2021 Collective Bargaining Agreement (CBA). The issues included; promotion of teachers, career progression, teacher appraisal programme and transfers.

During the meeting of 23rd August 2018 and after intensive deliberations, both parties agreed to hold a five-day retreat between 1st October and 5th October 2018 for an indepth and conclusive examination on all the emerging issues.

On Monday 1st October 2018, the parties agreed on the programme for the retreat which generally touched on the monitoring of the implementation of the 2017-2021 Collective Bargaining Agreement (CBA) signed between TSC and KNUT and which is already being implemented.

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By 3rd October 2018, the parties had made significant progress and had reached a consensus on several issues. However, in mid-morning of the 3rd October 2018, the KNUT tabled a list of 85 headteachers who were among many other teachers who have been transferred within the year and demanded that the transfers of the 85 be revoked forthwith, on the basis that they are elected union officials. The KNUT leadership further demanded that all headteachers holding union positions be exempted from any future transfers.

The Commission took time to explain to the Union the legal and policy framework, governing the transfer of the 321,007 teachers in its employment. In particular, the transfer policy is clearly spelt out in the Code of Regulations for Teachers which forms part of the CBA. Even after explaining the policy and legal framework, which the union had approved through the signing of the CBA, the KNUT officials were adamant and as a result demanded for an adjournment of the deliberations to a future date.

In view of the foregoing, the Commission wishes to state as follows:

- I. One of the key mandates of the TSC, as provided for in Article 237 (1) of the Constitution is “to assign teachers employed by the Commission for service in any public school or institution”.

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The TSC exercises this mandate within the framework of the Constitution, TSC Act, Code of Regulations for Teachers and the CBA in order to ensure equity in distribution of teachers and optimal utilization of the available teachers.

- II. Employees who hold elective offices in Unions, Saccos among others are primarily employed to teach and are bound by the Code of Regulations for Teachers, which include provisions on transfer of teachers. Election to any union office cannot, therefore, be used to irregularly amend the contract between an employee and employer. In this particular case, it is the contract spelt out in the employment letter, and even the CBA, for teachers to be posted to schools where their services are required.
- III. All TSC employees have a right under Article 27 of the Constitution and Section 4 of the TSC Act to be treated fairly without being subjected to any discrimination. It is, therefore, unreasonable and discriminatory for KNUT to demand different treatment for 85 teachers out of the 321,007 in public learning institutions on account of their elective positions in the Union.
- IV. For the record, the TSC has already agreed to release all the 111 KNUT Executive Secretaries to work full time for the Union.

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This is not even a legal requirement on the part of TSC but an act of magnanimity to promote cordial industrial relations between TSC and KNUT. The Union's demand on TSC to exempt some elected officials from operational policies and regulations can only undermine provision of quality teachers and by extension quality education. This is not tenable.

Finally, the Commission wishes to affirm its commitment to harmonious industrial relations with KNUT. Further TSC is ready to continue with the deliberations on the monitoring of the implementation of the CBA for the benefit of the Kenyan child. In the meantime, the Commission appeals to KNUT to put the interests of learners first.



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SECRETARY/CHIEF EXECUTIVE**