



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MERU  
MISCELLANEOUS CASE 17 OF 2011

**JAMES MUCHUNKU MBAABU.....APPLICANT**

**VERSUS**

**P.S. MINISTRY OF EDUCATION.....1<sup>ST</sup> RESPONDENT**

**HON. ATTORNEY GENERAL.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

The applicant through an application dated 10<sup>th</sup> January 2011 brought under Section 1A, 3, 3A, 63 (e) of Civil Procedure Act, Order XLIX Rule 5 of Civil Procedure Rules, and Section 27 and 28 of the Limitation of Actions Act, seeking the following orders:-

- 1. This Honourable Court be pleased to enlarge time for the applicant to file suit against the respondents herein.***
- 2. The annexed draft plaint and verifying affidavit thereof be deemed as duly filed.***
- 3. Any other order be made for the ends of justices***
- 4. Costs of this application.***

The application is based on the following grounds:-

- 1. The applicant is former civil servant employed working as a senior inspector of schools (Job Group 'M') under the Ministry of Education.***
- 2. The applicant was unprocedurally and illegally dismissed from his lawful employment on 1<sup>st</sup> March, 2001 by the 1<sup>st</sup> defendant.***
- 3. The lapsed due to a lot of communication engagement with the relevant heads of ministry.***
- 4. The dismissal was unjustified and hence necessity to challenge the same through a suit.***
- 5. No prejudice will be caused the intended respondents if this application is allowed.***
- 6. The applicant was not conversant with the law of Limitation of Actions Act.***
- 7. The applicant is a poor man who faces now destitution after the dismissal and stands to loose all his benefits thereof after his many years of service.***

**8. *After the dismissal the applicant was so poor financially even to afford fees for counsel.***

The application is supported by annexed affidavit of the applicant dated 10<sup>th</sup> January 2011 and the annexures thereto. I have considered the relevant provisions of law, and matters deponed thereto and the nature of the claim as well as the cause of delay, and I find that the application meet the requirements of Section 27 (2) of the Limitation of Actions Act and is proper application for which extension of limitation period ought to be granted.

In the circumstances the applicant's application is allowed. I therefore make the following orders:-

1. *That the time for applicant to file suit against the respondents be and is hereby enlarged.*
2. *The applicant draft plaint be deemed duly filed upon payment of the requisite court fees within the next 21 days from today.*
3. *Costs be in the cause.*

**Dated at Meru this 26<sup>th</sup> March 2012.**

**J.A. MAKAU  
JUDGE**

**Delivered in open court in the presence of:**

1. Mr. Kaimenyi h/b for Isaboke for applicant
2. No appearance for respondent

**J.A. MAKAU  
JUDGE**