

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

Petition 2 of 2008

IN THE MATTER OF SECTION 84 (1) OF THE CONSTITUTION

AND

**IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND
FREEDOMS UNDER SECTION 70 AND 82**

AND

**IN THE MATTER OF THE ARMED FORCES ACT CHAPTER 199 LAWS OF KENYA, THE
ARMED FORCES STANDING ORDERS AND THE TERMS AND CONDITIONS OF SERVICE
FOR SERVICEMEN**

RULING

I have considered the Application herein. The Applicant has invoked the provisions of the Constitution of Kenya and in particular S. 82 that his discharge instructions were discriminatory and not in accordance with the Constitution of the Republic of Kenya. That he was not afforded equal treatment as other servicemen in the Armed Forces.

I do hold that this application raises a Constitutional Issue/s to the said extent and must be heard on merit. What mode of hearing should be applied? I have studied the application and Replying Affidavit. Considering the technical aspect of this case I do order that the Application be heard both by way of viva voce evidence and by way of Affidavits. Parties may call witnesses. Hearing shall take place before a single Judge sitting at Eldoret for one (1) day.

DATED AND DELIVERED AT ELDORET ON THIS 22ND DAY OF MAY, 2009.

M. K. IBRAHIM

JUDGE

In the presence of:

Mr. Ngala for the Petitioner

Mr. Eredi for the Respondent