



**Gati v Kenya Literature Bureau (Employment and Labour Relations Petition E207 of 2024) [2025] KEELRC 2587 (KLR) (25 September 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2587 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS PETITION E207 OF 2024  
MN NDUMA, J  
SEPTEMBER 25, 2025**

**BETWEEN**

**JOHN NYAMOHANGA GATI ..... PETITIONER**

**AND**

**KENYA LITERATURE BUREAU ..... RESPONDENT**

**JUDGMENT**

1. The Petitioner filed the petition dated 30/11/2024 against the Respondent seeking the following reliefs to be issued:-
  - a. That a declaration that the Respondent has infringed the Petitioner's rights under Article 27 of the Constitution, which guarantees the Petitioner the right of equality and freedom from discrimination by discriminating against the Petitioner and offended Article 47 of the Constitution and the provisions of Fair and Administrative Actions Act, 2015.
  - b. That a declaration that the Respondent has infringed the Petitioner's rights under Articles 47, 49 and 41 of the Constitution which provides that every employee has a right to fair administrative action, fair labour practices, fair remuneration and legitimate expectation in favour of the Petitioner hereof.
  - c. That a declaration that the complained actions of the Respondent have infringed Article 73 of the Constitution of Kenya provides for responsibilities of leadership, which include but not limited to a public trust to be exercised in a manner that brings honour to the nation and dignity to the office and promotes public confidence in the integrity of the office.
  - d. That an order of certiorari be and is hereby issued to quash the Respondent's decision by a summary dismissal letter dated 27<sup>th</sup> March 2024 purporting to dismiss the Petitioner from employment.



- e. That a mandatory injunction be and is hereby issued to compel the Respondent to forthwith reinstate the Petitioner's employment with prevailing terms and conditions of his rightful last position of Assistant Production manager hereof.
  - f. That an order compelling the Respondent to pay the Petitioner salary from the date of dismissal up to the date of reinstatement to employment of Assistant Production Manager hereof.
  - g. That a mandatory injunction be and is hereby issued to compel the Respondent to forthwith pay the Petitioner his dues; unutilized leave days; all unpaid allowances, salary arrears, other dues, allowances and other benefits.
  - h. That an order compelling the Respondent to pay the Petitioner 50% of withheld salary arrears from the date of interdiction up to the date of the purported dismissal thereof.
  - i. That an order compelling the Respondent to pay the Petitioner in lieu of 3 months' notice of termination of employment amounting to Kshs. 957,735.00 thereof.
  - j. That an order compelling the Respondent to pay the Petitioner his full pension hereof.
  - k. That an order compelling the Respondent to pay the Petitioner compensation equivalent to his 12 months' pay amounting to Kshs. 3,830,940.00 hereof.
  - l. That a mandatory injunction be and is hereby issued to compel the Respondent to provide the Petitioner with a report/minutes of the decision by the Respondent's Human Resource Staff Advisory Committee that recommended his dismissal as requested by the Petitioner's letter dated 5<sup>TH</sup> July, 2024 and in accordance with article 35 of the Constitution.
  - m. That an injunction be and is hereby issued to prevent the Respondent from recruiting to replace the Petitioner from his position of Assistant Production Manager.
  - n. That an order compelling the Respondent to issue the Petitioner with a certificate of service.
  - o. That and other or further orders that this Honourable Court may deem fit to grant thereof.
  - p. That the Respondents to pay the Petitioner the interest and costs of this petition
2. The petition is supported by a verifying affidavit of the Petitioner.

## **Facts**

3. The Petitioner was an employee of the Respondent vide a contract of employment in the position of Assistant Administration Manager dated 1/8/2017. The Petitioner was dismissed from employment by a letter of summary dismissal dated 27/3/2024.
4. By a letter dated 19/12/2017, the Petitioner was promoted to the position of Production Manager with effect from 1/7/2017 and was by a letter dated 1/3/2018 upgraded to a new job grade KCB level 4. The Petitioner earned a gross salary of Kshs. 319,245.00. The Petitioner was issued with a show cause letter dated 20/9/2023 to respond to a complaint by a service provider of the Respondent named Mr. Josphat Kiboro, an employee of Ecoserve Africa. The complaint dated 6/9/2023 stated that the Petitioner had requested for monetary bribe from the complainant on various occasions whenever the complainant received a local purchase order (LPO) from the Respondent. The Petitioner was interdicted and placed on half salary. That Petitioner responded to the show cause letter by a letter



- dated 22/9/2023. The interdiction was with effect from 3/10/2023 to allow for investigations in terms of clause 10.28.6 of the Respondent's Human Resource Policies and Procedure Manual.
5. That the Respondent appeared before the Human Resource Staff Advisory Committee (HRSAC) which the Petitioner states was not properly constituted on 17/11/2023. Petitioner states that he tendered a cogent, valid and reasonable explanation to the committee on the alleged complaint.
  6. The committee made a recommendation for dismissal of the Petitioner from employment. The Petitioner states that the decision was biased. That the Rules required all Heads of Department to be included in the committee which did not happen and one Jackson Musau, acting Production Manager should not have been in the committee since he had an interest. That the committee had 4 members only since the Legal Officer was a junior of the Petitioner and ought not to have been included.
  7. That the Respondent failed to provide the Petitioner opportunity to appeal despite request to be provided with the record of proceedings for that purpose.
  8. That the Respondent also failed to pay the Petitioner his terminal dues to-date. That the Respondent has violated Articles 41, 47(1), 50(1), 73, 75, 232 and 259(1) of the Constitution by failing to provide the Petitioner with a fair hearing before the dismissal and denying the Petitioner the right of appeal after dismissal.
  9. That the petition has merit and it be allowed and the reliefs sought by the Petitioner be granted.
  10. The Petitioner relies on the decision of Ongaya J. in Grace Gacheri Muriithi versus Kenya Literature Bureau [2012] eKLR in which the court held that the Claimant was not subjected to a proper disciplinary process and was entitled to 12-month salary in compensation for the unlawful and unfair termination.
  11. The Petitioner further relies on the case of Okiya Omtatah Okoiti versus Attorney General & 2 others and Francis K. Muthama and 5 others [2019] eKLR in which the court found that the Respondents are bound by the principles and values of public service enshrined in the Constitution in making decisions especially if the decision(s) are adverse to an employee.
  12. The Respondent filed a replying affidavit sworn to by Mr. Julius Aritho dated 17/3/2025 opposing the petition.
  13. The Respondent does not dispute the employment particulars of the Petitioner. The Respondent stated that it had received a complaint by a service provider one Mr. Josphat Kiboro an employee of Ecosave Africa, that the Petitioner had solicited for monetary bribe three times whenever he provided an LPO to the complainant.
  14. That the Respondent issued a notice to show cause to the Petitioner dated 20/9/2023. That on 22/9/2023, the Petitioner responded to the notice to show cause stating that he had borrowed money from the complainant and had refunded the same at the end of September 2023.
  15. The Petitioner was then interdicted by a letter dated 3/10/2023 to pave way for investigations per the HR Manual. That an investigation committee was constituted to investigate the complaint and the Petitioner was later invited to attend the meeting before the investigation committee on 17/11/2023 by a letter dated 15/11/2023. The Petitioner appeared as invited and explained himself.
  16. That the Respondent confirmed that there was MPESA transactions between the complainant and the Petitioner. The Respondent also confirmed the LPO for the repair of pipes at the Bureau dated 23/6/2023 and considered the Petitioner's admission that he had taken the money from the complainant. That this conduct by the Petitioner contravened the HR Policies and Procedures manual,



the Constitution of Kenya 2010, the Public Officer Ethics Act 2003 and the Leadership and Integrity Act 2012.

17. That the Petitioner was then invited to a disciplinary hearing by a letter dated 30/11/2023 to attend on 6/12/2023 and later rescheduled for 7/12/2023. The Petitioner was informed of his right to be accompanied by an officer of choice to cross-examine witnesses and adduce any evidence. The Petitioner was also supplied with the investigation report.
18. The hearing was before the Human Resource Staff Advisory Committee (HRSAC). The committee by a letter dated 19/3/2024 recommended to the managing Director in terms of clause 10.28.5 of the manual the dismissal of the Petitioner for gross misconduct. The Managing Director dismissed the Petitioner by a letter dated 27/3/2024.
19. The Respondent states that the dismissal was fair, procedural, just and for a valid reason and the petition be dismissed for lack of merit.

### **Further Affidavit**

20. The Petitioner filed a further affidavit in which he reiterated the averments in the petition, traversed allegations by the Respondent and joined issues with the Respondent placing the Respondent to strict proof thereof.
21. In particular the Petitioner states that the disciplinary committee was not properly constituted, that the complaint was false and malicious that he had filed an appeal dated 17/5/2024 against the dismissal. That by a letter dated 5/7/2024, he had requested for the minutes of the disciplinary committee and the decision made to prepare for his appeal. That the Respondent did not supply him with the minutes in violation of Article 35 and 50 of the Constitution. That his rights have been violated by the impugned decision and the petition has merit and it be allowed as prayed.
22. The Respondent relies on the Court of Appeal decision in Kenya Revenue Authority versus Mwongele (Civil Appeal E268 of 2022) (2025) KECA 262 (KLR) in stating that the summary dismissal was for a valid reason and that it had followed a fair procedure in arriving at the decision.

### **Determination**

23. The issues for determination are:-
  - a. Whether the Respondent had a valid reason to summarily dismiss the Petitioner.
  - b. Whether the Respondent followed a fair procedure in arriving at the decision.
  - c. Whether the Petitioner is entitled to the reliefs sought.
24. The court is satisfied that a service provider of the Respondent, to whom the Petitioner had issued LPO(s) had made a complaint that the Petitioner had demanded monetary bribes three times after giving an LPO to the complaint.
25. The court is satisfied that the Petitioner was given opportunity to answer those serious allegations vide a show cause letter to which he had responded and by being given opportunity to appear before a disciplinary committee.
26. The court is satisfied that the Petitioner explained himself before the committee and had been fully advised of his rights to be accompanied by a colleague of choice, to cross-examine any witness and to call any witness. The committee upon evaluating the evidence found that the explanation given by the



- Petitioner was not reasonable; found the Petitioner guilty of the misconduct alleged against him and recommended his summary dismissal which was effected by the Managing Director.
27. The court is not satisfied that the committee was biased or was not properly constituted. The decision to summarily dismiss the Petitioner was for a valid reason following a fair procedure.
  28. There was no obligation on the part of the Respondent to call the Petitioner before the appeal panel. The appeal was lawfully considered and summarily dismissed.
  29. The court in its decision has considered the admission of misconduct by the Petitioner to the extent that he had borrowed money from a service provider at the time the Petitioner was involved in processing procurement of services to be provided to the Respondent and the complainant being a representative of one of the entities that had applied to be considered by Respondent for the service delivery. This by itself was sufficient evidence of misconduct on the part of the Petitioner.
  30. The MPESA statement produced at the investigation and disciplinary hearing which the Petitioner attempted to explain away as a loan by the service provider which he had subsequently paid was hollow and could not exonerate the Petitioner from professional misconduct and/or impropriety on his part as the production manager bound by values and principles contained in the *Constitution* and code of Ethics for public officers.
  31. Accordingly, the petition lacks merit and is dismissed with no order as to costs. The Respondent to provide certificate of service to the Petitioner within 30 days of judgment.

**DATED AT NAIROBI THIS 25<sup>TH</sup> DAY OF SEPTEMBER 2025.**

**MATHEWS NDUMA**

**JUDGE**

Appearance:

Mr. Kurauka Advocates for the Petitioner

Ms. Aluoch Attorney General's office for Respondent

Mr. Kemboi – Court Assistant

