



Manyange v Independent Electoral & Boundaries Commission; University of Nairobi & another (Interested Parties) (Cause E392 of 2024) [2025] KEELRC 2434 (KLR) (15 September 2025) (Ruling)

Neutral citation: [2025] KEELRC 2434 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E392 OF 2024
BOM MANANI, J
SEPTEMBER 15, 2025**

BETWEEN

CAROLINE SABIRI MANYANGE CLAIMANT

AND

THE INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION RESPONDENT

AND

UNIVERSITY OF NAIROBI INTERESTED PARTY

ETHICS & ANTI-CORRUPTION COMMISSION INTERESTED PARTY

RULING

Background

1. The Claimant was an employee of the Respondent serving in the position of Manager, Delimitation of Boundaries before her contract of service was terminated on 2nd May 2024. She has challenged the decision to terminate the contract.
2. Alongside the Statement of Claim, the Claimant filed the application dated 22nd May 2024 through which she seeks the following interim reliefs:-
 - a. Spent.
 - b. That the Claimant’s dismissal from employment be and is hereby stayed and the Claimant be and is hereby reinstated back into the Respondent’s employment as Manager, Delimitation of Boundaries pending hearing and final determination of the suit.



- c. That the Respondent be and is hereby ordered to pay the Claimant full monthly salary and benefits as Manager, Delimitation of Boundaries pending the hearing and final determination of the suit.
 - d. That pending determination of the suit, the Respondent be and is hereby ordered not to recruit any other person to fill the position of Manager, Delimitation of Boundaries.
 - e. That the Respondent be and is hereby condemned to pay costs of the application.
3. The application is supported by the grounds on the face thereof and the supporting and supplementary affidavits sworn by the Claimant. Essentially, the Claimant contends that the Respondent hired her services as Manager, Delimitation of Boundaries on 30th April 2012. She contends that she continued to serve in this position until her contract was improperly terminated on 2nd May 2024.
 4. According to the Claimant, she graduated from the University of Nairobi, the 1st Interested Party, with a Bachelor of Arts degree in social work in 2000. She avers that she later enrolled at the same institution for a Master of Arts degree in population studies and graduated on 7th May 2004.
 5. The Claimant avers that on 13th March 2024, the Respondent informed her that her Master's degree certificate was not authentic. She contends that the Respondent asked her to explain the matter.
 6. The Claimant avers that she wrote to the Respondent on 26th March 2024 informing it that the impugned degree certificate was genuine. She avers that she attended the 1st Interested Party's graduation ceremony that was held on 7th May 2004 during which she was conferred with the Master's degree. She further avers that she informed the Respondent that her name appears in the 1st Interested Party's graduation booklet for that day.
 7. The Claimant contends that despite this clarification, the Respondent interdicted her from duty on 8th April 2024 for purportedly having presented a falsified Master's degree certificate at the time she was employed. The Claimant further avers that the Respondent invited her for a disciplinary hearing at which a decision was made to terminate her employment.
 8. The Claimant contends that the disciplinary session was invalid since it was conducted by a committee which had no power to hear her case. She further contends that even if the committee had the mandate to hear her case, there was no reason to dismiss her from employment since her Master's degree certificate is genuine.
 9. In response to the application, the Respondent filed grounds of opposition dated 5th June 2024. It contends that the effect of the Claimant's application is to invite the court to make definitive findings of fact and law on the dispute even before the matter goes to trial. The Respondent avers that this is contrary to the principles that govern the grant of interim orders.
 10. The Respondent avers that an order for stay cannot issue where the act that is sought to be stayed has already occurred. As such, it contends that the Claimant's request should be declined as it has been overtaken by events.
 11. On its part, the 1st Interested Party filed an affidavit dated 8th October 2024. It (the 1st Interested Party) confirms that the Claimant was enrolled to the Faculty of Arts and Social Sciences on 28th October 1996 to pursue a degree in Bachelor of Arts. The 1st Interested Party further confirms that the Claimant graduated with a bachelor's degree on 27th November 2000.
 12. The 1st Interested Party avers that the Claimant applied for postgraduate studies and was admitted to the Faculty of Arts and Social Science on 27th September 2001 to pursue a Master of Arts degree



- in population studies. The 1st Interested Party contends that the Claimant, together with two other students, applied for a research grant from Tokyo Foundation Joint Research and Exchange. The 1st Interested Party avers that the grant was to benefit the Claimant and her team members.
13. The 1st Interested Party contends that when the research grant was released to the Claimant, she disowned the other two students prompting an investigation against her. The 1st Interested Party contends that the grantor of the research grant demanded that the funds be recovered from the Claimant owing to the manner she had conducted herself.
 14. The 1st Interested Party avers that as a result of the foresaid, disciplinary action was taken against the Claimant. It contends that the Claimant was found guilty of misconduct and directed to refund the research grant.
 15. The 1st Interested Party confirms that the Claimant successfully completed her Master of Arts studies and was conferred with a Master of Arts (Population Studies) degree at the graduation ceremony that was held on 7th May 2004. However, it contends that she was required to refund the research grant before her degree certificate could be printed.
 16. The 1st Interested Party contends that the Claimant did not provide proof of refund of the research grant. As such, it avers that her Master's degree certificate was not printed.
 17. The 1st Interested Party contests the Claimant's assertion that her Master's degree certificate was misplaced. It avers that a certificate that has not been printed cannot be said to have been misplaced as alleged by the Claimant.
 18. The 1st Interested Party avers that the degree certificate which was presented to it for verification cannot be genuine because it (the 1st Interested Party) has not printed and presented to the Claimant her Master's certificate owing to the research grant malpractices she was required to address. It contends that the Claimant sued it over withholding of her certificate in 2006 but her case was dismissed.
 19. The 1st Interested Party avers that the Claimant misled its officers into issuing her with a letter purporting that her certificate had been misplaced since she has not been issued with one. It contends that the Claimant misled the police into issuing her with an abstract for loss of her certificate which she presented to its (the 1st Interested Party's) officers to falsely procure the letter purporting to suggest that her certificate was lost.

Analysis

20. The evidence on record shows that the decision to terminate the Claimant's employment was communicated to her on 14th May 2024. The Claimant confirms that her contract of service was terminated with effect from 2nd May 2024.
21. The Claimant filed the instant suit on 23rd May 2024. By this time, her contract of service had already been terminated.
22. The Claimant now asks the court to stay the decision to terminate her contract of service. In effect, she is asking the court to stop that which has already happened.
23. The general legal position is that a court of law cannot issue an order to stop that which has already happened. Such an order will be in vain as it is essentially overtaken by events.



24. The Claimant prays for reinstatement back to her employment at the interlocutory stage of the case. However, such remedy is seldom granted until after full trial. Speaking to this matter in the case of Alfred Nyungu Kimungui vs Bomas of Kenya [2013] eKLR, Rika J expressed himself as follows:-

“Ordinarily, reinstatement of an employee is a substantive remedy, not a temporary relief. The law does not contemplate that reinstatement issues as a provisional measure. It is a remedy that should normally be granted upon the full hearing of the employer and the employee.”

25. The issues which the 1st Interested Party has flagged regarding whether the Claimant’s Master’s degree certificate that is in circulation was lawfully procured are grave and require careful consideration. The court notes that the Respondent’s decision to terminate the Claimant’s employment was informed by concerns surrounding the genuineness of the impugned certificate.

26. The court cannot turn a blind eye to these grave concerns and order the Respondent to reinstate the Claimant at the interlocutory stage of the case. This remedy will have to await full interrogation of the dispute.

27. The Claimant prays that the Respondent be stopped from recruiting her replacement. However, she did not table evidence to demonstrate that the Respondent did not fill the position after her contract was terminated. Absent this evidence, the court is unable to issue an order stopping the Respondent from filling the vacancy that stemmed from termination of the Claimant’s employment.

Determination

28. The upshot is that the court declines to grant the interim reliefs sought in the application dated 22nd May 2024.

29. As such, the application is dismissed.

30. Costs of the application shall abide the outcome of the suit.

DATED, SIGNED AND DELIVERED ON THE 15TH SEPTEMBER, 2025

B. O. M. MANANI

JUDGE

In the presence of:

.....for the Claimant

.....for the Respondent

.....for 1st Interested Party

.....for 2nd Interested Party

Order

In light of the directions issued on 12th July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

B. O. M MANANI

