



**Sikulu v Public Service Commission & 12 others; Okwiri & another (Interested Parties)
(Cause E729 of 2022) [2025] KEELRC 2522 (KLR) (19 September 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2522 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E729 OF 2022
SC RUTTO, J
SEPTEMBER 19, 2025**

BETWEEN

REUBEN WAMUKOTA SIKULU CLAIMANT

AND

PUBLIC SERVICE COMMISSION 1ST RESPONDENT

CABINET SECRETARY FOR DEVOLUTION 2ND RESPONDENT

ATTORNEY GENERAL 3RD RESPONDENT

PRINCIPAL SECRETARY MINISTRY FOR DEVOLUTION . 4TH RESPONDENT

CHARLES SUNKULI 5TH RESPONDENT

SILAS GITARI 6TH RESPONDENT

NYATHIRA AGOTHO 7TH RESPONDENT

JACKSON MWANGI 8TH RESPONDENT

ALFOSI MUNYALI 9TH RESPONDENT

JAMES MWANZIA 10TH RESPONDENT

PATRICK KARANJA 11TH RESPONDENT

KENEDY NYAMBAT 12TH RESPONDENT

EVANS CHELANG'A 13TH RESPONDENT

AND

DANIEL OKWIRI INTERESTED PARTY

ETHIS AND ANTI-CORRUPTION COMMISSION INTERESTED PARTY



JUDGMENT

1. It is common ground that the Claimant herein is a public officer presently serving in the Ministry of Devolution and Planning. The Claimant avers that throughout his 13 tenure in employment, he has impeccably performed the tasks allocated to him but has only earned one promotion through court battle.
2. The Claimant avers that upon employment, he was entitled to automatic promotions but he was unfairly denied the same between 2011 and 2014. He further avers that his immediate supervisors recommended him for promotions but the same did not materialize due to the unexplained instances by the Director of Human Resources to table his name to the relevant committees for consideration.
3. It is the Claimant's case that despite being an academic giant and one of the longest serving personnel in his department, his job redesignation and promotion has remained at the lowest compared to his colleagues who are not only academically lower but are also lesser in experience. The Claimant contends that the said colleagues have earned several promotions several times over him.
4. The Claimant further avers that his career growth and development has been unfairly manacled by the Respondents levelling frivolous accusations against him and masterminding deliberately unfounded disciplinary processes against him.
5. According to the Claimant, the unverified and false allegations made against him were accentuated on or about 5th May 2020, when without any due process and with procedural impropriety, he was interdicted on allegations of forging his promotion letter and impeding the promotion, yet he only applied for promotion.
6. The Claimant further contends that the punishment meted out to him in the nature of a severe reprimand is not only unmerited but is also a malicious product of an unprocedural process.
7. It is against this background that the Claimant seeks the following reliefs against the Respondents;
 - a. A declaration that the Claimant's right to fair labour practices has been infringed.
 - b. A declaration that the interdiction and the resultant Severe Reprimand meted against the Claimant by the Respondent as communicated vide the letters dated 5th May, 2020 and 27th June, 2022 respectively are null and void for want of procedure and merit and be set aside by this Court;
 - c. An order directing the 1st and 2nd Respondents to pay the Claimant all the deductions totaling to Kshs 350,000/- withheld and as deducted salary.
 - d. An Order directing the Respondents to expunge from his employment records/file all documents pertaining to the issues surrounding the interdiction and Severe Reprimand.
 - e. An Order directing the Respondents to promote the Claimant to a level of employment that commensurate with his experience and academic qualifications earlier as recommended by his seniors.
 - f. An order stopping the promotions of other persons as per the letters/circulars dated 1st August, 2022.
 - g. Damages for infringement of the Claimant's rights.



- h. Exemplary damages.
 - i. Punitive damages.
 - j. Costs of the case.
8. The 1st Respondent opposed the Claimant's Claim through a Memorandum of Response dated 8th February 2024. The 1st Respondent contends that the Claimant has not demonstrated how the legal requirements were not complied with during the alleged disciplinary processes he was taken through.
 9. It is the 1st Respondent's assertion that promotions in the public service are not automatic and, where it obtains, are not only pegged on further academic qualifications but other factors such as merit, discipline, staff establishment, and availability of vacancies, amongst other considerations.
 10. According to the 1st Respondent, the Claim is an abuse of due process, bad in law, and as such, has asked the Court to dismiss the same with costs.
 11. The 2nd to 13th Respondents filed a joint Response to the Statement of Claim in which they aver that the Claimant's interdiction was done within the confines of the relevant laws and regulations.
 12. According to the 2nd to 13th Respondents, the Claimant was guilty of engaging in unlawful conduct for the furtherance of personal benefit by colluding with other accused officers to obtain fraudulent promotions.
 13. The 2nd to 13th Respondents further contend that the Claimant has suffered due to his own illegalities and that his colleagues were promoted due to their diligence.
 14. In light of the foregoing, the 2nd to 13th Respondents aver that the Claimant's claim has no merit and should be dismissed with costs.
 15. The Claimant filed two separate Replies to the Responses by the Respondents in which he avers that he was not informed of the offense he had committed. He further avers that he could not appeal or seek review as the findings of the disciplinary process were withheld from him and only released to him upon demand and long after the period for appeal/review was over. That he also realized that the 2nd Respondent had filed an appeal, hence, filing another appeal would amount to a breach of the doctrine of sub judice.
 16. The Claimant has further maintained that the sufferings he experienced are a product of the Respondents' illegal hell-bent determination to infringe on his rights to sound labour practices.
 17. To this end, the Claimant has asked the Court to dismiss the Respondents' Response with costs.
 18. On 4th July 2023, the 3rd Interested Party was excused from further proceedings herein.
 19. On her part, the 1st Interested Party filed an application dated 4th July 2023 in which she sought leave to be joined in the suit as the 2nd Claimant. The application was allowed by consent and subsequently, the Statement of Claim was amended to incorporate the 2nd Claimant's case. However, before the matter could proceed for hearing, the 2nd Claimant filed a Notice of Withdrawal dated 2nd January 2025. This marked the end of her participation in the suit.
 20. The 2nd Interested Party did not enter appearance or file a Defence to the Claim. As such, he did not participate in the proceedings.
 21. The matter proceeded for hearing on 13th February 2025 and 17th March 2025, during which the Claimant and 1st Respondent called oral evidence. Further defense hearing was scheduled for 29th May



2025, when the 2nd to 13th Respondents were to present their case. However, they failed to attend Court as scheduled hence the Court proceeded to close the Respondents' case and directed the parties to file written submissions within specified timelines.

Claimant's Case

22. The Claimant testified in support of his case as CW1. At the outset, the Claimant sought to adopt his witness statement, the initial Statement of Claim, the initial list and bundle of documents and the further list and bundle of documents to constitute his evidence in chief.
23. The Claimant averred that his superb contribution and innovativeness cannot be overlooked, and his distinctive, manifest and unchallengeable reputation in the industry remains above board. Contrary to the expected, he has experienced a disparaging response from the Respondents and further been victimized unfairly to the extent of being subjected to unprocedural disciplinary actions utterly devoid of any justiciable cause.
24. The Claimant further averred that upon being employed, he was entitled to the automatic promotions that were in place, which required an employee to automatically be promoted after every 3 years of service (job group J-N). That he was unfairly denied the automatic promotions despite the fact that he performed superior services being in charge of the then Western Province.
25. That further, he was recommended twice by his immediate seniors for promotion to job groups K and L based on his performance, but the same was not realized due to the unexplained instances by the Director of Human Resources' refusal to table his name to the relevant committees for consideration.
26. The Claimant further stated that he was continually discriminated against in all facets of his employment. That on the contrary, the Respondents have sustained promotion of other people working with him, some of whom did not merit any promotion.
27. According to the Claimant, the Respondents appointed and/or promoted some people irregularly, who lack academic and other qualifications to merit such promotions.
28. It was the Claimant's further evidence that the Respondents have also sustained a system of irregular employment of people, without following due procedure and devised a system of generating fictitious programs and/or ghost projects and sports programs which are conduits to loot public funds.
29. The Claimant further stated that to avoid accountability and silence all forms of whistle blowing, the Respondents have superbly perfected a system of either threatening, abusing and or irregularly rewarding employees whom they deem a threat to the irregular conduct.
30. The Claimant further stated that he has faced harsh and demeaning treatment from the Respondents, and his efforts to get formal information on the cause of the maltreatment has remained futile. That he has raised numerous complaints over different issues which were never responded to.
31. According to the Claimant, he has been tagged as a bad person by the 1st and 2nd Respondents, and this has resonated within the various decision-making carders of his sector, but his relentless efforts to seek the veracity of all negative claims made against him have elicited no response.
32. He averred that on or about 5th May, 2020, without any due cause and endeavors to grant him an opportunity to be heard, he was subjected to an interdiction which was marred with unprocedural flaws, for instance; he was never issued with the complaint and statement of his offence; the particulars of the offence were not explained to him; the interdiction letter referred to a letter allegedly dated 6th April, 2020 which letter was never shown or given to him; he was never shown any documentary



evidence for the accusations against him; and he was served with the interdiction before any pre-interdiction formalities were procedurally observed.

33. The Claimant further averred that during the interdiction, he was subjected to salary deductions on grounds which not only remained mysterious to him and his immediate boss, as the interdiction was as a result of an alleged promotion letter he had never seen.
34. According to the Claimant, he was called to return to work by phone, and was never informed of the finality of his interdiction until he sought to know the same. After being served with the letter lifting the interdiction in July 2021, he was further served with a severe reprimand letter.
35. In the Claimant's view, the said reprimand is a product of a flawed disciplinary process.
36. That despite his efforts to be repaid the deducted dues, he has been denied audience and the same has remained grounds for mistreatment and open denial of his work-related benefits and rights.
37. That in spite of being recalled to employment, the Claimant has only received an official letter notifying him of the lifting of the interdiction, unlike his colleagues who experienced the same, and his deducted salary of Kshs 350,000/- withheld.
38. According to the Claimant, there seems to be a sworn hell-bent determination to isolate him from any and all beneficial accruals germane to his employment. He averred that between the years 2017 to date, he was stripped of all key assignments and roles dedicated to him without any explanation, upon change of departmental control, and he has since remained under-tasked and more or less rendered displaced.
39. He averred that the programs he initiated were deliberately collapsed after some time, to ensure all his initiatives were done away with.
40. The Claimant averred that despite attempts to contest the aforementioned issues through all available avenues, the resultant endeavors have not earned him any positive outcome.

1st Respondent's Case

41. The 1st Respondent called oral evidence through Mr. John Kimani Njorio, who testified as RW1. He identified himself as an Assistant Director, Human Resources Management & Development in the 1st Respondent Commission. Similarly, RW1 adopted his witness statement and the list and bundle of documents filed on behalf of the 1st Respondent to constitute his evidence in chief.
42. It was RW1's evidence that the Claimant's assertion that he had only earned one promotion through court battle is factually wrong since his application to court alleging discrimination and seeking an order for his promotion in ELRC Petition No.30 of 2013 and a subsequent Appeal under Civil Appeal No. 186 of 2018 were both dismissed.
43. Notwithstanding the judgments in the two cases, the Claimant was promoted twice, on 11th February 2016 (from Job Group "J"- "K") and on 7th November 2019 (from Job Group "K"- "L").
44. RW1 further averred that the action taken against the Claimant was in compliance with the provisions of Section 70 (1) and (2) of the *Public Service Commission Act, 2017*.
45. RW1 further stated that the decision to lift the Claimant's interdiction was made and communicated to the Authorised Officer on 3rd February 2021, while the Authorised Officer's communication to the Claimant was done on 17th March 2021, when he was notified that the Authorised Officer had applied for a review of the 1st Respondent's decision. The final communication to the Claimant by the Authorised Officer was made on 27th June 2022.



46. RW1 contended that the Claimant has not submitted any evidence that he submitted an appeal to the 1st Respondent, which was declined due to lapse of time. That in any event, the Claimant has not lodged any appeal against any Authorized Officer on account of any procedural improprieties with respect to the alleged disciplinary proceedings against him.
47. That the case took more than six months because the 1st Respondent found it necessary to conduct its own investigations, especially as it related to the Audit trail of the correspondence, so as to ascertain from where the fraudulent letters originated.
48. According to RW1, the Claimant was taken through a proper disciplinary process on account of gross misconduct after he was found to have obtained promotions on merit by fraudulent means. After due process, the 1st Respondent rescinded the unlawful promotions that had been procured by the Claimant and he was severely reprimanded through the decision of 3rd February, 2021.
49. RW1 further averred that the allegations of discrimination against the Claimant have not been proved to the required standards, if at all.
50. RW1 further stated that the allegations of illegality and/or impropriety in the conduct of the affairs of the Commission are baseless and without any legal and/or factual foundation; and the allegations of irregular employment of people by the Commission are untrue, malicious, unfounded and baseless.
51. With regard to the other general allegations of corruption, RW1 averred that there are lawfully established state agencies that are mandated to fight corruption and as such, the Claimant has not proved that he has approached and made reports of the alleged corruption to the said entities; and has not submitted any evidence to prove the allegations that the Respondents have been stealing public funds.
52. RW1 further contended that the averments in the Claim reveal an appeal against the disciplinary decisions against the Claimant. That if the Claimant was aggrieved with any disciplinary control decisions made against him, he should have first appealed to the Commission and if, after the appeal, he remained aggrieved, he could have lodged an application for review.
53. In RW1's view, the instant suit is premature and breaches the doctrine of exhaustion of remedies.
54. According to RW1, decisions on promotions in the public service may be communicated by the Authorized Officer in the relevant Ministry or by any other public officer lawfully mandated by the law to communicate such decisions.
55. RW1 further averred that the 1st Respondent is not aware of any unfair treatment of the Claimant as alleged.

Submissions

56. Only the Claimant filed written submissions. The Claimant submitted that the disciplinary process was procedurally flawed and substantively unlawful and lacking adherence to the principles of natural justice.
57. The Claimant further submitted that the Respondents failed to produce comparative employment records to justify his exclusion from promotion or differentiate him from peers who progressed uninterrupted.



58. In support of his case, the Claimant placed reliance on a number of cases, including *Ondieki v Comply Industries Ltd* (Civil Appeal 33 of 2019), *Symon Wairobi Gatuma v Kenya Breweries Ltd & 3 others* (Petition E023 of 2023) and *Adoyo v Kenya Post Office Savings Bank* [2023] KEELRC 3289 (KLR).

Analysis and Determination

59. Flowing from the pleading filed by the parties, the evidence on record, as well as the Claimant's submissions, the Court has isolated the following issues for determination:
- i. Whether the Claimant was subjected to unfair labour practices and discriminated against by the Respondents;
 - ii. Whether the disciplinary action taken against the Claimant was unfair and unlawful;
 - iii. Whether the Claimant is entitled to the reliefs sought;

Unfair labour practices and discrimination?

60. It is the Claimant's case that in the course of his employment, the Respondents have subjected him to unfair labour practices and discriminated against him. One of the key instances cited by the Claimant in this regard is stagnation in one job grade and denial of promotion without justification.
61. The Claimant has averred that he was denied automatic promotions he was entitled to between 2011 to 2014. The Claimant further avers that despite his supervisors recommending him for promotion, his name was not forwarded to the relevant committees for consideration. According to the Claimant, he only earned one promotion in his 13 years in employment through a court battle.
62. The Claimant has further stated that despite being an academic giant and the longest serving officer in his department, his designation and promotion has remained at the lowest compared to his colleagues.
63. Disputing the Claimant's assertions, the 1st Respondent avers that the Claimant was promoted twice on 11th November 2016 to job group K and on 7th November 2019 to job group L. It is notable that the Claimant did not dispute this position.
64. Further to the foregoing, the Claimant admitted during cross-examination that he recently earned a promotion in the course of these proceedings.
65. It is also apparent that the Claimant had, in a previous suit, ELRC Petition No. 30 of 2013, *Reuben Wamukota Sikulu v Director of Human Resources Management, Ministry of Devolution and Planning and Others*, claimed that he had been treated unfairly and discriminated against with respect to promotion.
66. From the record, the Claimant was dissatisfied with the decision of the trial Court hence moved the Court of Appeal vide Nairobi Civil Appeal No. 186 of 2018; *Reuben Wamukota Sikulu v Director of Human Resource Management, Ministry of Devolution & Planning & 2 others; Public Service Commission (Interested Party)*.
67. In a judgment which was delivered on 7th February 2020, the learned Judges of Appeal agreed with the trial Court's finding that the Respondents' actions in declining to promote the Claimant were not actuated by malice. The Appellate Court further found that the Claimant had failed to meet the threshold for promotion as required under Regulation E.27 of the Public Service Code of Regulations and the Respondents were within their legal mandate to decline the promotion until there was compliance.



68. In light of the foregoing and bearing in mind that the Claimant has earned three promotions from 2016 to date, the Court is inclined to find that his claim that he was subjected to unfair labour practices with respect to promotion and that he had stagnated in one job group is without merit.
69. In the same vein, the Court finds that the Claimant has not established a prima facie case that he was subjected to discriminatory practices by the Respondents. Besides the Claimant pleading that the Respondents have sustained promotion of other people working with him, despite lacking academic and other qualifications to merit such promotions, there was no evidence that he was treated less favorably, notwithstanding that he was similarly situated to the said persons.
70. I say so noting that under Section 5(7) of the *Employment Act*, the employer bears the burden of proving the fact that the discrimination did not take place as alleged and that the discriminatory act is not based on any of the grounds specified within that section. Be that as it may, the employee alleging discrimination is first required to establish a prima facie case for discrimination in order for the burden to shift.
71. In the present case, the Claimant was first required to establish a prima facie case of discrimination in that he was similarly situated with the officers he avers were promoted, and that they possessed similar or less superior qualifications to his and were performing the same roles and duties as him. Indeed, the Claimant did not lead evidence to prove his assertion that he possessed superior qualifications compared to the persons he avers were promoted without merit.
72. All in all, the Court finds the Claimant's claim with respect to discrimination to be without basis.

Unfair and unlawful disciplinary action?

73. The Claimant has averred that he was subjected to a disciplinary process that was procedurally flawed and substantively unlawful.
74. The record bears that vide a letter dated 5th May 2020, the Claimant was alleged to have submitted a letter dated 6th April 2020 conveying the 1st Respondent's decision to promote him from job group L (CSG 9) to job group N (CSG 8). It was further alleged that the said letter of promotion was fraudulently obtained and was not authentic. To this end, the Claimant was asked to show cause why he should not be dismissed from service. Through the same letter, the Claimant was notified of his interdiction from exercising the duties of his office pending the finalization of his case. He was also placed on half salary.
75. The Claimant responded to the show cause letter through his letter dated 18th May 2020, in which he stated that he only applied for job rationalization and that he was not aware of the fraudulent process.
76. Through a letter dated 19th May 2020, the Claimant was notified that his explanation was unsatisfactory and he was required to clarify a number of issues.
77. In response, the Claimant denied submitting any letter of promotion. According to the Claimant, he was not aware of the promotion referenced in the show cause letter.
78. Subsequently, the Claimant's interdiction was lifted and he was reinstated to the payroll with effect from 3rd February 2021. Worthy to note is that the record does not reveal what transpired in the intervening period.
79. In another letter dated 27th June 2022, the Claimant was notified that the 1st Respondent had directed that he be served with a severe reprimand for gross misconduct and that the salary he was to be paid during his interdiction be withheld.



80. It is that severe reprimand that the Claimant has termed as an unfair disciplinary action and sought to challenge through the instant claim.
81. The 1st Respondent exhibited a copy of an investigation report with respect to the alleged fraudulent promotions. Notably, the said investigation report does not indicate the role played by the Claimant and the level of his culpability with regards to the fraudulent promotions.
82. I must add that the fact that the Claimant was a potential beneficiary of the fraudulent promotions does not automatically translate to culpability on his part. Here is why. According to the investigation report exhibited by the 1st Respondent, Evans Kimutai Chelanga, the 13th Respondent herein, whose name was in the list of the fraudulent promotions, was exempted from interdiction on the basis that he was the first one to raise the complaint with the Principal Secretary upon receipt of the letter of promotion. As such, despite being a potential beneficiary of the fraudulent promotions, he was absolved from any disciplinary action.
83. Therefore, the Respondents ought to have undertaken in-depth investigations to ascertain if indeed the Claimant was culpable in procuring the fraudulent promotions prior to concluding that he had committed an act amounting to gross misconduct.
84. Based on the material before Court, there is no evidence that the Claimant was culpable in procuring the fraudulent promotions, thus warranting the disciplinary sanction meted out against him. As such, there was no substantive justification for the disciplinary action meted out against the Claimant.
85. The Claimant has further impugned the process leading up to the issuance of the severe reprimand.
86. As it is, the issuance of the severe reprimand was a culmination of the disciplinary proceedings commenced against the Claimant. Therefore, the process leading up to the imposition of the said disciplinary sanction ought to have been in consonance with the tenets of a fair hearing. This included, according to the Claimant, access to evidence relied on by the Respondents, being given an opportunity to be heard and present evidence, as well as the right to challenge the evidence presented by the Respondents.
87. It is notable that in his further response to the show cause letter, the Claimant noted that he had not been issued with the impugned letter of promotion. Indeed, there is no evidence on record that the Claimant was supplied with the said letter to allow him mount his defence. This is bearing in mind that the said letter of promotion was the primary evidence relied on by the Respondents in undertaking the disciplinary action against the Claimant. In addition to that, the Claimant had consistently maintained in his responses to the show cause letter that he had never submitted any letter of promotion.
88. Therefore, it was only fair for the Respondents to serve the Claimant with the impugned letter of promotion to allow him defend himself against the allegations at hand.
89. Further to the foregoing, it is apparent that prior to the Claimant being issued with a severe reprimand, he was not invited to a disciplinary hearing to articulate his side of the story. Indeed, the minutes of the Departmental Human Resource Management Advisory Committee meeting sought to be relied upon by the 2nd to 13th Respondents does not reveal the Claimant's presence.
90. Revisiting the show cause letter dated 5th May 2020, it is evident that the Claimant was notified that his dismissal from service was being contemplated on account of gross misconduct. It thus follows that the Respondents ought to have complied with the provisions of Section 41 of the *Employment Act* prior to sanctioning the Claimant. This entailed giving the Claimant an opportunity to present his case in an oral hearing in the presence of a fellow employee.



91. As to the requirement of an oral hearing, the Court of Appeal in the case of Postal Corporation of Kenya v Andrew K. Tanui [2019] eKLR, reckoned as follows:

“Admittedly, there has been considerable debate as to what amounts to a fair hearing or procedure in disciplinary proceedings. Indeed the appellant has cited the Kenya Revenue Authority case where this Court held that the fairness of a hearing is not determined solely by its oral nature, and that a hearing may be conducted through an exchange of letters as happened in that case. It also held that whether an oral hearing is necessary will depend on the subject matter and circumstances of the particular case and upon the nature of the decision to be made. We believe that is still good law, but not in respect of a hearing before termination as envisaged under Section 41 of the Act. It is our further view that Section 41 provides the minimum standards of a fair procedure that an employer ought to comply with... The respondent faced serious indictments which could torpedo his entire career and destroy his future. In our view, this was a matter in which oral hearing was necessary, but none was held.” Underlined for emphasis

92. I concur with the sentiments expressed by the Court of Appeal in the above case.

93. Given that in the present case, the Claimant’s employer was contemplating his dismissal from service, it was only fair that he be accorded an opportunity to be heard in an oral hearing. By all means, the allegations raised against the Claimant were weighty and could lead to the termination of his employment.

94. In as much as the Claimant was not dismissed from service, his employment record bears the adverse disciplinary action hence is tainted.

95. In light of the foregoing, the Court finds that the process leading up to the Claimant being issued with the severe reprimand was flawed and procedurally unfair.

96. All in all, the disciplinary action taken against the Claimant did not meet the legal threshold for substantive and procedural fairness.

Reliefs?

97. As the Court has found that the disciplinary action taken against the Claimant was substantively and procedurally unfair, it follows that he is entitled to the salary withheld during the period of interdiction.

98. The claim for damages on account of unfair labour practices and discrimination is disallowed as the Court has found the said claim to be without merit.

Order

99. In the end, the Court enters judgment in favour of the Claimant in the following terms: -

- a. A declaration that the disciplinary action against the Claimant by way of severe reprimand was substantively and procedurally unfair.
- b. The Claimant is entitled to the sum of Kshs 350,000/= being his salary withheld during the period of interdiction.
- c. As the employment relationship is still subsisting, the Court will be inclined to order that each party bears their own costs.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 19TH DAY OF SEPTEMBER 2025.



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STELLA RUTTO

JUDGE

In the presence of:

For the Claimant In person

For the 1st Respondent Mr. Kioko instructed by Mr. Ogosso

For the 2nd to 13th Respondents Mr. Kioko

Court assistant Millicent

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

