



REPUBLIC OF KENYA



KENYA LAW
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**Sigowo v Central Bank of Kenya (Cause E149 of 2025)
[2025] KEELRC 2584 (KLR) (29 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2584 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E149 OF 2025
CN BAARI, J
SEPTEMBER 29, 2025**

BETWEEN

BRAMWEL KIBET SIGOWO APPLICANT

AND

CENTRAL BANK OF KENYA RESPONDENT

RULING

1. Before Court is the Claimant/Applicant's Motion application dated 19th May, 2025 brought pursuant to Order 51 Rule 1 of the Civil Procedure Rules, Articles 35 and 50 of *the Constitution* of Kenya and Section 4 of the *Access to Information Act*, 2016. The Applicant seeks Orders that:-
 - i. The Honourable Court be pleased to compel the Respondent to release and/or disclose to the Applicant the Internal Audit Staff Profiles in place during the staff translation/migration exercises—Phase One dated 24th August 2016, and the second dated 13th December 2021—showing for each employee: their qualifications, current position held, years served in the current position, and the translated designation, being documents in the Respondent's custody, for the purpose of enabling the Applicant to comply with obligations under Order 11 of the Civil Procedure Rules, 2010 regarding the exchange of documents.
 - ii. An order be issued directing the Respondent to release the aforementioned Internal Audit Staff Profiles to the Applicant forthwith.
 - iii. The costs of this Application be provided for.
2. The Motion is supported by grounds on the face and the supporting affidavit of the Applicant sworn on 19th May, 2025 and a supplementary affidavit sworn on 27th June, 2025.
3. The Applicant states that the Respondent is the originator and custodian of the Internal Audit Staff Profiles that were used by the Respondent during the Applicant's tenure as an employee, and which



- documents are relevant and necessary for inclusion in the Applicant's list of documents in compliance with Order 11 of the Civil Procedure Rules, 2010.
4. He avers that he cannot lawfully include in his list of documents a document that he did not author without disclosure or permission from the Respondent. It is the Applicant's case that despite reasonable and repeated requests, the Respondent has failed or neglected to voluntarily disclose the said documents.
 5. The Applicant further avers that his right to access information is constitutionally guaranteed under Article 35(1) (b) of *the Constitution* of Kenya, 2010, and is further protected by Section 4 of the *Access to Information Act*, 2016. He states that under Article 50(1) of *the Constitution*, he is entitled to a fair hearing, which includes adequate access to information relevant to his case.
 6. The Applicant maintains that it is in the interest of justice, fairness, and procedural propriety that the Respondent be compelled to release the requested documents.
 7. The Respondent opposed the motion vide grounds of opposition dated 26th June, 2025, arguing that the Applicant's motion seeking to compel production of documents under Order 11 of the Civil Procedure Rules, 2010 is not a proper interlocutory application, as such a prayer should have been pursued by way of summons to produce under Order 16. It avers that for this reason, the current application is procedurally defective and an abuse of process.
 8. It avers further that under Order 16, rules 6 - 7, the Applicant could validly issue a summons to produce the relevant documents, with service and proper notice, which route is more appropriate than initiating a new motion application, and that the failure to follow this remedy is fatal to the present motion.
 9. The Respondent further states that Order 11 applies to pre-trial disclosure in active proceedings and requires parties to exchange lists of documents and statements, and to hold trial conferences and that the Applicant has not demonstrated that the case is at or beyond the stage requiring trial preferences, nor that a pre-trial timetable has been issued, making this application premature and unanchored in procedural context.
 10. The Respondent starts that Rule 11 of the Rules of Court circumscribes disclosure in litigation, and that constitutional rights cannot circumvent specific procedural protections and steps required before compelling document production.
 11. The Respondent further states that the application herein, demands wholesale production of all "Internal Audit Staff Profiles" from two periods, without reference to a specific list or clearly defined scope, which imposes undue burden and risk of overproduction, violating the duty of specificity under both Order 11 and Order 16.
 12. It argues that by bringing a procedurally defective and premature application, the Applicant has imposed unnecessary costs and should be ordered to pay the costs of this motion.
 13. The Respondent states that Personal data of employees, such as their qualifications, employment history, years served, current and translated designations, constitute personal data under Section 2 of the *Data Protection Act, 2019*. It avers further, that as an employer and data controller, it is obligated to process such personal data in a lawful, fair, transparent, and purpose-limited manner under Section 25 of the Act, and disclosure to a third party (the Applicant) without a lawful basis would contravene these principles.
 14. The Respondent avers that consent of data subjects (the employees) is required for processing unless another lawful basis applies; none has been demonstrated here. It states that alternative lawful bases - such as compliance with a legal obligation or necessity for performance of a contract - do not apply to



- this outright disclosure and that the Applicant has not shown the existence of any statutory mandate compelling the production of these personal data.
15. It states further that under Section 26, employees have the right to be informed and to object to any processing of their personal data, and compelling production without their notice and consent infringes their rights to privacy, access, objection, and data protection.
 16. It is the Respondent's case that unlawful processing may expose it to enforcement action by the Data Protection Commissioner, including fines up to Kshs.5 million, or litigation for compensation by affected employees, and that the Court must ensure compliance with data protection obligations before directing production.
 17. It avers further that if part of the documents is legitimately disclosable, it offers a proposal to redact personal data or seek individual consent from those employees beforehand or in the alternative, a Data Subject Access Request mechanism may be employed instead of a blanket motion.
 18. The Claimant/Applicant filed a supplementary affidavit wherein, he states that the Respondent's rigid reliance on technicalities relating to the procedure under Order 11 and Order 16 of the Civil Procedure Rules is misplaced and contrary to Article 159(2)(d) of *the Constitution*. He avers that the form in which the present application was brought is appropriate, and the Court is properly seized of jurisdiction under the Employment and Labour Relations Court (Procedure) Rules, 2016, which permit a party to apply for directions or interim reliefs by Notice of Motion.
 19. The Applicant states that the documents sought, namely internal audit staff profiles at both phase one and phase two and employment records from specific periods, are material and relevant to the fair resolution of the present dispute, particularly on his allegation of discrimination, differential treatment, and institutional misconduct.
 20. The Applicant further avers that the attempt by the Respondent to shield these documents behind the *Data Protection Act, 2019*, is a deliberate mischaracterization of the law, as Section 25 of the Act permits processing of personal data where disclosure is necessary for legal proceedings, which squarely applies in the current circumstances.
 21. He argues further that under Section 51(2) of the Data Protection Act and Section 4(1)(a) of the *Access to Information Act*, he is entitled to access information necessary to exercise or protect any right or fundamental freedom, including the right to fair labour practices under Article 41 and the right to a fair hearing under Article 50.
 22. The Applicant states that the Respondent's fears of alleged exposure to liability under data protection law are purely speculative, exaggerated, and calculated to derail this matter. He states that if redaction is necessary, the same may be addressed by appropriate confidentiality undertakings, as is standard in civil litigation.
 23. The states further that the Court has inherent power and discretion to direct redacted disclosure, issue in camera inspection orders, or make limited production orders, but not to entirely reject production on a blanket basis without factual justification.
 24. The Applicant prays that his application be allowed as prayed.
 25. Parties canvassed the motion by written submissions, and which have been duly considered.

Determination

26. The issue for determination is whether the Claimant/Applicant merits the orders sought.



27. The Applicant seeks orders compelling the Respondent to release their Internal Audit Staff Profiles comprising of their academic and professional qualifications; the position held at the material time; years of service in that position and the translated designation.
28. The Claimant's contention is that the said information was previously accessible to him during his tenure within the relevant department and was stored in the departmental shared folder, and that the instant motion only seeks procedural admission of this information as evidence before the Honourable Court and to compel the Respondent to formally declare and produce it to the Claimant under Order 11 of the Civil Procedure Rules, 2010.
29. The Claimant avers that the documents are essential to prove allegations of discrimination, which touch on Article 27 and Article 50(1) of *the Constitution* of Kenya, which emphasizes the right to fair hearing. He cites the case of Nairobi Law Monthly Co. Ltd v Kenya Electricity Generating Co. Ltd & 2 others [2013] eKLR for the holding that a person seeking information must show that it is held by the respondent and is required for the exercise or protection of another right.
30. On its part, the Respondent argues that the documents sought by the Claimant constitute personal data within the meaning of Section 2 of the Data Protection Act and that by law, it would be required to obtain the consent of each staff member affected by the staff translation or migration exercises, which date as far back as 2016, prior to sharing their personal data with the Claimant.
31. To allow or decline the motion herein, is for this court a delicate balancing act between the Respondent's and its workers right to privacy and that of the Claimant/Applicant to prove his case.
32. There is no doubt that what the Applicant seeks produced is data that is personal in nature and which to a large extent may be considered confidential. The court in the case of Leland I. Salano vs Intercontinental Hotel [2013] eKLR explained what may be deemed as confidential documents in the following words;

“Confidential documents in the employment relationship are documents regarded by the employer to contain secret information, or information which is not generally known, or readily accessible to other persons, other than the employer. They are confidential if their unauthorized disclosure, could damage the essential interests of the employer's business. Such documents may contain signs, or paragraphs, identifying them to be confidential. They are protected from misuse and improper disclosure. The documents are deemed confidential when the owner of those documents has taken reasonable steps, to limit access of the documents to employees and other unauthorized persons.”
33. The Claimant's contention that the information he seeks produced was previously accessible to him during his tenure with the Respondent, does not in my view warrant unlimited disclosure whether he already holds the information or not, as such disclosure would expose the employees' data which is protected by law.
34. As the Respondent correctly submitted, the instant application was unnecessary as the information could still have been produced through issuance of summons to produce under Order 16, rules 6 and 7 of the Civil Procedure Rules. That be as it may, and cognisant of the provisions of Article 159(2)(d) of *the Constitution*, I will not proceed to dismiss the instant application solely on this basis.
35. The Court notes that both parties concur that redacted disclosure would be agreeable to them so as to enable production without infringing on the rights of either party. On this basis, I proceed to make the following orders: -



- i. An order that a redacted version of the internal audit profiles be supplied upon the Applicant/ Claimant within 21 days of this ruling ensuring compliance with the [Data Protection Act, 2019](#).
- ii. Costs of the motion shall be in the cause.

36. It is so ordered.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 29TH DAY OF SEPTEMBER, 2025.

C. N. BAARI

JUDGE

Appearance:

Ms. Kimiti present for the Claimant/Applicant

Mr. Akello present for the Respondent

Ms. Esther Sakwanda -CA.

