



REPUBLIC OF KENYA



KENYA LAW
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**Ekiru v Teachers Service Commission & another (Cause E003 of 2024)
[2025] KEELRC 2666 (KLR) (25 September 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2666 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KITALE
CAUSE E003 OF 2024
MA ONYANGO, J
SEPTEMBER 25, 2025**

BETWEEN

EKUTAN EVERLYNE EKIRU CLAIMANT

AND

TEACHERS SERVICE COMMISSION 1ST RESPONDENT

KENYA NATIONAL EXAMINATION COUNCIL 2ND RESPONDENT

JUDGMENT

1. The Claimant was until 23rd June 2021 a Primary school teacher employed by the 1st Respondent.
2. In the Memorandum of Claim filed herein, the Claimant states that she was employed by the 1st Respondent on 11th November 2008 and that she diligently served for 14 years rising through the ranks to the position of Deputy Head Teacher II.
3. The Claimant avers that vide a letter dated 1st July 2021, the 1st Respondent terminated her employment as a teacher on allegation that on 8th August 2008, in order to secure employment with the 1st Respondent, she presented a forged Primary Teacher Education (PTE) Certificate No. IPTEC000001 for the year 2006.
4. The Claimant contends that the termination of her employment was unfair and unjustified on the grounds that:-
 - i. The reasons for termination were not established,
 - ii. The 1st Respondent failed to do background checks or at all,
 - iii. The 1st Respondent failed to verify with the Ministry of Education to confirm that Kakuma Teachers College was established ad hoc,



- iv. The 1st Respondent failed to appreciate that the Claimant and another Kenyan trained at Kakuma Teachers Training College existed with South Sudan nationals,
 - v. The 1st Respondent was fixed minded and was set to terminate the Claimant's employment merely because it had not heard of Kakuma TTC,
 - vi. The 1st Respondent failed to verify the authenticity of the Claimant's certificate with the 2nd Respondent,
 - vii. Kenyans were not expressly barred from training at the Kakuma Teachers Training College whose operation was fully sponsored, and,
 - viii. The Claimant was never charged with the offence of forgery or any other offence related to the Training at the ad hoc and now defunct Kakuma TTC.
5. The Claimant further contends that the termination of her employment was selective and discriminatory on the basis that the Claimant had undertaken the training with one male Kenyan among the South Sudan Nationals, and who had also been employed by the 1st Respondent, was not dismissed even as the Claimant was singled out for dismissal on the charge of forgery of the professional certificate.
 6. It is the Claimant's case that despite giving a candid explanation regarding her training as a teacher together with the cohort of South Sudan nationals who were specifically trained at the ad-hoc Kakuma Teachers Training College, the 1st Respondent unfairly terminated her employment.
 7. The Claimant asserts that as at the date of termination of her employment, she was 36 years old, and had 24 more years to serve as a teacher before attaining the retirement age of sixty (60) years.
 8. The Claimant therefore seeks to be compensated for the alleged unfair and unlawful termination. She particularized her terminal dues as hereunder: -
 - i. One-month salary in lieu of notice.....Kshs 42,642
 - ii. One month's salary for each of the
14 years served..... Kshs 596,988
 - iii. Loss of 24 years' salary from
July 2021 to 2045 Kshs 12,280,896
 - iv. Damages for unlawful
termination (12 Months' salary) Kshs 511,704
 - Total Kshs 13,432,230
 9. The Claimant thus prayed for judgment against the Respondents in the following terms:-
 - 1st Respondent
 - a. A declaration that the Claimant was properly trained at the defunct Kakuma Teachers Training College and qualified to be awarded P1 Certificate No. PTECO000011
 - b. A declaration that the termination of the Claimant's employment was unfair.



- c. An order directing the 1st Respondent to reinstate the Claimant to employment on the same terms and pay and reinstate her name in the Register of Teachers, and to pay her all back salary together with all incremental credits accrued
In the alternative
 - d. The 1st Respondent do pay the Claimant damages of Kshs. 13,432,230 = as particularized
 - e. Cost of the claim
 - f. Interest at court rate
As against the 2nd Respondent
 - g. A declaration that the 2nd Respondent lawfully issued Certificate No. IPTECO000011 to the Claimant upon successful completion of training at the defunct Kakuma Teachers Training College.
 - h. Any other relief and orders that this Honourable Court may deem fit to grant.
10. The 1st Respondent filed its Response dated 13th February 2024 denying the averments made by the Claimant. In its Memorandum of Defence, the 1st Respondent avers that it employed the Claimant based on the academic qualifications and certificates she presented during her interview.
 11. The 1st Respondent avers that while conducting routine vetting of professional and employment documents of its employees, it was noted that the Claimant had submitted an International Primary Teachers Education Certificate (IPTEC) purportedly issued by the 2nd Respondent. The 1st Respondent avers that on 30th April 2018, it asked the Claimant to request for verification of her IPTEC certificate from the 2nd Respondent.
 12. It is the 1st Respondent's contention that the 2nd Respondent in response, served it with a letter dated 29th June 2018 indicating that no candidate by the name Ekutan Everlyne Ekiro registered nor sat for the 2006 September IPTE examination at Kakuma Primary Teachers' Training College under index no. 91106010; that a Centre by the name Kakuma Primary Teachers Training College with code 91106 did not exist during the year 2006 Primary Teachers Education examination; that the 2nd Respondent does not offer an examination called International Primary Teachers Education Certificate Examination as indicated in the purported copy of the certificate and lastly, that it does not offer the September Series Primary Teachers Education Examination.
 13. The 1st Respondent asserted that the 2nd Respondent in that letter categorically stated that the Certificate presented by the Claimant for verification was not genuine.
 14. The 1st Respondent thus avers that based on the information it received from the 2nd Respondent, and in compliance with its mandate to set and maintain teaching standards, the 1st Respondent found that it had sufficient grounds to believe that the Claimant violated fundamental provisions of the Code of Regulations for Teachers (CORT) and proceeded to interdict her with effect from 21st April 2021.
 15. According to the 1st Respondent, the Claimant was interdicted on the ground that she presented to the 1st Respondent a forged Primary Teacher Education Certificate to secure employment.
 16. It is the 1st Respondent's case that pursuant to CORT provisions, the Claimant was invited to make a defence statement but she chose not to file a response. That the Commission convened the Disciplinary Committee on 23rd June 2021 which the Claimant attended and was accorded the opportunity to defend herself.



17. The 1st Respondent avers that the Committee interrogated all the evidence and oral statement by the Claimant and reached the finding that the Claimant was guilty of breach of the provisions of the COURT, hence the recommendation that she be dismissed from service and be removed from the Register of Teachers.
18. The 1st Respondent avers that the termination ofnd Respondent that the Claimant's certificate was not genuine. the Claimant's employment was not discriminatory but rather based on a fair disciplinary hearing following the confirmation by the 2
19. The 1st Respondent maintained that before dismissing the Claimant, all the requirements of fair hearing were duly complied with within the limits provided in law and that as such, her dismissal from employment was fair, procedural and lawful.
20. In response to the prayers sought by the Claimant in her claim, the 1st Respondent urged the court to dismiss the same, arguing that they are untenable, unlawful and grossly offend the provisions of *akn ke act 2010 constitution the Constitution*, the *akn ke act 2007 11 Employment Act* and the TSC Act.
21. On its part, the 2nd Respondent filed its statement of defence dated 1st July 2024 in response to the Claimant's claim.
22. In response to the averment made by the Claimant that the 2nd Respondent lawfully issued her with Certificate No. IPTECO000011 upon successful completion of training at the defunct Kakuma Teachers Training College, the 2nd Respondent stated that upon receiving the Claimant's application for verification of her International Primary Teachers Education Training Certificate for the year 2006, it processed the application and communicated the results to the 1st Respondent vide a letter dated 29th June 2018 indicating that a candidate by the name Ekutan Everlyne Ekiru did not register nor sit for the year 2006 September IPTE examination at Kakuma Primary Teachers Training College under index No. 91106010; that a Centre by the name Kakuma Primary Teachers Training College with code number 911 did not exist during the year 2006 PTE examinations; that KNEC does not offer an examination called International Primary Teachers Education Certificate as indicated in the purported copy of certificate and further that KNEC does not offer September series PTE examination.
23. In a nutshell, the 2nd Respondent's position is that the copy of the certificate presented to it for verification purposes was not genuine.
24. The 2nd Respondent thus urged the court to dismiss the suit against it arguing that the Claimant is not entitled to the declarations, orders and the prayers she is seeking.

The evidence

25. The Claimant testified on 27th October 2025 as CW1. She adopted her witness statement recorded on 13th May 2024 as her evidence in chief. She also relied on the bundle of documents she filed in support of her case. The Claimant urged the court to grant her the prayers she is seeking in her Memorandum of Claim
26. Upon being cross examined by Counsel Ochieng, the Claimant maintained that she was employed by the 1st Respondent in January 2009 after attending interviews. She asserted that at the time of the interviews, the 2nd Respondent was not present. She further testified that she presented, among other documents, the International Primary certificate document issued to her by the 2nd Respondent.
27. The Claimant testified that after she was employed, the 1st Respondent asked her to have her documents verified by the 2nd Respondent, which she did. She further stated that she did not receive



- any information from the 2nd Respondent until the 1st Respondent's commissioners called her for interrogation on the allegation that the 2nd Respondent had in its letter stated that the International Primary Teachers Certificate she presented to the 1st Respondent was a forgery.
28. The Claimant stated that she was thereafter served with an interdiction letter which she responded to. After that she was invited to a disciplinary hearing which she attended in person. It was her testimony that during the disciplinary hearing, witnesses were called and the Claimant was given a chance to ask them questions.
 29. She also confirmed that she was dismissed almost 5 years ago.
 30. On being cross examined by Counsel Lesikito for the 2nd Respondent, the Claimant testified that she stated in her statement that she sat for an examination set for South Sudanese nationals. She also stated that she is a Kenyan national and not a South Sudanese.
 31. Upon re-examination, the Claimant stated that the examination she sat for was for a training programme for refugees to become teachers. She testified that she trained, sat for the examination and was awarded a certificate with them.
 32. She further testified that when she applied for employment to the 1st Respondent, she appeared for the interview with all her documents. She asserted that there was no issue raised regarding the International Primary Teachers Education Certificate, and that the certificate did qualify her to teach. She added that she attained a mean grade of D+ in her KCSE, which grade entitled her to train as a primary school teacher.
 33. The Claimant further stated that she was sponsored in her training by three organizations, namely UNHCR, the Government of Kenya and Windal Trust Kenya. She stated that the Government of Kenya supervised the programme, but the 1st and 2nd Respondents were not involved in the training. She clarified that neither the 1st Respondent nor the 2nd Respondent was present during the programme.
 34. The 2nd Respondent called Mr Antony Tengen, its Research and Quality Assurance Officer who testified as RW1. RW1 adopted his witness statement dated 15th January 2025 as his evidence in chief. He also relied on the documents filed by the 2nd Respondent in support of its case.
 35. Upon being cross examined by Counsel Ochieng, the 2nd Respondent's witness testified that the Claimant initiated the process for document verification by formally requesting for it to be done by the 2nd Respondent. He asserted that, following the verification, it was determined that the Claimant had not taken the examination and that the college in question did not exist at the time. Further, RW1 indicated that the 2nd Respondent does not offer the program associated with the claimed qualification.
 36. On being cross examined by Counsel Kraido, RW1 conceded that the name of the 2nd Respondent's CEO at the time, Paul Wasanga, appeared in the graduation booklet for Kakuma Training College. He further conceded that during the verification of the Claimant's documents, he did not make any inquiry with the said Mr. Paul Wasenya to confirm whether the Government of Kenya was associated with the said college.
 37. RW1 maintained that the Claimant's certificate purporting to be an International Primary Teachers Education Certificate, was not issued by the 2nd Respondent.
 38. On re-examination, RW1 stated that the role of the 2nd Respondent is limited to verifying whether certificates are genuine upon request by holders of the certificates. It was his testimony that the 2nd



- Respondent's database contains records from 1924 to date. RW1 also stated that graduation booklets do not originate from the 2nd Respondent.
39. RW2 Daniel Kioko Kiumi, was the 1st Respondent's Account's Director, and its former Discipline officer. RW2 adopted his witness statement recorded on 13th September 2024 as his evidence in chief. He also relied on the documents filed by the 1st Respondent as part of his evidence.
 40. In his testimony, RW2 maintained that the Claimant was subjected to disciplinary proceedings in accordance with the Code of Regulations for Teachers. He stated that the Claimant was interdicted and later dismissed for presenting a forged teaching certificate to secure employment.
 41. RW2 further contended that the 1st Respondent does not register training colleges, but only registers and employs teachers. It was his evidence that the Claimant was given a fair opportunity to respond to the charges but she declined to file a formal response. During the disciplinary hearing, it was discovered that the Claimant held a KCSE grade of D+, below the required minimum of grade C for enrollment into a primary teacher training course.
 42. RW2 also testified that the Claimant argued during the hearing that the certificate in question was intended for use in South Sudan and not in Kenya, that the Claimant proceeded to apply for employment with the 1st Respondent using the said certificate while fully aware that she did not qualify to teach in Kenya.
 43. It was the evidence of RW2 that the Claimant was dismissed from employment procedurally and on for valid reason.
 44. On cross-examination, RW2 stated that the disciplinary process against the Claimant arose from routine verification by the 1st Respondent. He maintained that authentication of documents is done by the 1st Respondent after recruitment, upon presentation of original certificates.
 45. Further, it was the testimony of RW2 that the issue at hand was the forged certificate, and not the Claimant's KCSE grade of D+, although the grade further disqualified her from being trained as a teacher in Kenya.
 46. RW2 admitted he did not independently verify the graduation list from Kakuma Teachers Training College, where the Claimant claimed to have graduated. He also noted that while the Claimant had a University of Nairobi certificate, it was not considered for her employment, as it was unrelated to the teaching position she was hired for.
 47. Upon re-examination, RW2 clarified that the 1st Respondent employs teachers trained in foreign jurisdictions only upon production of a letter of equivalence. He stated that in the Claimant's case, the certificate in question was allegedly issued within Kenya, and the verification letter disputing its authenticity emanated from the 2nd Respondent.

Submissions

48. At the close of the 1st Respondent's case, the Court directed parties to file written submissions. The Claimant filed submissions dated 27th March 2025 while the 1st Respondent filed submissions dated 20th May 2025. It appears the 2nd Respondent did not file written submissions.
49. In her submissions, the Claimant identified the issues for submissions to be:
 - i. Whether TSC's decision to terminate the Claimant's employment was unlawful, unfair and in breach of the principles of natural justice and due process;



- ii. Whether the Claimant's PTE Certificate No. IPTECO000011 is valid and was lawfully obtained:
 - iii. Whether the Claimant is entitled to the remedies sought, including reinstatement, compensation, declaratory reliefs, and costs of the suit?
50. On the issue whether the 1st Respondent's decision to terminate the Claimant's employment was unlawful, unfair and in breach of the principles of natural justice and due process, the Claimant submitted that she does not dispute that she was summoned to appear before a disciplinary committee. However, the Claimant contends that the hearing was conducted without providing her with the essential particulars of the allegations she was facing, without furnishing her with the evidence upon which the employer sought to rely, and without giving her adequate opportunity to prepare a defense or to challenge the assertions made against her.
 51. The Claimant submitted that the 1st Respondent failed to afford her a meaningful opportunity to interrogate the basis of the claim by the 2nd Respondents regarding the alleged inauthenticity of her certificate as no documentary evidence from the 2nd Respondent was availed to her prior to or during the disciplinary hearing.
 52. According to the Claimant, the 1st Respondent relied on a verification request to the 2nd Respondent initiated by the Claimant but the said verification report or database logs was not supplied to the Claimant during the disciplinary proceedings. This, according to the Claimant, denied her any meaningful opportunity to review, challenge, or respond to the substance of the evidence allegedly supporting the charge against her.
 53. While citing the case of *Walter Ogal Anuro v Teachers Service Commission (2013)KEELRC 386(KLR)*, the Claimant submitted that the 1st Respondent did not adhere to the provisions of Section 41 and 43 of the *kenya act 2007 11 Employment Act* in dismissing her from employment as it did not conduct full-circle investigations as to the alleged forgery thus rendering the dismissal unfair and unlawful for want of due procedure.
 54. On the issue whether the Claimant's PTE Certificate No. IPTECO000011 is valid and was lawfully obtained, the Claimant submits that she provided extensive particulars confirming her two years teacher training at Kakuma Teachers Training College under the Special Refugee Education Programme.
 55. The Claimant maintained that the programme under which she trained was administered by the Ministry of Education in conjunction with KNEC, UNHCR and Windle Trust Kenya, specifically for refugee and marginalized communities in Turkana County. The Claimant described the program as an ad hoc initiative tailored to train teachers for deployment in refugee and pastoralist communities.
 56. In her submissions, the Claimant contended that the 1st and 2nd Respondents did not adduce any documentation to contradict the Claimant's training history, the conduct of the 2006 IPTE examination or the issuance of IPTEC Certificate No. IPTECO000011.
 57. It is the Claimant's submission that the 2nd Respondent merely produced a general letter addressed to the 1st Respondent merely suggesting that a database search could not locate the Claimant's name but did not provide a comprehensive record of certificates issued under the Kakuma programme.
 58. According to the Claimant, although the digitization of results is helpful, is it merely an administrative convenience and not the exclusive mechanism for verification. On this basis, it is submitted that it is



- incorrect, misleading, and legally untenable to assert that a database reliant on digitized input is the sole method employed by KNEC to verify and confirm academic results.
59. It is the Claimant's submission that her certificate, issued by the 2nd Respondent in 2006, was obtained through lawful participation in the Primary Teacher Education (PTE) examinations and bears legitimate features which have not been disproved by the Respondents through forensic analysis.
60. The Claimant submitted that her dismissal from employment was substantively unfair.
61. Lastly, on the issue whether the Claimant is entitled to the remedies sought, including reinstatement, compensation, declaratory reliefs and costs of the suit, the Claimant submitted that having proved that the dismissal was substantively and procedurally unfair, she is entitled to the reliefs she is seeking in her claim.
62. On its part, the 1st Respondent in its submissions identified the issues for determination to be: -
- i. Whether the termination of the Claimant was fair and in accordance with the law, and,
 - ii. Whether the Claimant is entitled to the prayers sought.
63. On the first issue, the 1st Respondent submitted that in dismissing the Claimant from employment, it acted in a just and fair manner as it had valid reasons for terminating the Claimant's employment and that it followed the due process as required by the law.
64. According to the 1st Respondent, the IPTEC Certificate presented before it by the Claimant was forged as confirmed by the 2nd Respondent. It is submitted that based on the documentary evidence and testimony of the Claimant, the 1st Respondent had a genuine reason to believe that the Claimant had presented a forged Certificate which is an offense punishable under Regulation 140(d) of the Code of Regulation for Teachers.
65. The 1st Respondent submitted that the presentation of the forged Certificate by the Claimant amounted to gross professional misconduct and warranted a stern disciplinary action.
66. In addition, it is submitted that the employment contract between the 1st Respondent and the Claimant was founded on the validity of the academic and professional certificates presented by the Claimant and that once the 1st Respondent proved that the Certificate was not genuine, it had no choice but to dismiss the Claimant from employment.
67. The 1st Respondent submitted that following the response from the 2nd Respondent regarding the Claimant's Certificate, it commenced investigations and invited the Claimant to write a defence but the Claimant chose not to respond to allegations that her certificate was not genuine.
68. It is the 1st Respondent's submission at the time of dismissal of the Claimant from employment, there was sufficient evidence to prove on a balance of probabilities that the Claimant was culpable of presenting a forged Certificate.
69. On the foregoing, the 1st Respondent maintains that it has discharged the burden required under Section 43 of the *akn ke act 2007 11 Employment Act* as it has a valid reason to dismiss the Claimant from employment.
70. With regard to the procedure it followed, the 1st Respondent maintained that it adhered to Part XI of the Code of Regulations for Teachers which outlines the procedure to be followed by the 1st Respondent in discipline cases against teachers.



71. It is the 1st Respondent's submission that it adhered to its Regulations during the disciplinary hearing of the Claimant and that the decision reached at the hearing was from a fair procedure and in consideration of evidence adduced and the nature of the allegations.
72. The 1st Respondent maintained that if the Claimant was dissatisfied by either the procedure or the decision of the disciplinary hearing, she had the right to Appeal against the decision of the disciplinary panel to the 1st Respondent's Review Panel in line with section 46 of the Teachers Service Act. That the Claimant did not make an application for appeal, an indication that she was satisfied with the disciplinary procedure and the discipline decision.
73. The 1st Respondent further maintained that it informed the Claimant of the allegations against her and the right to defend herself, invited her to appear for hearing before the disciplinary panel and communicated its decision promptly to the Claimant.
74. The 1st Respondent maintained that through the interdiction letter and the letter inviting the Claimant for disciplinary hearing it informed the Claimant of her right to present witnesses, make a defence statement and bring any documents to support her case.
75. Further, it is submitted that pursuant to schedule III of the CORT, the Claimant had a right to request for any documents in support of her case upon payment of the required fee. That she did not request for any documents.
76. The 1st Respondent submitted that it had met the threshold for procedural fairness as stated in *Postal Corporation of Kenya v Andrew K. Tanui* [2019] KECA 489 (KLR) in that the Claimant was informed of the allegations against her, she was given an opportunity to be heard and the decision of the disciplinary panel was communicated to her.
77. On the issue whether the Claimant is entitled to the prayers sought, the 1st Respondent maintained that throughout the disciplinary process, it adhered to law and its Regulations and as such, the court was urged to find that the prayer for unfair termination is unjustifiable.
78. While citing Article 237(2) of *the Constitution*, the 1st Respondent asserted that it has mandate to manage its employees which includes discipline. It submitted that it will be usurpation of that mandate if the court grants the prayers sought. In support of this position, the 1st Respondent cited the case of *Chrispus Ileli Kunuva v County Government of Kitui &* [2020] KEELRC 15 (KLR)
79. With regard to the prayer for reinstatement, the 1st Respondent submitted that pursuant to section 12(3)(vii) of the *Employment and Labour Relations Court Act*, the prayer for reinstatement is time barred as the Claimant was dismissed on 1st July 2021 and it is now 4 years since the dismissal
80. In the end, the court has been urged to dismiss the Claimant's suit with costs.

Determination

81. From the pleadings on record, the evidence of the parties and the submissions filed, the issues that arise for determination in this case are: -
 - i. Whether the termination of the Claimant's employment was justified.
 - ii. Whether the 1st Respondent followed the due process in dismissing the Claimant from employment.



- iii. Whether the Claimant's International Primary Teachers Education Certificate (IPTEC No. IPTECO000011) was valid and lawfully obtained;
- iv. Whether the reliefs sought are merited

Whether the termination of the Claimant's employment was justified.

- 82. Section 45(2) of the *akn ke act 2007 11 Employment Act* prohibits an employer from terminating the contract of an employee except for valid reason and upon compliance with fair procedure.
- 83. It is common ground that the Claimant was dismissed on the allegation that she presented a forged International Primary Teachers Education Certificate to secure employment with the 1st Respondent. The evidence shows that the 1st Respondent relied on verification from the 2nd Respondent, which indicated that the Certificate was not issued by a recognized examination center and that the alleged examination and certificate did not exist in the 2nd Respondent's records.
- 84. The Claimant on the other hand contended that she was trained under a special programme at Kakuma Teachers Training College for South Sudanese nationals and that her certificate was issued under that programme, with sponsorship from UNHCR, the Government of Kenya, and Windle Trust Kenya. She further submits that the 1st and 2nd Respondents were not involved in the programme and that her certificate was lawfully obtained.
- 85. The 2nd Respondent's witness, RW1 in his testimony maintained that the certificate presented by the Claimant could not be verified as genuine in the official records and that the training centre in which she purportedly undertook the training did not exist within the formal regulatory framework at the time.
- 86. Although the Claimant in her testimony asserted that her dismissal was discriminatory and selectively applied since another Kenyan who attended the same programme was not dismissed, she tendered no evidence to show that the other individual presented the same certificate for verification to the 2nd Respondent and was found not to be genuine. She further did not adduce any evidence to support the assertion.
- 87. From the foregoing, I find that the 1st Respondent had a valid reason to doubt the authenticity of the Certificate presented by the Claimant and, on a balance of probabilities, reasonably concluded that it was forged or invalid for purposes of employment in the Kenyan public education service.

Whether the 1st Respondent followed the due process in dismissing the Claimant from employment.

- 88. On the second issue regarding procedural fairness, Section 41 of the *akn ke act 2007 11 Employment Act* provides: -

“Subject to section 42 (1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation.”

- 89. From the evidence on record, there is no dispute that the Claimant upon interdiction, was invited to respond to the charges of forgery against her and was thereafter invited to a disciplinary hearing which she attended and made oral submissions.



90. The Claimant has, however, faulted the disciplinary process on the ground that she was not furnished with the verification report regarding her International Primary Teachers Education (IPTE) Certificate to enable her to adequately defend herself. She did not, however, tender any evidence to demonstrate that she formally requested for the said report. Further, having been served with the interdiction letter well in advance of the disciplinary hearing, it is evident that the Claimant was fully aware of the allegations levelled against her and had ample opportunity to prepare and respond. She did not respond to the letter of interdiction.
91. In the Court's considered view, the procedure adopted by the 1st Respondent substantially complied with the requirements of Section 41 of the *akn ke act 2007 11 Employment Act* as well as the Code of Regulations for Teachers. The Claimant was notified of the charges, invited to a disciplinary hearing and accorded an opportunity to be heard. The mere fact that she was not availed the verification report does not, in the circumstances of this case, render the process procedurally unfair.

Whether the Claimant's International Primary Teachers Education Certificate (IPTEC No. IPTECO000011) was valid and lawfully obtained

92. In her prayer against the 2nd Respondent, the Claimant sought a declaration that she was lawfully issued with Certificate No. IPTECO000011 upon successful completion of training at the defunct Kakuma Teachers Training College.
93. The Claimant in support of the position that she graduated from Kakuma Teachers Training College relied on a graduation booklet, which merely lists participants. The booklet, however, does not specify the nature of the qualification awarded to the Claimant or the curriculum completed.
94. Apart from the graduation booklet, the certificate in question indicates that it was issued by the 2nd Respondent. The 2nd Respondent has in its defence denied the authenticity of the said certificate and maintained the Claimant's name does not appear in its official records and that the institution which purportedly issued the certificate did not exist in 2006.
95. It is my view that reliance solely on the graduation booklet is insufficient to establish the authenticity of the certificate, especially in light of the 2nd Respondent's denial of its authenticity.
96. In light of the above, the Court finds that the Claimant has not discharged the burden of proving that the certificate presented was valid and lawfully obtained.
97. Consequently, the court finds that the Claimant has failed to establish her case on a balance of probabilities and finds that the termination of her employment was procedurally fair and substantively justified.
98. The Claimant's claim is accordingly dismissed with no orders as to costs.

DATED, DELIVERED AND SIGNED

THIS 25TH DAY OF SEPTEMBER, 2025.

M. ONYANGO

JUDGE

