



**Noor v Maasai Mara University (Petition E020 of 2024)
[2025] KEELRC 2886 (KLR) (24 October 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2886 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
PETITION E020 OF 2024
AN MWAURE, J
OCTOBER 24, 2025**

BETWEEN

HASSAN ABDI NOOR PETITIONER

AND

MAASAI MARA UNIVERSITY RESPONDENT

JUDGMENT

1. The Petitioner herein filed a Petition dated 9th October 2024 seeking judgment against the Respondent on the following orders that:
 - i. A declaration that the continued suspension for the Petitioner by the Respondent is unfair, unlawful, and a violation of the Petitioner’s Constitutional rights.
 - ii. An order compelling the Respondent to fully and unconditionally reinstate the Petitioner to his erstwhile position and terms of employment with immediate effect;
 - iii. An order prohibiting the Respondent from any disciplinary measures against the Petitioner in connection with the Petitioner’s trial and eventual acquittal.
 - iv. An order directing the Respondent to pay liquidated damages to a tune of Kenya Shillings Two Million Five Hundred and Twenty-Six Thousand Two Hundred and Forty-Four (Kshs.2,526,244.00) being withheld salary from September 2020 to August 2024
 - v. General damages
 - vi. Interest on ii, iii, and iv above at court rates;
 - vii. Costs of the suit; and
 - viii. Any other relief that this Honourable Court may deem fit, just and expedient to grant.



Petitioner's case

2. The application is supported by the affidavit of the Petitioner sworn on even date and attached annexures thereto.
3. The Petitioner avers that he had been employed by the Respondent for 15 years, having joined on 19th June 2009 as a Driver Grade IV under a temporary appointment letter issued by the Respondent which was known as Narok University College as it was known then.
4. The Petitioner avers that after completing his probation, he was confirmed as a full employee on 31st May 2010.
5. The Petitioner avers that sometimes in 2013, Narok University College, received a fledged charter of a full University by the then President His Excellency the late Mwai Kibaki which was renamed to Maasai Mara University now the Respondent in this case.
6. The Petitioner avers that following the transition from Narok University College to the Respondent institution, all employees of the former Narok University College were recognized as employees of the Respondent. Consequently, the Petitioner was formally appointed and confirmed as Driver Grade 3 through a letter dated 30th March 2016.
7. The Petitioner avers that during his employment with the Respondent, he worked diligently and to the best of his abilities, without facing any disciplinary actions for misconduct or breach of duty.
8. The Petitioner avers that he was promoted to the rank of Senior Driver, earning a basic salary of Kshs.123,492/= and house allowance of Kshs.55,286/= together with allowances and benefits.
9. The Petitioner avers that on 3rd September, 2019, there was a media feature alleging corrupt activities by the Respondent's administrator aired on a local broadcast channel, Citizen Television, in which he was implicated with the Respondent's administrators on misappropriation of funds causing uproar from the public on the absurd allegations raised by the media.
10. The Petitioner avers that the Directorate of Criminal Investigations filed proceedings against him and the Respondent's administrators in Nakuru Anti-Corruption case No. E002 of 2020 Republic V Professor Mary Khakoni Walingo & 4 Others.
11. The Petitioner avers that before the media exposure, he had no connection with the false allegations regarding his supposed involvement in the scandal. Additionally, aside from the flawed investigations by the Directorate of Criminal Investigations (DCI), no other criminal, administrative, or disciplinary actions were taken against him by or to the Respondent.
12. The Petitioner avers that he was suspended by the Respondent's council on 28th August 2020, without pay pending the hearing and determination of the criminal charges.
13. The Petitioner avers that the last time he received his full salary was in August 2020, and since then, all subsequent payments have been significantly reduced.
14. The Petitioner avers that on 23rd October 2020, the Respondent's council rescinded the initial letter dated 28th August 2020 and revised the terms of the suspension to include half salary, full house allowance, and medical benefits, with the suspension duration remaining indefinite until the conclusion of the criminal charges.
15. The Petitioner avers that another case was filed in Nakuru Constitutional Petition No. E028 of 2022 Professor Mary Khakoni Walingo V DCI & 4 others; Prof Simon Kasaine Ole Seno & Another



- Interested parties challenging the propriety of the criminal proceedings and sought to have them quashed for the illegalities committed by the DCI due to sensationalized public opinion.
16. The Petitioner avers that the High Court delivered its Judgment on 21st March 2024 in Nakuru Constitutional Petition No. E028 of 2022 quashing the proceedings and prohibiting any further proceedings with respect to the alleged scandal.
 17. The Petitioner/Applicant avers that the Respondent's council has failed and refused to take any action regarding his suspension, leaving him in a state of uncertainty and unfairly depriving him of work and earnings, despite the matter having been resolved.
 18. The Petitioner avers that he instructed the firm of Ombok & Owuor Advocates LLP to issue a demand letter on 29th July 2024 to the Respondent demanding his immediate reinstatement to employment and repayment of all money owed to him, being salary withheld during his suspension.
 19. The Petitioner avers that the High Court issued an order in Criminal Revision No. E203 of 2024 Noor Hassan Abdi V Republic on 16th May 2024 pending effect of the allegations to be and the Court ordered that he be immediately discharged from the proceedings in Nakuru Anti-Corruption Case No. E002 of 2020.
 20. The Petitioner avers that although demands and court orders were issued, the Respondent has failed to respond or take any action.
 21. The Petitioner avers that the Respondent's actions were illegal offending provisions of the Public Service Commission.
 22. The Petitioner avers that the High Court issued orders barring the Respondent from conducting further investigations into the allegations, and that these orders are not subject to review through any internal administrative processes of the Respondent. Any attempt to sanction such a review would amount to contempt of court.
 23. The Petitioner avers that his salary withheld by the Respondent is amounting to Kshs.2,526,244, which continues to accrue interest since the Respondent has no intention to pay the said monies.
 24. The Petitioner avers that he continues to suffer financial, mental, and psychological strain due to the Respondent's unfair and unreasonable refusal to reinstate him to employment with full salary.
 25. The Petitioner avers that the Respondent's actions and omissions are in bad faith, violate justice and court orders, and infringe on his fundamental rights.
 26. The Petitioner avers that his concerns are that if the court does not intervene to stop these actions, the Respondent is likely to initiate retaliatory administrative measures against him.
 27. The Petitioner urged this Honourable Court to grant the orders sought.
 28. The Respondent entered appearance through Alfred O. Nyabochwa, its Chief Legal Officer but did not put in a response to the Petition.
 29. The court directed parties file their respective submissions which both have not filed at the time of writing of this judgment.

Analysis and determination

30. Having considered the Petition and supporting affidavit on record, the issue for determination is whether the Petition is merited.



31. Sections 107, 108 and 109 of the *Evidence Act* provide as follows:

“Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.

The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either said.

The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence unless it is provided by any law that the proof of that fact shall be on any particular person.”

32. Sections 41 and 43 of the *Employment Act* provide for procedural fairness and substantive justification for terminating an employee from employment by the employee. In *Walter Ogal Anuro V Teachers Service Commission* [2013] KEELRC 386 (KLR) the court held that for a termination of employment to pass the fairness test, both substantive and procedural fairness must be established.

33. In *Chrispus Ileli Kunuva V County Government of Kitui & Another* [2020] KEELRC 15 (KLR) the court cited the case of *Samson Omwoyo V Maasai Mara University & Another Cause No.2367 of 2016* the court held as follows;

“... the employer has the prerogative to discipline its employees. However, a prolonged suspension of an employee that is not addressed within a reasonable time only results in anxiety and is bound to raise concern....”

34. In *Victor Sammy Mutiso versus TSC* [2016] eKLR the court held that a reasonable time period for an interdiction should be within 3 months and if not possible, soon thereafter and a period of over a year is definitely long and not reasonable.

35. In this instant case, the Petitioner was placed on suspension on allegations of a corruption scandal aired on Citizen Television involving misappropriation of funds by the Respondent’s administrators, leading to criminal proceedings in Nakuru Anti-Corruption Case No. E002 of 2020. Despite denying any involvement and asserting flawed investigations by the DCI, he was suspended without pay on 28th August 2020, later revised to half pay and benefits. No disciplinary action was taken by the Respondent. In Nakuru Constitutional Petition No. E028 of 2022, the High Court quashing the criminal proceedings in Nakuru Anti- Corruption case No. E002 of 2020 on 21st March 2024. Despite this, the Respondent failed to take any disciplinary action against the Petitioner, reinstate him or resolve his suspension, prompting a demand letter and further court action, culminating in his discharge from the criminal case, Criminal Revision No. E203 of 2024, on 16th May 2024.

36. The Petitioner says that on 3rd September 2019 there was a media coverage of alleged corruption in the University and the Directorate of Criminal Investigation filed proceedings against the Petitioners and top administrators of the Respondent – Case No. 002 of 2020 Republic -VS- Professor Mary Walingo & 4 Others.

37. He was placed on suspension vide a letter dated 28th August 2020 without pay. However, he said that he got another letter dated 23rd October 2020 and as per the said letter his suspension was revised and was now placed on half salary, house allowance and medical benefits pending determination of the criminal case.



38. The charged persons filed a Constitutional Petition 0028/2022 Professor K. Walingo -VS- Directorate of Criminal Investigation and 4 Others with Professor Simon Kasaine Ole Seno & Another as Interested Parties.

39. In a judgment dated 21st March 2024 the proceedings were quashed by the High Court and any other proceedings were prohibited.

The Petitioner wrote to the Respondents through his advocate vide the letter dated 2nd April 2024 to demand his reinstatement and repayment of all wages withheld during the period of his suspension.

40. Also, in the Criminal Revision Case No. 203/2024 the court ordered that the Petitioner be discharged from the proceedings (Noor Hassan Abdi -VS- The Republic).

41. The Respondents have not reinstated him or compensated him despite the High Court quashing the proceedings. The Respondents have also not appealed against the judgment of the High Court issued on 21st March 2024 being Constitutional Petition E028 of 2022.

42. On 7th March 2025 this court ruled that the Petitioner should be paid his full salary to date. The court is not aware of any appeal preferred against that court order. The Respondent however in all fairness as their submissions pertaining to the application for contempt (submissions dated 11th July 2025) confirmed they had paid some instalments of the salary to the Petitioner.

43. The Petitioner has been on suspension since August 2020. In the case of Victor Sammy Mutiso -VS- TSC(Supra) the court held that a reasonable period of interdiction should be 3 months and if not possible soon thereafter but a period of over a year was definitely long and not reasonable.

44. The Petitioner has been in limbo for over 5 years and that is not fair to any employee.

The court holds that the petition herein is merited and so grants the following part of his prayers: -

- a. A declaration that the continued suspension for the Petitioner by the Respondent is unfair, unlawful, and a violation of the Petitioner's Constitutional rights.
- b. The Petitioner has been out of his job since 2020 August and it is far-fetched to reinstate him to his former employment. That prayer will be declined
- c. An order prohibiting the Respondent from any disciplinary measures against the Petitioner in connection with the Petitioner's trial and eventual acquittal is granted though this seems to be overtaken by events.
- d. The Respondent to pay general damages equivalent to 10 months' salary which will cover the Constitutional violation as well in prayer (a) above.
- e. Any unpaid salaries as will be worked out by the parties to also be paid.
- f. Costs of the suit to be paid to the Petitioner.
- g. Interest at 14% per annum from date of this judgment on awards granted until full payment.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 24TH DAY OF OCTOBER, 2025.

ANNA NGIBUINI MWAURE

JUDGE



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 has 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.

A signed copy will be availed to each party upon payment of Court fees.

