

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS  
COURT AT NAIROBI  
CAUSE NO. E293 OF 2021  
VERONICAH KARUOYA  
CLAIMANT  
v  
KENYA POST OFFICE SAVINGS BANK  
RESPONDENT**

**EMPLOYMENT AND LABOUR RELATIONS COURT  
JUDGMENT**

Veronichah Karuoya (the Claimant) employed by Kenya Post Office Savings Bank (the Respondent) around 3 July 2000 as a Clerical Officer.

2. On 17 July 2020, the Respondent wrote to the Claimant to notify her of the termination of her employment.
3. The Claimant was dissatisfied and she sued the Respondent on 9 April 2021, alleging unfair termination of employment and sexual harassment.

4. The Respondent filed a Response on 29 April 2021, and the Cause was heard on 10 June 2025.

5. The Claimant and a Human Resource and Administration Manager with the Respondent

testified.

6. The Claimant filed her submissions on 8 July 2025. The Respondent had filed its submissions on 3 July 2025.

7. The Court has considered the pleadings, evidence and submissions.

### **Unfair termination of employment**

#### **Procedural fairness**

8. The Respondent issued a show cause dated 23 March 2020 to the Claimant. The notice set out certain allegations against the Claimant and called upon her to respond and the Claimant responded on 24 March 2020.

9. The Respondent interdicted the Claimant on 27 April 2020, and on 8 June 2020 invited her

to attend a disciplinary hearing on 12 June 2020.

10. The invitation informed the Claimant of the right to attend the hearing with a colleague.

11. The Claimant attended the hearing and made written representations. On 13 July 2020, the

Respondent invited the Claimant to attend a notification hearing to be informed of the outcome of the disciplinary hearing. The Respondent notified the Claimant of the termination of her employment on 17 July 2020.

12. Before the Court, the Claimant challenged the procedural fairness of the termination on the ground that a colleague whose conduct precipitated the disciplinary action was not called to testify and be asked questions during the disciplinary hearing.

13. The show cause set out the allegations against the Claimant, and in brief, these were

shouting while calling out a colleague; raising her voice in the office of the Area Manager; walking out in protest at the Senior Manager; walking out on the Human Resource Manager and shouting at the banking hall in the presence of customers and the Human Resource Manager.

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14. In the Court's view, these allegations did not require the appearance of the Claimant's named colleague during the disciplinary hearing.

15. A disciplinary hearing is not a mini-court nor a criminal trial where the strictures of evidential rules apply. The thrust of a disciplinary hearing is fairness.

16. The Court has looked at the Claimant's response to the show cause. She admitted referring to her named colleague as fat and one who could not perform.

17. The Claimant was made aware of the allegations to confront, and she was allowed to make representations in writing and during a physical hearing. She was advised of the right to be accompanied during the hearing.

18. The Court is satisfied that the Respondent complied with the dictates of procedural fairness.

**Substantive fairness**

19. Sections 43 and 45 of the Employment Act, 2007 require an employer to prove the validity and fairness of the reasons leading to the termination of an employment contract.

20. In a bid to discharge the burden, the Respondent called its Human Resources and Administration Manager. The witness did not participate in the disciplinary process against the Claimant. She relied on records. She

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stated that the Claimant had an alcohol problem.

21. A copy of the minutes of the disciplinary hearing was not produced in Court. The witness produced handwritten notes of the hearing signed by the Claimant. The Claimant asserted that she was given a blank paper and requested to sign.

22. The notes were not signed by the person who took them nor do they indicate those who were present during the hearing.

23. The Court finds the handwritten note of no evidential value.

24. The Respondent did not present any witness who had direct knowledge or sight of the allegations against the Claimant. No explanation was given for the failure. The disciplinary records placed before the Court were of no help.

25. The Court finds that the Respondent did not discharge the burden of proving the validity and fairness of the reasons for terminating the Claimant's employment.

### **Pay in lieu of notice**

26. The Claimant was offered and paid pay in lieu of notice and nothing turns on this head of the claim.

### **Compensation**

27. The Claimant served the Respondent for about 20 years.

28. The Respondent complied with the requirements of procedural fairness. The Claimant was offered her pension benefits. She admitted using unsavoury terms against a colleague.

29. Taking into consideration these factors, the Court is of the view that the equivalent of 4 months' compensation would be appropriate (gross monthly salary was Kshs 107,536/-).

## Sexual harassment

30. The Claimant alleged that a colleague sexually harassed her in the workplace. She did not give any actionable details of the harassment except reference to the words;

Wewe wewe, hani unaweza kukupenda  
wewe, wewe unaweza pendeka na  
mwanaume.

31. These words were allegedly uttered after the colleague had called another colleague, *girlfriend* and had an altercation with the Claimant.

32. Pressed during cross-examination, the Claimant stated that it was a case of physical and not sexual abuse and that she only made a verbal report.

33. The Court concludes that the Claimant did not prove to the required standard this head of the claim despite the Respondent not having a sexual harassment policy.

## Discrimination

34. The Claimant also alleged discrimination in that at the onset of COVID-19 public health pandemic, a duty roster was made allowing other colleagues one week off duty while she

was given two weeks off duty.

35. Work life was substantially affected during the COVID-19 public health pandemic and the country was put in a lock down. Gatherings of persons were severely restricted to protect spread of the COVID-19 virus.

36. In this context, the Claimant did not demonstrate how being instructed to stay away from work for two weeks was discriminative.

## Conclusion and Orders

37. Flowing from the above, the Court finds that the Respondent did not prove valid and fair reasons to terminate the Claimant's employment.

38. The Claimant is awarded:

Compensation **Kshs**  
**430,144/-**

39. The award to attract interest at court rates from the date of the judgment.

40. The Respondent to issue a Certificate of Service within 30 days.

41. The Claimant has partly succeeded and is awarded costs on half scale

**Delivered virtually, dated and signed in Nairobi on this 6<sup>th</sup> day of November 2025.**

**Radido Stephen, MCI Arb**  
**Judge**

**Appearances**

For Claimant

Koceyo & Co.  
Advocates

For Respondent

Office of the  
Honourable  
Attorney General

Court Assistant

Wangu

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