

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**  
**AT ELDORET**

**PETITION NO. E015 OF 2025**

*(Before Hon. Lady Justice Maureen Onyango)*

**ROAD SAFETY ASSOCIATION OF KENYA THROUGH  
CHAIRMAN DAVID KIARIE ..... PETITIONER**

**VERSUS**

**GEORGE NJAO ..... RESPONDENT**

**AND**

**THE BOARD OF NATIONAL TRANSPORT &  
SAFETY AUTHORITY ..... 1<sup>ST</sup> INTERESTED  
PARTY**

**NATIONAL TRANSPORT &  
SAFETY AUTHORITY ..... 2<sup>ND</sup> INTERESTED  
PARTY**

**RULING**

1. Vide an application dated 3<sup>rd</sup> November, 2025 filed under certificate of urgency, the Petitioner seeks the following orders:

1. This Application be certified as urgent and service be dispensed with in the first instance;
2. Pending the hearing of this application inter partes this Honourable Court be pleased to issue a conservatory order restraining the Respondent, Mr.

George Njao, by himself, his servants, agents, or any other persons acting under his authority, from performing, purporting to perform, or otherwise exercising any functions, powers, or duties of the office of Director General of the National Transport and Safety Authority (NTSA) ;

3. Pending the determination of this Application and the attendant Petition, this Honourable Court be pleased to issue a conservatory order restraining the Respondent, Mr. George Njao, by himself, his servants, agents, or any other persons acting under his authority, from performing, purporting to perform, or otherwise exercising any functions, powers, or duties of the office of Director General of the National Transport and Safety Authority (NTSA);

4. Pending the hearing and determination of this application and the whole petition, this Honourable Court be pleased to issue an order compelling the Respondent, Mr. George Njao, to proceed on terminal leave so as to pave way for the

recruitment of a new Director General as directed by the Board of NTSA on 29<sup>th</sup> October, 2025;

5. This Honourable Court be pleased to issue any other orders it deems just and fit in the circumstances.
2. Upon considering the application ex-parte the court certified the matter urgent and due to the time sensitive nature of the application, fixed the same for inter partes hearing today, 5<sup>th</sup> November, 2025.
3. The Respondent entered appearance through Mary Kihamba, the Principal Legal Officer of the National Transport and Safety Authority. Ms. Kihamba informed the Court that she would hold brief for both Interested Parties, whom the court notes have not entered appearance or formally instructed counsel.
4. On the date of hearing of the application Mr. Murunga Makau appeared for the Petitioner while Ms. Kihamba appeared for the Respondent and Interested Parties. After hearing the parties, the court directed counsel to address it only on whether or not interim orders should be granted as prayed in the application.

5. Having heard arguments by both counsel which are on record and which I will not reproduce here due to time factor, the issue for determination, as I have already stated above, is whether or not I should grant interim orders prayer 2 of the application.
6. It is not in doubt that the term of contract of the Respondent is due to lapse on 1<sup>st</sup> December, 2025. Pursuant thereto, the Board of NTSA, the 1<sup>st</sup> Interested Party herein (hereafter referred to as The Board), held a meeting on 29<sup>th</sup> October, 2025 at which a resolution was passed to appoint Mr. Jacob Sissey, the 2<sup>nd</sup> Interested Party's Director of Corporate Support Service, as Acting Director General with effect from 1<sup>st</sup> November, 2025. In the letter, which was signed by Hon. Khatib Mwashetani, the Chairman of the Board, the Chairman states at paragraphs 2 and 3

*“Following the Board meeting held on 29<sup>th</sup> October, 2025, I am pleased to inform you that the Board has approved your appointment as the Acting Director General of the National Transport and Safety Authority (NTSA) with effect from 1<sup>st</sup> November, 2025 until further notice.*

*This appointment follows the decision of the current Director General, Mr. George Njao, to proceed on terminal leave pending the expiry of his contract on 1<sup>st</sup> December, 2025.”*

7. The Chairman thereafter wrote to the Cabinet Secretary, Ministry of Roads and Transport, by letter dated 29<sup>th</sup> October, 2025, seeking approval for the appointment of Mr. Sissey as Acting Director General of the 2<sup>nd</sup> Interested Party in compliance with the provisions of the Office of the President Circular Ref. No. OP/CAB.9/1A dated 11<sup>th</sup> March, 2020 (hereinafter referred to as “the Circular”).
8. In his response to the letter from the Board which is dated the same date, the Cabinet Secretary declined to approve the appointment of Mr. Sissey as Acting Director General and instead requested submission of 3 names by the Board from which the CC would pick one name for appointment as Acting Director General.
9. In the said letter of response, the Cabinet Secretary added that *“In the meantime, the current Director General should continue carrying out his duties in order to ensure continuity, as you submit the three names.”*

10. The Circular provides at paragraph F on appointment of Acting Chief Executive Officer that *“An Acting Chief Executive Officer is to be appointed by the Board in consultation with the Parent Ministry within 7 days thereof.”*
11. The National Transport Safety Authority Human Resource Policies and Procedures Manual, dated August, 2018 provides at paragraph 6.13 for terminal leave of 30 calendar days. It is pursuant to this clause that the Respondent was to proceed on terminal leave effective 1<sup>st</sup> November, 2025.
12. According to the Applicant, the Cabinet Secretary has no capacity to extend the term of office of the Respondent. His role is limited to approval of the name of the officer to be appointed to act in the office of Chief Executive Officer. The Applicant further argues that the 7 days provided for in the circular lapse today, the 5<sup>th</sup> of November, 2025, reckoning from 29<sup>th</sup> October, 2025 when the CS was requested to approve the name of the Acting Director General.

13. It was submitted for the Applicant that according to the Human Resource Manual the Respondent is not supposed to be in office 30 days before expiry of his contract. That the word used in the manual is MUST meaning that it is compulsory.
14. The Applicant further submitted that paragraph 6, 15 and 18 of NTSA Act vest the general management of the Authority on the Board, including the appointment of the Director General and Staff and that the cabinet Secretary has no role in the appointment.
15. It is further submitted for the Applicant that the parent Ministry has no right to ask for 3 names. That it is the role of the Board to nominate and the Cabinet Secretary can only either concur or decline the proposed name. It is submitted that the attempt by the Cabinet Secretary to extend the term of the Director General is unconstitutional and against the provisions of the Act.
16. The Applicant urges the court to grant the orders sought on grounds that it has a prima facie case.
17. For the Respondent Ms. Kihamba submitted that grant of the orders sought will substantially abate the suit owing to

the nature of the orders sought. That the Respondent has substantially complied with the Constitution, national values and principles of governance, the provisions of leadership and integrity, the rule of law and principles of public service. She submitted that the decision of the 1<sup>st</sup> Interested Party based on the letter dated 29<sup>th</sup> October, 2025 is compliant with section 6 of the Human Resource manual and paragraph (F) of the circular.

18. She submitted that the Respondent has not refused to proceed on terminal leave. That the application is premature as 7 days have not lapsed.
19. I have considered the pleadings and submissions by both parties. In a matter of this nature the court is required as much as possible not to determine the issues in the suit at interim stage which in this case is a very thin line.
20. What I have to determine is whether the Applicant has a prima facie case and whether the public interest demands that the Respondent continues in office.
21. It is clear that the only reason the Respondent is in office is the letter from the CS stating that he stays in office until an Acting appointment acceptable to the Cabinet

Secretary is made. The NTSA Human Resource and Procedures Manual is clear that the Director General should proceed on terminal leave 30 days before the expiry of his contract.

22. There is a letter on record appointing an Acting Director General. There is another letter by the Board indicating that Director General proceeds on terminal leave with effect from 1/11/2025. The only issue is whether the appointment of Acting Director General is valid in view of the provisions of (**OP**) Office of the President circular requiring such appointments to be in consultation with the parent ministry.
23. The appointment of Mr. Jacob Sissey as Acting Director General having not been approved by Cabinet Secretary, the only issue pending is for board to appoint another Acting Director General acceptable to the Cabinet Secretary.
24. The Board has already submitted 3 names of persons qualified for appointment as Acting Director General. All that is left is for the Cabinet Secretary to make the said

appointment which can be done within a short time to avoid any vacuum in the office of Director General.

25. The purported extension of the term of the Respondent by Cabinet Secretary is not supported by any legislation or legal instruments. The Cabinet Secretary has no powers to extend term of office of Director general or to recall the Director General from terminal leave after the Board has passed a resolution on the same.
26. I am satisfied that the Applicant has a prima facie case to justify the grant of the orders sought in the interim. The issue of who takes over after the Director General vacates office is a secondary issue that the Board and the Cabinet Secretary are capable of resolving in a matter of hours and there should be no fear of a vacuum.
27. For these reasons, I find the application for interim orders merited. The Director General is to immediately proceed on his terminal leave as per Human Resource policies and procedure manual.
28. The Cabinet Secretary is to immediately approve appointment of an Acting Director General from the names submitted by the Board.

29. Orders accordingly.

**DATED, DELIVERED AND SIGNED  
THIS 5<sup>H</sup> DAY OF NOVEMBER, 2025.**

**M. A. ONYANGO  
JUDGE**