



**Universities Academic Staff Union v Karatina University (Cause E030 of 2025) [2025] KEELRC 3539 (KLR) (11 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3539 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI  
CAUSE E030 OF 2025  
L NDOLO, J  
DECEMBER 11, 2025**

**BETWEEN  
UNIVERSITIES ACADEMIC STAFF UNION ..... CLAIMANT  
AND  
KARATINA UNIVERSITY ..... RESPONDENT**

**RULING**

1. The Claimant's Notice of Motion brought under Certificate of Urgency dated 3<sup>rd</sup> September 2025, seeks the following orders:
  - a. An order of temporary injunction restraining the Respondent from withholding car allowances for members of the Claimant pursuant to a memo dated 30<sup>th</sup> July 2025, Reference Number KarU/IA/AN/2025/446 pending the hearing and determination of the suit;
  - b. An order of temporary injunction restraining the Respondent from demanding that the Claimant's members and/or their legal spouses log into the NTSA portal or produce a marriage certificate as a condition for payment of car allowances pursuant to memo dated 30<sup>th</sup> July 2025, Reference Number KarU/IA/AN/2025/446 pending the hearing and determination of the suit.
2. The Motion is supported by an affidavit sworn by the Claimant's Secretary General, Dr. Constantine Wasonga and is based on the following grounds:
  - a. That vide a memo dated 30<sup>th</sup> July 2025, Reference Number KarU/IA/AN/2025/446 the Respondent commissioned an audit of car allowances paid to staff who are members of the Claimant;
  - b. That the audit was undertaken from 5<sup>th</sup> to 7<sup>th</sup> August 2025;
  - c. That as per the memo dated 30<sup>th</sup> July 2025, members of the Claimant were required to:



- i. Physically avail their cars for inspection by the audit office of the University;
  - ii. Produce the duplicate insurance certificate and current driver's licence;
  - iii. Verify the current ownership from the National Transport and Safety Authority (NTSA).
- d. That in the physical car verification process, which was outside the policy of the University, employees in the Audit Section of the University, were given unfettered access to inspect the cars (without warrant/traffic police officer/DCI), inspect the chassis details and went ahead to demand that members log into their NTSA portals. Those who used spouses' cars were required to request log in details from their spouses. Those who declined to log in, despite having original log book, marriage certificate, duplicate insurance certificate and driver's licence were deemed unsuccessful;
- e. That vide memo dated 9<sup>th</sup> July 2025, the Respondent demanded that members of the Claimant and their legal spouses attach a copy of their marriage certificate and log into the NTSA portal, produce duplicate insurance certificate, current driver's licence and verification of current ownership as a condition for continued payment of the car allowance;
- f. That by the memo dated 30<sup>th</sup> July 2025, the Respondent introduced new verification requirements for the car allowance, without lawful basis and against its own terms and conditions of service for academic staff;
- g. That Clause 12.10.2 of the Respondent's Terms and Conditions of Service for Academic Staff at page 7 states, "Members of staff who use their cars to work will be paid car allowance at the rate shown in Schedule II after providing evidence of ownership and proof of use. Evidence of ownership and use will be verified upon submission of logbook (or of legal spouse), valid driving licence and current insurance cover." However, the revised demands and requirements by the Respondent is an express violation of this policy;
- h. That the vehicle for Dr. James Gichuki, the Claimant's Chapter Secretary, against which he was paid a car allowance, was not availed for verification as required by the Respondent;
- i. That by an email dated 21<sup>st</sup> August 2025, Dr. James Gichuki was directed to present his vehicle for verification by close of business on 22<sup>nd</sup> August 2025, with a clear warning that failure to comply would result in him being deemed not to possess a vehicle, and consequently to have been drawing the allowance irregularly;
- j. That Dr Gichuki, being away with official permission on the date originally scheduled for verification, presented his vehicle for inspection on 8<sup>th</sup> August 2025 and produced all the requisite certificates; however, the Respondent failed to cross check the documents against the chassis number and thereafter computed alleged differences in the car and commuter allowance dating back to the last verification;
- k. That the Respondent threatened to withhold the said member's salary for August 2025 and recover Kshs. 220,000 purportedly paid as car allowance, contrary to Section 19 of the *Employment Act*. This is a threat the Respondent is communicating to other members of the Union, who are eligible for the allowance;
- l. That the Claimant being aggrieved by the Respondent's directives circulated a memo dated 26<sup>th</sup> August 2025, where it formally raised its concerns, highlighting violation of data protection, unlawful demands, and unfair labour practices but the Respondent ignored these concerns;



- m. That the Respondent's demands interfere with the Claimant's members' privacy and sensitive personal data, including spouses' accounts contrary to Sections 25, 38 and 40 of the Data Protection Act;
  - n. That the Respondent's actions amount to unilateral amendment of the car allowance policy without staff consultation or union agreement;
  - o. That the Respondent's acts are discriminatory as staff who were unable to comply owing to circumstances beyond their control, such as unavailability of their spouses, were arbitrarily and unjustly branded as fraudulent;
  - p. That the Respondent's demand for access to the NTSA portal violates Section 25 of the Data Protection Act, which obligates the Respondent to safeguard the security and confidentiality of personal data;
  - q. That salary is the Claimant's members' sole means of livelihood and unless the Court intervenes, the members will suffer irreparable harm, including financial ruin, damage to credit rating and inability to meet financial obligations;
  - r. That the Respondent's actions amount to unilateral variation of employment terms, unlawful data demands and violation of fair labour practices;
  - s. That no prejudice will be visited upon any party if the application is allowed.
3. The Respondent opposes the Motion by a replying affidavit sworn by its Acting Registrar for Planning and Administration, Richard Ruhiu on 7<sup>th</sup> October 2025.
  4. Ruhiu depones that in the month of August 2025, the Respondent's Audit Department commissioned a car verification exercise, as part of its assurance activities in the car allowance policy. He asserts that such assurance activities are within the scope and mandate of the Internal Audit Department as provided in the *Public Finance Management Act* and International Professional Practices Framework.
  5. In defending the requirement for staff to provide particulars related to vehicle ownership and status of driving licence, Ruhiu states that the staff were given the option to log into their individual e-citizen accounts to ascertain the status. He adds that by receiving payment of the car allowance, the staff had given implied consent for verification of supplied data.
  6. The Respondent's case is that, as a data processor, it was permitted to access the subject data which was necessary for the purpose of carrying out its obligations under the car allowance policy. The Respondent asserts that the Claimant has not demonstrated any particulars showing breach of any data protection principle.
  7. The Respondent further defends its decision to levy recoveries from employees who had failed to satisfy the audit requirements.
  8. The orders sought by the Claimant fall within the province of interlocutory injunctions and the conditions within which such orders may be granted were established in *Giella v Cassman Brown Co. Ltd* [1973] EA 358 as follows:
    - a. That the applicant has established a prima facie case with a probability of success;
    - b. That if the orders sought are not granted, the applicant stands to suffer irreparable harm, which cannot be compensated by an award of damages; and



- c. If the court is in doubt, it will determine the application on the balance of convenience.
9. A prima facie case was defined by the Court of Appeal in *Mrao v First American Bank Kenya Limited & 2 others* [2003] KLR, 123 in the following terms:
- “A prima facie case in a civil application includes but is not confined to a genuine and arguable case. It is a case in which on the material presented to the court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter.”
10. The Claimant’s case is that its members are being subjected to unlawful and unfair processes regarding their entitlement to car allowances. The arguments made on behalf of the affected members present a case worthy of interrogation by the Court.
11. However, as held by the Court of Appeal in its decision in *Nguruman Limited v Jan Bonde Nielsen & 2 others* [2014] eKLR the three conditions set by *Giella v Cassman Brown (supra)* are to be applied as separate, distinct and logical hurdles which the applicant is expected to surmount sequentially.
12. I will therefore proceed to address the second condition being; whether the Claimant’s members stand to suffer irreparable harm, which cannot be compensated by an award of damages, if interlocutory relief is not granted.
13. In the *Nguruman Case (supra)* the Court of Appeal held that the equitable remedy of injunction is granted to prevent injury that is actual, substantial and demonstrable.
14. The real grievance presented by the Claimant on behalf of its members is that the audit exercise undertaken by the Respondent on the car allowance scheme, would lead to financial loss. To my mind, this is a loss that can be compensated by restitution of the allowance with back pay and accrued interest. It cannot therefore be said that any resultant injury cannot be compensated by way of damages.
15. Regarding the limb of balance of convenience, I am guided by the decision in *Pius Kipchirchir Kogo v Frank Kimeli Tenai* [2018] eKLR where the following rendition was offered:
- “The meaning of balance of convenience in favour of the plaintiff is that if an injunction is not granted and the suit is ultimately decided in favour of the plaintiff, the inconvenience caused to the plaintiff would be greater than that which would be caused to the defendant if an injunction is granted but the suit is ultimately dismissed.”
16. In light of my finding on the second condition in *Giella v Cassman Brown (supra)* the balance of convenience clearly tilts in favour of the Respondent.
17. Moreover, were the Court to grant the prayers sought in the application, the entire claim would be determined at the interlocutory stage. In this regard, I am guided by the decision in *Kenya Deposit Insurance Corporation v Richardson & David Limited* [2017] eKLR where it was held that:
- “It is wrong for a judge to grant at an interlocutory stage of proceedings final orders, thus disposing of the suit before the parties are heard. The right to be heard is fundamental and only in extremely rare circumstances will a court of law issue orders the effect of which is to determine the suit with finality or render the suit superfluous.”
18. No special circumstances have been established to cause the Court to depart from this well-established principle of law.



19. On the whole, the Claimant's application dated 3<sup>rd</sup> September 2025 fails and is dismissed with costs in the cause.

20. Orders accordingly.

**DELIVERED VIRTUALLY THIS 11<sup>TH</sup> DAY DECEMBER 2025**

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Koceyo for the Claimant

Ms. Mumbi for the Respondent

