

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT NAIROBI

ELRC PETITION NO. E072 OF 2024
(Before Hon. Lady Justice Hellen Wasilwa, J)

PETER NJUGUNA WAMBUI.....
PETITIONER

VS

TEACHERS SERVICE COMMISSION.....
RESPONDENT

JUDGMENT

Petitioner's Case

- 1 By an Amended Petition dated 2nd July 2025, the Petitioner sought for the following orders; -
- a. A declaration that the Petitioners dismissal by the Respondent was unlawful, unconstitutional, unfair and in violation of articles 27. 28, 41, 47, 50 and 236 of the Constitution.*
 - b. An order of certiorari quashing the decision of the Respondent dismissing the Petitioner from service and deregistration of the Petitioner as a teacher.*
 - c. An order of reinstatement of the Petitioner to his position without loss of salary, benefits or seniority without loss of salary, benefits, or seniority OR in the alternative, compensation for unlawful dismissal*

- d. A declaration that the Respondent violated the Petitioner's right to fair administrative action and fair hearing.*
- e. An order for general, aggravated and exemplary damages for violation of constitutional rights.*
- f. Costs of this Petition.*
- g. Any other relief that this Honourable court deems just and appropriate.*

Petitioner's Case

- 2 The Petitioner avers that he has been an employee of the Respondent with TSC No. 554585 stationed at Muthurwa Girls Secondary School.
- 3 He avers that he has worked for the Respondent for 7 years and has been executing his duties diligently during the course of his employment at the school.
- 4 The Petitioner avers that the Respondent served him with a show cause letter dated 2nd October 2023 which contained false allegations. He challenged the allegations and requested the Respondent to provide him with evidence.
- 5 In response, the Respondent issued him with an interdiction letter dated 20th December 2023 whereby they deleted the relevant clauses which he had challenged.

- 6 The Petitioner avers that the Respondent has never given him any formal or informal communication regarding his employment, a fact that is well within the Respondent's knowledge.
- 7 The Petitioner avers that the Respondent did not give any explanation upon sending him the show cause letter. He is thus apprehensive that the letter amounted to unfair and unlawful termination of his employment.
- 8 It is the Petitioner's case that he was condemned without having the advantage of seeing the materials used to take disciplinary action against him.
- 9 The documents being: certified defense statement by the petitioner; all certified witness statement; certified judgment entered to dismiss the petitioner; certified judgment entered to remove the petitioner from the register of teachers; video clips showing the petitioner hugging and kissing the said student, holding her tightly at the waist and touching her breast albeit when the lights were off pursuant to the letter dated 2nd October, 2023 by Mrs. L. Gitahi Principal Muthurwa Girl's Secondary School; and medical reports and examination to demonstrate that this happened.
- 10 The Petitioner avers that the dismissal letter which he has learnt through the proceedings before this court has introduced new and materially different allegations not

previously presented thereby violating the Petitioner's right to fair hearing under Article 50 of the Constitution.

- 11 The Petitioner avers that he was arbitrarily removed from the payroll before the disciplinary process was concluded and was not placed on half pay as required by the TSC Human Resource Policies and Procedure Manual and other statutory guidelines. The Respondent further denied him half pay before the conclusion of disciplinary proceedings which was unlawful, unreasonable and procedurally unfair. This was in violation of his right of fair administrative action provided under Article 47 of the Constitution.
- 12 The Petitioner asserts that the disciplinary proceedings relied entirely on hearsay evidence without any credible documentary or oral witness testimony. The persons allegedly making the complaints were not called to testify or subjected to cross examination. This violated his right to fair hearing enshrined under Article 50 of the Constitution.
- 13 It is the Petitioner's case that the Respondent never accorded him fair labour practices as enshrined in Article 41 of the Constitution.
- 14 The Petitioner avers that he was subjected to humiliation and reputational harm without just cause or due process in violation of his right to dignity and due process under Article 28 and 236 of the Constitution.

15 The Petitioner avers that the Respondent violated his legitimate expectation that he would be accorded a lawful, transparent and procedurally fair disciplinary process.

Respondent's Case

16 In opposition, the Respondent filed a replying affidavit dated 4th March 2025, sworn by its Assistant Director Teacher Discipline Management, Lawrence Kigen.

17 The Respondent avers that it is an independent Constitutional Commission established under Article 237 (1)(e) of the Constitution which grants it powers to exercise disciplinary control over teachers in the public service.

18 The Respondent avers that in exercise of its mandate under section 47(2) of the TSC Act and Section 5 (1) of the Public Officers Ethics Act, the Commission has published a Code of Regulations for Teachers (hereinafter referred to as the "CORT") and the Code of Conduct and Ethics (hereinafter referred to as the "COCE").

19 These Codes outline the general rules of behavior governing the teaching profession, the procedures and penalties to be applied in case of breach of the said Regulations. Regulation 146 of the CORT outlines in detail the procedure to be followed where allegations of professional misconduct have been levelled against a teacher in the public service.

- 20 The Respondent avers that as a Regulator of the teaching profession it upholds the best interests of the child as provided under Article 53 of the Constitution. To this end, due to the widespread incidences of sexual harassment against learners by their own teachers, and with a view to prevent and deter this vice and protect the constitutional rights of learners, on 29th April 2010, the Commission issued Administrative Circular No. 3 of 2010 titled *“Protection of Pupils/Students from Sexual abuse.”*
- 21 The Respondents aver that it employed the Petitioner on 14th March, 2019 as a Secondary school teacher II and posted him to Muthurwa Girls Secondary School. At paragraph 7 of his employment letter, his employment was subject to the TSC Act and CORT, as amended from time to time.
- 22 The Respondent avers that sometime in September 2023, Mr. Peter Njuguna was alleged to have flirted with his student by the name Mary Hope Wanjiru a form four learner by kissing and holding her.
- 23 The Respondent avers that in exercise of its mandate under Article 237 (2) e of the Constitution, the Petitioner was taken through the disciplinary process which commenced with a show cause letter to which he responded.

- 24 It avers that pursuant to Regulation 146 of the CORT, investigations were commenced and statements were collected from the Petitioner and various witnesses including the victim.
- 25 Consequently, the Petitioner was invited to appear before the BOM on 18th October 2023 to respond to the allegations made against him. During the meeting, the Petitioner was granted an overwhelming opportunity to present his case, was present as all witnesses testified and was granted the opportunity to cross examine witnesses.
- 26 The Respondent avers that during the meeting the panel made the following findings:
- a) *The Petitioner had an illicit relationship with Mary Hope which was not expected of a teacher-learner.*
 - b) *The petitioner had broken the school rules by giving a learner his phone.*
 - c) *The Petitioner had tricked Mary Hope into being alone with him where he took advantage of the black out and sexually harassed her.*
 - d) *It was confirmed that during second term, the Petitioner had touched her thighs in class as they were reading.*
 - e) *Consolata Muthoni confirmed to the Board that she saw the Petitioner kissing Mary Hope at the stair case.*

f) The Petitioner admitted to being with Mary Hope on the evening of 13/9/2023 and that he had called for her after her mother allegedly called.

g) All witness statements including that of the victim were consistent and credible.

27 The Respondent avers that upon considering both the written and oral statements by all parties present, the BOM concluded that the Petitioner had a case to answer and recommended that he be interdicted. Consequently, the Petitioner was interdicted via a letter dated 19th October 2023 to which he responded through his letter dated 1st November 2023.

28 The Respondent avers that pursuant to Regulation 147(5) of the CORT which provides that the Commission reserves the right to amend an interdiction letter, the initial interdiction letter was amended and the amended letter dated served upon the Petitioner. In the said letter of interdiction, the Petitioner was duly informed of the allegations against him and was invited to make a defence statement /response to the allegations to the Commission within 21 days which he opted not to do.

29 Subsequently, the Petitioner was invited to a disciplinary hearing to grant him the opportunity to be heard pursuant to Regulation 149 of the CORT. In his letter of invitation, the Petitioner was duly advised to bring documents in support of his case and witnesses if any.

30 The Respondent avers that the Petitioner appeared before the disciplinary panel, where he was allowed to present his case but did not bring any witnesses. The Respondent's witnesses testified and he was allowed to cross examine them.

31 The disciplinary panel made the following findings:

a) It was confirmed that the Petitioner was on duty on the night of 13/9/2023. He sent a girl to call Mary Hope from class at around 7:30 in the evening after a blackout.

b) The Petitioner gave his phone to Mary Hope to make a call which was against the school rules which was a clear indication of a special relationship between him and her.

c) Mary Hope appeared as a witness and confirmed that indeed the Petitioner called for her that evening to call her mother but when she got there, the Petitioner took her to the staircase where he hugged and kissed her against her will.

d) The Petitioner confirmed that he had been invited to appear before the BOM where he appeared and was granted an opportunity to present his case and cross examine the Respondent's witnesses present that day.

e) During the hearing the statement of Mary Hope was corroborated by that of Consolata Muthoni and Immaculate Mukami who confirmed that the

Petitioner was with Mary Hope and that they heard a commotion between them at the stair case.

- f) The victim and all other witnesses present remained consistent during the entire disciplinary process.
- g) The Petitioner did not effectively challenge the evidence adduced by the witnesses' present.
- h) The petitioner did not write a defence statement despite him being advised to do so when his interdiction letter was amended.
- i) All the witnesses present were consistent and credible.

32 The Respondent avers that upon consideration of the Petitioner's defence both oral and written and all other evidence before the disciplinary panel, the committee recommended that the Petitioner be dismissed and removed from the Register of teachers. The Petitioner was promptly informed of the decision.

33 In his letter of dismissal, the Petitioner was duly informed of his right of review within 90 days from the date of the decision should he be dissatisfied with the decision of the Respondent. Despite being fully aware of this right, the Petitioner failed /ignored to apply for review.

34 It is the Respondent's case that the amendment of the Petitioner's interdiction letter did not alter the initial allegations made against him. Further, following the amendment of the interdiction letter, the Petitioner was

granted an opportunity to respond which he opted not to do.

35 The Respondent avers that the Petitioner is not entitled to any salary having been dismissed fairly. Further, he did not offer any services to the Respondent during the period to warrant payment of salary.

36 It is the Respondent's case that Regulation 147(4) of the CORT provides that the Commission may avail to a teacher upon application and at the teacher's cost, any documents that the Commission uses in the disciplinary hearing. In response to the request for BOM minutes, the Respondent through a letter dated 18th January 2024 requested the Petitioner to make payment of ksh 900 which he never did.

37 The Respondent avers that it has annexed the documents requested by the Petitioner in its response. However, it is a stranger to the video clips requested and maintains that it did not rely on any video clips in making the decision to dismiss him.

38 The Respondent avers that the Petitioner's prayer of reinstatement is against public policy and interest in that the Petitioner cannot be immune to a disciplinary action when serious allegations touching on his integrity and professional standing have been raised.

39 The Respondent avers that the petition as framed purely raises employment issues and does not meet the threshold for a constitutional petition as per the principle established in the case of *Anarita Karimi Njeru vs. The Republic (1979)*. More specifically, the Petitioner seeks orders for unlawful termination, reinstatement and compensation for the period of interdiction and dismissal.

Petitioner's Submissions

40 The Petitioner submitted on five issues: whether the Respondent proved a valid and fair reason for dismissal as required under section 43 and 45 of the Employment Act; whether the disciplinary process met the threshold of procedural fairness under section 41 of the Employment Act and Articles 47 and 50 of the Constitution of Kenya; whether the material alteration of the Notice to show cause vitiated the disciplinary process; whether the removal from the Teachers register was compliant with regulation 66 of the Code of regulations for teachers (CORT); and whether the Petitioner is entitled to the reliefs sought.

41 On the first issue, the Petitioner submitted that the Respondent failed to prove that he committed the alleged act. The evidence relied upon was founded on hearsay as no direct witness saw the alleged act, uncorroborated student statements and no corroborative evidence such as

medical, physical or contemporaneous report was produced.

- 42 The Petitioner submitted that the one-week delay before the report was made fatally undermines, creating doubt on the credibility and indicates a possible embellishment. Additionally, no independent witness, medical report or corroborative testimony was adduced to confirm that the alleged conduct occurred.
- 43 It is the Petitioner's submission that the Respondent therefore failed to prove a valid and fair reason for dismissal as required under Sections 43 and 45 of the Employment Act. He cited ***Khisa v Teachers Service Commission[2023] KEELRC 1437 (KLR)*** the court held that founded on unverified allegations and hearsay evidence is unfair and unlawful. The burden lies with the TSC to prove the misconduct on a balance of probabilities.
- 44 The Petitioner submitted that his dismissal based on uncorroborated allegations and hearsay evidence is substantively unfair. The employer must demonstrate genuine, credible, and sufficient grounds to justify the action.
- 45 The Petitioner submitted that the allegation was uncorroborated, delayed and contradicted by documentary alteration thus falling below the ***Khisa (supra)*** threshold. No contemporaneous statement or examination of the student was produced. He cited

Josephat Munyao Kovulo v Teachers Service Commission [2019] eKLR the court found that the failure to conduct credible investigations renders a dismissal both procedurally and substantively unfair hence in the present case the TSC failed to independently verify the allegation or assess credibility.

46 The Petitioner placed reliance in **Mary Chemweno Kiptui v Kenya Pipeline Company Limited [2014] eKLR** whereby the court held that an employer must demonstrate valid reasons and conduct fair investigations before dismissal. He thus submitted that the Respondent reliance on speculative and altered evidence violates this principle.

47 On the second issue, the Petitioner submitted that the Respondent's process failed to meet the procedural standards under Section 41 of the Employment Act and Article 50 of the Constitution. The Petitioner asserts that: he was not given adequate time or opportunity to defend himself; the hearing panel relied on written statements without allowing cross examination; he was not informed of the alteration to the show cause letter; and that the denial of the Petitioner's right to representation or adequate opportunity to respond.

48 The Petitioner submitted that in **Mugo v Teachers Service Commission [2022] KEELRC 13180 (KLR)** the court held that procedural fairness entails notice,

disclosure of evidence, opportunity to respond and impartial adjudication. The Respondent denied the Petitioners those rights.

49 On the third issue, the Petitioner submitted that the deletion or alteration of the phrase “*when the lights went off*” removed crucial exculpatory detail the fact that visibility was impaired at the time. This alteration amounts to tampering with documentary evidence and demonstrates bad faith or bias. Such conduct offends Article 47 (1) of the Constitution and the principles of fair administrative action.

50 It is the Petitioner’s submission that the alteration here directly affected the nature of the accusation, invalidating the entire disciplinary process.

51 On the fourth issue, the Petitioner submitted that Regulation 66 of the Code of regulations of teachers (CORT) requires that deregistration be preceded by; notification of intended action, a hearing before the commission and opportunity to appeal. The Respondent failed to comply with these requirements hence the Petitioners deregistration was unlawful and unconstitutional.

52 It is the Petitioner’s submission that the Respondent’s action in this case was ultra vires Regulation 66. He cited ***Teachers Service Commission v Gitahi [2023] KEELRC 2267 (KLR)*** the court held that

deregistration without distinct notice and hearing violates due process and is null and void.

- 53 The Petitioner submitted that the alleged incident was reported one week later, contrary to established TSC guidelines which require immediate reporting of sexual misconduct allegations involving learners. The delay undermines reliability and indicates possible fabrication or manipulation. In ***Khisa v TSC (supra)*** it was noted that delayed reporting of sexual allegations weakens evidentiary reliability and procedural fairness.
- 54 The Petitioner submitted that the Respondent's failure to investigate promptly or obtain contemporaneous statements amounts to administrative negligence and violates Article 47 of the Constitution.
- 55 It is the Petitioner's submission that under Article 53 (2) of the Constitution and the Children Act, 2022 such protection cannot override constitutional procedural fairness to the accused teacher. The balance lies in ensuring that child protection measures are enforced without sacrificing the rule of law.
- 56 The Petitioner submitted that the Respondent's disciplinary process was tainted by: absence of credible evidence; alteration of key documents; denial of fair hearing; and failure to comply with the code of regulations and the TSC Act. The cumulative effect is that the

Petitioner's dismissal and deregistration were procedurally unfair, substantively baseless and constitutionally invalid.

- 57 On the final issue, the Petitioner submitted that the principles in ***Kenfreight (E.A) Limited v Benson K. Nguti [2016] eKLR*** and ***Mugo v Teachers Service Commission [2022] KEELRC 13180 (KLR)***, justify reinstatement or full compensation where procedural and substantive injustice is established.

Respondent's Submissions

- 58 The Respondent submitted on three issue; whether the Respondent had a justifiable reason to dismiss the Petitioner; whether the Petitioner was accorded a fair hearing; and whether or not the Petitioner is entitled to the prayers sought.
- 59 On the first issue, the Respondent submitted that the Petitioner was accused of immoral behaviour in that while he was a teacher at Muthurwa Girls Secondary School, he was alleged to have flirted with his student by the name Mary Hope Wanjiru a form four learner when the lights were off by kissing and holding her.
- 60 The Respondent submitted that the allegations levelled against the Petitioner amounted to a fundamental breach of the provisions of the TSC Act, the Basic Education Act, the Code of Conduct for Teachers and the Teachers Service Code of Conduct and Ethics and Circular No. 3 of 2010

which explicitly prohibit any form of sexual relations with learners.

61 It is the Respondent's submission that the charges against the Petitioner were investigated and proved at a hearing by an impartial, independent and professional panel in his presence and the decision reached was fair, just and appropriate based on the merits and evidence adduced.

62 The Respondent submitted that the Respondent discharged its obligation under Section 43(1) of the Employment Act as at the time the Petitioner was dismissed it was genuinely convinced that he had breached the terms of employment on account of him sexually harassing a learner. Reliance was placed in the Court of Appeal decision in **Kenya Power & Lighting Company Limited v Aggrey Lukorito Wasike [2017] eKLR** where the Court pronounced itself as follows: *"Under Section 43 of the Act. the onus is on an employer to prove the reason or reasons for the termination, failing which the termination shall be deemed to be unfair. The test is, however, a partly subjective one in that all an employer is required to prove are the reasons that he "genuinely believed to exist," causing him to terminate the employee's services."*

63 The Respondent submitted that it has justifiable reason to dismiss the Petitioner. It genuinely believed that the Petitioner sexually harassed Mary Hope at the time he was

dismissed. During the disciplinary hearing held on 29/1/2024, Mary hope appeared as a witness where she confirmed that the petitioner called for her to make a call to her mother. When she got there, he held her hand, kissed her and touched her breasts. To date, Mary Hope has never recanted her statement. During the disciplinary hearing, the Petitioner was granted the opportunity to challenge her evidence by cross examining her but he only asked one question thereby not challenging her testimony which had remained the same since the incident happened.

- 64 On the second issue, the Respondent submitted that Upon receiving information that the Petitioner had breached the provisions of the Code of Regulations for Teachers by engaging in immoral behaviour the Respondent commenced investigations into the matter to verify the allegations in accordance to Regulation 146 of the CORT.
- 65 The Respondent submitted that during the investigatory meeting, the Petitioner, Mary hope, Emmaculate Mukami, Consolata Muthoni, Michelle Nyakio, and other witnesses were present. These investigations involved receiving both oral and written statements from the witnesses' present.
- 66 It is the Respondent's submission that from the investigations it established that the Petitioner violated the school rules by giving a student his phone to call home. It was further confirmed by all witnesses present that he had sexually harassed Mary Hope. Consequently,

the BOM found that the allegations made against the Petitioner were not malicious as he had alleged and that he had a case to answer therefore recommended that he be interdicted.

- 67 The Respondent submitted that pursuant to Regulation 147 of the CORT, the Petitioner was duly served with a letter of interdiction specifying the actual allegations made against him. The interdiction letter further advised the Petitioner to prepare a defence statement in writing to the Respondent within 21 days where after, he would be accorded the opportunity to be heard in person.
- 68 The Respondent submitted that pursuant to Regulation 149 of the CORT, the Petitioner was invited to a disciplinary hearing on 29th January 2024. The invitation letter duly informed the Petitioner that he could present any documents that may be useful in his defence. These documents could include witness statements, medical reports etc.
- 69 The Respondent submitted that during the hearing, the Petitioner did not present any documents nor witnesses in his defence. The Respondent called a number of witnesses who testified before the Petitioner. He was also granted the opportunity to cross examine all the witnesses present as evidenced by the minutes of the disciplinary hearing dated 29th January 2024.

- 70 The Respondent submitted that upon careful consideration and evaluation of the Petitioner's defence statements and oral evidence and all statements made by all witnesses present both written and oral, and given the grievous nature of his professional misconduct, the disciplinary panel arrived at a considered decision to dismiss him.
- 71 The Respondent submitted that the Petitioner was duly informed of the decision to dismiss him from the teaching service and remove his name from the Register of teachers and was equally informed of the reasons for the dismissal. However, despite being duly informed that he had the right to apply for review within 90 days pursuant to Regulation 156(4) of the CORT, the Petitioner failed/ignored to do so.
- 72 It is the Respondent's submission that it duly followed the stipulated disciplinary procedure and was willing to hear the Petitioner once more at review stage. It maintains that this matter has been filed as afterthought as if at all the Petitioner was dissatisfied with the decision of the disciplinary panel, he ought to have applied for review.
- 73 The Respondents submitted that the Petitioner was accorded a fair hearing above having been taken through the stipulated disciplinary process under the CORT. Additionally, the amendment of the show cause letter did not in any way harm him as he had the opportunity to defend himself before the investigative panel and the disciplinary panel. Consequently, he was dismissed for proper and

established reasons pursuant to section 43(1) of the Employment Act.

- 74 It is the Respondents' submission that during the entire disciplinary process, Mary hope's testimony together with that of other witnesses remained consistent, coherent, cogent and compelling. Further, the Petitioner could not challenge the factual testimony of the victim.
- 75 On the final issue, the Respondent submitted that the Petitioner was taken through the disciplinary process based on established grounds therefore this prayer lacks merit and is a violation of the Child's right to be protected from sexual abuse as envisioned under Article 53 of the Constitution. Further, the Petitioner was taken through the entire disciplinary process as laid out under Section 41 of the Employment Act thus his termination was fair.
- 76 The Respondent submitted that it has lost trust and confidence in the Petitioner as an employee and has exercised its freedom to invoke the terms and conditions of the Petitioner's service relating to termination. The Petitioner's contract was procedurally terminated and he is therefore not entitled to reinstatement.
- 77 The Respondent submitted that in regard to reinstatement to the Register of Teachers, the Petitioner is required to apply for the same in accordance to Regulation 36 of the CORT.

- 78 The Respondent placed reliance in **Joseph Mujibi Ouma V National Cereals & Produce Board & 2 OTHERS [2006] eKLR** wherein the court applied the Court of Appeal decision in **Dalmas B Ogoye v KNTC CA No 125 of 1995** in which the Court of Appeal said: *“that courts do not order reinstatement in such cases because such an order would be difficult to enforce besides it would be plainly wrong to impose an employee who has fallen out of favour on a reluctant employer.”*
- 79 It is the Respondent’s submission that Petitioner having not rendered any services to it since interdiction is not entitled to any salary arrears. He is further not entitled to any damages having been fairly terminated.
- 80 I have examined all the averments and submission of the parties herein. The issues for the courts determination are as follows:
- (1) Whether the petitioner was dismissed fairly and justly.
 - (2) Whether the petitioners constitutional rights were breached by the respondent
 - (3) Whether the petitioner is entitled to the remedies sought.

ISSUE NO 1

- 81 The petitioner has averred that he was unfairly dismissed and not accorded a fair disciplinary process. He avers that

his accusers never testified against him and he was never given an opportunity to cross examine the witnesses.

82 From the proceedings on record the disciplinary process against the petitioner commenced on 2/10/23 when he was issued with a show cause letter authorised by BOM Secretary at Muthurwa Girls Secondary School. On 18/10/23, the petitioner appeared before the Board of Muthurwa Girls Secondary School for the hearing of the case where the victim among others testified against him and he was given an opportunity to cross examine them.

83 After the hearing before the Board of Management, the petitioner was interdicted vide a letter dated 19/10/23. The interdiction letter stated that he had on 13/9/23 flirted with a learner Mary Hope Wanjiru admission NO 7262 by hugging, kissing and touching her breasts forcefully.

84 He responded to the interdiction letter denying the allegations against him. On 20/12/23, the petitioner was served with another interdiction letter. Vide a letter of 21/12/23, he was now invited for his disciplinary hearing which was to take place on 29/1/24. On 29/1/24, the petitioner was taken through the disciplinary hearing.

85 I have considered the minutes of the disciplinary hearing. During the hearing the victim Mary Hope also testified and repeated her position that the petitioner hugged and kissed her forcefully and also touched her breasts. The

petitioner cross-examined her and she indicated that she screamed when the petitioner held her. The other witnesses also confirmed their evidence that they witnessed the incident and were also cross-examined by the petitioner.

86 From these proceedings, the victim testified both before the BOM and the TSC disciplinary committee. The petitioner was present and was given an opportunity to testify and also cross examine the said witnesses. The evidence adduced pointed to the guilt of the petitioner on the charges levelled against him. It is my finding that there were valid reasons to warrant dismissal of the petitioner and due process was followed. The claim for unfair and unjustified dismissal is therefore non existent and I find that the petitioner was fairly and justly dismissed.

ISSUE NO 2

87 The petitioner also indicated that his rights under the constitution were infringed upon. Following the finding that the petitioner was subjected of a fair disciplinary process and valid reason existed to warrant his dismissal, I find no breach of his constitutional rights as submitted.

ISSUE NO 3

88 Following the above findings, I find that the petition fails in its entirety and is therefore dismissed. There shall be no order of costs.

**Dated, Signed and Delivered Virtually at Nairobi this 17th
Day of December 2025.**

**HELLEN WASILWA
JUDGE**

ORIGINAL