



Wambugu v County Government of Nyandarua & 2 others (Cause E024 of 2025) [2025] KEELRC 3729 (KLR) (19 December 2025) (Judgment)

Neutral citation: [2025] KEELRC 3729 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E024 OF 2025
J RIKA, J
DECEMBER 19, 2025**

BETWEEN

JAMES WAIREGI WAMBUGU CLAIMANT

AND

THE COUNTY GOVERNMENT OF NYANDARUA 1ST RESPONDENT

**COUNTY PUBLIC SERVICE BOARD, COUNTY GOVERNMENT OF
NYANDARUA 2ND RESPONDENT**

**COUNTY SECRETARY, COUNTY GOVERNMENT OF NYANDARUA 3RD
RESPONDENT**

JUDGMENT

1. This Claim is undefended.
2. An affidavit sworn on 4th June 2025 and filed by licensed Court Process-Server, Edward Maina Wachira, shows that all the Respondents were served with the pleadings, on 7th May 2025.
3. They did not enter appearance or file any form of response, and the Claimant was heard by way of formal proof, on 19th September 2025.
4. He relied on his documents [1-33] and witness statement, in his evidence.
5. He states that he was appointed by the Respondents, as a ward administrator in 2015. He was in charge of North Kinangop, working in the office of Deputy Sub-County Administrator.
6. He was transferred to the County Head Office for redeployment, on 4th September 2023.
7. He was not redeployed and was not assigned duties as expected, on transfer to the Head Office. He continued reporting, in the hope that he would be assigned duty.



8. He was advised that he had been assigned the role of coordinating disaster management, through a letter dated 20th January 2024. This role was not within his job description, and assignment was meant to frustrate him.
9. There was no office, no tools or materials to enable the Claimant execute the role. The Respondent expected him, to decline the role, but he embraced it warmly.
10. He was surprised to receive 2 letters to show cause, why disciplinary action should not be taken against him. There were various allegations against him, including absenteeism and participation in an unlawful gathering.
11. He denied all the allegations in his reply. He pointed out that he was never absent from work, and has never been reported to authorities, and charged with the offence of unlawful gathering.
12. He was invited for disciplinary hearing before the Departmental Human Resource Advisory Committee, held on 22nd August 2024.
13. Later, on 18th September 2024, he appeared before the Disciplinary Sub-County Committee of the County Human Resource Advisory Committee.
14. On 4th October 2024, he received a letter of summary dismissal.
15. He lodged an appeal to the County Public Service Board, which was disregarded. He received threats from the 3rd Respondent, that the 3rd Respondent would eliminate him from Nyandarua County. He reported threats to Nyahururu Police Station under OB No. 47/06/08/2024.
16. The Respondents' threats were meant to intimidate the Claimant from continuing with his service. The Respondents discontinued his monthly salary. He was blocked from participating in intercounty games.
17. The Claimant avers that he was treated unfairly and unlawfully by the Respondents under the *Employment Act*, 2007. His right to fair administrative action, under the *Fair Administrative Action Act*, and Article 47 of *the Constitution*, was violated. Termination was contrary to the Public Service Commission Disciplinary Manual, 2016. The Manual does not provide for termination by the Departmental Human Resource Management Advisory Committee.
18. He further invokes Articles 41 and 50 on the right to fair labour practices and right to fair hearing. He states that these rights were violated.
19. He prays for: -
 - a. Declaration that termination was unfair and unlawful.
 - b. Reinstatement to the position of Deputy Sub-County Administrator with full departmental duties.
 - c. Permanent injunction restraining the Respondents from demoting, summarily dismissing, terminating and / or in any other manner interfering with the Claimant's employment, without following due process.
 - d. Payment of salaries, emolument, benefits and all allowances, withheld by the Respondents during the period of unlawful termination.
 - e. General damages for unlawful termination.
 - f. Costs and interest.



- g. Any other suitable relief.
20. The Claim was last mentioned before the Court on 28th October 2025, when the Claimant confirmed filing of his closing submissions.
21. The issues are whether the Claimant was fairly and lawfully dismissed from service by the Respondents; and whether he merits the prayers sought.

The Court Finds: -

22. The Claim, as observed at the outset, is uncontested.
23. In all claims where an Employee alleges that he was unfairly and unlawfully dismissed by an Employer, it is the duty of the Employee to establish that an unfair or unlawful termination of employment has occurred, while the duty of justifying the grounds for termination of employment, rests with the Employer. This is underscored by Section 47[5] of the *Employment Act*, 2007.
24. As the pleadings and the evidence brought before the Court by the Claimant are uncontested, the Court has no reason to doubt that the Claimant has established that his contract was unfairly terminated by the Respondents, and the Respondents have failed to justify the grounds for termination. Those grounds, as explained by the Claimant, included absenteeism and participation in unlawful gatherings. No evidence of absenteeism and participation in unlawful gatherings, has been placed before the Court.
25. The procedural irregularities, which included the Claimant being taken and heard before the wrong disciplinary committee, have not been disputed by the Respondents.
26. The Respondents transferred the Claimant to North Kinangop and back to the Head Office at Olkalou. He obeyed the instructions of the Respondents, but was not assigned duties upon retransfer. He told the Court that he was later assigned duty in disaster management, which was outside his job description, and notwithstanding that he was denied office premises and tools of office, he embraced the new role. He was charged with acts of gross misconduct, over allegations which have not been established, and dismissed. His appeal against dismissal was disregarded.
27. The Court is persuaded that termination was unfair and unlawful under Section 41, 43 and 45 of the *Employment Act*, 2007.
28. As the *Employment Act* identifies appropriate remedies for the employment wrongs sustained by the Claimant, it is unnecessary to extend the Claim beyond the *Employment Act*, to the *Fair Administrative Action Act* and *the Constitution* of Kenya. Such other laws could be invoked, if the principal law, the *Employment Act*, does not provide the Claimant a remedy, or offers inadequate remedy.
29. While the submissions made by the Claimant on violation of these other laws could well be valid, it is not necessary to invoke these other laws.
30. In Court of Appeal decision, *Judicial Service Commission & Another v. Njora* [2021] KECA 366 [KLR] [7th May 2021] [Judgment]; and Supreme Court of Kenya Petition No. E005 of 2025, *Eric Kamande v. Judicial Service Commission*, the Courts upheld the discretion of this Court, to award the remedy of reinstatement under Section 12[3][vii] of the *Employment and Labour Relations Court Act*, and Section 49[3] of the *Employment Act*.
31. Reinstatement is valid for 3 years from the date of termination. The Claimant left employment on 4th October 2024, slightly over 1 year ago. Reinstatement is valid, reasonable and practicable. Furthermore, the prayer is uncontested.



32. He shall be reinstated as Deputy Sub-County Administrator, without loss of seniority, salaries, allowances, and benefits.
33. The prayer for damages for unfair and unlawful termination is declined, the Claimant having obtained the order for reinstatement with back-remuneration. The purpose of the remedy of reinstatement is to restore the terminated contract in full, with all rights and obligations. Additional damages would be disproportionate, and contrary to the principle of fair-go all round.
34. The prayer for permanent injunction restraining the Respondents from demoting, summarily dismissing the Claimant and / or otherwise terminating his contract, without following due process, is declined.
35. The Court must not take away the Respondents' managerial prerogative, in disciplining the Claimant in the future. The concern in this Claim, is about the cause of action that arose on 4th October 2024. Other potential causes of action ought to be dealt with as, and when they arise. The managerial prerogative must not be fettered with the grant of a permanent injunction, as sought by the Claimant.

It Is Ordered: -

- a. It is declared that termination of the Claimant's contract of employment by the Respondents, was unfair and unlawful.
- b. The Respondents shall forthwith, reinstate the Claimant to the position of Deputy Sub-County Administrator, without loss of seniority, salaries, allowances, and benefits.
- c. Costs to the Claimant.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, PURSUANT TO RULE 68[5] OF THE E&LRC [PROCEDURE] RULES, 2024, THIS 19TH DAY OF DECEMBER 2025.

JAMES RIKA

JUDGE

