

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**JUDICIAL REVIEW APPLICATION NO. E013 OF 2026**

**MOSES**

**NJENGA.....APPLICANT**

**VERSUS**

**THE EXECUTIVE DIRECTOR,**

**KENYA INSTITUTE FOR PUBLIC POLICY RESEARCH AND**

**ANALYSIS (KIPPRA).....1<sup>ST</sup> RESPONDENT**

**THE ATTORNEY GENERAL.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. I have perused the originating motion dated 19/1/2026 filed under certificate of urgency. I decline to certify the matter as urgent.
2. The reasons are as follows: *The originating motion seeks to challenge the decision of the 1<sup>st</sup> Respondent to advertise 43 vacant positions in the 1<sup>st</sup> respondent organization which the applicant claims is unprocedural and in violation of clauses 2.15.3, 2.15.4 and 2.15.5 of the KIPPRA Human Resource Policy and Procedure Manuals which requires that before external recruitment is considered for Grades KIP 4-KIP 10, the*

*Respondent must first exhaust promotion of qualified candidates in the Department or qualified candidates from other departments and also that the positions must first be advertised internally to attract applications from staff members within the institute and it is only after internal recruitment process is exhausted and no suitable internal candidate exists that applicants can be sourced externally.*

3. *The applicant accuses the 1<sup>st</sup> Respondent for not advertising the said 43 positions internally first, for Grades KIP 4 – KIP 10 before publishing to invite external applicants.*
4. With the above background, the question that I pose is whether this court has jurisdiction to entertain the dispute.
5. The answer is a clear No. Jurisdiction of this court is derived from statutes and Article 165 of the Constitution.
6. Under Article 165(5)(b) of the Constitution, the High Court is expressly barred from entertaining disputes which are exclusively reserved for the Supreme Court and for the courts contemplated in Article 162(2) of the Constitution.

7. **Article 162(2) (a) of the Constitution** contemplates the establishment of the Employment and Labour Relations Court with jurisdiction to hear and determine disputes relating to Employment and Labour Relations.
8. The Employment and Labour Relations Court Act was enacted in 2011 as Cap 8E Laws of Kenya and it establishes the Employment and Labour Relations Court at section 4. The Court's jurisdiction is clearly spelt out in Section 12 of the Employment and Labour Relations Court Act,
9. That court has Judicial Review jurisdiction and more so, a specific division was established by the Chief Justice to handle Judicial Review matters at Milimani Law Courts, Nairobi. See High Court Decisions in **United States International University (USIU) vs. Attorney General [2012] eKLR, Ali Jarso Wako & Another vs. Ministry of Interior & Coordination of National Government & 5 Others; Public Service Commission & 5 Others (Interested parties) [2020] eKLR and Daniel. N. Mugendi vs. Kenyatta University & 3 Others (2013) eKLR, Okoiti vs. Attorney General; Njenga (Interested Party) [2022] eKLR, Evans Ladtema Muswahili v Vihiga county Public Service Board & 2 Others; Page 4 of 9 Marley Ezekiel Ayiego**

**(Interested Party) [2021] eKLR, Trusted Society of Human Rights Alliance v Nakuru Water and Sanitation Services Company & Another [2013] eKLR** being decisions where courts have held that the ELRC is the only valid court to entertain disputes relating to recruitment, selection, nomination and appointment of employees.

10. As jurisdictions of Employment and Labour Relations Court and the High Court in Employment and Labour Relations matters are distinct and not shared, as was held in **Republic v Karisa Chengo & 2 others S.C. Petition No. 5 of 2015 [2017] eKLR** where the Supreme Court determined that the ELRC and High Court are different and autonomous courts and exercise different jurisdictions; the jurisdiction of the ELRC being limited to matters provided for in the statute regulating the same.

11. I do not understand why the applicant filed this matter here.

12. Without jurisdiction, I must down my tools and say no more. I accordingly decline jurisdiction and proceed to strike out the originating motion dated 19/1/2026 with no orders as to costs.

13. I so order.

**Dated, Signed and Delivered at Nairobi this 19<sup>th</sup> Day of January, 2026**

**R.E. ABURILI  
JUDGE**

ORIGINAL