

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR  
RELATIONS COURT AT NAKURU  
CAUSE NUMBER E039 OF 2025**

**BETWEEN**

JACKTON KIMUTAI CHERUYIOT .....  
CLAIMANT

**VERSUS**

KIRANDICH WATER COMPANY  
LIMITED .....RESPONDENT

**RULING**

1. The Claimant filed his Statement of Claim, dated 10th June 2025.
2. He states that he was employed by the Respondent as its Managing Director, in November 2022.
3. He was unfairly dismissed by the Respondent, on 2nd May 2025.

4. He challenges the decision, asking the Court to find that termination was unfair, and that he is awarded compensation and terminal benefits.
5. The Respondent filed a Notice of Preliminary Objection dated 7th October 2025.
6. The Preliminary Objection is common to Nakuru E&LRC Cause Number E037 of 2025 and Cause Number E039 of 2025.
7. It is the position of the Respondent in both files that the Claimants were public servants within the county public service, and required to appeal the decision to dismiss them, to the Public Service Commission, in accordance with Section 77 [1] of the County Governments Act.
8. Parties filed submissions common to both files. The issues in dispute are similar. Representation by Counsel is the same. The Court has prepared a Ruling in Cause Number E037, upholding the Preliminary Objection.
9. The reasons given in upholding the Preliminary Objection shall apply in this Cause.

10. In summary, the Court concluded that: staff of the Respondent are public servants as described by the Water Services Regulations 2021 [2025]; the Respondent although registered as a separate legal entity, is registered by the County Government of Baringo, and is a vehicle for discharge of county public service; Section 77 of the County Governments Act and Section 85 of the Public Service Commission Act, deprive the Court of primary jurisdiction in disputes involving public service; and Section 89 [1] of the PSC Act only confers enforcement jurisdiction on the E&LRC, after the PSC has rendered its decision on appeal or review.
11. The Court found support for this position in Court of Appeal decision, **Secretary, Wajir County Public Service Board v. Hulbai Dedi Abdille [2017] e-KLR**, which has been invoked subsequently, in a catena of decisions of the E&LRC.
12. A county water services provider is established by a County Government, pursuant to Section 77 of the Water Act. The water services provider is required to have a Board of Directors, which employs staff including the Managing Director, who are public servants, under the Water Services Regulations. The terms of remuneration are approved by the Board, in line with

the guidelines set by the Salaries and Remuneration Commission.

13. All staff employed by water services providers in the Counties, are public servants, subject to the laws governing the conduct of public officers.
14. There are certain third party water service providers, which are wholly private, operating under WSP licence issued by Water Services Regulatory Board [WASREB]. An example is Tatu City and Sanitation Company [ TATUWASCO], which is a subsidiary of Tatu City Limited, operating in Special Economic Zone.
15. Employees of TATUWASCO would not be deemed to be public servants. Unlike the Respondent, TATUWASCO is private utility company, wholly responsible for its Employees. This cannot be said of the Respondent, which is a public utility, registered by the County Government of Baringo, pursuant to Section 77 of the Water Act.
16. The orders issued in Cause Number E037 of 2025 shall apply in this Cause.

**IT IS ORDERED: -**

- a. The Preliminary Objection is sustained, and the Claim herein declined for want of jurisdiction.**
- b. The Counterclaim is declined.**
- c. No order on the costs.**
- d. The file is closed.**

Dated, signed and delivered electronically at Nakuru, under Rule 68[5] of the E&LRC [Procedure] Rules, 2024, this 30th day of January 2026.

James Rika  
Judge

