



Mwangi v Kenya Power & Lighting Company Limited (Cause E062 of 2023) [2026] KEELRC 251 (KLR) (30 January 2026) (Judgment)

Neutral citation: [2026] KEELRC 251 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE E062 OF 2023
AN MWAURE, J
JANUARY 30, 2026**

BETWEEN

CATHERINE WANGUI MWANGI CLAIMANT

AND

KENYA POWER & LIGHTING COMPANY LIMITED RESPONDENT

JUDGMENT

Introduction

1. The Claimant herein instituted this cause vide Statement of Claim dated 31st October 2023.
2. The Claimant is seeking the following reliefs:
 - a. An order directing the Respondent to pay the Claimant all her outstanding dues amounting to Kshs.12,134,458.00/=
 - b. An order that the Respondent does issue the Claimant with a certificate of service
 - c. Costs and interest at court rates from the date of filing this claim until payment in full
 - d. Any other further or better relief that this Honourable Court may deem fit.

Claimant's case

3. The Claimant avers that she was employed by the Respondent in the year 1983 as a Technician Apprentice and, after completing the required course, was confirmed as a Technician II in the year 1986.
4. The Claimant avers that she has served diligently for over 37 years, with her retirement scheduled for 2024 upon reaching 60 years of age. Throughout her long career, she consistently received letters



- of recognition for good performance and maintained a spotless record, never facing any disciplinary issues.
5. Over the next 37 years, the Claimant avers that she rose steadily through the ranks from Technician I, Senior Technician II, Senior Technician I, 3rd Assistant Superintendent, and by October 2019 had been appointed Functional Head, North Rift.
 6. In February 2020, the Claimant avers that she was transferred to Central Rift as Regional Head, overseeing ICT operations across seven counties with extensive fiber infrastructure. At the time of her unlawful termination, she held the position of 1st Assistant Superintendent, Central Rift Regional ICT, earning a gross salary of KShs.247,642/=.
 7. Throughout her career, the Claimant avers that she received multiple letters of recognition for exemplary performance, maintained a spotless disciplinary record, but later faced frustrations and obstruction from senior managers, including denial of delegation authority, loss of key staff without consultation, and deliberate delays in approvals.
 8. The Claimant avers that the Managing Director's daughter, Monica Murugi Kang'ethe, orchestrated efforts to have her employment terminated after being denied per diems, often displaying arrogance and demanding inclusion in all official travels.
 9. As Regional Head ICT, the Claimant avers that she supported necessary travel for fiber breakdowns, but towards the end of 2020, auditors were dispatched to ICT Nakuru to investigate alleged misuse of a company vehicle, KBT 329N. Shortly thereafter, the Telecoms Manager circulated a previously unseen transport policy warning regional heads to "clean up their act."
 10. The Claimant avers that she was engaged by auditors on the matter, clarified all issues raised, and provided written responses supported by correspondence and audit letters dated November 2020.
 11. On 4th January 2021, the Claimant avers that she was issued with a Notice to Show Cause by the Respondent's General Manager of ICT, accusing her of misusing company vehicle KBT 329N, failing to delegate approval of work tickets, authorizing fictitious per diem and mileage claims, and neglecting transport mileage reviews. She was further alleged to have irregularly claimed Kshs.75,600/= in per diems and Kshs.18,029.40/= for 494 km mileage despite using the company car.
 12. Given only 72 hours to respond and denied access to the audit report or supporting documents, the Claimant avers that she nonetheless submitted a detailed reply on 8th January 2021, providing emails, mileage records, and speedometer evidence to refute the claims.
 13. The Claimant avers that she was invited to a disciplinary hearing on 26th January 2021, with just five days to prepare, and still without evidence, she clarified that the questioned claims related to September 2020, when she used her personal vehicle. However, the hearing was conducted in a hostile and unfair manner, resembling a shouting match, with the outcome seemingly predetermined.
 14. During the disciplinary hearing, the Claimant avers that her response was disregarded, and the proceedings were noisy and disorderly, denying her a fair chance to be heard.
 15. On 4th February 2021, the Claimant avers that she received a dismissal letter dated 2nd February 2021, citing alleged fictitious per diem and mileage claims, irregular personal claims, failure to delegate approval of vehicle work tickets, and failure to review transport mileage returns.
 16. The Claimant avers that the letter also demanded immediate settlement of liabilities, including insurance premiums, a relocation bank loan, and leave balances, while threatening repossession of her car.



17. The Claimant avers that she appealed the dismissal on 24th February 2021, but despite the appeal being received on 25th February, the Respondent proceeded with the termination and only responded three months later, on 19th May 2021.
18. The Claimant avers that her appeal process was delayed, with the Respondent only responding three months later on 19th May 2021, giving her seven days to appear before the Appeals Committee.
19. The Claimant contends that her termination was irregular and driven by nepotism, particularly the undue influence of the Managing Director's daughter, Monica Murugi Kang'ethe, who wielded power over staffing decisions.
20. The Claimant argues that the dismissal was part of a scheme based on unsubstantiated allegations, highlighting her spotless 37-year record, consistent high performance, and lack of any misconduct.
21. The Claimant further avers that the disciplinary process violated natural justice, as she was denied adequate time, documentation, and clarity on the charges, with vague allegations unsupported by specific dates or evidence, including the audit report relied upon by the Respondent.

Respondent's Memorandum of Response

22. The Respondent opposed the Statement of Claim vide a Memorandum of Response dated 16th April 2024.
23. The Respondent denies most of the Claimant's allegations and maintains that her dismissal was lawful and procedurally fair.
24. The Respondent avers that the Claimant was employed from 1st June 1986 and later promoted to 1st Assistant Superintendent, was subjected to due process beginning with a Notice to Show Cause on 4th January 2021, followed by her written response on 8th January 2021, and a disciplinary hearing on 26th January 2021. Her explanations were deemed unsatisfactory, leading to termination by letter dated 2nd February 2021.
25. The Respondent avers that the Claimant's appeal, lodged on 24th February 2021, heard on 26th May 2021, and dismissed on 22nd July 2021, confirmed that the evidence did not absolve her. The Respondent maintains that the process fully complied with sections 41, 43, and 44 of the [Employment Act](#), and that her conduct breached its Code of Ethics, leaving no alternative but termination to preserve discipline and integrity.
26. Accordingly, the Respondent prays that the Claimant's Statement of Claim be dismissed in its entirety with costs.

Claimant's evidence in court

27. The Claimant, CW1, adopted her witness statement dated 31st October together with the list of documents dated even date and a further list of documents dated 3rd July 2024 marked as exhibits 1 to 30 as her evidence in chief.
28. CW1 testified that she had worked for the Respondent for 37 years, rising to the position of Assistant in charge of ICT for the Central Rift Region. She explained her duties included maintaining ICT fibre infrastructure and supervising staff, but she faced frustrations such as transfers without consultation and threats from the Managing Director's daughter, Monica Murugi, over per diem allocations. She denied misusing company vehicle KBT 329N or approving irregular claims, insisting she only



supported legitimate travel for fibre breakdowns. She argued that the disciplinary hearing was unfair, her evidence and documents were disregarded, and the process was predetermined.

29. In cross-examination, CW1 maintained she had never signed the company's code of ethics, was unaware of the transport policy until after the audit, and clarified that the questioned per diem and mileage claims related to times she used her personal vehicle.
30. In re-examination, CW1 clarified that she was not issued or required to sign the company's Code of Ethics and only became aware of the transport policy after the audit exercise in late 2020. She emphasized that despite repeatedly requesting a formal letter of delegation of authority, none was given, leaving her without a proper mandate over vehicle approvals. She reiterated that the per diem and mileage claims questioned related to September 2020, when she legitimately used her personal vehicle, and denied ever authorizing company vehicles for non-official duties.
31. CW1 further explained that the threats from the Managing Director's daughter undermined her ability to perform her role, yet she had never been formally disciplined in her 37 years of service. Finally, she maintained that the disciplinary hearing was unfair, as her documents and explanations were disregarded and she was not furnished with the audit report or supporting evidence to defend herself adequately.

Respondent's evidence in court

32. RW1, John Tollah, the Respondent's internal auditor, adopted his witness statement dated 11th February 2025 together with the list of documents dated even date marked as exhibits 1 to 79 as his evidence in chief.
33. In cross-examination, RW1 admitted that the audit report dated 21st December 2020 was prepared at the request of management, but acknowledged that the Claimant was not furnished with clear terms of reference or the report itself before the disciplinary hearing. He conceded that weaknesses identified, such as unauthorized approvals and irregular per diem claims, were largely systemic issues within the transport department rather than directly tied to the claimant.
34. RW1 further confirmed that no driver of vehicle KBT 329N was called as a witness, and he could not state with certainty whether the claimant personally misused the vehicle or received the alleged irregular payments. He also acknowledged that the transport policy was only circulated after the audit, raising questions about its applicability to the claimant's conduct.
35. In re-examination, RW1 reinforced that the audit report dated 21st December 2020 was properly prepared at the request of management and formed the basis of the disciplinary process. He clarified that the audit identified systemic weaknesses such as unauthorized approvals of work tickets, irregular per diem claims totalling Kshs.397,600/=, and misuse of vehicle KBT 329N, all of which fell under the CW1's supervisory responsibility. RW1 emphasized that as the senior officer in charge of ICT in the region, CW1 was expected to delegate and monitor transport approvals, and her failure to do so amounted to negligence. He further stated that the transport policy was in place and staff were expected to be sensitized on it, and that the claimant's explanations did not absolve her from responsibility since authority in the company is treated as a public trust requiring accountability.
36. RW2, Muriithi Kaburu, the Respondent's Human Resource and administration officer, adopted his written statement dated 11th February 2025 together with the bundle of documents dated even date marked as exhibits 1 to 79 as his evidence in chief.
37. RW2 testified that CW1 was subject to the Respondent's Code of Ethics, staff manual, and regulations. He explained that after the Respondent received the investigation report, CW1 was served with a notice



- to show cause and subsequently invited to a disciplinary hearing. Following the hearing, CW1 was provided with the minutes, which she signed, and was also granted the opportunity to appeal.
38. RW2 stated that the appeal was heard, and thereafter, a dismissal letter was issued. RW2 concluded that due process had been observed throughout, and therefore, there was no valid case against the respondent regarding CW1's dismissal.
 39. In cross-examination, RW2 confirmed that the respondent's Human Resource Manual guided CW1's disciplinary process and that although CW1 was issued with a code of conduct upon employment, she never signed it. He clarified that he did not participate in the audit, which alleged improper approvals by CW1 but lacked supporting documentation, GPS records, or attachments. He noted that work tickets were approved by senior management and acknowledged CW1 may have been awarded for excellent performance, though he was unaware of it.
 40. RW2 further stated that CW1 appealed her dismissal, citing strong regional performance across seven counties and challenges like vandalism, and that she had adequate support with no other complaints against her. However, RW2 maintained that CW1's explanations during the disciplinary process were unsatisfactory, leading to her dismissal, which the respondent justified as procedurally grounded.
 41. In re-examination, RW2 maintains that the CW1 was dismissed and she was given an opportunity to be heard during the appeal. He stated that the transport department did not manage its staff. He stated that employees in managerial positions should adhere to company's policies.
 42. Parties were directed to file their respective written submissions.

Claimant's submissions

43. The Claimant submitted that she was denied due process because she was not supplied with the audit report or supporting documents that formed the basis of the allegations, leaving her unable to prepare a proper defence. She contended that both the disciplinary and appeal hearings were sham proceedings, predetermined to result in her dismissal, and influenced by nepotism through the Managing Director's daughter, Monica Murugi Kang'ethe. The hearings were chaotic, raised issues outside the audit report, and ignored her responses, while the dismissal letter of 2nd February 2021 merely repeated the charges without specifying which she was found guilty of. She relied on the case of Gladys Boss Shollei v Judicial Service Commission & Another [2014] eKLR, where Justice Nduma Nderi emphasized that a termination letter must clearly state the specific reasons for dismissal, not merely repeat the charges, and must explain why the employee was found culpable or not on each allegation. The same position was upheld by the Supreme Court in Shollei v Judicial Service Commission & Another [2022] KESC 5 (KLR).
44. The Claimant submitted that the Respondent failed to prove that termination was unfair in terms of substantive justification as set out in section 45 of the *Employment Act*, Jared Nyaberi Ogega v Shiva Carriers Ltd [2017] eKLR, Banking, Insurance & Finance Union v Co-Operative Bank Of Kenya Limited [2014] eKLR and Kagai v Kenya Equatorial Hotels Limited t/a Mombasa Continental Resort [2024] KEELRC 2641 (KLR).
45. The Claimant reiterated that her dismissal was unfair as she was not provided with the audit report or supporting documents, and the disciplinary process was reduced to a mere formality. She explained that she lacked the authority to delegate work tickets, which were signed by supervisors as per practice, and that per diem approvals were based on legitimate work plans, with some approvals made by other officers, such as David Kipkosgey. Mileage returns were handled by drivers and the transport office without complaint, and her own per diem and mileage claims were genuine, supported by emails and



- September 2020 correspondence. She further argued that the forensic audit relied on a transport policy circulated only after the audit began, making it prejudicial to fault her for earlier actions. Importantly, while the audit noted misuse of vehicle KBT 329N, it did not attribute any wrongdoing directly to her.
46. The Claimant submitted that the audit report made direct allegations against her, particularly under sub-headings 3.4 and 3.5, accusing her of unjustified night allowances totalling Kshs.75,600/= for four trips and irregular mileage claims of 494 kms totalling to Kshs.18,029.40/= despite using the company vehicle. However, the report lacked particulars such as dates, approvals, or substantiating evidence, and only noted that she approved one trip on 4th September 2020, which she explained was legitimate work related to fibre vandalism in Narok, corroborated by Safaricom and with allowances actually approved by Eng. Geoffrey Muli, the Regional Manager and chair of the disciplinary committee. She clarified that she used her personal car while the company vehicle ferried equipment, making her mileage claim valid. The report also repeated allegations under sub-heading 3.6 about “other costs to the company,” but again failed to attribute wrongdoing directly to her. Despite these gaps, the auditors recommended holding her accountable for failure to delegate work tickets, approving fictitious claims, failing to review mileage returns, and irregularly claiming allowances, conclusions the claimant argues were unsupported and unfair.
 47. The Claimant submitted that the audit recommendations against her were inconsistent with the substantive findings of the report, since no direct culpability was established. During the disciplinary hearing, it was admitted by the Respondent’s witnesses that none of the other employees named in the audit were punished or dismissed, highlighting that she was singled out. Moreover, with respect to the alleged financial losses, the respondent failed to follow the normal course of surcharging employees proven to have raised fictitious claims. In fact, beyond the audit report, no evidence was ever produced to substantiate the alleged irregular per diems, mileage claims, or night allowances, and neither the Claimant nor any other staff were surcharged, underscoring the unfairness of her dismissal.
 48. For the reliefs, the Claimant submitted that she is entitled to the reliefs sought.
 49. In conclusion, the Claimant urged this Honourable court to allow the claim as prayed with costs.

Respondent’s submissions

50. The Respondent submitted that the Claimant’s dismissal was lawful, valid, and procedurally fair as set out in section 45(2) of the *Employment Act*, which requires valid and fair reasons for termination and adherence to fair procedure, and section 44(4)(g) of the *Employment Act*, which permits summary dismissal for gross misconduct where an employee wilfully neglects or improperly performs duties.
51. The Respondent argued that the reasons for dismissal, set out in the termination letter of 2nd February 2021 and supported by the Forensic Audit Report No. 05-2020/2021, included failure to delegate approval of work tickets for vehicle KBT 329N, approving fictitious per diem and mileage claims, failing to review mileage returns, and irregularly claiming allowances.
52. The Respondent relied on the case of *Ngagaya v Securitas Kenya Limited* [2025] KEELRC 1714 (KLR), citing the case of *British Leyland UK Ltd v Swift* (1981) I.R.L.R 91. Lord Denning held that dismissal is fair if a reasonable employer might have done so. In the cases of *Modern Mail Limited v Omolo* [2025] KEELRC 1043 (KLR), *Naima Khamis V Oxford University Press (EA) Ltd* (2017) eKLR, and *Thomas Sila Nzivo v Bamburi Cement Ltd* [2014] eKLR, which held that employers need only reasonable grounds, not conclusive proof, to justify dismissal.
53. The Respondent submitted that the Claimant admitted that supervisors signed work tickets, yet she failed to oversee them, amounting to negligence. The Respondent argued that the Claimant was



accorded a fair hearing under section 41 of the *Employment Act*. In the case of *Dairus Kiseu Mwamburi v Co-operative Bank* [2021] eKLR, the court held that section 41 of the *Employment Act* provides the structure of procedural fairness. In *Kenya Union of Commercial Food and Allied Workers v Meru North Farmers Sacco Ltd* [2013] eKLR, and *Walter Ogal Anuro V Teachers Service Commission* [2013] eKLR, which affirm that both substantive justification and procedural fairness are required.

54. Accordingly, the Respondent maintains that the disciplinary proceedings and dismissal were well founded and lawful.
55. For the reliefs, the Respondent submitted that the Claimant is not entitled to them as she was lawfully dismissed.
56. The Respondent urged the court to dismiss the claim with costs.

Analysis and determination

57. The court has considered the pleadings together with the rival submissions by both counsel; the issue for determination is as follows:
 - a. Whether the Respondent unfairly and unlawfully terminated the Claimant
 - b. If (a) above is in the affirmative, whether the Claimant is entitled to the relief sought
 - c. Who should bear the costs.
58. In *Walter Ogal Anuro v Teachers Service Commission*(Supra) the court held as follows:

“... For a termination of employment to pass the fairness test, there must be both substantive justification and procedural fairness.
59. In *Pamela Nelima Lutta v Mumias Sugar Co. Ltd* [2017] KEELRC 577 (KLR), the court held as follows:

“What constitutes fair termination is a matter that is now well settled by the wealth of Jurisprudence of this court and the Court of Appeal. There are two elements that must be satisfied by the employer, fair procedure and valid reason.”
60. In this instant case, the Respondent accused the Claimant of misusing company vehicle KBT 329N, failing to delegate approval of work tickets, authorizing fictitious per diem and mileage claims, and neglecting transport mileage reviews. She was further alleged to have irregularly claimed Kshs.75,600/= in per diems and Kshs.18,029.40/= for 494 km mileage despite using the company car.
61. The Claimant was issued with a notice to show cause letter on 4th January 2021, and she responded to the said letter on 8th January 2021. She was later invited for a disciplinary hearing on 26th January 2021, and a dismissal letter was issued on 2nd February 2021. Dissatisfied with her dismissal, the claimant lodged her appeal on 24th February 2021.
62. The Claimant was charged with misusing company vehicle KBT 329N. There is no evidence the Claimant failed to review the transport mileage returns as per the transport policy. The Claimant in her viva voce evidence in court she said she had not been availed the vehicle policy until after the audit. She said the work ticket was to be signed by the senior most member of the team which was not her. She said she would use her car when the company car was being used by the other employees. That is the time she claimed per diem when she used her car on or around 3rd & 4th September 2020 and her team members used company car. She says she was not aware who signed for the use of KBT 329N.



63. What the court has garnered from the evidence on record from the Claimant and two respondents' witnesses is that there was not clear strategy on the transport policy and approval of work tickets.
- The Respondent witness, the internal auditor was not crystal clear who was to sign the work ticket and also the Human Resource Manager was not also certain about the applicability of the transport policy.
64. The internal auditor could not testify with certainty that they provided the required documents to the Claimant before the disciplinary meeting. The Human Recourse Manager admitted there was no evidence to support the allegation of the fictitious per diem claims by the Claimant.
65. The Claimant admitted she used to work under intense pressure as she was in-charge of seven counties. She said she had no clear support or who to delegate to and sometimes the pressure of work made her make some urgent decisions on assignment of the vehicles. Actually, the Human Resource Manager admitted the vehicles could be assigned on some urgent assignments without complete adherence to the policy.
66. The evidence on record demonstrate the Claimant was a key performance for the Respondent. She worked for the Respondent from 1983 to 2021 and received commendations and awards over the years.
67. Only between 4th January 2021 the Claimant received a notice to show-cause. From that point and by 2nd February 2021 she was dismissed from her employment. As simple as that. She appealed the dismissal by 24th February 2021 but was nevertheless terminated. The appeal was dismissed and Claimant says she had only 3 more years to her retirement in this organisation. She had served for 37 years.
68. She says that her termination was orchestrated on basis of nepotism for failing to allow a daughter of one of the top managers of the organisation to go on underserved trips. The court has no proof of this allegation and will not dwell on it.
69. Nevertheless, numerous authorities interalia *GLADYS SHOLLEI -VS JUDICIAL SERVICE COMMISSION & ANOTHER* (2022) KESC 3 KLR the court held that termination letter must not merely repeat the charge but must explain why the employee was found culpable.
70. In the case of *JARED NYABERI OGAGA -VS- SHIVA CARRIERS LTD* (Supra) court held the Respondent failed to prove that termination was fair in terms of substantive justification as set out in Section 45 of the *Employment Act*. Section 45(1) of the *Employment Act* states:
- “No employer shall terminate the employment of
an employee unfairly.”
71. The court having retreated and considered the pleadings, viva voce evidence, submissions and decisional laws, comes to the conclusion that the Claimant was unfairly and unlawfully dismissed on the grounds that she was not given the audit report as claimed and was not given an opportunity to defend herself with support evidence violating the natural rule of justice under Article 47 of *the Constitution* and the *Fair Administrative Action Act* together with section 41, 43 and 45(2) of the *Employment Act*.
- In view of the foregoing, judgment is entered in favour of the Claimant.
72. For the reliefs sought, the court finds that the Claimant is entitled to the following reliefs:
- a. One (1) month's salary in lieu of noticeKshs.247,642/=.



- b. 12 months for unfair termination considering the period she served the Respondent as guided by Section 49 (4)(e) of Employment Act.....Kshs.2,971,704/=
- c. The court finds the above compensation is sufficient and will not award money for general damages for the period not served.
- d. Total award isKshs.3,219,346/=
- e. Costs are awarded to the Claimant
- f. Interest is awarded at 14% per annum from date of judgment until final payment.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 30TH DAY OF
JANUARY 2026.**

ANNA NGIBUINI MWAURE

JUDGE

Order

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

