



Kariru v Murangá University & another (Judicial Review Miscellaneous Application E011 of 2026) [2026] KEHC 522 (KLR) (Judicial Review) (28 January 2026) (Ruling)

Neutral citation: [2026] KEHC 522 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E011 OF 2026
RE ABURILI, J
JANUARY 28, 2026**

BETWEEN

DR ANTONET NJERI KARIRU APPLICANT

AND

MURANGÁ UNIVERSITY 1ST RESPONDENT

PUBLIC SERVICE COMMISSION 2ND RESPONDENT

RULING

1. The ex parte chamber summons dated 28/1/2026 brought under sections 8 and 9 of the [Law Reform Act](#) and Order 53 of the Civil procedure Rules, is hereby certified urgent and heard ex parte in the presence of the applicant's counsel only.
2. The aforesaid chamber summons which was filed this morning seeks leave of this Court to apply for Judicial Review orders of mandamus to compel the 1st Respondent Murangá University, to comply with the decision of the 2nd Respondent Public Service Commission in Appeal No. E007/2025, between Dr. Antoneta Njeri Kariru vs Murangá's University and to reinstate the applicant to job Group 12 in the School of Hospitality & Tourism Management and to pay the ex parte applicant all salary and attendant benefits from the date of dismissal, among other prayers which include payment to her of monthly salary and all other lawful emoluments and to file an affidavit of compliance.
3. The other prayers are interim reliefs for the payment of salaries which fell due to be paid to the applicant, pending the hearing and determination of the application.
4. The circumstances giving rise to the application are that the applicant was employed by the 1st Respondent as a lecturer and that sometime in 2024, she fell ill and was undergoing treatment following traumatic experience upon the demise of the applicant's dear father.



5. That in the process, the 1st Respondent employer served the applicant with a letter of termination of employment on medical grounds without following due process as she was never summoned to appear before a Medical Board as mandated under Section 82 of the Public Service Act and Regulation 72 of the Public Service Regulations.
6. That the applicant appealed the decision to terminate her employment to the Public Service Commission and upon hearing the appeal, the Public Service Commission allowed her appeal and set aside the termination and ordered that the applicant be reinstated in her former position and that she be given an opportunity to appear before the Medical Board as required by law.
7. To date, since the decision was made on 19/11/2025, the 1st Respondent is said to have refused to comply with the decision of the 2nd Respondent Public Service Commission hence the application herein for.
8. I have considered the application as presented and the annexures thereto in support of the detailed deposition by the applicant. I have heard Counsel for the Applicant, Mr. Audi, holding brief for Mr. Bogonko advocate. The only issue for determination is whether this court has jurisdiction to entertain this matter.
9. As correctly conceded by Mr. Audi Counsel for the applicant holding brief for Mr. Bogongo Advocate in his oral submissions, where a court of law is devoid of jurisdiction, it must strike out the suit. This is so, because, jurisdiction is everything without which a court of law must do no more than down its tools. See Owners of the Motor Vessel “Lillian S” v Caltex Oil (Kenya) Ltd (Civil Appeal 50 of 1989) [1989] KECA 48 (KLR) (17 November 1989) (Judgment).
10. Jurisdiction is conferred by *the constitution* and statutes. A court of law or tribunal cannot arrogate itself of jurisdiction that it does not have and it acts in vain the moment it exercises jurisdiction devoid of that jurisdiction.
11. In *Macharia & another v Kenya Commercial Bank Ltd & 2 others* (Application 2 of 2011) [2012] KESC 8 (KLR) (23 October 2012) (Ruling) the Supreme Court stated as follows concerning the court’s jurisdiction:

“68. A Court’s jurisdiction flows from either *the Constitution* or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by *the constitution* or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with counsel for the first and second respondents in his submission that the issue as to whether a Court of law has jurisdiction to entertain a matter before it, is not one of mere procedural technicality; it goes to the very heart of the matter, for without jurisdiction, the Court cannot entertain any proceedings. This Court dealt with the question of jurisdiction extensively in, *In the Matter of the Interim Independent Electoral Commission (Applicant), Constitutional Application Number 2 of 2011*. Where *the Constitution* exhaustively provides for the jurisdiction of a Court of law, the Court must operate within the constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation. Nor can Parliament confer jurisdiction upon a Court of law beyond the scope defined by *the Constitution*. Where *the Constitution* confers power upon Parliament to set the jurisdiction of a Court of law or tribunal, the



legislature would be within its authority to prescribe the jurisdiction of such a court or tribunal by statute law.”

12. In the instant case, from the facts of the case as detailed by the applicant, the dispute is purely an Employment and Labour Relations dispute. Article 162 (2) (a) of *the Constitution* contemplates the establishment of an Employment and Labour Relations Court with status of the High Court, to hear and determine disputes relating to Employment and Labour Relations.
13. The *Employment and Labour Relations Court Act*, 2011 establishes the Employment and Labour Relations Court at Section 4 thereof and jurisdiction of the court as derived from Article 162 (2) (a) of *the Constitution* is at Section 12 of the Act. The Court has jurisdiction inter alia, to hear and determine disputes between employee and employer, as is the case herein. Section 13 provides for enforcement of orders of the court.
14. On the other hand, Article 165(5) (b) of *the Constitution* expressly bars the High Court from hearing and determining disputes exclusively reserved for the Supreme Court and the Specialized Courts contemplated in Article 162 (2) of *the Constitution*.
15. With that kind of constitutional bar, backed by the Republic v Chengo & 2 others (Petition 5 of 2015) [2017] KESC 15 (KLR) (26 May 2017) (Judgment) case, where the Supreme Court stated that:

“*The Constitution*, the *Environment and Land Court Act* and the *Employment and Labour Relations Court Act* revealed that a special cadre of courts with sui generis jurisdiction were provided for. Such parity of hierarchical stature did not imply that either Environment and Land Court or the Employment and Labour Relations Court was the High Court or vice versa. The three were different and autonomous courts and exercised different and distinct jurisdictions. As article 165(5) of *the Constitution* precluded the High Court from entertaining matters reserved for the Environment and Land Court or the Employment or the Labour Relations Court, it was to be inferred, by the same token, that the Environment and Land Court and Employment and Labour Relations Court too could not hear matters reserved to the jurisdiction of the High Court.” [emphasis added]
16. The above decision disrupted the then existing situation where a judge of any of the three Courts would be deployed to any of such courts to serve and be transferred from one court to the other court and even bench matters would be assigned to judges of either of the three courts.
17. It is patently clear to this Court that the dispute herein is exclusively outside the jurisdiction of this Court, in so far as it relates to Employment and Labour Relations and seeks this court to compel compliance with the decision of the Public Service Commission for among others, reinstatement of the applicant into her employment prior to her unlawful termination of the 1st Respondent and payment to her all the unpaid salaries and emoluments accrued.
18. For all the above reasons, and for want of jurisdiction, this court declines to entertain this dispute and proceeds to dismiss the chamber summons dated 28/1/2026 with no orders as to costs.
19. The applicant is at liberty to move the court with competent jurisdiction to hear and determine the matter on its merit.
20. This file is therefore closed.
21. I so order.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF JANUARY, 2026



R.E. ABURILI
JUDGE

