



**Nyaribari & the Gusii Small Scale Tea Farmers v Tea Board of Kenya & 5 others;
 Factory & 2 others (Interested Parties) (& all the 66 small scale tea farmers
 factories in Kenya - See schedules) (Judicial Review Miscellaneous Application
 E123 of 2025) [2026] KEHC 422 (KLR) (Judicial Review) (27 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 422 (KLR)

**REPUBLIC OF KENYA
 IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
 JUDICIAL REVIEW
 JUDICIAL REVIEW MISCELLANEOUS APPLICATION E123 OF 2025
 RE ABURILI, J
 JANUARY 27, 2026**

BETWEEN

**JEREMIAH MIGOSI NYARIBARI & THE GUSII SMALL SCALE TEA
 FARMERS APPLICANT**

AND

**THE TEA BOARD OF KENYA 1ST RESPONDENT
 THE KENYA TEA DEVELOPMENT AGENCY HOLDINGS
 LIMITED 2ND RESPONDENT
 THE KENYA TEA DEVELOPMENT AGENCY (MANAGEMENT SERVICES)
 LTD 3RD RESPONDENT
 THE KENYA TEA DEVELOPMENT AGENCY LTD 4TH RESPONDENT
 THE CABINET SECRETARY STATE DEPARTMENT OF
 AGRICULTURE 5TH RESPONDENT
 THE ATTORNEY GENERAL OF KENYA 6TH RESPONDENT**

AND

**SANGANYI TEA FACTORY INTERESTED PARTY
 KEBIRIGO TEA FACTORY INTERESTED PARTY
 TOMBE TEA FACTORY INTERESTED PARTY
 & ALL THE 66 SMALL SCALE TEA FARMERS FACTORIES IN KENYA - SEE
 SCHEDULES**



RULING

1. The Chamber Summons dated 8th October, 2025 seeks leave of court to apply for judicial review orders of certiorari to remove into this court and quash the respondents' decision contained in their communication notice of September, 2025 announcing the 2024 /2025 tea bonus payment rates to farmers, to the extent that it applies a discriminatory formula resulting in the payment of Kshs 10-13 per kilogram to farmers affiliated with factories in Western Kenya and 55-57 to East of Kenya.
2. The applicant also seeks leave to apply for judicial review order of prohibition, prohibiting the respondents from processing, approving, or effecting any payments of the 2024-2025 tea bonus to farmers based on the discriminatory and unlawful formula announced on or about [Insert Actual Date]
3. that leave be granted to the applicants to apply for mandamus directed at the 1st respondent compelling it to forthwith perform its statutory duty under the Tea Act, 2020 by:
 - a. auditing and reviewing the tea bonus payment formula applied by the 2nd, 3rd and 4th respondents
 - b. establishing and enforcing a fair, equitable and non-discriminatory formula for the distribution of tea bonuses to all small holder farmers in Kenya
4. That the grant of leave does operate as stay of implementation, execution and effect of the respondent's decision to pay 2024/2025 tea bonus based on the impugned formula, pending the hearing and determination of the substantive judicial review application.
5. The applicant also prays for costs of the application.
6. The Chamber Summons is based on the grounds set out in the statutory statement and verified by the affidavit sworn by Jeremiah Migosi, the 1st applicant herein, who also swore a supplementary affidavit.
7. The applicant's case is that sometime in September, 2025, the 1st respondent announced tea bonus payment for two categories of farmers, those in the western region and the Eastern region, for the year 2024/2025 wherein those in the east would get about Kshs 57 per kilogram while those in the west would get about Kshs 10. per kilogram, a difference of 470% which the applicants consider to be discriminatory and irrational because the tea from the respective regions is sold at the same auction under the same brand.
8. The applicants consider these disparities to be in violation of the right not to be discriminated against, breach of the right to fair administrative action, that the decision is irrational and illegal, they accuse the 1st respondent of failure to adhere to its statutory duty under the Tea Act to protect tea farmers' interests and to ensure equitable and orderly development of tea industry in the country, and that the discrepancy will cause the applicants irreparable harm leading to widespread tea farming abandonment, poverty and social unrest, which harm cannot be adequately compensated by damages. They assert that the decision is ultra vires the statutory provisions under the tea Act and the Public Finance Management Act and that necessary audit and criteria for such payment ought to have been set before payment of bonus to farmers.
9. The 1st respondent filed a replying affidavit sworn by its Chief Executive Officer, Mr. Willy K. Mutai on 24th November, 2025. He deposes that the application is incompetent, misconceived and an abuse of court process as it seeks to challenge matters which are not within the statutory or functional mandate of the 1st respondent. That the 1st respondent is established under section 5 of the Tea Act and



its mandate under the Act is regulation of the tea industry, licensing tea manufacturers, registration of various tea value chain players, compliance oversight, policy regulation, sector coordination and promotion of the tea industry.

10. That the *Tea Act* does not place upon the 1st respondent any mandate to determine or approve tea bonus payments for small holder tea farmers or to set, equalize or standardize bonus rates across factories.
11. That the 3rd respondent is a private management agent contracted by small holder tea factories to provide management, production and marketing of tea including preparation of financial reports advising factory boards and coordinating the declaration of bonus payments. That therefore, KTDA's functions are commercial operational in nature and do not fall under the control of the 1st respondent whose functions remain purely regulatory.
12. That determination of tea bonus is within the function of the respective tea factory boards of directors taking into account factors such as performance of the factory and that disparities in bonuses according to regions is determined by economic and market factors such as production costs, prices achieved at tea auctions direct and factory door sales exchange rates of the Dollar, quality and operational efficiencies and not attributable to the 1st respondent.
13. That the tea bonuses were announced by the 2nd respondent management agent for small holder tea factories and that the 1st respondent never participated in the issuance of the said notice and neither was it involved in determining the rates or amount payable to the applicants herein or any other small holder tea factory.
14. That the matter complained of had been overtaken by events since bonus payments for the 2024/2025 financial year had been fully processed and paid by all respective factories.
15. That the applicants had not identified any administrative decision made by the 1st respondent which is allegedly unlawful, irrational, unreasonable or procedurally unfair to warrant judicial review.
16. That no statutory duty exists or is placed upon the 1st respondent to standardize or equalize bonuses across factories in various regions hence the orders sought seek to usurp legislative and policy functions of the Ministry of Agriculture and the commercial autonomy of the autonomous small holder factory boards of directors.
17. That the matters complained of fall purely within the realm of market dynamics and private commercial arrangement which are not amenable to supervisory jurisdiction of this Court and therefore cannot be subject to public law remedies and that the applicants have not demonstrated that they have an arguable case to warrant grant of leave to apply.
18. The 2nd, 3rd and 4th respondents filed a replying affidavit sworn by the 2nd respondent's Group Company Secretary Mr. Mathews Odero, on 3rd November, 2025. he deposes that the chamber summons by the applicants is incompetent, misconceived and an abuse of court process.
19. That the 2nd respondent is a private limited liability company with no statutory duty vested in it. That its relationship with smallholder tea farmers is contractual governed by agency agreements and management contracts entered into between the respective tea factories which are also limited liability companies and the 1st respondent, which relationship is private law matter not subject to supervisory jurisdiction of the High Court.
20. That the impugned decision arises from a private commercial arrangement and not the exercise of statutory or public function hence it does not meet the threshold for judicial review.



21. It is further deposed that judicial review under Article 47 of *the Constitution*, Order 53 of the Civil procedure Rules and the *Fair Administrative Action Act* only lies against public bodies, statutory bodies persons or entities performing public functions or duty and not private entities and that the 1st respondent is not a public entity.
22. It is further deposed that the bonuses in issue were disbursed on 10th October, 2025 hence the orders sought were overtaken by events hence a stay would not restore any status quo.
23. The 2nd, 3rd and 4th respondents also filed grounds of opposition dated 1st November 2025 reiterating the depositions in the affidavit sworn by Mr. Mathew Odero as reproduced above.
24. The ex parte applicants filed supplementary affidavit reiterating their assertions I and contending that the 1st respondent had misconstrued its statutory mandate by acting unfairly, without transparency and in a discriminatory manner. That its functions are public in nature as far as section 5 of the *Tea Act* is concerned hence it cannot disclaim jurisdiction over the 2nd, 3rd and 4th respondents and that section 3 of the *tea Act* grants it clear supervisory authority.
25. It was deposed that according to the Memorandum and agreements deposited with the 2nd Respondent, the policy regulated by the 1st respondent is the tea quality is supposed to be tested before sale through known quality standards at and before the auction.
26. That in breach of the 1st respondent's rules and regulations, the respondents test tea bags from the 2nd respondent's factories by mouth tasting making it extremely difficult to determine best taste by customers except as determined by the auctioneer agents at the auction.
27. According to the applicant, there is demonstrable inequities which call for a reviewable administrative omission under section 7(2) of the *Fair Administrative Action Act*. Further, that it is the applicants' right under Article 47 of *the Constitution* to seek remedies for breach of fair administrative action.
28. That the 1st respondent cannot abdicate its statutory mandate as the regulator of the tea sector by saying that it lacks direct mandate over tea bonus payments and by characterizing itself as a private entity as it is an institution owned by tea factory companies and over 625,000 small holder farmers across 17 counties making it a public facing entity performing functions of a public nature.
29. That the composition of the Board of the 2nd respondent is unlawful and contrary to section 34(9) and (10) of the *Tea Act* in that contrary to the said provision, 12 directors of the 2nd respondent concurrently serve on the Boards of its subsidiary companies.
30. That the respondents' reliance on the Companies Act is misplaced in view of section 73 of the *tea Act* which provides for the Act to prevail in case of a conflict with any other law hence the existence of alternative remedies under the *Companies Act* does not oust the jurisdiction of this Court to address public law violations under judicial review.
31. On the allegation that this matter is overtaken by events, it was deposed that that is erroneous conclusion since the application was filed within the statutory timelines and the issues raised are ongoing violations and the need for lawful framework for future payments are of a continuing nature.
32. That the applicants had made out a prima facie case that there was no transparency and reasons for failure to provide reasons for administrative actions undertaken all of which violate Article 47 of *the Constitution* and section 4 of the *Fair Administrative Action Act*.
33. That the affidavits by the respondents rely on narrow, outdated conceptions of law reform regime in judicial review and ignores the transformative rights based jurisdiction established by the 2010



- Constitution and the *Fair Administrative Action Act*. Finally, that the application was properly before this court and that it raised substantial questions of law and constitutional interpretation and merits a full hearing of the main motion.
34. The parties made oral submissions to canvass the application and the submissions mirror the depositions and assertions by each of the that the 2nd respondent has made unchangeable pact with small scale farmers to buy and weigh quality tea as required by the global market parties in their respective pleadings and or affidavits summarized above.
 35. Mr. Nyaribo counsel for the applicants submitted that at the ex parte stage, all that the applicant is expected is to mount a prima facie arguable case, without evidence. He relied on the case of Omtata case, Ayuma; CCK vs Royal Media Ltd. He submitted that KTDA performs public functions and that the *Tea Act* provides for function of the 1st Respondent. He maintained that the 1st & 2nd Respondents perform public functions. That there is huge disparity of bonuses paid to different farmers – tea growers hence the discrimination alleged.
 36. That the mandate given to the 1st & 2nd Respondents had been abused through unfairness and that they had a prima facie sustainable case to warrant leave to issue as prayed.
 37. Opposing the application, Mr. Limo counsel for the 1st respondent submitted that the Judicial Review is all about bonus to farmers. That there is no duty to the 1st Respondent to exercise any function that relates to bonuses to tea farmers and that to find otherwise would infringe on 77 factories’ autonomy under Sections 21 – 28 of the *Tea Act*.
 38. He contended that tea prices are governed by market factors not regulated by the Tea Board. He submitted that Section 21 of the (*Tea Act*) limits powers of 1st Respondent which does not intervene on financial matters of small-scale factories. He referred to Annexure JMN2 a Board Resolution on Renewal of Management Agreement showing factory autonomy and argued that their decisions are a preserve of the *Companies Act* Part XI Sections 3-5.
 39. He urged the court not to allow orders not backed by statute or *the Constitution*. Counsel maintained that there is no reviewable decision by the 1st Respondent to trigger Section 47 of *the Constitution* or Section 4 of the *Fair Administrative Action Act*. Counsel urged this court to excuse the 1st Respondent from these proceedings.
 40. Mr. Ondieki counsel for the 2nd, 3rd and 4th respondents opposed the application on two major grounds, relying on grounds of opposition & Replying affidavit filed. He submitted that the 2nd, 3rd & 4th Respondents are limited liability companies governed by the *Companies Act* hence not amenable to Judicial Review processes under Order 53. That Articles 47 & 165 of *the Constitution* defines what public bodies are, exercising public functions and excludes private entities not exercising public functions. He submitted that Courts have on several occasions ruled that KTDA is a private character and a distinct corporate personality which cannot be said to be a public body. He relied on the Court of Appeal decision in CA 25/2016 KTDA (Holding Ltd) vs Kenya Plantation Agriculture Union, where the Court is said to have held that KTDA is a private character and distinct corporate entity separate from public body in Judicial Review vs National Emigration Board & Another [2013] eKLR the court also stated that Judicial Review lies where there is public duty imposed by statute and mere fact that an entity deals with the public does not make it a public body.
 41. His further submission is that the application should not be allowed as it has been overtaken by events, as bonuses were released and already consumed by farmers so the suit is moot. He relied on R vs Cabinet Secretary Education & ICPAK [2014] eKLR, where the Court is said to have held that it could not issue orders in vain where events are overtaken. He maintained that the matter is academic. That the



- 2nd, 2nd, 3rd & 4th Respondents are private companies not amenable to Judicial Review and bonuses are already paid hence overtaken by events. He urged that the application for leave be dismissed with costs.
42. Mr. Kariuki for the Attorney General submitted that he had instructions to associate himself with the 1st Respondent who is the Regulator in this matter.
43. In a brief rejoinder, Mr. Nyaribo submitted that the responses are completely baseless compared to the law. That Section 5 of the Tea Act spells out the mandate of the 1st Respondent and that the 1st Respondent misapprehended its responsibility under Section 5 of the Tea Act Section 73 of the Tea Act supersedes the Companies Act in matters regulating sale & marketing of Tea.
44. On Mr. Ondieki's Submissions, it was submitted that the issue is whether the functions of the 2nd, 3rd & 4th respondents are statutory or not. That 690 farmers is a big public and that KTDA is not a private club for purposes of commerce. Further, that whether bonuses are already paid out, is immaterial and that what matters is legality and rationality of the decisions made. He submitted that the Cabinet Secretary communicates a public function and that there are authorities that confirm that KTDA performs public functions.

Analysis and determination

45. I have considered the application for leave to apply and the responses thereto in opposition, as well as the respective parties' oral submissions.
46. The main issue for determination at this stage is whether the applicant has made out an arguable case for consideration at the substantive stage.
47. The application is brought under Order 53 Rule 1 of the Civil Procedure Rules and the Constitutional provisions of Articles 27,45,47, 50 and 171 as well as the Law Society of Kenya Act and Regulations made thereunder. It is not brought under the Fair Administrative Action Rules, 2024.
48. At leave stage, all the Applicant has to do is to demonstrate that he has a prima facie and arguable case for consideration. Thus, the test as to whether leave should be granted to an Applicant for judicial review is whether, without examining the matter in any depth, there is an arguable case that the reliefs might be granted on the hearing of the substantive application.
49. In Republic v County Council of Kwale & another Ex Parte Kondo & 57 others, Mombasa HCMCA No. 384 of 1996, the Court stated:

“The purpose of application for leave to apply for judicial review is firstly to eliminate at an early stage any applications for judicial review which are either frivolous, vexatious or hopeless and secondly to ensure that the applicant is only allowed to proceed to substantive hearing if the Court is satisfied that there is a case fit for further consideration. The requirement that leave must be obtained before making an application for judicial review is designed to prevent the time of the court being wasted by busy bodies with misguided or trivial complaints or administrative error, and to remove the uncertainty in which public officers and authorities might be left as to whether they could safely proceed with administrative action while proceedings for judicial review of it were actually pending even though misconceived...Leave may only be granted therefore if on the material available the court is of the view, without going into the matter in depth, that there is an arguable case for granting the relief claimed by the applicant the test being whether there is a case fit for further investigation at a full inter partes hearing of the substantive application for judicial review. It is an exercise of the court's discretion but as always it has to be exercised judicially.”



50. The applicants assert that the respondents acted discriminatively, irrationally and illegally in setting tea bonuses payable to tea farmers in different regions of the country, giving different rates for different regions, and the period complained of was the 2024/2025 financial year.
51. The respondents denied that they were responsible for setting the tea bonus rates and contended that the bonus rates are determined by boards of the respective tea factories and many other factors, among them, market and commercial forces. Further, that the relationship between the applicants and the 2nd respondent is contractual and that no public duty existed for the respondents to act.
52. The respondents also contend that this application is overtaken by events hence, the intended substantive proceedings would serve no purpose since the bonuses were all processed and paid on 10th October 2025 to the affected factories.
53. I will first determine whether the application is overtaken by events and therefore moot and only if find that the intended proceedings are not moot would I then proceed into the arguability of the intended substantive motion.
54. In Kenya, mootness is a justiciability doctrine preventing courts from deciding hypothetical or academic cases where a live controversy no longer exists, ensuring judicial resources are spent on practical disputes, although courts can rule on moot issues in the public interest, like constitutional matters, to provide guidance, even if the immediate dispute is resolved. Mootness ensures courts only resolve actual disputes, fitting within Kenya's constitutional framework where justiciability (standing, ripeness, mootness) defines the limits of judicial power, preventing overreach and ensuring effective remedies.
55. The Court of Appeal in *Redhill Heights Investments Ltd v Butler & 4 others* (Civil Appeal 285 of 2016) [2018] KECA 776 (KLR) (9 February 2018) (Judgment) stated as follows regarding the doctrine of mootness:

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“(11) By contending that the appeal has been overtaken by events, the respondents’ counsel is indirectly invoking the mootness doctrine which this Court discussed at some length in *The National Assembly of Kenya & Another v. The Institute for Social Accountability & 5 Others*, Civil Appeal No. 92 of 2015 consolidated with Civil Appeal No. 97 of 2015.

The Black’s Law Dictionary Ninth Edition defines a moot case as:

“A matter in which a controversy no longer exists; a case that presents an abstract question that does not arise from the existing facts or rights.”

In *The National Assembly of Kenya* case, this Court said at para 14.1 in part:

“Neither our Constitution nor our laws explicitly prohibits the courts from determining abstract, hypothetical or contingent cases or appeals. It follows that the common law is the exclusive source of mootness doctrine in our jurisdiction. The doctrine is based on judicial policy whose main functions are to protect the functional competence of the courts to make laws by ensuring adequate adversity of the parties and judicial economy – that is, rationing scarce judicial resources amongst competing claimants.”

In its narrow technical meaning, mootness refers to cases in which a justiciable controversy once existing between the parties, is no longer an issue due to some change in circumstances



after the case arose, so that judgment when rendered will have no practical effect upon a then existing controversy.

(12) The effect of a finding of mootness is that the Court is without jurisdiction to render a decision resulting in the dismissal of the suit. Nevertheless, as stated in para 14.3 of the National Assembly of Kenya case, (*supra*) the Court has a discretion to decide cases, otherwise moot, if some of the circumstances mentioned in that case obtain, including the need for formulation or illumination of the controlling legal principles to guide the bench, the bar and the public.”

56. In *Wanjiru Gikonyo & 2 others v National Assembly of Kenya & 4 Others* [2016] eKLR the Court observed that:

“The court ought not determine issues which are not yet ready for determination or is only of academic interest having been overtaken by events. The court ought not to engage in premature adjudication of matters through either the doctrine of ripeness or of avoidance. It must not decide on what the future holds either.”

57. In *Institute for Social Accountability & another v National Assembly & 5 others* [2022] KESC 39 (KLR) the supreme Court stated as follows on the doctrine of mootness:

“66... The doctrine of mootness requires that controversy must exist throughout judicial proceedings including at the appellate level. An appeal or an issue is moot when a decision will not have the effect of resolving a live controversy affecting or potentially affecting the rights of parties. Such a live controversy must be present not only when the action or proceeding is commenced but also when the court is called upon to reach a decision. The doctrine of mootness is therefore based on the notion that judicial resources ought to be utilized efficiently and should not be dedicated to an abstract proposition of law and that courts should avoid deciding on matters that are abstract, academic, or hypothetical.”

58. Lenaola SCJ in the case of *Attorney General & 3 others v David Ndii & 73 others: Prof Rosalind Dixon & 7 others (amicus curiae)* (SC Petition 12, 11 & 13 of 2021 (Consolidated) [2022] KESCA 8 (KLR) (Constitutional and Human Rights) (31 March 2022) (Judgment) (with dissent), quoted with approval the decision of the High Court of South Africa in *Afriform NPC and others v Eskom Holdings SOC Limited & others* 3 All SA 663 (GP) where it stated:

“The mootness barrier therefore usually arises from events arising or occurring after an adverse decision has been taken or a lawsuit has got underway, usually involving a change in the facts or the law, which allegedly deprive the litigant of the necessary stake in the pursued outcome or relief. The doctrine requires that an actual controversy must be extant at all stages of review and not merely at the time the impugned decision is taken or the review application is made.’

59. The Supreme Court in *Institute for Social Accountability & another v National Assembly & 5 others* cited with approval Canada’s Supreme Court’s decision of *Borowski v Canada (Attorney General)* [1989] 1 SCR 342 in which it was stated that the process of determining if a decision is moot is a two-tier procedure whereby in the first instance, the court is first required to determine whether the requisite tangible and concrete dispute has disappeared rendering the issues academic. If so, it is then necessary to decide if the court should exercise its discretion to hear the case.



60. In the instant case, the applicants challenged the communication on the different rates applicable for tea bonuses payable to farmers in different regions, specifically for the year 2024/2025. That period has since lapsed and there is no contrary evidence. The respondents contend that the bonuses were already processed and paid out on 10th October, 2025 hence there is nothing to be litigated upon. If that be true, and as there is no denial of that contention, then, indeed, these proceedings and the leave sought will be an academic exercise if granted and therefore a waste of judicial time and resources as the substantive motion and the ensuing judgment would have no practical significance but one of hypothetical and academic.
61. The Black's Law Dictionary, 9th Edition defines mootness as:
- “Having no practical significance; hypothetical or academic (the question on appeal became moot once the parties settled their case).”
62. In *National Assembly of Kenya v Okiya Omtata Okoiti & Another*, CA. No. 53 of 2019, the Court of Appeal expressed itself as follows on the doctrine of mootness:
- “By its nature, judicial adjudication concerns itself with resolution of live and concrete disputes, not theoretical propositions or pursuits, however lofty or academically stimulating. The doctrine of mootness, which courts in this jurisdiction have had occasion to apply, stands for the proposition that courts will not decide cases in which there is no longer any actual controversy.”
63. In *Attorney General & three others v David Ndii & 73 others; prof. Rosalind Dixon & 7 others (Amicus Curiae)* (SC Petition 12,11,& 13 of 2021(consolidated) (supra), Lenaola SCJ stated that the doctrine of mootness requires that an actual controversy must be extant at all stages of review and not merely at the time the impugned decision is taken or the review application is made.
64. In *Dande & 3 others v Inspector General, National Police Service & 5 others* (Petition 6 (E007), 4 (E005) & 8 (E010) of 2022 (Consolidated)) [2023] KESC 40 (KLR) (16 June 2023) (Judgment) the Supreme Court stated:
- “Albeit not raised by the parties, it is imperative for this court to pronounce itself on the issue of mootness of some aspects of this appeal. The doctrine of mootness requires that controversy must exist throughout judicial proceedings including at the appellate level. An appeal or an issue is moot when a decision will not have the effect of resolving a live controversy affecting or potentially affecting the rights of parties. Such a live controversy must be present not only when the action or proceeding is commenced but also when the court is called upon to reach a decision. The doctrine of mootness is therefore based on the notion that judicial resources ought to be utilized efficiently and should not be dedicated to an abstract proposition of law and that courts should avoid deciding on matters that are abstract, academic, or hypothetical.
65. In the present case, as the challenge alleging discriminatory declaration and payment of bonuses according to regions was specific to the period 2024/2025 and as the said disputed bonuses have already been paid out, there is no live controversy for determination by this court and therefore to grant leave to apply for certiorari, prohibition and mandamus as pleaded will be a futile exercise to delve into any other merit issues at the intended substantive stage.



66. As was stated in the Redhill Heights Investments Ltd v Butler & 4 others (supra) case, other than saying that a decision of this Court will remove confusion on jurisdiction, the appellant's counsel has not demonstrated that the appeal falls within the exceptions allowing the Court to decide a moot appeal.
67. In the same vein, the bonus complained of relates to those declared in the 2024/2025 financial year, whose payments were made in October 2025. Although counsel for the applicant submitted that the timing of payment was immaterial, this Court has not been shown any exception that would permit it to determine a moot issue. The applicant brought before the Court a specific claim of discrimination confined to a defined period, and not a general petition seeking prospective relief. There is therefore no material upon which this Court can venture into the unforeseeable future of the applicant in order to ensure uniformity in bonus payments, absence of any policy decision on future discriminatory practices.
68. In the end, I find that the application as intended is moot and therefore not available for consideration.
69. Accordingly, the chamber summons dated 8/10/2025 is hereby dismissed on account of mootness.
70. Each party shall bear their own costs of these proceedings.
71. This file is closed.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF JANUARY, 2026

R.E. ABURILI

JUDGE

