



**Nzuki v South Eastern Kenya University & another (Cause E032 of 2024)  
[2026] KEELRC 317 (KLR) (4 February 2026) (Judgment)**

Neutral citation: [2026] KEELRC 317 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS  
CAUSE E032 OF 2024  
SC RUTTO, J  
FEBRUARY 4, 2026**

**BETWEEN**

**JOSHUA MUMO NZUKI ..... CLAIMANT**

**AND**

**SOUTH EASTERN KENYA UNIVERSITY ..... 1<sup>ST</sup> RESPONDENT**

**DIRECTOR FACILITIES MANAGEMENT & ADMINISTRATION SOUTH**

**EASTERN KENYA UNIVERSITY ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. Through an Amended Statement of Claim, dated 15<sup>th</sup> April 2025, the Claimant states that he was employed by the 1<sup>st</sup> Respondent as Assistant Director, Facilities Management under a contract signed on 6<sup>th</sup> October 2023. He asserts that he diligently performed his duties and had never been subjected to any disciplinary process for breach of the employment contract.
2. The Claimant avers that on 21<sup>st</sup> August 2024, he was issued with a suspension letter on allegations of financial impropriety and was consequently placed on half salary.
3. He states that the suspension letter, issued by the 2<sup>nd</sup> Respondent, did not disclose the specific allegations levelled against him. He adds that the suspension was indefinite, with no indication of its duration or the process to follow thereafter.
4. The Claimant avers that the 2<sup>nd</sup> Respondent had initially accused him of misusing Fuel Cards meant for fueling the 1<sup>st</sup> Respondent's vehicles, prompting him to issue internal memos requesting the surrender of the cards. He states that these memos were addressed to the Transport Manager, who was the custodian of the passwords and Fuel Cards. According to him, the Transport Manager was responsible for assigning driver duties and directing fuel collection on behalf of the 1<sup>st</sup> Respondent, acting on instructions from the 2<sup>nd</sup> Respondent.



5. The Claimant maintains that he was never authorised to be the custodian of the Fuel Cards and had no role in fuel procurement. His responsibility was limited to notifying the 1<sup>st</sup> Respondent in writing when fuel was required.
6. He adds that the 2<sup>nd</sup> Respondent further alleged that the 1<sup>st</sup> Respondent lost Kshs. 11,000/- during the procurement of wooden hoe handles, a function he states is outside his job mandate.
7. The Claimant avers that on 3<sup>rd</sup> September 2024, he was summoned to what he describes as an unexplained sitting at the Kitui campus of the 1<sup>st</sup> Respondent, attended by five other persons. Although he was accompanied by his Advocate, the Advocate was denied entry on grounds that it was not a disciplinary hearing.
8. He contends that no union representative was allowed into the sitting and that he was interrogated and harassed throughout without being given an opportunity to defend himself.
9. The Claimant contends that various verbal allegations were raised during the session, which he understood to relate to: the procurement of fuel and management of Fuel Cards; employment of casual workers; procurement of water; and the imprest system.
10. He maintains that he was never informed how he had allegedly committed financial impropriety as referenced in the 2<sup>nd</sup> Respondent's suspension letter dated 21<sup>st</sup> August 2024.
11. The Claimant asserts that he was suspended without proper or any investigations, and that the 3<sup>rd</sup> September 2024 session was merely a fact-finding exercise aimed at extracting incriminating information from him.
12. He states that since his appointment letter was issued by the Vice-Chancellor, Corporate Services and later approved by the Respondent's Council, these are the only authorities empowered to suspend or take action regarding his employment.
13. The Claimant further states that he was not accorded an opportunity to defend himself against the serious allegations of misappropriation of funds raised by the 2<sup>nd</sup> Respondent.
14. He maintains that he is neither in the transport nor procurement departments and only makes requisitions when necessary. He does not approve the procurement of fuel, water, or casual labour, which he asserts falls within the mandate of the 2<sup>nd</sup> Respondent.
15. The Claimant avers that some of the employees suspended alongside him were later reinstated, which he claims reveals a malicious scheme by the 2<sup>nd</sup> Respondent to unlawfully suspend him.
16. He states that on 5<sup>th</sup> November 2024, he received a Show Cause letter from the 1<sup>st</sup> Respondent based on what he describes as malicious and fabricated allegations, requiring him to respond within seven days. An extension of three days was subsequently issued on 14<sup>th</sup> November 2024.
17. The Claimant avers that on 29<sup>th</sup> November 2024, was invited to a disciplinary hearing scheduled for 10<sup>th</sup> December 2024.
18. According to the Claimant, he fell ill on 9<sup>th</sup> December 2024 and was admitted to St. Paul Hospital in Kitengela, where bed rest was advised, rendering him unable to attend the scheduled hearing. The Claimant's Advocates communicated this to the Respondents on the same day.
19. He adds that on 14<sup>th</sup> January 2025, while travelling to Kitui for the disciplinary hearing, he was involved in a road traffic accident and was therefore unable to attend the session. He received medical treatment, was discharged, and subsequently reported the accident at the Machakos Police Station Traffic Base.



- The Union, of which he is a member, wrote to the Respondents explaining his circumstances and his inability to attend the disciplinary hearing.
20. The Claimant avers that on 3<sup>rd</sup> February 2025, the 1<sup>st</sup> Respondent, through Prof. Francis Wachira, unlawfully and summarily dismissed him, citing his non-attendance of the disciplinary proceedings.
  21. He maintains that he was condemned unheard despite providing valid and cogent reasons for his absence on the scheduled dates.
  22. The Claimant contends that the composition of the disciplinary committee was fundamentally flawed, as the 2<sup>nd</sup> Respondent, his accuser, also sat on the panel that ultimately resolved to dismiss him. In his view, the participation of the 2<sup>nd</sup> Respondent guaranteed bias against him and tainted the fairness of the deliberations.
  23. The Claimant adds that the Kenya University Staff Union, through the 1<sup>st</sup> Respondent's Sub-Branch Secretary, wrote to the Vice-Chancellor seeking intervention in the matter, but the intervention was ignored or not acted upon.
  24. He avers that he lodged an appeal against his dismissal on 7<sup>th</sup> February 2025, and on 6<sup>th</sup> March 2025 appeared before the Staff Appeals Committee as directed.
  25. On 19<sup>th</sup> March 2025, he received a letter from the 1<sup>st</sup> Respondent upholding his dismissal. The Claimant contends that the letter upholding his dismissal was vague and did not provide the basis for the decision.
  26. Against this background, the Claimant seeks the following reliefs:
    - a. A declaration that the Claimant's suspension was/is unfair, unlawful and illegal.
    - b. A declaration that the Claimant's Summary Dismissal was/is unfair unlawful and illegal.
    - c. An Order setting aside the verdict of 19<sup>th</sup> March, 2025 upholding the dismissal of the Claimant from his employment.
    - d. The Reinstatement of the Claimant to his employment with the full and associated benefits he enjoyed before his illegal suspension and summary dismissal.
    - e. A permanent injunction restraining the 2<sup>nd</sup> Respondent or any other person from harassing or otherwise illegally interfering with the Claimant's employment.
    - f. Damages for illegal, unlawful and unfair termination to be borne by the Defendants jointly and singularly.
    - g. The Respondent do remit the Claimant's salaries and dues withheld from the date of his suspension as well as all those that shall have accrued at the end of the case herein as if he were in its active employment.
    - h. Costs plus interest thereon.
  27. The Respondents opposed the Claim through a Statement of Defence dated 28<sup>th</sup> July 2025, asserting that the reasons for the Claimant's suspension were expressly set out in the suspension letter.
  28. The Respondents assert that evidence demonstrates the Claimant directed his juniors to collect fuel from the Total Petrol Station in Kitui, after which he personally swiped the Fuel Cards as he was the sole custodian of the passwords. They add that upon his suspension, the University, through the 2<sup>nd</sup> Respondent, wrote to him requiring the surrender of the Fuel Cards allegedly in his possession.



29. The Respondents further state that the request to procure wooden hoe handles through imprest originated from the Claimant, who provided the itemised costing. They aver that after the procurement was completed, it emerged that the Claimant had misrepresented the prices, thereby causing a loss of Kshs. 11,000/-.
30. The Respondents further aver that the Claimant was invited to appear before the Ad-hoc Staff Investigation Committee, which was tasked with investigating the allegations of financial impropriety that led to his suspension, with the objective of clarifying the issues and determining whether he was culpable.
31. The Respondents maintain that the meeting held on 3<sup>rd</sup> September 2024 was not a disciplinary hearing and therefore did not require the presence of the Claimant's advocate or union representative.
32. They further contend that the suspension letter clearly communicated that the Claimant had been suspended to allow investigations into allegations of financial impropriety and loss of public funds.
33. The Respondents submit that the 1<sup>st</sup> Respondent operates under established institutional structures. Accordingly, the Claimant's assertion that only the officer who issued his appointment letter had the authority to suspend him is untenable.
34. The Respondents state that once the Ad-hoc Staff Investigation Committee found that the Claimant had a case to answer, he was issued with a Show Cause letter, which he allegedly failed and refused to respond to.
35. The Respondents further aver that the Claimant was thereafter repeatedly invited to appear before the Appointments and Disciplinary Committee, and subsequently before the Senior Staff Appointment and Disciplinary Committee.
36. They add that with respect to procurement, user departments initiate requests accompanied by costings which guide approval decisions. Therefore, the Claimant, having originated the impugned requests, cannot distance himself from the resultant loss, which they attribute to his misrepresentation.
37. The Respondents further assert that although they were initially considerate of the Claimant's health, it became apparent that he was using illness claims and medical reports as a tactic to evade the conclusion of the disciplinary process within the six-month suspension period provided in law.
38. On this basis, and following the Claimant's failure to attend the third and final disciplinary invitation, the committee proceeded in his absence and resolved to summarily dismiss him.
39. According to the Respondents, the Claimant's allegation that the disciplinary committee was improperly constituted due to the presence of the 2<sup>nd</sup> Respondent, his former immediate supervisor, is baseless.
40. The Respondents contend that trade unions have no authority to halt or interfere with a legally established disciplinary process.
41. The Respondents further deny the Claimant's allegation that he was not afforded an opportunity to be heard during the process.
42. Accordingly, the Respondents urge the Court to dismiss the suit with costs.
43. On 31<sup>st</sup> October 2025, the parties consented to have the matter determined on the basis of documentary evidence in accordance with Rule 59 of the Employment and Labour Relations



Court (Procedure) Rules, 2024. Subsequently, the parties were directed to file and exchange written submissions within the timelines specified by the Court.

### **Submissions**

44. Both parties complied with the Court's directions by filing their respective written submissions. On his part, the Claimant submitted that the suspension letter did not specify any charge, failed to indicate the period or duration of the suspension, lacked supporting evidence, and presumed his guilt prior to any investigation.
45. The Claimant further contended that during the meeting held on 3<sup>rd</sup> September 2024, which he described as "undefined", he was denied union representation and the opportunity to be heard. He asserted that he was not provided with written charges or adequate time to prepare or present a defense. According to the Claimant, the Respondents purported to "investigate" him only after suspending him, which he argued constituted an impermissible inversion of due process. Consequently, he submitted that his suspension violated Sections 41, 43, and 45 of the *Employment Act*, adding that no evidence was presented to justify the suspension.
46. The Claimant also submitted that the documents on record demonstrate he was denied the right to a fair hearing.
47. In the Claimant's view, the entire disciplinary process orchestrated by the Respondents was marred by gross unfairness, and he was not afforded an opportunity to be heard at any stage.
48. The Claimant further argued that the Respondents failed entirely to prove the charges that formed the basis of the disciplinary process. He contended that his dismissal was premised solely on his failure to attend prior disciplinary meetings. The Claimant maintained that his absences were adequately explained with compelling evidence, including documentation from a police station, which the Respondents did not rebut.
49. The Respondents, on their part, submitted that the Claimant's actions were intended to obstruct a lawful disciplinary process, particularly through the submission of a medical report containing discrepancies and inconsistencies.
50. The Respondents asserted that the disciplinary process was conducted in accordance with the law and in full compliance with all statutory requirements.
51. The Respondents further contended that, applying the standard of proof under Section 43 of the *Employment Act*, there was sufficient evidence to form a genuine belief that the Claimant had misused his position in a manner that caused the loss of public funds, which the Respondents are entrusted by the Government to manage prudently.
52. In support of their position, the Respondents relied on the decision in *Moses Mulongo & 22 others v Uasin Gishu County Government (2021) eKLR*.

### **Analysis and Determination**

53. Having reviewed the pleadings by the parties, the evidence on record, and the rival submissions, the Court has identified the following issues for determination:
  - a. Whether the Claimant's suspension was unfair and unlawful;
  - b. Whether the 1<sup>st</sup> Respondent has established a valid and fair reason for terminating the Claimant's employment;



- c. Whether the Claimant was afforded procedural fairness before his employment was terminated;
- d. Whether the Claimant is entitled to the reliefs sought.

### **Whether the Claimant's suspension was unfair and unlawful**

- 54. The Claimant contends that his suspension was unfair and unlawful, asserting that it was imposed before any proper investigation was conducted. He further maintains that the session held on 3<sup>rd</sup> September 2024 by the 1<sup>st</sup> Respondent's Ad Hoc Staff Investigating Committee was merely a fact-finding exercise aimed at eliciting incriminating evidence against him.
- 55. The record shows that the Claimant was suspended from service effective 21<sup>st</sup> August 2024, pending the outcome of investigations.
- 56. The *Employment Act* does not specifically provide for the issue of suspension. Therefore, there are no explicit legal standards to determine whether the Claimant's suspension was lawful in the circumstances.
- 57. Nonetheless, suspension is a common employment practice, typically used by employers to remove an employee from the workplace pending further disciplinary action. In this regard, the Court of Appeal in *Charles Muturi Mwangi v. Invesco Assurance Co. Ltd* [2019] eKLR held as follows: -

“On the second issue for determination indicated above, the appellant seems to be saying that there was no provision for his suspension in the contract of employment and so his suspension was unlawful. Without overstressing that argument, we can only say that we find that line of argument preposterous. We say so because, even in cases where employees are employed under permanent and pensionable terms, suspension and interdiction pending investigations for alleged misconduct is ordinarily part of the disciplinary process. Whether such suspension or termination was unfair is another issue altogether.”
- 58. The Court held similarly in the case of *Mary Chemweno Kiptui vs Kenya Pipeline Company Limited* [2014] eKLR, as follows: -

“A suspension therefore is ultimately a right due to an employer who on reasonable grounds suspects an employee to have been involved in misconduct, of poor performance or physical incapacity and wishes to remove such an employee from the work place to enable further investigation without subjecting the employee to further commission of more acts of misconduct, underperformance or the conditions leading to incapacity. The suspension period is a time available to an employer to control as the employee can be summoned back to work any time to undertake disciplinary proceedings or upon terms and given by an employer.”
- 59. I fully concur with the conclusions in the foregoing authorities, finding that suspension is an integral part of the disciplinary process and a right exercisable by an employer. Accordingly, the mere act of suspending an employee cannot, by itself, be regarded as wrongful or unfair.
- 60. What's more, in this case, the letter of suspension clearly indicated that the suspension was pending investigations. It is evident that the meeting held on 3<sup>rd</sup> September 2024 by the 1<sup>st</sup> Respondent's Ad Hoc Staff Investigating Committee was convened specifically to carry out the investigation.



Accordingly, the Court is persuaded that there is no basis to hold that the Claimant's suspension was unlawful.

### **Valid and Fair reason for termination of employment?**

61. The resolution of this issue turns on Sections 43 and 45 of the *Employment Act*, which require an employer to establish a substantive justification for the termination of an employee.
62. In particular, Section 43(1) obliges an employer to demonstrate the reasons for terminating employment; failure to do so renders the termination unfair. Notably, under Section 43(2), the reasons relied upon must be those the employer genuinely believed to exist at the time of termination.
63. Further, Section 45(2)(a) and (b) provides that a termination is unfair if the employer fails to establish that the reason for termination was valid, fair, and either related to the employee's conduct, capacity, or compatibility, or connected to its operational requirements.
64. In the present case, the record indicates that the Claimant was summarily dismissed on grounds of gross misconduct, namely, involvement in financial impropriety. The Respondents alleged that this misconduct resulted in a loss of Kshs 11,000/- in respect of the procurement of wooden hoe handles on 6<sup>th</sup> June 2024, and Kshs 1,032,945.54 relating to the procurement of university fuel using the SEKU BN Voyage fuel card on various dates between March and August 2024.
65. With respect to the procurement of fuel, the Claimant contended that he was never authorized by the Respondents to be the custodian of the fuel cards and was not directly involved in fuel purchases. He asserted that his role was limited to notifying the 1<sup>st</sup> Respondent in writing when fuel needed to be procured. According to the Claimant, the Transport Manager assigned drivers and facilitated fuel collection from Kitui, under directions issued by the 2<sup>nd</sup> Respondent.
66. Conversely, the Respondents alleged that the Claimant instructed his subordinates to collect fuel from Total Petrol Station in Kitui and subsequently swiped the fuel cards himself, as he alone possessed the card passwords.
67. The Claimant produced internal memos dated 5<sup>th</sup> March, 5<sup>th</sup> April, and 11<sup>th</sup> April 2024, addressed to the Transport Manager by the 2<sup>nd</sup> Respondent, instructing him to surrender the fuel cards for generators at the Main Campus, Wote Campus, and Kitui Town Campus, respectively.
68. The disciplinary hearing minutes reveal that the Transport Manager, Francis Kiplagat Rop, testified that he held the passwords for the 1<sup>st</sup> Respondent's Total Energies accounts and performed account reconciliations. He further noted discrepancies in fuel amounts drawn between 3<sup>rd</sup> March and 19<sup>th</sup> August 2024.
69. Additionally, Mr. Mathew Muli Mwele, an electrician, testified that he was assigned by his former supervisor, Matthew Nzuki Mumo, to collect generator fuel from Total Energies Kitui. He explained that Mr. Mumo would call the station manager before fuel was issued.
70. From the material on record, there is no evidence indicating that the Claimant possessed the fuel card passwords at the material time, nor is there evidence explaining how he could have acquired the passwords.
71. Furthermore, the record contains no proof linking the Claimant to any discrepancy between fuel drawn and the amounts paid. While the Claimant was instructed to surrender the fuel card in his possession, as set out in the memo dated 10<sup>th</sup> July 2024 from the 2<sup>nd</sup> Respondent there is no evidence on record indicating that the fuel card he held was the one used for the alleged irregular fuel withdrawals.



72. In light of the foregoing, the Court is not persuaded that the Respondents have established, to the requisite standard, that this charge constituted a valid or fair reason for the Claimant's termination.
73. Regarding the procurement of wooden hoe handles, the Claimant asserted that the activity fell outside his mandate or job description. The Respondents, however, contended that the Claimant himself requested imprest for the items, specifying the cost of each.
74. In support of this position, the Respondents produced a memo dated 24<sup>th</sup> April 2024 from the Claimant to his immediate supervisor (2<sup>nd</sup> Respondent) requesting imprest to procure 10 crocodile jembes, 10 mattocks, and 20 wooden handles for a tree planting exercise, with unit costs indicated. The imprest was subsequently approved.
75. It is also notable that the Claimant participated as an inspector, confirming that the items delivered were of the correct quality and quantity.
76. The foregoing facts undermine the Claimant's contention that procuring the wooden hoe handles fell outside his duties. Indeed, one wonders why the Claimant would submit requests for imprest to procure items if such activities were truly outside his mandate. His involvement in inspecting and verifying the items further confirms this point.
77. From the record, the Claimant had estimated the cost of one wooden hoe handle at Kshs 400/- and one jembe at Kshs 600/-, whereas receipts from the same hardware store produced by the Respondents indicated costs of Kshs 50/- and Kshs 100/-, respectively.
78. Notably, the receipts used to account for the imprest indicated that the cost of one wooden hoe handle was Kshs 600/-.
79. This demonstrates a substantial discrepancy between the costs stated in the Claimant's imprest requests and the actual amounts reflected in the receipts.
80. Consequently, the Court finds that the costs indicated by the Claimant for the wooden hoe handles were exaggerated and exceeded the actual cost of the items. Accordingly, it is evident that the 1<sup>st</sup> Respondent paid more for the items than their prevailing market value.
81. In his submissions, the Claimant questioned how the sum of Kshs 11,000/- was calculated and why the alleged Kshs 22,800/- reportedly exchanged was not accounted for.
82. The Claimant's contention brings me to consider the standard of proof applicable in employment disputes. In *Kenya Revenue Authority v Reuwel Waithaka Gitahi & 2 others* [2019] eKLR, the Court of Appeal stated that the standard of proof is on a balance of probabilities, not beyond reasonable doubt, and all the employer is required to prove are the reasons that it genuinely believed to exist, causing it to terminate the employee's services.
83. In applying this standard to the present case, the Court finds that the Respondent was not required to prove, beyond a reasonable doubt, that the Claimant's actions directly caused a loss of Kshs 11,000/-.
84. Having regard to the circumstances herein, and particularly the Claimant's conduct, it is highly probable that the trust placed in him by the Respondent had been eroded significantly.
85. In the Court's respectful view, the circumstances do not support the portrayal of the Claimant as an honest employee. By his conduct, he provided the Respondent with a fair and valid reason to terminate his employment.



86. In conclusion, the Court is satisfied that the Respondent has, on a balance of probabilities, demonstrated that it had a fair and valid reason to terminate the Claimant's employment on account of his conduct.

### **Procedural fairness?**

87. On the issue of procedural fairness, Section 45(2)(c) of the *Employment Act* provides that a termination is fair only if it is carried out in accordance with a fair procedure. In this regard, Section 41 requires an employer to afford an employee an opportunity to be heard before termination. This entails notifying the employee of the allegations against them and allowing them to make representations in response, in the presence of a fellow employee or a union representative.

88. The record bears that the Claimant was issued with a Show Cause letter dated 5<sup>th</sup> November 2024, requiring a response within seven days. By a letter dated 11<sup>th</sup> November 2024, the Claimant's Advocate informed the 1<sup>st</sup> Respondent that the present suit had been instituted and, consequently, the Claimant would not respond to the Show Cause letter.

89. In response, the 1<sup>st</sup> Respondent, via letter dated 14<sup>th</sup> November 2024, extended the response period by three days.

90. The Claimant was subsequently invited to a disciplinary hearing scheduled for 10<sup>th</sup> December 2024, vide a letter dated 29<sup>th</sup> November 2024. The Claimant, through his Advocate, notified the 1<sup>st</sup> Respondent on 9<sup>th</sup> December 2024 that he could not attend the hearing as he was indisposed.

91. A second disciplinary hearing was scheduled for 14<sup>th</sup> January 2025, vide a letter dated 7<sup>th</sup> January 2025.

92. The Claimant's Advocate, in a letter dated 14<sup>th</sup> January 2025, informed the 1<sup>st</sup> Respondent that the Claimant would not attend the hearing due to involvement in a road traffic accident while en route to the hearing.

93. A third disciplinary hearing was scheduled for 29<sup>th</sup> January 2025, vide a letter dated 14<sup>th</sup> January 2025.

94. By a letter dated 21<sup>st</sup> January 2025, the Claimant's Advocate informed the 1<sup>st</sup> Respondent that the Claimant was not medically fit to attend the hearing following the traffic accident. The Advocate attached a medical report from St. Paul's Hospital, Kitengela, dated 14<sup>th</sup> February 2025 (stamped 14<sup>th</sup> January 2025), which recommended four to six weeks of complete rest.

95. It remains unclear why the Claimant's Advocate did not submit this medical report with the initial accident report on 14<sup>th</sup> January 2025 and why he had to wait until 21<sup>st</sup> January to submit the said medical report. Further, the recommended four- to six-week rest period effectively places an employer in uncertainty, making it difficult to schedule subsequent disciplinary hearings.

96. In the circumstances of this case, the Court is persuaded that the 1<sup>st</sup> Respondent made reasonable efforts to accommodate the Claimant and afford him an opportunity to be heard in person. In the Court's view, it was the Claimant's own actions that left the 1<sup>st</sup> Respondent with little alternative but to proceed with the disciplinary hearing in his absence.

97. Further, it is notable that the Claimant, of his own volition, failed to respond to the Notice to Show Cause. Accordingly, any loss of opportunity to respond to the allegations is attributable solely to him.

98. It is also evident that the Claimant appealed the dismissal and personally attended the appeal hearing on 6<sup>th</sup> March 2025, where he presented his case.



99. In view of the foregoing, it cannot be said that the 1<sup>st</sup> Respondent failed to afford the Claimant an opportunity to be heard.
100. The Claimant has further challenged the presence of the 2<sup>nd</sup> Respondent on the disciplinary committee, alleging bias on account that he was the chief instigator of his woes.
101. The Claimant's assertions are not supported by the record, as there is no evidence that the 2<sup>nd</sup> Respondent either initiated the investigation or effected the Claimant's suspension.
102. From the foregoing, it is evident that the Claimant was afforded the opportunity to present his version of events during the investigation and was given three chances to attend an oral disciplinary hearing, which he failed to attend. He was, however, given an opportunity to appeal the termination and was heard in person, which mitigated any potential prejudice arising from his absence at the disciplinary hearing.
103. In light of the above, the Court finds that the 1<sup>st</sup> Respondent complied with the minimum requirements of a fair hearing under Section 41 of the Employment Act in terminating the Claimant's employment.

#### **Reliefs?**

104. Having found that the Claimant's termination was for a fair and valid reason, and conducted in accordance with the procedure prescribed under Section 41 of the Employment Act, the reliefs sought in the Claim cannot be sustained.

#### **Orders**

105. Accordingly, the Claim is dismissed in its entirety with no orders as to costs.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 4<sup>TH</sup> DAY OF FEBRUARY 2026.**

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**STELLA RUTTO**

**JUDGE**

In the presence of:

For the Claimant No appearance

For the Respondents Ms. Gachache

Court Assistant Catherine

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 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> 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 had 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.

