

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT NAIROBI

ELRC PETITION NO. E097 OF 2025
(Before Hon. Lady Justice Hellen Wasilwa, J)

**SUSAN
NAITORE.....PETITIONER**

VS

BOARD OF DIRECTORS, KENYA

**YEARBOOK EDITORIAL BOARD.....1ST
RESPONDENT**

CHIEF EXECUTIVE OFFICER, KENYA

**YEARBOOK EDITORIAL BOARD.....2ND
RESPONDENT**

**ATTORNEY GENERAL.....3RD
RESPONDENT**

AND

**CABINET SECRETARY, MINISTRY OF
INFORMATION, COMMUNICATIONS**

**AND THE DIGITAL ECONOMY.....INTERESTED
PARTY**

JUDGMENT

1 By a Petition dated 20th May 2025, the Petitioner prayed for the following orders: -

- a) *A declaration that the Respondents violated Section 5 of the Employment Act, 2007, Section 45 (1) of the Public Service Commission Act 2017 and Articles 10,*

27, 41, and 236 of the Constitution by in declining to renew the Petitioner's contract for the full term of Five (5) Years for no reasonable cause.

- b) A declaration that the Respondents actions of issuing the Petitioner with an unlawful Six (6) Month contract with effect from 01.12.2024 to 31.05.2025 was unfair, unlawful and constitutes breach of the Petitioner's Constitutional rights to legitimate expectation and fair labour practices.*
- c) A declaration that the six (6) months employment contract with effect from 01.12.2024 to 31.05.2025 is illegal, invalid, null and void and of no legal effect.*
- d) An order compelling the 1st Respondent to renew the Petitioner's employment contract that expired on 30.11.2024 as provided for under Section 45(1) of the Public Service Commission Act, 2017; Clause 2.6 of KYEB's Human Resource Policy and Procedures Manual of 2022 and other enabling provisions of law.*
- e) Alternatively, and without prejudice to prayer (d) above, an order that the Petitioner's contract of service was constructively renewed for five (5) years effect from 01.12.2024.*
- f) A permanent injunction restraining the Respondents, its servants, officials, representatives and/or agents from appointing any person either permanently or temporarily to the office of the Assistant Manager Finance and Accounts of the 1st Respondent.*

- g) A permanent order prohibiting/restraining the Respondents, its servants, officials, representatives, and/or agents from advertising or having so advertised, from acting thereupon, interviewing, recruiting or otherwise in any other manner replacing the Petitioner from her position as the Assistant Manager Finance and Accounts of the 1 Respondent.*
- h) General damages for the constitutional violations of the Petitioner's fundamental rights.*
- i) The Honourable Court do issue any other Orders and give such directions as it may deem fit to meet the ends of justice.*
- j) The costs of this Petition be borne by the Respondents.*

Petitioner's Case

- 2 The Petitioner avers that she is an employee of Kenya Yearbook Editorial Board, a State Corporation under the Ministry of Information, Communications and the Digital Economy, serving as an Assistant Manager, Finance and Accounts. Upon the expiry of her initial three-year contract on 30th November 2024, she was issued with a six-month contract running from 1st December 2024 to 31st May 2025.

- 3 The Petitioner avers that under KYEB's Human Resource Policy and Procedures Manual, officers in her grade are eligible for contracts of up to five years, renewable subject

to satisfactory performance and retirement age. She contends that she fully complied with the policy by notifying the Respondents in writing, within the prescribed timelines, of her desire to have her contract renewed.

- 4 It is the Petitioner's case that following her request, the 2nd Respondent required her to submit her performance appraisal reports, which she duly did, and she legitimately expected that her performance would be evaluated and, if found satisfactory, her contract renewed in accordance with the applicable policy framework.
- 5 The Petitioner avers that instead of receiving the outcome of her performance appraisal, she was issued with an expiry of contract notice declining renewal, without any disclosure of the appraisal results or reasons for the adverse decision, notwithstanding that satisfactory performance was the sole criterion for renewal.
- 6 It is the Petitioner's case that although she timely appealed the decision to the 1st Respondent, the Respondents issued her with a six-month contract following the appeal, despite internal correspondence and Board minutes suggesting that her contract had in fact been renewed after the Board acknowledged her long service and absence of performance issues.

- 7 The Petitioner avers that the six-month contract issued to her is unlawful, illegal and void for contravening section 45(1) of the Public Service Commission Act, 2017, which prescribes a minimum contractual period of twelve months, and for violating KYEB's own Human Resource Policy.
- 8 The Petitioner avers that the issuance of the short-term contract violated her legitimate expectation, amounted to an unfair labour practice, and offended the rules of natural justice, contrary to Articles 27, 41 and 236 of the Constitution and Section 41 of the Employment Act.
- 9 The Petitioner avers that the Respondents failed to communicate the outcome of her appeal in a lawful and transparent manner and did not provide reasons for departing from both statutory requirements and internal policy, thereby acting arbitrarily and with impunity.
- 10 It is the Petitioner's case that unless this Court intervenes, her employment will unlawfully terminate on 31st May 2025 pursuant to an invalid contract, thereby irreparably prejudicing her constitutional and statutory rights.
- 11 The Petitioner avers that the Respondents' conduct amounts to a violation of her rights to fair labour practices, human dignity and legitimate expectation, and urges this Court, pursuant to its mandate under Article

162 of the Constitution and Sections 3 and 12 of the Employment and Labour Relations Court Act, to grant the reliefs sought in the Petition in the interests of justice.

Respondents' and Interested Party's Case

- 12 In opposition, the Respondents filed a replying affidavit dated 17th July 2025, sworn by the Chief Executive Officer of the Kenya Yearbook Editorial Board, Lilian Kimeto, MPRSK.
- 13 The Respondents aver that the Petitioner joined the Kenya Yearbook Editorial Board (KYEB) on 2nd August 2016 as a Senior Procurement Officer on a temporary three-month contract.
- 14 Subsequently, she applied for renewal on 21st October 2016 and was granted another three-month term from 1st November 2016 to 31st January 2017. Thereafter, on 24th January 2017, she applied for another renewal and was granted a six-month contract as an Accountant on KYEB Scale 6 from 1st February 2017 to 31st July 2017.
- 15 The Respondents aver that on 8th November 2016, the Petitioner applied for appointment as a permanent and pensionable Accountant. The 1st Respondent appointed her to KYEB Scale 5 on permanent and pensionable terms with

effect from 1st August 2017, and she was confirmed on 24th October 2017.

- 16 The Respondents aver that sometime in 2018, the Petitioner voluntarily applied for the position of Finance Manager, a contractual position under the Human Resource Policy and Procedures Manual, 2017.
- 17 The 1st Respondent appointed her on a three-year contract from 1st December 2018 to 30th November 2021, thereby transiting from a permanent and pensionable term to a contractual term. Clause 13 of her employment contract required that the Petitioner applies for renewal six months before expiry for her employment contract.
- 18 The Respondents aver that the Petitioner applied for renewal on 21st May 2021, and was granted a second contract by the 1st Respondent from 1st December 2021 to 30th November 2024. The contract however did not contain a renewal clause, thus, it automatically expired on 30th November 2024.
- 19 The Respondents aver that the Petitioner subsequently applied for renewal of contract on 16th and 21st May 2024. On 11th October 2024, the 1st Respondent deliberated on the renewal during a Full Board Meeting and rejected the application, citing that the 2021 contract had no renewal

clause. The Petitioner was notified of this decision by letter dated 14th October 2024.

- 20 The Respondents aver that the Petitioner appealed the Board's decision on 15th October 2024, and a Special Board Meeting was convened on 29th November 2024 to consider the appeal wherein the Board resolved to renew the Petitioner's contract.
- 21 The Respondents aver that, prior to this meeting, the State Corporations Advisory Committee (SCAC) by letter dated 22nd November 2024 directed that the proposed Special Board Meeting was irregular, as the Board had not obtained SCAC's concurrence as required under Circular No. OP/CABS/1A dated 11th March 2020, Section A(3). The SCAC further advised that Board members attending such an unauthorized meeting would be personally and severally liable. However, despite this directive, the meeting proceeded.
- 22 The Respondents aver that in light of the irregularity of the Special Board Meeting and the adverse mention of the Petitioner in the Inspectorate of State Corporations Report dated 21st November 2024, the Government directed the 1st Respondent to grant the Petitioner a temporary six-month contract from 1st December 2024 to 31st May 2025 to allow continuity of service while pending further

deliberations on the Report. The Petitioner voluntarily accepted and served under this temporary contract.

- 23 The Respondents aver that KYEB has had three sets of HR Instruments: July & September 2017, January & March 2022, and November 2024. The Petitioner's contract fell between the 2017 and 2022 manuals, approved by SCAC.
- 24 The Respondents aver that following court disputes over HR Instruments, the PSC issued guidelines on 8th August 2023 declaring any HR instruments implemented without its approval null and void.
- 25 In compliance, the Petitioner, then Ag. CEO, submitted KYEB HR documents for PSC concurrence on 24th July 2023. A follow-up letter was sent on 11th September 2024, and PSC approved the November 2024 HR Instruments on 20th November 2024, received by KYEB on 21st January 2025.
- 26 In January 2025, the Cabinet identified KYEB among State Corporations earmarked for reforms (mergers, restructuring, dissolution). The Principal Secretary issued a letter dated 5th February 2025 directing KYEB to halt implementation of new structures, recruitment, promotions, and new projects . The Petitioner attended a related meeting on 12th ebruary 2025.

- 27 By Circular 16th May 2025 (OP/CAB.9/1), the Cabinet imposed a moratorium on contract renewals, recruitment, HR changes, and projects for affected State Corporations, including KYEB. The Circular applied to 16 corporations earmarked for divestiture.
- 28 The Respondents aver that the Circular also directed that measures be undertaken in the State Corporations identified for reform and which include: A moratorium on recruitment and renewal of contracts for Chief Executive Officers or any other officers serving on contract terms, at the lapse of their current tenure; That any ongoing recruitment process of staff in any cadre was halted forthwith; and Any implementation or approval of new human resource policies, personal emoluments and benefits of any kind, staff organization, salary structures, or roll out of any new capital projects was suspended.
- 29 On 27th May 2025, the Principal Secretary confirmed compliance with the Circular and KYEB informed the Petitioner that her six-month contract ending 31st May 2025 would terminate, and she was required to commence separation procedures, including clearance and handover.
- 30 The Respondents aver that the Petitioner's 2021 contract expired lawfully on 30th November 2024, and her subsequent six-month contract was temporary, lawful, and

issued in compliance with government directives, SCAC advice, and the Inspectorate report.

- 31 The Respondents aver that the Petitioner's continued service as Finance & Accounts Assistant Manager through a court order has hindered the smooth administration and reforms of KYEB, causing prejudice to the Respondents and the Corporation.
- 32 It is the Respondents' case that the Petitioner cannot invoke legitimate expectation to compel renewal of a fixed-term contract in perpetuity, as contracts are binding as executed and courts cannot rewrite contracts for parties.
- 33 The Respondents aver that the Petitioner knew or ought to have known when she transited to a contractual term of employment that her employment with KYEB was strictly in accordance with the contract she entered into with her employer and the Petitioner cannot now seek through orders of this Court to have her contract renewed in perpetuity. Contracts have a beginning and an end.
- 34 The Respondents further aver that the Petitioner's reliance on internal Board minutes and alleged correspondence is misplaced, disputed and contrary to law, and that some of the documents relied upon are irregular, unauthenticated and ought to be expunged from the record.

35 The Respondents aver that the Petition and is devoid of merit, frivolous and vexatious, and ought to be dismissed with costs.

Petitioner's Submissions

36 The Petitioner submitted on three issues: whether the petitioner has established violations of her constitutional rights and fundamental freedoms and whether her right to legitimate expectation was violated; whether the petitioner is entitled to the reliefs sought in the petition; and who bears the cost of the suit.

37 On the first issue, the Petitioner submitted that the central question is whether the Respondents acted lawfully and constitutionally in handling her application for contract renewal and in issuing her with a six-month employment contract. It was submitted that the Respondents' conduct was manifestly unlawful and violated her constitutional rights in multiple respects.

38 The Petitioner submitted that Section 45(1) of the Public Service Commission Act, requires that contracts be for a minimum of 12 months, yet the Respondents issued a six-month contract, which falls below the statutory minimum and is therefore illegal. The Petitioner cited ***Root Capital Incorporated v Tekangu Farmers Co-operative Society Ltd & another [2016] eKLR***, and the Court of Appeal in ***Patel v Singh [1987] eKLR***, emphasizing that

contracts contrary to statutory provisions are void ab initio. The Petitioner submitted that the six-month contract issued to her was therefore illegal and unenforceable.

- 39 It was further submitted that the Respondents' arguments that the contract was an "extension" rather than a new engagement therefore Section 45(1) does not apply, is misconceived. Section 45(1) does not distinguish between initial engagements and extensions. The provision is clear that a person may be engaged on a term of contract for a period of at least 12 months.
- 40 It is the Petitioner's submission that Section 45(3) of the PSC Act requires that extension of contracts to meet certain conditions, including that the decision be made at least 3 months before expiry. The Respondents failed to comply with this requirement, thus, the 6-month contract cannot be saved by labelling it an "extension". If anything, treating it as an extension only reinforces its illegality
- 41 The Petitioner submitted that the Respondent's reliance on an adverse Inspectorate of State Corporations report was flawed as she was never informed or given an opportunity to respond, violating the *audi alteram partem* rule.
- 42 The Petitioner submitted that has demonstrated through documentary evidence that her colleague of similar rank and Job Grade, one Elijah Muli was also adversely mentioned in the same report. Nevertheless, he had his

contract renewed for 2 years and continues to discharge his duties without any interference, demonstrating preferential and selective towards some employees and discriminatory treatment towards the Petitioner.

- 43 The Petitioner submitted that directives from the State Corporations Advisory Committee (SCAC) cannot override statutory requirements or a Board resolution, particularly as the SCAC letter dated 29th November 2024, was received at KYEB on 4th December 2024, five days after the Board had resolved to renew her contract for a full term. Similarly, reliance on the Cabinet Circular of 16th May 2025 was irrelevant as the Petitioner's application and Board resolution predated it.
- 44 The Petitioner submitted that while SCAC may provide guidance to State Corporations on matters of Corporate Governance, it does not have the legal authority to unilaterally override a Board resolution or dictate the specific terms of an individual employee's contract in violation of statute. Even if SCAC had such authority (which is denied), directing the issuance of a six (6) month contract that violates Section 45(1) of the PSC Act would itself be unlawful and unenforceable.
- 45 It is the Petitioner's submission that SCAC has no role in the renewal of Petitioner's contract either under the HR Manual or in law and their pronouncements in this case were *ultra vires* their power.

- 46 The Petitioner submitted that her constitutional rights under Articles 10, 27, 28, 41, 47, and 236 of the Constitution were violated. The right to fair labour practices under Article 41 and the right to fair administrative action under Article 47 were breached when the Respondents failed to conduct and communicate her performance appraisal, and when the six-month contract was issued in defiance of the Board's resolution for a three-year renewal.
- 47 The Petitioner submitted that the 2nd Respondent's request for the performance evaluation report created a legitimate expectation that her performance would be appraised and form the basis for the renewal decision. However, no feedback was ever provided. The initial decision to decline renewal was made without providing reasons, in violation of the Petitioner's right to be given written reasons for administrative action under Article 47(2) of the Constitution.
- 48 The Petitioner submitted that the Respondents have demonstrated selective and discriminatory application of the HR Manual, in violation of Article 27 of the Constitution. In the same Board Meeting of 11th October 2024 where the 1st Respondent Board initially declined to renew the Petitioner's contract on grounds that it lacked a renewal clause, the 1st Respondent renewed the contract

of Elijah Muli, who held a similar Job Grade KYEB 3 and whose contract dated 5th July 2021 also did not contain a renewal clause.

- 49 It is the Petitioner's submission that disparate treatment amounts to discrimination contrary to Article 27 of the Constitution and Section 5 of the Employment Act. Notably, Elijah Muli who was adversely mentioned in the same Report by the Inspectorate of State Corporations, yet he continues to work without interference. The preferential treatment towards Elijah Muli evidences a lack of fairness, parity and consistency.
- 50 The Petitioner submitted that despite her successful appeal and the 1st Respondent's Board resolution to issue her with a 3 year renewed contract; the 2nd Respondent countermanded the 1st Respondent's Board Resolution and occasioned a new injustice by issuing the Petitioner with unlawful 6 month contract.
- 51 On the second issue, the Petitioner submitted that she had a legitimate expectation that her contract would be renewed for a full term, and this expectation has been violated. The doctrine of legitimate expectation is well-established in Kenyan jurisprudence.
- 52 The Petitioner submitted that the 2nd Respondent failed to comply with Clause 2.6.3 of the HR Manual, which requires that employees be advised of renewal decisions 3 months

before contract expiry, i.e., by 31st August 2024. The Petitioner only received the Expiry Notice on 14th October 2024, a mere 6 weeks before her contract expired.

53 The Petitioner submitted that Clause 13 of the Petitioner's employment contract dated 25th November 2021 provided that her employment was subject to the provisions and requirements of the Employment Act, the Board's policies and procedures, and any other law in place regarding public servants. The effect of this Clause was to directly incorporate the KYEB Human Resource Policies and Procedures Manual that was in force at all material times. The Respondents' argument that the contract lacked a renewal clause is therefore misconceived as the renewal provisions were incorporated by reference to the HR Manual.

54 The Petitioner submitted that at the time the Petitioner sought renewal in May 2024, the operative HR Manual was that of March 2022. Clause 2.5.3 of the Manual provides that officers in Job Grade KYEB 3, such as the Petitioner, shall be engaged on contracts of up to five (5) years renewable subject to performance and retirement age. The Petitioner signed a Transition Notice dated 20th March 2023, accepting the transition to the new KYEB Human Resource Instrument with effect from 11th April 2023. She submits that this was not merely an internal policy

document; it formed part of the Petitioner's employment contract by dint of Clause 13.

- 55 It was submitted that the Respondents circumvented her legitimate expectation by issuing an unlawful six-month contract, despite satisfying all statutory conditions for renewal under Section 45(3) of the PSC Act. The Petitioner also highlighted that any alleged procedural irregularity of the Special Board Meeting of 29.11.2024 could not prejudice her, as she was not responsible for convening the meeting.
- 56 The Petitioner submitted that Clause 2.6 of the HR Manual, 2022 sets out the detailed procedure for renewal, including the requirement for employees to apply 6 months before expiry, the CEO's obligation to consider the application and communicate the decision 3 months before expiry, and the employee's right to appeal. She complied with all these requirements. Additionally, by requesting the Petitioner's performance evaluation report on 11th July 2024, the 2nd Respondent acknowledged that performance was the key criterion for renewal, consistent with Clause 2.5.3 of the HR Manual, 2022; this reinforced the legitimate expectation.
- 57 It is the Respondent's submission that her expectation was legitimate and reasonable based on the express provisions of the operative HR Manual, 2022, incorporated into her

contract and it was consistent with the statutory framework, particularly Section 45 of the PSC Act. The 2nd Respondent's conduct in requesting her performance evaluation report reinforced the Petitioner's expectation that performance was the only key criterion for renewal. The Petitioner had consistently received satisfactory performance appraisals and had never been subjected to any disciplinary action as was noted by the 1st Respondent Board in its meeting of 29th November 2024.

- 58 The Petitioner further submitted that voluntary acceptance of the unlawful contract is irrelevant on grounds that a contract that violates statutory provisions is illegal *ab initio* and unenforceable, regardless of whether the parties sign it. She cited ***Kihu v Optisafe (K) Ltd [2024] KEELRC 527 (KLR)*** and ***Kenya Airways Limited v Flora [2013] KECA 545 (KLR)***.
- 59 On the final issue, the Petitioner submitted that having established illegality, constitutional violations, and breach of legitimate expectation, she is entitled to the reliefs sought.
- 60 The Petitioner submitted that having met the threshold for reliefs sought, she is entitled to costs, citing Section 27(1) of the Civil Procedure Act and the Court in ***Stanley Kaunga Nkarichia v Meru Teachers College &***

another [2016] eKLR, which held that costs follow the event unless the court orders otherwise.

Respondents' and Interested Party Submissions

- 61 The Respondents submitted on two issues: whether the 6 months' contract dated 6th December, 2024 is unlawful, illegal, null, and void as it allegedly violates Section 45(1) of the Public Service Commission Act, 2017; and whether the Applicant is entitled to the orders sought in the application.

- 62 On the first issue, the Respondents submitted that the 6 months' contract was lawful and valid, contrary to the Applicant's assertions. The previous contract dated 21st November, 2021, which expired on 30th November, 2024, had no renewal clause. Consequently, the parties to the contract had not envisaged a renewal of the same.

- 63 The Respondents submitted that the 1st Respondent indicated in the minutes of 11th October 2024 that the Applicant's 2021 contract could not be renewed. Even if a renewal clause had existed, any request for renewal would not have been automatic, as the 1st Respondent was required to consider the Applicant's performance, the provisions of the Human Resource Policy and Procedures Manual, the Employment Act, other relevant laws, and any disciplinary matters involving the Applicant. Clause 2.6.3 of the Human Resource Policy and Procedures Manual, 2022 provides that where an employee applies for

contract renewal, the Board shall advise whether the contract will be renewed, extended, or not renewed.

- 64 The Respondents further submitted that the 6 months' contract was an extension of the 2021 contract to allow for determination of adverse findings against the Applicant in the Report of the Inspector General of State Corporations dated 21st November, 2024. This was confirmed by letters from the Chairman of SCAC and the 2nd Respondent dated 29th November, which indicated that the new contract was granted for six months effective 1st December, 2024 with the guidance of SCAC.
- 65 It is the Respondents' submission that the 6-month extension did not amount to a renewal of the 2021 contract, therefore, Section 45(1) of the Public Service Commission Act, did not apply. The Petitioner accepted the terms of the said contract on 11th December 2024 by appending her signature in the presence of the Head of Human Resource & Administration Department.
- 66 The Respondents submitted that the Report by Inspector General of State Corporations is clear that due to the actions of the Petitioner together with other staff of KYEB named therein public funds were lost and the 1st Respondent was required to determine the actual loss suffered by KYEB. Therefore, the assertion that the Petitioner was not aware of the role of the State

Corporations Advisory Committee and the Inspector General of State Corporations in the issuance of the contract 6th December 2024 is not true.

- 67 The Respondents submitted that the application filed on 26th May, 2025, just five days before the expiry of the contract, was not made in good faith but intended to unlawfully prolong the Petitioner's tenure without a valid contract; as it was brought after she had served the entire term of the contract.
- 68 It is the Respondents' submission that the application was intended to prolong the Petitioner's tenure any attempt to continue employment beyond the contract term without any employment contract between her and KYEB. This is illegal and unlawful especially considering that the Petitioner is still earning salaries and other emoluments after the expiry of the contract from public funds authorization would be illegal and contrary to Article 201(d) and (e) of the Constitution regarding prudent use of public funds.
- 69 The Respondents cited ***Songole v Nairobi City Water & Sewerage Company [2023] KEELRC 2801 (KLR)*** to demonstrate that courts are not expected to supervise employers in performing routine human resource functions and may only intervene where the employer acts in

contravention of the law, breaches an agreement, acts manifestly unfairly, or fails to follow internal procedures.

- 70 The Respondents submitted that its Human Resource Policies and Procedures Manual, 2009 was reviewed and the Human Resource Policies and Procedures Manual, 2012 took effect and which provided that the Managing Director, Functional Directors and Managers would be employed on contract basis with each contract running for a period of 5 years. It also provided that the contracts may be renewed based on performance and for a period not exceeding 2 terms for the Managing Director and the Functional Directors and three terms for managers. This was a departure from the 2009 Manual.
- 71 The Respondents submitted that having signed the 2021 contract, the Petitioner knew or ought to have known that the same was not renewable. The Petitioner is bound by the said contract and cannot now purport that KYEB has treated her unfairly or discriminatively by failing to offer her a new term.
- 72 The Respondents submitted that they did not discriminate against the Petitioner by granting her a 6 months' contract as this was to enable KYEB act on the Report of the Inspector General of State Corporations. This was for the benefit of KYEB as the employer as well as the country as a whole since through the said process any loss that may have been suffered by KYEB in the flawed procurement

process would be determined and the culprits surcharged for the same.

- 73 On second issue, the Respondents submitted that the Applicant had no entitlement to suspension or setting aside of the 6 months' contract, or to continuation of employment beyond 31st May, 2025. The Applicant had signed the 6 months' contract and was aware of its expiry date.
- 74 It is the Respondents' submission that there was no express, clear, or unambiguous promise that the 2021 contract would be renewed, and therefore the Applicant had not met the requirements for invoking the doctrine of legitimate expectation, as outlined in ***Keroche Industries Ltd v Kenya Revenue Authority & 5 others [2007] KEHC 3680 (KLR)*** and ***Communications Commission of Kenya & 5 others v Royal Media Services Limited & 5 others [2014] eKLR***.
- 75 The Respondents further submitted that they acted lawfully in offering the Applicant a 6 months' contract and declining to renew the 3-year contract in accordance with the 2021 contract and the Human Resource Policy and Procedures Manual, 2022. They also noted the moratorium on recruitment and renewal of contracts issued by the Chief of Staff and Head of Public Service on 16th May, 2025.

- 76 The Respondents also challenged the admissibility of documents submitted by the Applicant, including Board Minutes, organizational structure, HR manuals, and other officers' contracts, on the basis that they were irregularly and illegally obtained. They relied on ***Kenya Railways Corporation & 2 others v Okoiti & 3 others [2022] KESC 2 (KLR)***, in which the Supreme Court held that public documents can only be produced in court in accordance with the Evidence Act and the Access to Information Act to preserve authenticity and integrity, and documents obtained otherwise are inadmissible.
- 77 The Respondents submitted that the Petitioner was bound by the terms of the executed contracts, that no unfair labour practices or discrimination occurred, and that the 6 months' contract was lawful, valid, and properly issued. They urged the Court to find that the orders sought by the Applicant lacked merit and to dismiss the application with costs.
- 78 I have examined all the averments and submissions of the parties herein. From the events as described in this judgment, the petitioner served on contractual basis and the last contract was a 6 months contract with no renewal clause and for which the petitioner acceded to.

79 I have looked at the said contract and it is apparent that it was fixed term with start to end date. This court has already determined on many occasions that an employer cannot be compelled to renew a fixed term contract. The Court of Appeal in **Transparency International Kenya vs Omondi 2023** held that a fixed term contract does not inherently create a legitimate expectation of renewal. It is also clear from this case that the issue of legitimate expectation cannot arise because there was no renewal clause. The test for legitimate expectation was espoused in the Supreme Court of Kenya case **Communication Commission of Kenya vs Royal Media Services** which include an express promise, reasonableness of the expectation and lawfulness of the expectation. There is no indication that the respondents promised any renewal or even carried out themselves either directly or indirectly as if they were promising the petitioner a renewal.

80 Having found as this, it is my finding that the petition cannot stand. It is thus dismissed with no order of costs.

Dated, Signed and Delivered Virtually at Nairobi this 26th Day of February, 2026.

**HELLEN WASILWA
JUDGE**