



*employed in any company, firm, and partnerships which compete with the Respondent is in contravention of Article 41(1) of the Constitution which provides that every person has a right to fair labour practices.*

- d) A declaration that the Claimant is entitled to 12 months' salary compensation and payment of terminal dues as outlined and particularized under paragraph 32 hereinabove.*
- e) Damages for breach of the Claimant's right to fair labour practice guaranteed under*
- f) Article 41 of the Constitution.*
- g) Damages for breach of the Claimant's right to fair administrative action guaranteed by Article 47 of the Constitution of Kenya.*
- h) Damages for breach of the Claimant's legitimate and reasonable expectation.*
- i) Interests at court rates.*
- j) Costs of the suit.*

2. In response to the Claim, the Respondent asserts that from the onset of his employment, the Claimant demonstrated challenges in executing his duties, including poor performance, negligence of assigned tasks, dishonesty in the discharge of his responsibilities, and undisclosed historical integrity issues which he failed to reveal at the time of recruitment.

3. The Respondent maintains that it had valid grounds to terminate the Claimant's employment and that due process was followed, resulting in a lawful and fair termination. Consequently, the Respondent has urged the Court to dismiss the Claim, find that the termination was fair, and award costs in its favour.
4. In his Reply to the Respondent's Defence, the Claimant reiterates the averments in his Statement of Claim and denies the allegations raised by the Respondent. He maintains that his termination was neither grounded on valid reasons nor carried out fairly.
5. The matter proceeded for hearing on 13<sup>th</sup> November 2025, during which both parties called oral evidence in support of their respective cases.

#### **Claimant's Case**

6. The Claimant testified in support of his case and, at the outset, adopted his witness statement as his evidence in chief. He further produced the initial and supplementary lists and bundles of documents as his exhibits.
7. The Claimant stated that by a show cause email dated 12<sup>th</sup> August 2024, the Respondent levelled what he considered to be unsubstantiated allegations against him. He was required to respond by the close of business on 13<sup>th</sup> August 2024. He

contended that the timeframe was unreasonably short given the nature of the allegations and the absence of particulars.

8. The Claimant stated that he responded to the show cause email on 13<sup>th</sup> August 2024, denying all the allegations. Upon receipt of his response, the Respondent issued an email dated 14<sup>th</sup> August 2024 inviting him to a disciplinary hearing scheduled for 16<sup>th</sup> August 2024 at 9:00 a.m., later rescheduled to 2:30 p.m.
9. According to the Claimant, the invitation to the disciplinary hearing introduced fresh allegations relating to unsatisfactory performance, which had not been raised in the initial show cause email of 12<sup>th</sup> August 2024. He noted that no particulars had been provided to support these new allegations.
10. He testified that on 15<sup>th</sup> August 2024, he responded to the invitation email, stating that the performance-related allegations were new and had not been included in the earlier show cause email. He therefore requested additional time to respond and sought permission to attend the hearing with a personal representative rather than an employee of the Respondent, noting that he had only worked with the Respondent for about one month.

11. The Claimant stated that his email of 15<sup>th</sup> August 2024 did not attract any response. Nonetheless, he attended the disciplinary hearing on 16<sup>th</sup> August 2024 at 2:30 p.m. as scheduled.

12. He averred that he attended the premises with his personal representative, but the Respondent's Managing Director, Mr. Francis Kirema, denied them access to the disciplinary panel. Instead, they were escorted out and informed that the hearing had been unilaterally postponed. He was further told that a notification email had been sent less than an hour before the scheduled hearing. The Claimant added that he was verbally informed that a general staff meeting would take place at 4:30 p.m. that same day.

13. The Claimant further testified that on the same date, 16<sup>th</sup> August 2024, he received a second show cause email raising additional allegations, including failure to promptly perform assigned duties, attending meetings unprepared, lack of punctuality, and poor sales performance for July and August 2024.

14. According to the Claimant, he was required to respond to these new allegations by Monday, 19<sup>th</sup> August 2024, less than 24 working hours later, which he considered insufficient time.

15. The Claimant stated that on 19<sup>th</sup> August 2024, he responded to the second show cause email and requested further particulars and additional time to respond adequately.

16. He averred that the Respondent rejected his request by an email dated 19<sup>th</sup> August 2024 and instead invited him to a disciplinary hearing scheduled for 21<sup>st</sup> August 2024 at 2:30 p.m. He also contended that he was denied the right to be accompanied by a representative of his own choice and was instead required to bring along an employee of the Respondent.

17. The Claimant testified that he nonetheless attended the disciplinary hearing on 21<sup>st</sup> August 2024 without a representative and without having received particulars of the allegations raised in the 16<sup>th</sup> August 2024 show cause email.

18. He contended that although the hearing was formally to be conducted by **Mr. Ali Karatasli**, the Company's Director of Distribution & Sales, it was effectively being chaired and directed by Mr. Francis Kirema, whom he described as his accuser, investigator, prosecutor, and decision-maker.

19. The Claimant stated that his employment was subsequently terminated with immediate effect by a letter dated 23<sup>rd</sup> August 2024. He contended that the termination letter did not accord him any right of appeal.

20. It was his position that the Respondent unfairly and unlawfully terminated his employment without valid cause and without affording him a fair hearing, contrary to Sections 41, 43, and 45 of the Employment Act, 2007, the HR Policy & Procedure Manual, and the principles of natural justice.

21. The Claimant further asserted that the Respondent failed to pay his full terminal dues and benefits.

#### **Respondent's Case**

22. The Respondent presented oral evidence through **Francis Kirema**, who testified as RW1. Mr. Kirema identified himself as the Respondent's Country Manager and equally adopted his witness statement to constitute his evidence in chief. He further produced the Respondent's list and bundle of documents as exhibits before the Court.

23. RW1 testified that, arising from the Claimant's alleged misconduct, the Respondent issued a show cause letter via email on 12<sup>th</sup> August 2024, outlining what he described as clear grounds warranting disciplinary action. The Claimant was required to respond by the close of business on 13<sup>th</sup> August 2024.

24. According to RW1, the Claimant neither sought additional time to respond nor raised any concerns regarding the alleged lack of particulars in the show cause letter.

25. RW1 maintained that the Respondent had legitimate concerns relating to the Claimant's conduct and performance, justifying the issuance of the show cause letter.

26. He further asserted that the Claimant was afforded adequate time to respond, given the circumstances and nature of the allegations, and that the timelines provided were reasonable and consistent with company procedures and legal requirements.

27. In his view, all issues raised by the Respondent as potential grounds for termination were clearly communicated to the Claimant, with further clarification provided throughout the process.

28. RW1 further testified that after reviewing the Claimant's response, the Respondent deemed it necessary to invite him to a disciplinary hearing. He added that the invitation clearly set out the allegations to be addressed and insisted that no new issues were introduced.

29.He further contended that at no point did the Claimant request additional particulars regarding the allegations made against him.

30.RW1 stated that the invitation to the disciplinary hearing informed the Claimant that his performance concerns had already been raised through various emails. He maintained that these issues were within the Claimant's knowledge and that he had never challenged the Respondent's reminders.

31.He also testified that the invitation to the disciplinary hearing complied with the Employment Act and that the Claimant was afforded the opportunity to be accompanied by an employee of his choice.

32.According to RW1, although the disciplinary hearing scheduled for 16<sup>th</sup> August 2024 had been properly convened, it did not proceed because the Respondent had uncovered additional incidents of gross misconduct. Consequently, the hearing was postponed in the same manner in which it had been convened.

33.He added that the postponement was necessitated by the need for further investigations into the Claimant's conduct, which fell within the Respondent's mandate.

34.RW1 was categorical that there was no predetermined intention to terminate the Claimant's employment, and that investigations were ongoing.

35.He testified that after reviewing the Claimant's conduct in totality, the Respondent found it appropriate to issue a second show cause letter detailing further disciplinary issues.

36.According to RW1, the Claimant did not at any point complain about the adequacy of the time provided to respond to the second show cause letter. He asserted that the Claimant had sufficient time and that the issues set out therein were clearly detailed.

37.RW1 maintained that since the Respondent had comprehensively disclosed the allegations in the show cause letter, it was logical to convene a disciplinary hearing on 21<sup>st</sup> August 2024.

38.He further testified that the Claimant was not denied the right to be accompanied by a representative of his choice, except that the law required such representative to be an employee of the Respondent. It was RW1's view that allowing an external representative would have been improper.

39.RW1 reiterated that the Respondent was not acting hastily to remove the Claimant from employment.

40. He further testified that the disciplinary hearing proceeded with the Claimant choosing not to bring along an employee representative. RW1 added that during the hearing, the Claimant failed to provide sufficient responses or justification to the allegations raised.

41. RW1 explained that his involvement in the disciplinary process was necessary as he was the Claimant's supervisor and was authorized to participate in the hearing.

42. He further stated that the reasons for the Claimant's termination were clearly set out in the termination letter.

43. According to him, there is no mandatory legal requirement obligating an employer to grant an appeal to an employee upon dismissal.

44. RW1 was of the view that the Respondent had valid reasons for terminating the Claimant's employment and duly followed the proper procedures, resulting in a fair and lawful termination.

### **Submissions**

45. The Claimant submitted that the Respondent failed to substantiate the allegation of poor performance. In the same vein, he argued that the Respondent did not

demonstrate the existence of any employment policy or framework for assessing performance, nor any measures taken to address the alleged shortcomings on his part.

46. He contended that the Respondent did not produce evidence of annual performance appraisals, key performance indicators, a clear job description, provision of tools of work, or implementation of a performance improvement programme prior to concluding that he was a poor performer. In support of these submissions, the Claimant relied on the case of ***Jane Samba Mukala v Oltukai Lodge Ltd [2010] eKLR.***

47. The Claimant further argued that the Respondent did not prove how or when he was unprepared for meetings, which cheques he allegedly failed to collect or bank, or which instructions he disregarded. On this score, he cited the case of ***New Kenya Co-operative Creameries v Sigei (Appeal E002 of 2022) [2024] KEELRC 27*** and ***Rebecca Ann Maina & 2 others v Jomo Kenyatta University of Agriculture & Technology [2014] eKLR.***

48. It was the Claimant's position that the decision to dismiss him was not fair within the meaning of Sections 43 and 45 of the Employment Act, 2007, as the Respondent failed to present any valid reasons for the decision.

49. Relying on the case of *Kenya Union of Commercial Food and Allied Workers v Meru North Farmers Sacco Limited [2014] eKLR*, the Claimant argued that his termination was procedurally unfair.

50. He further submitted that RW1 acted as accuser, witness, prosecutor, and judge during the disciplinary process, contrary to the principles of fairness. The case of *Barmao v G4S Kenya Limited [2024] KEELRC 1141* was cited in support of this argument.

51. The Respondent, on its part, submitted that the Claimant admitted to dishonesty in his Curriculum Vitae in his response to the show cause email dated 13<sup>th</sup> August 2024 and during his testimony, thus confirming the existence of valid and fair grounds for dismissal.

52. Citing the case of *George Okello Munyolo v Unilever Kenya Limited [2019] eKLR*, the Respondent argued that it was not required to conclusively prove the Claimant's alleged prior theft at Azelis/Orkila Limited. In its view, it only needed reasonable and sufficient grounds to believe that his continued employment posed a substantial risk to its interests.

53. The Respondent further relied on the case of *Ndung'u v African Mission Health Care (K) (Cause E859 of 2021) [2025] KEELRC 432* in holding that it had valid and fair reasons to dismiss the Claimant.

54. The Respondent further submitted that the Claimant was accorded sufficient time to respond to the allegations, given their seriousness.

55. The Respondent further contended that his demand to be accompanied by an external representative was properly declined, noting that disciplinary hearings are internal processes and the Claimant could not rely on his short tenure to justify an outsider's presence.

56. The Respondent maintained that, under Section 41 of the Employment Act, an employee is only entitled to be accompanied by a fellow employee or a shop-floor union representative. It argued that allowing an outsider would have amounted to a procedural irregularity.

57. According to the Respondent, it fully complied with Sections 41, 43, and 45 of the Employment Act, 2007 in dismissing the Claimant.

58. In his supplementary submissions, the Claimant argued that the Respondent failed to establish an objective sales performance management framework capable of distinguishing good performance from poor performance.

59. He further submitted that the haste with which the Respondent conducted the disciplinary process and ultimately dismissed him demonstrated a mere “box-ticking” exercise aimed at achieving a predetermined outcome.

60. The Claimant maintained that he had demonstrated that his employment was unlawfully terminated, as the Respondent failed to establish valid, lawful, or justified reasons for dismissal and did not follow a fair and proper procedure.

### **Analysis and Determination**

61. 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 Respondent has established a valid and fair reason for terminating the Claimant’s employment;**
- b) Whether the Claimant was afforded procedural fairness before his employment was terminated;**
- c) Whether the Claimant is entitled to the reliefs sought.**

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

62. The question of whether the Respondent established a valid and fair reason for terminating the Claimant's employment is governed by **Sections 43 and 45 of the Employment Act**. These provisions require an employer to demonstrate substantive justification for an employee's termination.

63. Section 43(1) specifically obligates an employer to prove the reasons for termination, failure to which the termination is rendered unfair. Under Section 43(2), the reasons relied upon must be those the employer genuinely believed to exist at the time of termination.

64. Additionally, Section 45(2)(a) and (b) stipulates that a termination is unfair where an employer fails to establish that the reason was valid and fair, and related to the employee's conduct, capacity, compatibility, or its operational requirements.

65. According to the summary dismissal letter, the Claimant's employment was terminated on grounds of alleged consistent poor performance, failure to follow instructions falling within his job description, dishonesty in executing his duties, and undisclosed historical integrity issues.

66. In respect of poor performance, it was alleged that despite receiving feedback and guidance regarding his sales performance for July and August 2024, the Claimant did not demonstrate improvement.

67. Although RW1 claimed that the Claimant's targets had been agreed upon and reduced into Key Performance Indicators (KPIs), no documentary evidence was produced to support this assertion. Consequently, the record does not disclose the Claimant's specific sales targets, KPIs, expected outcomes, or the timelines within which he was expected to achieve them.

68. Further, there was no evidence that the Claimant underwent any performance appraisal to assess his output against the alleged sales targets. Without such appraisal or measurable targets, any conclusion by the Respondent that the Claimant had performed poorly or failed to meet his targets cannot be said to have been based on an objective or fair assessment.

69. In view of the foregoing, the Court finds that the Respondent did not establish that the Claimant's alleged poor performance constituted a valid and fair reason for terminating his employment.

70. The Claimant was also accused of dishonesty during the recruitment process. It was alleged that he failed to disclose that he had previously been dismissed from Azelis Kenya Ltd for theft and that he had submitted false fuel reimbursement claims for vehicle servicing.

71. In his response to the show cause, the Claimant denied having worked for Azelis, clarifying instead that he had been employed by Orkila East Africa. He described the allegations as character assassination. Notably, the Respondent produced no evidence showing that the Claimant had ever been dismissed by Azelis or Orkila for theft. Although RW1 stated that a background check had revealed the Claimant's past employment with Azelis, the Respondent failed to tender any documentation to substantiate the findings of the alleged investigation. Similarly, the Respondent did not produce the Claimant's Curriculum Vitae to demonstrate the omission of the said employment history.

72. Regarding the allegation of falsified fuel reimbursement claims, the Respondent relied on an email dated 19<sup>th</sup> August 2024 in which the Claimant addressed RW1 as follows:

*“Reference to earlier discussion, to clarify, on the Kshs 8,800 on 4/7/2024 fuel expenditure, please note as follows:*

*Kes 6,100 went into minor service for the car.*

*Kes 2,700 fuel dispensed on this expense.”*

73. In response, RW1 questioned why the Claimant had claimed reimbursement for vehicle servicing when he was already receiving a car allowance. The Claimant apologized, explaining that he had not entered the expense under the appropriate “car expenses” column as required.

74. From the Claimant's email reproduced above, it is evident that he had separated the vehicle service expenses from the fuel expenses. Accordingly, it cannot be concluded that he attempted to disguise the service cost as fuel expenditure. If the Claimant's entitlement was strictly limited to fuel reimbursement, the Respondent could simply have settled the fuel component, as the Claimant had expressly stated the amount attributable to fuel. The record does not show that he consolidated the expenses or sought reimbursement of the full **Kshs 8,800/-** without itemizing the specific fuel cost.

75. In light of the foregoing, the Court is not persuaded that this issue constituted a valid and fair ground for terminating the Claimant's employment.

76. The Claimant was also accused of negligence, with the Respondent asserting that he repeatedly failed to follow management instructions. The cited instances included *failure to collect a bank cheque from Axum Enterprises, from Fuga Limited, failure to follow up on payment from Afya Commodities, and failure to implement strategies agreed upon during departmental meetings.*

77. In support of these allegations, the Respondent produced various email exchanges between RW1 and the Claimant. A few are highlighted below.

78. In an email dated 1<sup>st</sup> August 2024, RW1 addressed the Claimant as follows:

*“Please note that Axum cheque is still uncollected by yourself, despite the request by Sheryl last week on Thursday to pick the cheque. On Monday, you had promised to pick the cheque, but again, until yesterday, you had not followed up to collect the cheque.*

*As discussed, you need to be proactive on your duties and not wait to be reminded to dispense your responsibilities...”*

79. In another email dated 1<sup>st</sup> August 2024, RW1 addressed the Claimant as follows:

*“Please note that most of the actions remain unattended, despite the deadline agreed being long past due. Could you please expedite on these. Further, always ensure agreed deadlines are met. In instances where it's not possible, a clear reason should be communicated.”*

80. In another email dated 7<sup>th</sup> August, 2024, RW1 addressed the Claimant as follows:

*“I am greatly concerned by your lack of concern and/or follow-up on tasks assigned to you. On Monday, you were asked to follow up on payment from Afya commodities, but up to Wednesday afternoon, you hadn't followed up on the payment. You had to be reminded again to follow up and no valid reason was given by you for not following up...”*

81. The Claimant did not dispute having received the instructions from RW1 to follow up on the assigned tasks. Further to this, there is no explanation on record from the

Claimant's end as to why he failed to carry out the tasks entrusted to him by RW1, his immediate supervisor. As such, this amounted to negligence of duty.

82. Accordingly, the Court finds that, on this ground, the Respondent has demonstrated the existence of a valid and fair reason to initiate disciplinary action against the Claimant.

### **Procedural fairness?**

83. Regarding procedural fairness, **Section 45(2)(c) of the Employment Act** stipulates that a termination is fair only if the employer fails to prove that it was effected in accordance with a fair procedure. In this regard, **Section 41** requires an employer to give an employee an opportunity to be heard before termination. This includes notifying the employee of the allegations against them and allowing them to make representations, in the presence of a fellow employee or a union representative.

84. The Claimant's grievance concerning the procedure followed by the Respondent prior to the termination of his employment relates to the notice period given for him to respond to the Notices to Show Cause, the adequacy of the particulars of the allegations, and RW1's participation in the disciplinary hearing.

85. In view of the Claimant's assertions, it is necessary to examine the record.

86. The record bears that the Claimant was issued with a Notice to Show Cause via email on 12<sup>th</sup> August 2024. The notice accused him of historical integrity and dishonesty issues arising at the time of his engagement with the Respondent. He was required to respond by the close of business the following day. The Claimant responded through his email of 13<sup>th</sup> August 2024.

87. Following the Claimant's response, RW1 invited him to a disciplinary hearing scheduled for 16<sup>th</sup> August 2024, vide an email dated 14<sup>th</sup> August 2024. The email indicated that the hearing would address the Claimant's integrity issues and unsatisfactory performance, said to have been raised through various emails and face-to-face meetings. The Claimant was also informed of his right to be accompanied by a fellow employee.

88. On 15<sup>th</sup> August 2024, the Claimant wrote to RW1, pointing out that performance issues had not been cited in the earlier Notice to Show Cause. He further stated that he would attend the hearing accompanied by his personal representative, as he had only been with the organization for one month and did not believe any employee could adequately represent him.

89. The disciplinary hearing was subsequently rescheduled by RW1 through an email dated 16<sup>th</sup> August 2024. In a separate email of the same date, RW1 issued another Notice to Show Cause, directing the Claimant to explain why disciplinary action

should not be taken against him for failure to perform his duties expeditiously, late and unprepared attendance at meetings, and poor sales performance. The Claimant was required to respond by Monday, 19<sup>th</sup> August, at 1:00 pm.

90. On 19<sup>th</sup> August 2024, the Claimant responded, protesting that the Respondent had kept altering the allegations against him. He further argued that the response period given in the 16<sup>th</sup> August 2024 notice was too short. He therefore requested detailed particulars of the allegations and sought a reasonable extension of time to provide a substantive response.

91. In an email dated 19<sup>th</sup> August 2024, RW1 rejected the request for an extension, stating that the Claimant could not seek additional time at the last minute. He advised that the Claimant's email of 19<sup>th</sup> August 2024 would be taken as his response to the Notice to Show Cause and invited him to a disciplinary hearing set for 21<sup>st</sup> August 2024. RW1 also informed him that he could only be accompanied by a colleague from the Respondent company, as the process was internal.

92. It is apparent that the Claimant's employment was terminated following the disciplinary hearing held on 21<sup>st</sup> August 2024.

93. From the foregoing chronology, it is evident that the Claimant was afforded less than one day to respond to the Notices to Show Cause dated 12<sup>th</sup> and 16<sup>th</sup> August 2024. I say so, noting that 16<sup>th</sup> August 2024 fell on a Friday, meaning the intervening period was a weekend. In effect, the Claimant was required to respond by the next business day, which happened to be a Monday. The Claimant's request for extension of time was rejected solely on the basis that it was made close to the deadline of the submission of his response, which, in this Court's respectful view, was not a valid justification for denying him more time.

94. In *Nebert Mandala Ombajo v Institute of Certified Public Accountants of Kenya (ICPAK), Nakuru Civil Appeal No. 62 of 2018*, the Court of Appeal emphasized that disciplinary proceedings carry potentially grave consequences for an employee. The Appellate Court held that, where serious allegations are involved, an employee must be granted adequate time to prepare psychologically and, where necessary, seek appropriate representation or advice.

95. In the present case, the Claimant faced the prospect of losing the source of his livelihood. Granting him more time to respond substantively to the allegations was, therefore, a reasonable request.

96.As stated in *Nebert Mandala Ombajo v ICPAK (supra)*, any prejudice that an employer might suffer by allowing additional time could be mitigated by sending the employee on compulsory leave or interdicting him pending the conclusion of the disciplinary process.

97.Similarly, in the instant case, the Respondent would not have suffered prejudice by allowing the Claimant additional time, as it could have temporarily relieved him from duty if his presence at the workplace was perceived as prejudicial.

98.In view of the above, the Court is persuaded that the limited time afforded to the Claimant to respond to the Notices to Show Cause materially impaired his ability to mount a proper defence.

99.The Claimant also contended that the particulars of the allegations in the Notice to Show Cause dated 16<sup>th</sup> August 2024 were insufficient.

100. In this regard, the said notice to show cause cited the Claimant for “*coming to meetings unprepared*” and “*lack of punctuality in meetings.*” These allegations were broad and unspecific, as RW1 did not identify the particular meetings in which the Claimant was allegedly attended late or unprepared. To enable the Claimant to respond effectively, it was necessary for RW1 to provide specific particulars of the alleged infractions.

101. In this regard, the Court agrees with the holding in *Ol Pejeta Ranching Limited v David Wanjau Muhoro [2017] eKLR*, where the Court of Appeal found that the allegations against an employee were general and lacking in specificity, hence rendering the termination unfair.

102. As to RW1's participation in the disciplinary hearing, the Claimant argued that he acted as accuser, witness, prosecutor, and judge.

103. RW1 asserted that, as the Claimant's immediate supervisor, his presence was necessary. He also denied chairing the disciplinary hearing.

104. Notably, the Respondent did not produce minutes of the disciplinary hearing, making it impossible to determine RW1's level of involvement or the capacity in which he participated in the hearing. Given that RW1 was the complainant in respect of several allegations, particularly those touching on the Claimant's performance of duty, the rules of natural justice required that he should not have participated as a decision-maker in the Claimant's case.

105. Under **Section 45(2)(c) of the Employment Act**, the burden rested on the Respondent to demonstrate procedural fairness in effecting the termination.

Without the minutes of the disciplinary hearing, the Court cannot conclude that the

rules of natural justice were observed in that RW1 did not participate in the decision-making.

106. Taking all the circumstances into account, the process followed by the Respondent lacked the essential elements of a fair hearing, namely, prior and adequate notice, sufficient particulars of the allegations, and an impartial adjudicatory process. The Claimant was ultimately denied procedural fairness.

107. The Court therefore arrives at the inescapable conclusion that the termination of the Claimant's employment was procedurally flawed and unlawful.

#### **Reliefs?**

108. While the Court finds that the Respondent had a valid and fair reason to terminate the Claimant's employment, the flawed procedure employed in effecting the termination renders the dismissal unlawful. Accordingly, the Court awards the Claimant compensatory damages equivalent to two (2) months' salary. In determining this award, the Court has taken into account the relatively short duration of the employment relationship and the Claimant's contribution to his dismissal.

109. The Claimant's claims for damages relating to breach of his right to fair labour practices, right to fair administrative action, and claims based on legitimate and reasonable expectations are hereby declined.

**Orders**

110. Against this background, the Court enters Judgment in favour of the Claimant against the Respondent as follows: -

- (a) A declaration is hereby issued that the termination of the Claimant's employment was procedurally unfair and unlawful.**
- (b) The Claimant is awarded compensatory damages of Kshs 1,096,000.00, representing two (2) months of his last gross salary.**
- (c) Interest shall accrue on the amount in (b) at the applicable court rates from the date of this judgment until full payment.**
- (d) The Claimant is also entitled to the costs of this suit.**

**DATED, SIGNED and DELIVERED at NAIROBI this 27<sup>th</sup> day of February 2026.**

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**STELLA RUTTO**

**JUDGE**

**In the presence of:**

For the Claimant

Ms. Nyangasi instructed by Mr. Aringa

For the Respondent

Mr. Raingo instructed by Mr. Ayisi

Court Assistant

Mohammed

**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.

**STELLA RUTTO**

**JUDGE**