



**Mwanje v National Police Service Commission (Civil Appeal
75 of 2020) [2025] KECA 317 (KLR) (21 February 2025) (Judgment)**

Neutral citation: [2025] KECA 317 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL 75 OF 2020
HM OKWENGU, HA OMONDI & JM NGUGI, JJA
FEBRUARY 21, 2025**

BETWEEN

ROSELYNE LUVEGA MWANJE APPELLANT

AND

NATIONAL POLICE SERVICE COMMISSION RESPONDENT

*(An Appeal from judgment of the Employment and Labour Relations Court at
Kisumu (M.N. Nduma, J) dated 7th March, 2019 in ELRC Petition No. 28 of 2018)*

JUDGMENT

1. The National Police Service, which incorporated officers of former the Kenya Police Service and the Administration Police Service is established under Article 243 of *the Constitution*. Under Article 244, of *the Constitution*, the objects and functions of the National Police Service are stated as:
 - i. To strive for the highest standards of professionalism and discipline amongst its members;
 - ii. prevent corruption and promote and practice transparency and accountability;
 - iii. complying with Constitutional standards of human rights and fundamental freedoms;
 - iv. train staff to the highest possible standards of competence and integrity, and to respect human rights and fundamental freedoms and dignity; and
 - v. foster and promote relationships with a broader society.
2. As per Article 246(1) of *the Constitution*, the National Police Service Commission (the Commission), who is the respondent herein, was established. Under Article 246(3) the Commission has been given powers to:



- a. recruit and appoint persons to hold or act in offices in the service, confirm appointments, and determine promotions and transfers within the National Police Service;
 - b. observing due process, exercise disciplinary control over and remove persons holding or acting in offices within the service; and
 - c. perform any other functions prescribed by National Legislation.
3. Under Section 7 of *National Police Service Act*, all the employees of the former Police Force and Administration Police were to become members of the National Police Service, subject to vetting by the Commission to determine their suitability and competence to continue serving under the National Police Service.
 4. The *National Police Service Commission Act* is a statute which was enacted to provide for the operations of the Commission. Under Section 12 of that Act, the Commission is required to ensure a standard of service in the National Police Service that is in accordance with the objects and functions of the National Police Service as set out under Article 244 of *the Constitution*.
 5. The appellant, Roselyne Luvega Mwanje, was one of the officers from the former Kenya Police Force who appeared before the Commission for vetting for her suitability and competence to serve, to be determined. The appellant had been employed as a Police Constable on 4th September, 1993, and had risen through the ranks to the position of Inspector of Police. At the time of her vetting, she was the Traffic Base Commander of Kabras Sub-base. She had formerly worked as OCS Mwata Weigh Bridge, OC Crime Mtito-Andei Police Station, and had also worked in Kisumu, Oyugis, Migori and Kisii.
 6. Following her vetting by the Commission, the appellant was found unsuitable to serve due to lack of financial probity and integrity, as a result of which she was removed from the service on 6th December, 2016. She appealed the decision of the Commission in accordance with the National Police Service (Vetting) Regulations, but her appeal was unsuccessful.
 7. The appellant thereafter moved to the Employment and Labour Relations Court (ELRC), where she filed a petition contending that the Commission had breached her fundamental rights and freedoms on Fair Administrative Action and fair hearing under Article 47 and 50 of *the Constitution*. She alleged that the Commission failed to comply with the vetting rules, and relied on matters and information that had not been submitted to it, without giving the appellant any notice of the same, or giving her the opportunity to call witnesses. She, therefore, urged the Court to quash the entire proceedings of the Commission, reinstate her to her position and award her damages for unfair removal from service as well as compensation for the violation of her fundamental rights and freedoms.
 8. When the appellant's petition came up for hearing before the ELRC, the petition was consolidated with nineteen similar petitions that had been filed by nineteen other police officers who had also similarly been declared unfit to serve in the National Police Service. There was no oral evidence adduced by the petitioners, but the trial court relied on affidavits sworn in support of the petitions and reply to the petitions, as well as written submissions filed by counsel, that were orally highlighted.
 9. In his judgment, the learned Judge identified two issues for determination. These were, whether the petitioners' right to a fair hearing and fair administrative action, were violated by the Commission; and whether the petitioners were entitled to the reliefs sought. He noted that each of the petitioners were confronted at the hearing with issues of financial impropriety with regard to salaries and Mpesa transactions; and that the petitioners' complaint was that their rights to fair hearing and fair administrative action were breached because the specific information had not been made available to them before the hearing.



10. The Judge noted that in regard to the appellant, the Commission found that the financial transactions in her bank statement were incommensurate with her declared and expected income, and her explanation was not tenable. The learned Judge found that before the hearing, the petitioners had all been requested by the Commission to fill in Wealth Declaration Forms and produce their bank and Mpesa statements, Tax Clearance Certificates and Copies of Education and Professional Certificates, and that during their hearing they were questioned on the various transactions contained in their statements, and, therefore, they were not ambushed by the Commission but had ample opportunity to prepare for the vetting and to make written and oral representations at the vetting.
11. The learned Judge was satisfied that the Commission provided adequate notice and information on the matters that the petitioners were to be examined on during the vetting hearing; that the record of the hearings showed that each of the petitioners provided answers to all the questions that they were asked during the vetting; and that none of them requested for more time or adjournment to respond to the questions. The learned Judge was satisfied that the Commission did not flout any constitutional, statutory or regulatory provision guarantying rights or freedoms to the petitioners, and that the Commission adhered to the rules of natural justice. The learned Judge concluded that all the petitioners failed the integrity test and were lawfully and fairly removed from service by the Commission following their vetting. The learned Judge therefore dismissed the petitions and awarded costs to the respondent.
12. In her memorandum of appeal, the appellant raised six grounds of appeal in which she faulted the learned Judge for:
 - i. dismissing her petition when she had proved that the Commission did not meet the threshold set out in regulation 4(c) and (e) of the National Police Service (Vetting) Regulations 2013;
 - ii. in holding that the appellant was given fair hearing when the vetting process was done in violation of the appellant's constitutional rights and rights to natural justice;
 - iii. in upholding the vetting process when the proceedings were a nullity and void for being conducted contrary to Regulation 25(1), (2), (4) and (7) of the National Police Service (Vetting) Regulations 2013;
 - iv. in upholding the vetting process when the mandatory provision of Regulation 7 of the National Police Service Vetting Regulations 2013, were not met;
 - v. in holding that the vetting Board did not flout any constitutional, statutory or regulatory provision when the exercise was trial by ambush; and
 - vi. in failing to consider the appellant's written submissions thus leading to resultant miscarriage of justice to the appellant.
13. In support of the appeal the appellant filed written submissions through her counsel, Bruce Odeny & Company Advocates, in which he compressed the six grounds of appeal into three. These are: whether the vetting process was conducted in a lawful manner;

whether the vetting process was conducted in a manner that violated the appellant's constitutional rights; and whether the learned Judge considered the appellant's written submissions, failure of which occasioned miscarriage of justice to the appellant.
14. The appellant argued that the outcome of the vetting process did not conform with the *National Police Service Act*, for several reasons. First, it offended the provisions of Section 7 of that Act as the Commission did not adhere to the vetting regulation rules, such as, being impartial, considering the



- appellant's past record and summoning any witnesses with complaints to give more information before them nor did it give the appellant sufficient notice of the complaints against her. Secondly, that the Commission failed to comply with Section 4 of the Fair Administrative Actions Act, by failing to give the appellant reasons for the actions taken against her and failing to issue notice of charges against her in advance.
15. The appellant maintained that the Commission's findings and decision was not supported by any analysis or explanation arising out of the facts that were before them; that none of the officers whose transaction with the appellant the Commission queried was called to shed light on the transactions; and that the appellant explained during the vetting process each of the transactions that was queried.
 16. The appellant contended that the Commission did not comply with the statutory obligation set out in Section 4 of the Fair Administrative Actions Act, and instead, shifted the burden to the appellant. She relied on *George Burugu Ikiara -vs- National Police Service Commission [2021] eKLR*, in which Justice Rika underscored the obligation of the Commission to assess information availed to it and if there was any adverse information to notify the officer about such information.
 17. The appellant also complained about the composition of the vetting panel pointing out that in the first panel, there were only two Commissioners, while in the second panel there were four Commissioners, and that in addition, there were three other Commissioners who were not involved at all in the appellant's vetting but merely confirmed the decision that was made against the appellant. The appellant further faulted the Commission for failing to address the three-step process, in assessing her suitability. The process required not just addressing financial probity, but also interrogating her integrity, including her record in the force; and adopting best practices as required under Section 7(2) of the *National Police Service Act*.
 18. In addition, the appellant faulted the review process pointing out that the review of the decision made against her was undertaken by four Commissioners who had initially participated in the two vetting sessions, and who were not eager to review their earlier decision, but reprimanded the appellant instead of considering her case for review. She argued that the learned Judge made no attempt to interrogate the review process.
 19. On whether the vetting process was conducted in a manner that violated the appellant's constitutional rights, the appellant faulted the learned Judge for not finding that her constitutional rights were violated as the gravamen of her grievance was that she was not subjected to due process nor was she given a fair hearing during her vetting. The appellant argued that the Commission was expected to analyze the information that was given by the appellant, and any complainants from members of the public, and give the appellant any serious issues of concern to be addressed before the date of the vetting to enable her explain any grey areas and address any complaints filed against her.
 20. She reiterated that where necessary, the Commission was to summon complainants as witnesses, and thereafter make its findings and recommendations regarding the suitability of the officer considering length in service, discipline and integrity. The appellant contended that she was discriminated against as the Commission did not comply with Article 47 and 50 of *the Constitution*. Further, the appellant faulted the learned Judge for introducing integrity as a ground for her removal while the reasons for her removal was only lack of financial probity.
 21. Finally, the appellant submitted that there was a miscarriage of justice because the learned Judge failed to consider her submissions in which she framed issues for determination, and merely made general conclusions without addressing the appellant's specific grievance. The Court was therefore urged to allow the appeal.



22. The Commission also filed written submissions through its litigation counsel, Brenda Opiyo. The learned counsel submitted that the appellant was removed from service due to lack of financial probity; that the decision was arrived at after it was established that her declared earnings were incommensurate with the financial transactions noted in her statement; and that her explanations before the vetting panel were untenable. Learned counsel argued that the appellant after being served with the decision regarding her vetting, applied for review of the decision, but even when she appeared for the review of the decision, she was not able to justify the source of the huge transaction amounts, nor could she explain why she was sending money to her seniors.
23. In regard to the vetting process, counsel for the Commission pointed out that under Section 11 of the *National Police Service Act*, it could gather information by any means it considers appropriate and conduct investigations on any matters within its mandate. Counsel noted that under Regulation 18 of the National Police Service (Vetting) Regulations, 2013, the Commission was only obligated to supply an officer with a summary of complaints if the same is received against an officer, but if no complaint was received, then there was nothing to be supplied. Counsel submitted that the appellant was invited for her vetting after she had filled out and submitted her Wealth Declaration Forms and submitted data in the form of her financial statements, on which she was questioned. Therefore, she had an opportunity to address all the matters that were relevant to the vetting before it took place, because she was questioned on matters that originated from her, and there was no need for the Commission to supply the same information to her.
24. Counsel for the Commission relied on *George Kingi Bamba - vs- National Police Service Commission – Nairobi ELRC*, Petition No. 87 of 2016 and *Veronica Leiro Simintoi & Dorothy Adhiambo Okach -vs- NPSC*, Kisumu Civil Appeal No. 83 & 84 of 2018. Counsel added that if the appellant felt that the Commission had not availed information that she was questioned on, she ought to have requested for more time, and or an adjournment in order to prepare further and to provide additional documents, but she did not make any such requests.
25. Counsel argued that the Commission did not flout any constitutional, statutory or regulatory provisions; and that it adhered to the rules of natural justice in the manner that it conducted and arrived at its decision. Further, that the vetting was a combination of various perimeters and the lack of a complaint against an officer did not exempt the officer from the vetting exercise or guarantee the officers success in the vetting exercise.
26. As to whether the vetting process was null and void for being conducted contrary to Regulations 25(1, (2), (4) and (7) of the National Police Service (Vetting) Regulations, 2013, Counsel for the Commission maintained that the process was legal. She relied on *Masinde Okutoyi & others -vs- National Police Service Commission & another* [2014] eKLR; and *Republic -vs- National Police Service Commission exparte Daniel Chacha Chacha*, [2016] eKLR, arguing that under Section 13 the Commission could establish committees for carrying out its functions, and co-opt persons whose knowledge and skills were necessary for the functions of the Commission, although such co-opted persons did not have power to vote.
27. Further on the issue whether the learned Judge failed to consider the appellant’s submissions, counsel for the respondent submitted that the appellant’s petition was consolidated with other petitions and heard as one, at the request of her counsel, and that the appellant never complained to the court about the consolidation. Counsel pointed out that the learned Judge did consider the facts relating to the appellant and addressed specifically the fact that she was removed from the service on account of lacking financial probity due to the fact that she was unable to justify her source of income and to explain why she was sending money to her seniors and colleagues working within the traffic department. Counsel



for the Commission argued that the learned Judge judiciously addressed his mind to the issues raised in the appellant’s petition, and therefore the appellant’s petition was frivolous.

28. This being a first appeal, this Court’s duty as set out in rule 31(1)(a) of the Court of Appeal Rules, is to reappraise the evidence and to draw its own conclusions on the facts emerging from the evidence. In *Peters v Sunday Post Limited* [1958] EA 424, the Court held that:

“whilst an appellate court has jurisdiction to review the evidence to determine whether the conclusions of the trial judge should stand, this jurisdiction is exercised with caution; if there is no evidence to support a particular conclusion, or if it is shown that the trial judge has failed to appreciate the weight or bearing of circumstances admitted or proved, or has plainly gone wrong, the appellate court will not hesitate so to decide. *Watt v Thomas*, [1947] 1 All ER 582; [1947] AC 984, applied.”

See also *Selle v Associated Motor Boat Company Ltd*, [1968] EA 123.

29. Having carefully perused the record of appeal, the rival submissions made by the respective parties, the authorities cited by the respective counsel and the law, the main issue for this Court’s determination is whether the appellant’s vetting process was carried out in accordance with the law and proper procedure, and whether the appellant’s fundamental rights were violated during the vetting process. Thus, the focus is on the process rather than the merit of the decision of the Commission.
30. As stated at the beginning of this judgment, the Commission had a constitutional mandate to strive for the highest standards of professionalism and discipline amongst members of the National Police Service, in order to prevent corruption, promote and practice transparency and accountability within the service, while complying with the constitutional standards of human rights and fundamental freedoms.
31. The vetting process is a process that was included under the *National Police Service Act*, with the aim of achieving the objectives of the Act, by ensuring that all the officers who become members of the National Police Service, are suitable and competent to achieve the objectives of the Act. This entailed the Commission complying with *the Constitution* and the relevant statutes in the vetting process in order to achieve the objectives of the process.
32. In accordance with Section 7(4) of the *National Police Service Act*, regulations for vetting known as National Police Service (Vetting) Regulations, 2013, were published. Those regulations provided the principles and procedure for vetting pursuant to which Articles 47 and 50 of *the Constitution* are among the values and principles incorporated in the vetting process.
33. Article 47 of *the Constitution* states as follows:
- “(1) Every person has right to fair administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
 2. If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.
 3. Parliament shall enact legislation to give effect to the rights in clause 1 ...”



34. In accordance with Article 47(3), Parliament has enacted the Fair Administrative Actions Act, Section 4 of which states as follows:

- “(1) Every person has the right to administrative action which is expeditious, efficient, lawful, reasonable and procedurally fair.
2. Every person has the right to be given written reasons for any administrative action that is taken against him.
 3. Where an administrative action is likely to adversely affect the rights or fundamental freedoms of any person, the administrator shall give the person affected by the decision:
 - a. prior and adequate notice of the nature and reasons for the proposed administrative action;
 - b. an opportunity to be heard and to make representations in that regard;
 - c. notice of a right to a review or internal appeal against an administrative decision, where applicable;
 - d. a statement of reasons pursuant to Section 6;
 - e. notice of the right to legal representation, where applicable;
 - f. notice of the right to cross-examine or where applicable; or
 - g. information, materials, and evidence to be relied upon in making the decision or taking the administrative action.
 4. The administrator shall accord the person against whom administrative action is taken an opportunity to:
 - i. attend proceedings, in person or in the company of an expert of his choice;
 - ii. be heard;
 - iii. cross-examine persons who give adverse evidence against him; and
 - iv. request for an adjournment of the proceedings, where necessary to ensure a fair hearing.
 5. Nothing in this section shall have the effect of limiting the right of any person to appear or be represented by a legal representative in judicial or quasi-judicial proceedings.
 6. Where the administrator is empowered by any written law to follow a procedure which conforms to the principles set out in Article 47 of the constitution, the administrator may act in accordance with that different procedure”



35. Article 50 of *the Constitution* which provides for right to fair hearing states:

“50(1) Every person has a right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or if appropriate, another independent and impartial tribunal or body.

36. In *County Assembly of Kisumu, Gabriel O. Ochieng & County Executive of Kisumu v Kisumu County Assembly Service Board, Ann Atieno Adul, Eliud Owen Ojuok, Nicholas Stephen Okola, Attorney General, Nelco Masanya Sagwe & Peter Odero Anditi* [2015] KECA 397 (KLR), the Court of Appeal (Maraga, Musinga & Murgor JJ A) had this to say on due process:-

“71. The primary meaning of the rule of law has anybody who has anything to do with the law knows, ‘is that everything must be done according to law.’ In relation to governmental power, this means that every government authority must justify its action, which deprived an individual of his right or infringes of his liberty, as authorized by law. This ‘is the principle of legality.’ But the rule of law demands more than just the principle of legality. It demands, and this is the second meaning of the rule of law, ‘that government should be conducted within a framework of recognized rules and principles which restricts discretionary power.’ This is the principle of due process.

72. Due process is a fundamental aspect of the rule of law. Due process is the right to a fair hearing. The right to a fair hearing encapsulated in the *audi alteram partem* rule (no person should be condemned unheard) and founded on the well-established principles of natural justice, is not a privilege to be graciously accorded by Courts or any quasi-judicial body to parties before them. As is clear from Articles 47 and 50 of our Constitution, it is a constitutional imperative.

73. Whereas the right to a fair hearing varies from one case to another depending on the subject of the matter in issue, its irreducible minimum is now well settled. In granting that right, the Court or the administrative body or person concerned should not make it a charade by taking perfunctory actions for the sake of running through the motions to be seen to have complied with it. The person charged is entitled to what, in legal parlance is referred to as the right to ‘notice and hearing.’ That means he must be given written notice which must contain substantial information with sufficient details to enable him ascertain the nature of the allegations against him. The notice must also allow sufficient time to interrogate the allegations and seek legal counsel where necessary. In the epigram of the indomitable Lord Denning in *Kanda v. Government of Malaya*.

‘If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him: and then he must be given a fair opportunity to correct or contradict them’”.

37. Thus, the appellant was entitled to a process that was expeditious and procedurally fair, and which included *inter alia*, prior notice of the proceedings, the complaints if any, an opportunity to be



heard and to make representations, reasons for the decisions and notice of a right to review of the decision. These principles were all incorporated in Regulation 4 of National Police Service (Vetting) Regulations, 2013, as follows:

- a. Subject to Regulation 8 all officers of the service shall undergo vetting, individually;
- b. the vetting process shall be implemented consistently and the same procedural principle shall be applied in all cases;
- c. vetting shall be done in accordance with the values and principles set out in Articles 10, 27, 47, 50 and 232 of *the Constitution*;
- d. vetting shall take into account the need to protect national security as defined in Articles 238 of *the Constitution*;
- e. the Commission shall be guided by the principles and standards of impartiality, natural justice, and international best practice;
- f. the vetting process shall not be bound by strict rules of evidence and the proof applicable shall be that of a balance of probabilities;
- g. vetting shall be done in a transparent manner allowing for the person undergoing vetting to know and assess the information that has been used by the Commission to reach its decision.’

38. It is a common ground that the appellant appeared before the Commission for vetting in accordance with Section 7 of the *National Police Service Act*; and that there was initially no specific complaint against her. She appeared before the vetting Board on 25th May, 2016. It is not disputed that the appellant was given prior notice of the date she was required to appear for the vetting. In accordance with Regulation 13 of the National Police Service (Vetting) Regulations, 2013, she was required to submit to the Commission a self-assessment form, duly completed declaration of income, assets and liabilities, bank statements for the previous two years of all bank accounts, personal and business that she, her spouse, and dependents under 18 years maintain, and a certificate of Tax compliance. Her vetting on appearing before the vetting panel focused on the documents that she had availed. Of particular interest were mobile money transactions from her Mpesa statements from where it was observed that she had many mobile transactions transfers which involved sending money to her senior officers in the traffic department, which transactions were not consistent with her income.
39. The appellant was given a second opportunity to appear before the vetting panel on 18th August, 2016, to produce documents or information that she may not have had on the 25th May, 2016, to clarify the mobile money Mpesa transactions. On that day, she was given opportunity to clarify the mobile money Mpesa transactions involving the senior officers. She was also questioned about complaints that had emanated from Shebarere Patrol Base within Kabras Police Station, concerning accidents involving trucks from West Kenya Sugar Company.
40. The vetting panel arrived at its decision after establishing that the appellant had substantial frequent mobile money transactions with other officers and civilians, which she could not plausibly explain as the vetting panel found her explanations attributing the mobile money transactions to loans, welfare contributions and personal business, unconvincing.
41. It is following this vetting process that the Commission made a decision dated 6th December, 2016, that the appellant had been sending money to her senior officers in the traffic department, and that taking into account her earnings as declared, there was disparity between the amounts transacted by her and her earnings, and that the explanations that she had given for the mobile money transactions were not



plausible. Consequently, the Commission concluded that the appellant lacked financial probity as the mobile money transactions were not straight forward, and therefore she was not suitable for retention in the service.

42. It is not disputed that the appellant filed an application for review and appeared before the vetting review panel on 19th July, 2017, whereupon, she explained again why she sent or received money from her senior officers. She maintained that she was not in Kabras when the complaints regarding West Kenya Sugar Company trucks were made. Upon the Commission reviewing her matter the Commission in its decision made on 22nd August, 2017, upheld its decision that the appellant had failed the vetting and should therefore be removed from service.
43. From the record of the vetting proceedings, it is evident that the appellant was informed of the date of the proceedings and requested to supply appropriate documents which she did, and these documents formed the subject of her vetting. Her complaint that she was not given a fair hearing has no substance, as the proceedings showed that she appeared before the Board and was heard, the very first time, and given an opportunity a second time, when she appeared before the Board again to give further explanation. We note that her interview was based on information which had come from her and the issue of her being ambushed did not arise.
44. During her second appearance before the vetting panel, a complaint arose regarding trucks from West Kenya Sugar Company. This information had not been given to her in advance. Be that as it may, no prejudice was caused to her, as the vetting panel did not base its decision on this complaint.
45. We find that the appellant's vetting was done in accordance with the vetting regulations, and that the appellant's rights under Article 50 and Article 47 were not violated as she was given a fair hearing by the vetting panel as provided under the law. The panel found her unsuitable to serve because of her financial probity and gave reasons for its decisions. She was also given a right to a review, which right she exercised and her review was heard by a review panel of the Commission which upheld the finding that she was unsuitable to serve.
46. The appellant has complained about the composition of the vetting panel but we find no substance in this complaint. During the first hearing the panel was chaired by Commissioner Ronald Musengi and had Commissioner Murshid Mohammed present, apart from five other co-opted members. On the 18th August, 2016, the vetting panel was chaired by Commissioner Johnson Kavulundi, who was the Chairman of the Commission, and Commissioner Mary Owuor, was also present. In addition, there were five other co-opted members. We find that the panels were properly constituted as they were composed of a least two Commissioners and co-opted members whom under the vetting regulations, the Commission had powers to co-opt.
47. The Commission's decision of 6th December, 2016, recommending the removal of the appellant from service was signed by Commissioner Murshid Mohammed and Ronald Musengi, and it was confirmed by the Commission Board through a meeting held on 6th December, 2016, which meeting was attended by seven Commissioners, who were, the Chairman, Commissioner Johnson Kavulundi, Commissioner Joseph Boinet, Commissioner Mary Owuor, Commissioner Samuel Arachi, Commissioner Joel Kitili and the two Commissioners who had made the recommendation.
48. The vetting review panel was Chaired by the Commission Chairman, Commissioner John Kavulundi and had three other Commissioners, Commissioner Murshid Mohammed, Commissioner Ronald Musengi and Commissioner Mary Owuor, together with two other co-opted members who were present. The vetting panel recommended the removal of the appellant from service in accordance with



the previous decision, and this was confirmed in a Board meeting held on 7th November, 2017, where the seven Commissioners were all present.

49. We have deliberately set out in detail the composition of the vetting panels and the review panels, and it is apparent that the panels were properly constituted and decisions made in accordance with Rule 25 of the National Police Service (Vetting) Regulations, 2013. Although there were co-opted members present, the decision was made and signed by the Commissioners. In the circumstances, we reject the appellant's contention that the vetting proceedings were a nullity.
50. The upshot of the above is that, the learned Judge came to the correct conclusion in finding that the vetting process and the review process were properly undertaken in accordance with the due process provided in law. Consequently, the appellant's constitutional rights were not violated. In the circumstances, we find no merit in this appeal, it is dismissed with costs.

DATED AND DELIVERED AT KISUMU THIS 21ST DAY OF FEBRUARY, 2025.

HANNAH OKWENGU

.....

JUDGE OF APPEAL

H.A. OMONDI

.....

JUDGE OF APPEAL

JOEL NGUGI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

