



Mukopi & 9 others v Nairobi County Government & 2 others (Cause E1045 of 2023) [2025] KEELRC 146 (KLR) (30 January 2025) (Ruling)

Neutral citation: [2025] KEELRC 146 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E1045 OF 2023
L NDOLO, J
JANUARY 30, 2025**

BETWEEN

GEORGE KHAEMBA MUKOPI & 9 OTHERS & 9 OTHERS & 9 OTHERS CLAIMANT

AND

NAIROBI COUNTY GOVERNMENT 1ST RESPONDENT

PUBLIC SERVICE COMMISSION 2ND RESPONDENT

NAIROBI COUNTY PUBLIC SERVICE BOARD 3RD RESPONDENT

RULING

1. This ruling flows from the Notice to Produce dated 12th March 2024, by which the Claimants require the Respondents to produce all books, papers, letters, copies of letters and other writings and documents in the Respondents’ custody, possession or power containing any entry, memorandum or minute relating to the matters in question in this suit and in particular:
 - a. Copies of any performance reviews/evaluations for; George Mukhopi, Hellen Kalekye, Victoria Nyaboke, Phelix Odongo, Vicky Mukami, Lydia Kiplagat, Nancy Wanjiku Kariuki, Maurine Achieng, Anthony Kadunda and Shadrack Mbila during their period of service at the Nairobi County Public Service Board (NCPSB);
 - b. Copy of any evaluation of the need/departmental need assessment for the three roles of; Senior Supply Chain Management Officer, Supply Chain Management Officer I, and Supply Chain Management Officer II submitted by the Health and Wellness Department/HR to the NCPSB;
 - c. Copy of any request to the NCPSB to approve the declaration of vacancies for the three roles;



- d. Copy of any minutes for the meeting where the NCPSB considered and approved; the Health and Wellness/HR need assessment for the three roles and the request for declaration of vacancies for the three roles;
 - e. Copies of job advertisements for the three roles;
 - f. Copy of any minutes for the meeting where the NCPSB appointed a screening panel and set/ approved a screening criteria, including the names of the panelists;
 - g. Copy of the screening criteria to be adhered to by the screening panel;
 - h. Copies of any minutes for the meeting of the NCPSB appointing a shortlisting panel and shortlisting criteria, including names of the panellists;
 - i. Copy of the approved shortlisting criteria;
 - j. Copy of the profile of shortlisted candidates for the three roles, indicating their names, ethnic group, gender, disability status, qualifications (including their education and professional membership affiliations), and experience;
 - k. Copies of the resumes/curriculum vitae of all the shortlisted candidates for the three roles;
 - l. Copies of certificates of all the shortlisted candidates for the three roles;
 - m. Copy of minutes of the meeting where the NCPSB considered and approved the shortlisted candidates;
 - n. Copy of signed list of shortlisted candidates who attended the interviews for the three roles;
 - o. Copy of notes taken by interviewers assessing the candidates who attended the interviews for the three roles;
 - p. The list of names of interviewed candidates who passed the interviews and filled the three roles;
 - q. Copies of the resumes and certificates of the interviewed candidates who passed the interviews;
 - r. Copy of the minutes of the NCPSB meeting that considered and approved the appointment of the interviewed candidates;
 - s. Copies of anonymised terms of employment/employment contracts of the three roles;
 - t. Memo communicating the appointment of candidates for the three positions and inviting them for orientation;
 - u. A copy of the Nairobi County Public Service HR Manual;
 - v. A copy of the Nairobi County Public Service Recruitment and Selection Policy.
2. The 1st and 3rd Respondents oppose the Notice to Produce by a replying affidavit sworn by the Board Secretary and Chief Executive Officer, Nyagara Nyamwaya on 28th October 2024.
 3. Nyamwaya accuses the Claimants of engaging in a fishing expedition and states that some of the information sought in the Notice to Produce is protected under the Data Protection Act.
 4. It is deponed that the Claimants' claim is pegged on their recruitment by the defunct Nairobi Metropolitan Services and the applicable terms of service and not on violation of the recruitment process for the listed positions.



5. In a supplementary affidavit sworn by the 1st Claimant, George Khaemba Mukopi on 10th December 2024, it is deponed that the documents listed in the Notice to Produce are necessary for the just determination of the dispute before the Court.
6. Mukopi denies that production of the listed documents would be in violation of the Data Protection Act.
7. It is a basic legal principle that a party seeking production of documents by the opposite party must demonstrate the relevance and necessity of the documents.
8. In *Selecta Kenya Gmbh & Co Kg & another v Peter Wanderi* [2015] eKLR it was held that discovery should not be used as a fishing expedition and it should therefore not be allowed unless the documents sought are necessary.
9. In *Ramji Megji v Kisii University* [2016] eKLR it was held that the purpose of discovery is to aid a party to access vital documents that may be in the exclusive custody of the opposing party.
10. In this case, apart from listing a litany of documents, the Claimants did not bother to demonstrate how the documents sought would aid their case. The Court therefore has no basis upon which to order production.
11. The Notice to Produce dated 12th March 2024 is consequently overruled with costs in the cause.
12. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 30TH DAY OF JANUARY 2025

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JUDGE

Appearance:

Mr. Okubasu for the Claimant

Mr. Gwandaruru for the 1st and 3rd Respondents

Mr. Koome h/b for Ms Wangeci for the 2nd Respondent

