



**Beiti v National Bank of Kenya Limited (Cause E496 of 2020)  
[2025] KEELRC 549 (KLR) (27 February 2025) (Judgment)**

Neutral citation: [2025] KEELRC 549 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E496 OF 2020  
B ONGAYA, J  
FEBRUARY 27, 2025**

**BETWEEN**

**EDWIN KIPCHUMBA BEITI ..... CLAIMANT**

**AND**

**THE NATIONAL BANK OF KENYA LIMITED ..... RESPONDENT**

**JUDGMENT**

1. The claimant filed the statement of claim on 08.09.2020 through Ayieko Kangethe & Company Advocates. The claimant prayed for judgment against the respondent as follows:
  - a. 12 months' salary for unfair and unlawful termination of employment at Kshs.148, 400.00 per month thus Kshs.1, 780,000.00.
  - b. Outstanding disturbance allowance during transfer from Mombasa to Nairobi Kshs. 296, 800.00.
  - c. Withheld bonus for 2018 Kshs.25,000.00.
  - d. General damages.
  - e. Interest.
  - f. Certificate of service.
  - g. Costs.
2. The claimant's case was that he was employed by the respondent on 06.08.2012 as a graduate clerk and as at termination on 09.06.2020 he was the Associate Relationship Manager earning Kshs.148, 400.00 per month. His further case was that he was abruptly transferred to Eastleigh Branch in Nairobi designated as Business Relationship Office (or Business Banker) and was demoted to frustrate him but he could not resign because he owed the respondent loaned cash. The parties had previously been in a



legal battle in Mombasa ELRC Cause 824 of 2016 about alleged interference in the contract of service between the parties.

3. The respondent filed the statement of response dated 14.10.2020 through Munyao Muthama & Kashindi Advocates. The respondent prayed that the claimant's suit be dismissed with costs to the respondent. The respondent's case was as follows:
  - a. It was admitted parties were in a contract of service.
  - b. The claimant had resigned by letter of 05.10.2016 but rescinded by his letter of 06.10.2016. The resignation had been accepted on 06.10.2016. The arising dispute was subject of Mombasa ELRC Cause 824 of 2016 and Court reinstated the claimant.
  - c. The claimant was transferred to Kapsabet as Business Relationship Officer by letter of 11.09.2018 but the claimant appealed by letter of 20.09.2018 in view of his young family and by letter of 21.09.2018 the transfer was rerouted to Eastleigh Branch in Nairobi designated as Business Relationship Office.
  - d. The claimant had issued a circular on performance management relating staff self-performance review. The claimant had failed to comply with the circular, a show cause letter issued, he was heard and subsequently dismissed. He had a service history of warnings on failing to self-review as was expected. The claimant appealed the dismissal but the respondent upheld the dismissal per letter of 24.06.2020.
  - e. The termination was therefore fair in procedure and substance.
4. The claimant testified to support his case and the respondent called its witness (RW). Final submissions were filed for parties. The Court has considered all material on record. The Court returns as follows:
  - a. There is no dispute that parties were in a contract of service and the claimant last served at Eastleigh Branch in Nairobi designated as Business Relationship Office.
  - b. The claimant was terminated by letter of 09.06.2020 on account of repeated failures to sign performance plans. Such last failure had been for year 2020 and the failure to adhere to respondent's directives in that regard was found to amounted to insubordination and as envisaged in section 16 of respondent's code and section 44 (4) (e) of the [Employment Act, 2007](#). His appeal of 15.06.2020 was rejected by the respondent's letter of 24.06.2020.
  - c. By the claimant's own testimony in Court and exhibited documents, the Court returns that indeed the claimant had failed to self-appraise or review his performance by filling the prescribed forms. He was given a show-cause letter with particulars of allegations, he attended disciplinary hearing alone (opting not to bring a representative as had been advised), and was found culpable. The Court finds that as submitted, the respondent complied with the notice and hearing per section 41 of the Act, the reasons were valid per section 43 of the Act, and the reasons were fair as they related the claimant's misconduct and the respondent's operational requirements per section 45 of the Act.
  - d. the Court finds as follows on the remedies:
    - i. As submitted for respondent, the movement from Mombasa to Nairobi was not a transfer but a reinstatement and deployment consequential to court order. The claim of transport or disturbance allowance in that regard will fail.



- ii. Bonus of Kshs.25, 000.00 for 2018 was not justified and being discretionary fringe benefit, the same is declined.
- iii. The home was sold to recover the loans per the charge arrangements and consequential to termination and inability of the claimant to repay. The claim is unjustified.
- iv. As submitted the listing on credit reference bureau was accurate as the claimant had defaulted on repaying the loan. The prayer is declined.
- v. The claimant did not disclose residual outstanding loan and as submitted for respondent the issue appears outside the instant suit as the claimant made no particulars and basis of the relief prayed for in that respect.
- vi. The interim orders in place were within their clear terms and would not be subject of this judgment as the judgment is not in the nature of an application o review the orders.
- vii. The claimant is entitled to the statutory certificate of service. In that consideration and looking at the margins of success, parties to bear own costs.
- viii. Needless to state, compensation for unfair termination collapsed as termination was not unfair as already found.

5. In conclusion judgment is hereby entered for the parties and the suit determined with orders:

- a. The certificate of service be delivered in 30 days from today.
- b. Each party to bear own costs of the suit.

**SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS THURSDAY 27TH FEBRUARY, 2025**

**BYRAM ONGAYA**

**PRINCIPAL JUDGE**

