



Republic v Inspector General of Police & 3 others; Samanda (Exparte Applicant) (Judicial Review E018 of 2023) [2025] KEELRC 668 (KLR) (27 February 2025) (Interim Judgment)

Neutral citation: [2025] KEELRC 668 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
JUDICIAL REVIEW E018 OF 2023
MN NDUMA, J
FEBRUARY 27, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

INSPECTOR GENERAL OF POLICE 1ST RESPONDENT

COMMANDANT DIPLOMATIC POLICE 2ND RESPONDENT

OFFICER COMANDING DIPLOMATIC P/STATION 3RD RESPONDENT

THE HON. ATTORNEY GENERAL 4TH RESPONDENT

AND

BEATRICE AWUOR SAMANDA EXPARTE APPLICANT

INTERIM JUDGMENT

1. The ex-parte applicant filed its substantive motion upon leave being granted seeking an order in the following terms:-
 1. That an order of Certiorari do issue quashing the suspension letter dated 18th May, 2023 and all the orderly proceedings which have been conducted against the ex-parte Applicant by the 3rd Respondent leading to her suspension.
 2. That an order of prohibition do issue barring the Respondents herein from revisiting matters raised in this Judicial Review Application or in any way trying to victimize and/or harassing the ex-parte Applicant.
 3. That an order of Mandamus do issue compelling the Respondents to release the Applicant's salary in full



4. That costs of this application be provided for
2. The application is premised on facts set out in the verifying affidavit and statutory statement sworn to by the ex-parte Applicant whose content may be summarized as follows:-
3. That the ex-parte Applicant was enlisted into National Police Service on 12/1/2013 and served in three different stations where she served diligently with a clean record until she was transferred to Diplomatic Police Unit in Gigiri from Ongata Rongai Police Station.
4. The ex-parte Applicant was on duty and seated without knowing that her trousers side zip had broken and was shocked when the officer Commanding Diplomatic Police Station came and sneaked his hand through the space making the Applicant to scream and or wail out in shock.
5. That some people were attracted to the noise. The Applicant was not happy with the happening and the supervisor was not happy since the people came to enquire what had happened and this started conflict and bad blood between the Applicant and her OCS.
6. That the incident was later reported to internal Affairs Unit since the OCS and Applicant could no longer get along. The OCS however continued to frustrate the Applicant in her daily duties including denying the Applicant the right to book her reporting to work in the occurrence book, a fact well captured through a video in possession of the Applicant.
7. The OCS in bad faith transferred the Applicant to report to SOOPS DPN every morning at 8 a.m. but even after that transfer and without revocation or cancellation of that transfer letter continued assigning the Applicant duties, yet the Applicant was no longer under the OCS.
8. That the OCS was overheard by the Applicant telling the 2nd Respondent that he would ensure that the Applicant was dismissed from the service.
9. That in this scheme, the 2nd and 3rd Respondents convened orderly room proceedings against the Applicant without prior warning, notice, knowledge or invitation to the proceedings. That the Applicant alleged falsely that the Applicant's whereabouts were not known when the Applicant was in her house with full knowledge of her colleagues and while in possession of contact numbers of the Applicant. The 2nd Respondent also booked the Applicant absent without leave falsely, despite a message reaching office that the Applicant was unwell and a written document provided to that effect.
10. The OCS also denied the Applicant orderly room proceedings to exercise her right of appeal. That the 2nd Respondent denied the Applicant audience to raise her grievance.
11. The Applicant deposes that she has been placed on suspension without salary and without following the laid down procedure for suspension.
12. That the said suspension is unlawful and unfair since she has never received any warning letter.
13. That the Respondents have caused the Applicant untold suffering and prejudice and their concerted conduct is unlawful and unfair administrative action.
14. The Applicant prays for the reliefs set out in the Notice of Motion.

Replying Affidavit

15. The Respondent through the affidavit of Elizabeth Marube deposes that the Applicant absented herself from duty for 4 days and a signal to that effect was sent to the police headquarters on 6/03/2023.



The Applicant's whereabouts were unknown and no report of her alleged sickness was sent to the 2nd and 3rd Respondents which led to the conduct of disciplinary proceedings against her.

16. That the Applicant was then notified of the intended disciplinary proceedings against her on 3/04/2023 by being served with a notification of disciplinary inquiry by Senior Sergeant Mukangai in accordance with the provisions of the Service Standing Orders before being charged and the applicant acknowledged receipt. The disciplinary proceedings were duly conducted on 12/04/2023 and witnesses were called. The Applicant was found guilty and did not lodge an appeal. That the Respondents did not in any way violate the rights of the Applicant and she is not entitled to any of the orders sought

Determination

17. The parties filed written submission which the court has carefully considered together with deposition by the parties. The court has made considered finding that the conduct by the Respondents amount to gross harassment of the Applicant on the basis of her gender. The conduct by the Respondents violates her right to human dignity protected under Article 28 of *the Constitution*. The said conduct also violate the Applicant's right to equality before law in violation of Article 27 of *the Constitution*. Furthermore, the conduct by the Respondents violates the Applicant's right to fair administration action in violation of Article 47 of *the Constitution* as read with section 4 of fair Administrative Actions Act, 2015.
18. Furthermore, the conduct by the Respondents violates sections 88(2), 89(1)((2)(3)(4) (5) and section 90 of the *National Police Service Act* No 11A of 2011 and the Police Regulations as read with the Eighth Schedule thereunder.
19. It is the court's finding that the conduct by the 3rd Respondent the Officer Commanding Diplomatic Police Station is most reprehensible, is crude, degrading and ought not to pass without the attention of the Inspector General of Police being drawn to it. By a copy of this judgement the court reports the matter to the Inspector General of Police for his attention and action (emphasis made).
20. The ex-parte Applicant has proved the matters placed before this court on a balance of probability. The application has merit and the court grants the same and make the following final orders:-
 - a. An order of Certiorari is issued quashing the suspension letter dated 18th May 2023 and all the orderly proceedings which have been conducted against the ex-parte Applicant by the 3rd Respondent leading to her suspension.
 - b. An order of prohibition is issued barring the Respondents herein from revisiting matters raised in this application or in way trying to victimize and/or warning the ex-parte Applicant.
 - c. An order of Mandamus is issued compelling the Respondents to release the Applicant's full salary from date of suspension till payment in full.
 - d. The attention of the IG is drawn to the conduct by the 3rd Respondent in particular for his attention and action.
 - e. Payment in respect of (c) above is with interest at court rates from date of suspension of the salary till payment in full.
 - f. The Respondents, to pay the costs of the suit

DATED AT NAIROBI THIS 27TH DAY OF FEBRUARY 2025

MATHEWS NDUMA



JUDGE

Appearance:

Mr. Were for Ex-parte Applicant

Ms. Aluoch for 2nd, 3rd and 4th Respondent

Mr. Kemboi – Court Assistant

