



**Njuki v CIC Insurance Group Ltd (Cause E962 of 2022)
[2025] KEELRC 416 (KLR) (14 February 2025) (Judgment)**

Neutral citation: [2025] KEELRC 416 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E962 OF 2022
SC RUTTO, J
FEBRUARY 14, 2025**

BETWEEN

DICKSON IRERI NJUKI CLAIMANT

AND

CIC INSURANCE GROUP LTD RESPONDENT

JUDGMENT

1. The facts leading to this litigation are not seriously in dispute. The Claimant was employed by the Respondent with effect from 2nd March 1992 as a Management Trainee. His appointment was confirmed on 10th February 1993 following successful completion of probation. He rose through the ranks to the position of General Manager-General Business Operations. The Claimant has attributed this growth in his career to his hard work and performance. According to the Claimant, he worked diligently and faithfully for the Respondent for over 30 years without any disciplinary issues, warning or reprimand.
2. From the record, the Claimant's upward trajectory came to a halt when he was summarily dismissed from the Respondent's employment on 24th June 2022.
3. It is the Claimant's case that he was treated to an unfair hearing and his dismissal from employment was without any valid reason. Consequently, the Claimant has asked the Court to award him the following remedies;
 1. Three (3) months gross salary in lieu of notice to terminate.
 2. 12 months' salary compensation for unlawful wrongful and unfair termination of service.
 3. 19 days leave days salary compensation and leave day allowance.
 4. Interest on the amount in 1, 2 and 3 until payment in full at court rates.



5. The Respondent to issue the Claimant with a letter (signed by the Group Managing Director and the Human Resource Director) unequivocally clearing him of all accusations mentioned in the show cause letter and termination letter which have impugned his integrity and professionalism.
6. Costs of the suit.
4. The Claim is strongly opposed. In a Memorandum of Response dated 27th February 2023, the Respondent has denied the Claimant's assertions of unfair and unlawful termination. The Respondent has further averred that the termination of the Claimant's employment was done according to the Employment Act and in accordance with the substantive and procedural requirements. Accordingly, the Respondent has asked the court to dismiss the Claimant's Claim with costs.
5. The matter proceeded for hearing on 9th May 2024 and 30th October 2024 during which both sides called oral evidence.

Claimant's Case

6. The Claimant testified in support of his case as CW1. At the outset, he adopted his witness statement to constitute his evidence in chief. He proceeded to produce the documents filed in support of his Claim, as his exhibits before Court.
7. The Claimant averred that during the annual appraisal on 25th January 2022, his immediate supervisor falsely accused him on the TEAMS Platform of presiding over the looting of the Company.
8. That on 9th February 2022 while on leave, he was required to attend a meeting and record a statement at the office of the Director of Criminal Investigations, Insurance Fraud Investigation Unit (IFIU) on 11th February 2022 at 9.30 am.
9. He went to the IFIU on 11th February 2022 and met CPL Musa Mamuti who served him with a Requisition to Compel attendance on 18th February 2022 and threatened to charge him.
10. Consequently, he assembled material including email correspondence on the subject investigations which he shared with the IFIU and recorded a statement after which he forwarded the said material from the office email to his personal email for use in self-defense in the event the IFIU decided to press charges against him.
11. Upon resuming work from leave, he was called to explain the circumstances under which he forwarded the said material to his Gmail account (ireridickson@gmail.com).
12. As such, he explained in writing that he had decided on the spur of the moment to transfer the information/documents relating to the case to his private email because the IFIU officer had threatened to charge him. He explained that his reaction at the time was governed by the threat of arrest and charging by the IFIU and the need to secure as much information to support his defense just in case the threat to charge was executed.
13. The Claimant averred that notwithstanding his reasonable explanation, the innocuous and limited nature of the documents/information that he had transferred to his personal email, Mr. Fredrick Ruoro, the Respondent's Managing Director and his immediate supervisor wrongfully, unlawfully, irregularly and unreasonably issued him with a Notice to Show Cause letter dated 30th May 2022.



14. It was alleged in the Notice to Show Cause that his actions were in violation of the “CIC Group ICT Acceptable Use Policy, CIC System Conditions, CIC Group Code of Conduct & Ethics Policies and HR Policy Procedures Manual 2018 Section 10.14.2 on gross misconduct”.
15. On 31st May 2022, he responded to the Notice to Show Cause and requested to be furnished with the documents referred to in the Show Cause letter to enable him to adequately respond to the allegations contained therein.
16. It was the Claimant’s case that the Respondent’s Managing Director did not provide the said documents despite the repeated written requests he made. Instead, he referred him to soft copies in the system for read-only. That the Managing Director alleged without elaboration that he knew that he had copies yet neither he nor anybody else in the Company had given him copies of the said documents.
17. According to the Claimant, the Respondent’s accusations that he irregularly transferred restricted and critical data from his company email to his private email are untrue and the allegation that his actions violated the CIC Group ICT Acceptable Use Policy, CIC system conditions, CIC Group Code of Conduct and Ethics Policies and HR Policy Procedures Manual 2018 Section 10.14.2 on gross misconduct, were mere fabrications by his immediate supervisor to taint his long and distinguished service.
18. The Claimant contended that he was entitled to the documents he transferred to his personal email address as of right as they were necessary documents for his defense and protection of his rights if he were to be charged with any criminal offense following the threat issued to him when he responded to the summons by the Directorate of Criminal Investigations.
19. It was the Claimant’s further contention that the said documents did not contain any critical data or restricted information.
20. The Claimant further averred that his dismissal was unprocedurally, irregularly orchestrated, initiated and driven by his immediate supervisor whereas the usual practice is that disciplinary action should be initiated by the Group Human Resource General Manager.
21. That by a letter dated 13th June 2022, his immediate supervisor while on leave, summoned him to attend a disciplinary hearing on 21st June 2022 at 10.00 am without providing any documents to support the allegations or evidence collected against him. In the Claimant’s view, this was contrary to the procedures of disciplinary proceedings.
22. At the disciplinary hearing, he protested that he had not been provided with the documents he had requested but his complaints were disregarded.
23. The Claimant further contended that the disciplinary panel was not properly constituted as it was not attended by the Group Human Resource General Manager as is the usual practice when considering a case involving a person of his rank and seniority. Instead, it was attended by the Human Resource Business Partner whose rank was lower than his rank, contrary to the Respondent’s human resource disciplinary practices.
24. According to the Claimant, the said officer was the one his immediate supervisor was closely consulting and working with, in unlawfully and irregularly orchestrating and driving his removal from the organization. He raised this issue at the disciplinary hearing, but it was disregarded.
25. It was the Claimant’s view that he was not accorded a fair hearing and the disciplinary committee was a sham intended to sanitize the unfair decision to summarily dismiss him from service.



Respondent's Case

26. The Respondent called oral evidence through Kenneth Amollo Amol and Peter Mwenda Itumbiri who testified as RW1 and RW2 respectively. Mr. Amol who was the first to go, identified himself as the Senior Manager Fraud Prevention and Investigations.
27. RW1 told the Court that on 22nd April 2022, the Risk and Compliance Department was notified that there was a breach within the CIC operating environment.
28. Upon investigations, the Risk and Compliance department noted that the Claimant had transferred some documents to his personal email. They extracted the said documents and compiled an investigation report dated 11th May 2022. To this end, RW1 produced the said investigation report as the Respondent's exhibit before court.
29. Mr. Peter Mwenda Itumbiri who testified as RW2. He identified himself as the Respondent's Human Resource Business Partner and similarly, he adopted his witness statement to constitute his evidence in chief. He further produced the initial list and bundle of documents as well as the supplementary list and bundle of documents filed on behalf of the Respondent as exhibits before Court.
30. RW1 stated that in the role of CIC General Manager Operations, the Claimant reported to his immediate supervisor, the Respondent's Managing Director CIC General Insurance.
31. That in the performance of his duties and responsibilities, the Claimant was required to adhere to the Respondent's Code of Conduct and Ethics Policies, ICT Acceptable Use Policy, System Conditions, Human Resource Policy Procedures Manual among others.
32. He is aware that the said policies were made aware to each employee of the Respondent. In particular, he is aware that when every employee logs in to their company-issued device, their device powers up by reminding each employee of the CIC system conditions of use reminding them of the CIC Group Acceptable Use Policy and that the system is monitored, recorded and audited to ensure among others its proper use. All employees then consent to the terms and conditions of the usage before the device fully opens up.
33. RW1 averred that on or about 9th February 2022, the Claimant was summoned to attend a meeting and record a statement at the Director of Criminal Investigations Unit, IFIU on 11th February 2022. The meeting concerned investigations into fraudulent claims and payments made by the Respondent on behalf of Kenya Power and Lighting Company (KPLC).
34. After the meeting with the IFIU, the Claimant assembled critical material including email correspondence on the subject investigations which he shared with the IFIU and recorded a statement on the same. He thereafter forwarded the said material from his office email to his personal email.
35. According to RW1, the transfer of the information was in violation of the CIC Group ICT Acceptable Use Policy, CIC System Conditions of Use, CIC Group Code of Conduct and Ethics Policies as well as Section 10.14.2 of the HR Policy Procedures Manual 2018 on gross misconduct.
36. The Respondent was made aware of this potentially irregular transfer of critical and sensitive company data by the Claimant through the Respondent's Risk and Compliance Department. The Department was notified of a potential leakage of data from the CIC Operating environment.
37. The Claimant averred that as part of its strong ICT Security framework, the Respondent uses a system called Darktrace which is a cybersecurity monitoring device. That the Darktrace system protects the Respondent against data exfiltration by detecting any bulk movement or low and slow data exfiltration



- via file share or email. It scans all CIC users and devices connected to the cable and wireless networks without any restriction of user or group and shares automated reports on data leaks and suspicious activities. The system automatically sends weekly data leak reports on Sunday evenings.
38. He is aware that the Darktrace report of the week of 14th February 2022 to 20th February 2022 classified the Claimant's act of sending critical data to his Gmail account as "Data Loss" prompting the investigation by the Respondent's Risk and Compliance Department.
 39. Investigations concluded that the Claimant irregularly transferred the Respondent's critical data and documents to his private email and that his actions were a violation of the Respondent's Acceptable Use Policy, CIC System Conditions of Use, CIC Group Code of Conduct and Ethics policy and Section 10.14.2 of the Human Resource Policy and Procedure Manual.
 40. Given the conclusion by the Risk and Compliance Department that the Claimant was in violation of the Respondent's Policies, the Respondent initiated disciplinary proceedings against the Claimant, by the issuance of a Notice to Show Cause vide a letter dated 30th May 2022. On 31st May 2022, the Claimant responded to the Notice vide a letter of even date.
 41. By the same letter, the Claimant requested to be allowed seven days after receipt of the documents requested for, to adequately respond to the allegations of irregular transfer of restricted and critical company data.
 42. The Respondent responded to the Claimant's letter of 31st May 2022 via a letter dated 2nd June 2022 acknowledging receipt of the Claimant's requests. He was requested to get in touch with the Group Risk and Compliance Manager within two days in order for him to access the requested documents. The Claimant was also granted an extension of time as requested to enable him to prepare a comprehensive response by the close of the day on 9th June 2022.
 43. He is also aware that on 6th June 2022, the Claimant wrote a letter to the Respondent wherein he alleged not being able to access the documents initially requested.
 44. In response, via a letter of even date, the Respondent wrote a letter to the Claimant reiterating that he should get in touch with the Group Risk and Compliance Manager so that he is guided on how to access the said documents. The Respondent further informed the Claimant that his written response should be submitted by close of day on 10th June 2022.
 45. The Claimant vide a letter dated 10th June 2022 furnished the Respondent with his written response to the Notice to Show Cause Letter. He responded by denying the charges levelled against him.
 46. The Respondent thereafter in acknowledging receipt of the Claimant's written response, invited him to a disciplinary hearing on 21st June 2022 via a letter dated 13th June 2022. The letter further informed the Claimant of his right to be accompanied by a colleague during the hearing.
 47. According to RW1, the documents which the Claimant had requested were sent to him by email before the said disciplinary hearing to enable him prepare for his defense.
 48. He is aware that on 21st June 2023, the Claimant's disciplinary hearing proceeded, and the Claimant was granted ample opportunity to make representations.
 49. Upon examining the evidence before it, the disciplinary panel concluded that there was a valid cause to terminate the Claimant's employment contract.
 50. The Respondent communicated this decision to the Claimant through a letter dated 24th June 2022. The letter also served to notify the Claimant that his employment contract had been terminated by



the Respondent for breach of the CIC Group ICT Acceptable Use Policy, CIC System Conditions, CIC Group Code of Conduct and Ethics Policies and the Human Resource Policy Procedures Manual 2018. The letter also informed the Claimant of his right to appeal if dissatisfied with the procedure.

51. According to RW1, the Claimant was paid all his final dues available to him including his unpaid salary and leave days.

Submissions

52. It was submitted on the part of the Claimant that the Respondent's Group Acceptable Use Policy, CIC System Conditions, CIC Group Code of Conduct and Ethics Policy, and Human Resource Policy Procedure Manual 2018 do not define what amounts to critical and restricted data.
53. The Claimant further submitted that the data he transferred was of a limited and innocuous nature. It was his position that he only transferred documents relating to his investigations by the Directorate of Criminal Investigation, IFIU into the KPLC Public Liability fraudulent claims.
54. It was the Claimant's further submission that the Respondent failed to demonstrate how the transfer of data from his office email to his private email could expose the company to loss.
55. The Claimant further contended that the Respondent has not stated which specific clauses of the documents cited, were breached.
56. It was further submitted by the Claimant that in blatant violation of its own Human Resource Procedure, the Respondent refused and/or failed to furnish him with documents outlining the policies he had allegedly breached.
57. The Claimant further argued that the disciplinary panel was not properly constituted as it was not attended by the Group Human Resource Manager as is the usual practice. Instead, it was attended by the Human Resource Business Partner in violation of the Respondent's Human Resource disciplinary practices.
58. The Respondent on the other hand submitted that the Claimant's unauthorized transfer of the company's private and confidential data to his personal email constituted not only a violation of company policy but a betrayal of the company's confidence. It was the Respondent's view that the direct result of the transfer created a substantial risk of detriment on its part.
59. It was the Respondent's position that bearing the circumstances, it was reasonable in terminating the Claimant's employment contract. In the same vein, the Respondent posited that the Claimant's actions breached the company's Acceptable Use Policy and System Conditions of Use. That in breaching the company's policies, the Claimant eroded the trust and confidence fundamental to their employment relationship and exposed the Respondent to potential harm, including reputational damage and business risks. In support of the Respondent's submissions, the Court was invited to consider the determination in Civil Appeal No. 97 of 2016: Reuben Ikatwa & 17 others v Commanding Officer British Army Training Unit Kenya & another.
60. The Respondent further posited that the Claimant's actions cannot be justified as it was the complainant in the insurance fraud investigation and that all documents that would have been required would have been provided to the state operatives and even the Claimant upon request. To this end, the Respondent urged the Court to find that it had fair and valid reasons for terminating the Claimant's employment contract.
61. With respect to procedural fairness, the Respondent submitted that it complied with the legal requirements under the *Employment Act*. In this regard, the Respondent submitted that the notice



issued to the Claimant was compliant with the provisions of Section 41 of the *Employment Act* and the precedent set in *Postal Corporation of Kenya v Andrew K. Tanui* (2019) eKLR.

62. Accordingly, the Respondent urged the Court to find that it complied with the requisite standards for procedure in terminating the Claimant's contract and that the Claimant was afforded a fair opportunity to make representations against the preferred charges.

Analysis and Determination

63. I have considered the pleadings by both parties, the evidentiary material placed before me, as well as the rival submissions and isolated the following issues for determination:
- i. Whether the Respondent has proved that there was a valid and fair reason to terminate the employment of the Claimant;
 - ii. Was the Claimant accorded procedural fairness prior to being terminated from employment?
 - iii. Is the Claimant entitled to the reliefs sought?

Valid and fair reason?

64. As can be discerned from the letter of termination dated 24th June 2022, the Claimant was terminated from employment on grounds that he deliberately, irregularly, and without permission, transferred the Respondent's restricted and critical documents from his company email address to his private email address (ireri.dickson@gmail.com) thus violating the Respondent's Group ICT Acceptable Use Policy, System Conditions, Group Code of Conduct & Ethics and Human Resource Policy Procedures Manual 2018 Section 10.14.2 on gross misconduct.
65. On his part, the Claimant did not dispute transferring the documents in question to his Gmail account. According to the Claimant, he transferred the said documents after he had been summoned by the Directorate of Criminal Investigations Insurance Fraud Investigation Unit (IFIU) on 11th February 2022 with respect to ongoing investigations into KPLC public liability fraudulent claims. From the Claimant's standpoint, the IFIU officer who had summoned him had threatened to charge him hence his reaction by assembling the documents in question in preparation for his self-defence.
66. On the other hand, the Respondent has averred that the material assembled by the Claimant was critical, sensitive and confidential information relating to fraudulent claims paid to the public by the Respondent on behalf of its client KPLC.
67. In this regard, the Respondent has maintained that the Claimant breached its Group ICT Acceptable Use Policy, System Conditions, Group Code of Conduct and Ethics and Policies and Section 10.14.2 of the Human Resource Policy and Procedures Manual.
68. It is notable that the Claimant did not reference the specific clauses or provisions of the Group ICT Acceptable Use Policy or the Group Code of Conduct and Ethics and Policies that had been violated by the Claimant when he transferred the documents in question from his office email to his personal email. Indeed, the only specific reference made in this case was with respect to the Human Resource Policy and Procedures Manual. As such, it is not possible to decipher the violation committed by the Claimant.
69. Further to the foregoing, it is not in doubt that the information transferred by the Claimant was within his knowledge as it was by and large the information he had shared with the IFIU officer.



70. As such, since the information was shared to the Claimant's personal email, it remained within his knowledge and was not disseminated to third parties or for that fact, unauthorized parties. Indeed, there is no evidence that the information was transmitted by the Claimant to unauthorized parties. RW1 confirmed as much during cross-examination.
71. As a matter of fact, the confidentiality clause contained in the Claimant's letter of offer and cited by the Respondent in its submissions, expressly prohibits the disclosure of confidential matters of the Respondent to unauthorized persons or anyone not entitled to receive them. In this case, the Claimant cannot be said to have shared the information in question with unauthorized persons as he shared the information to his personal email account and not third parties who were not entitled to receive the said information.
72. Under the Employment Act, the employer's duty to justify the reason for terminating the employment of an employee is imposed by Section 43 while Section 45(2) (a) and (b) requires an employer to prove that the said reason is valid, fair and related to the employee's conduct, capacity or compatibility.
73. Connected to the foregoing statutory provision, an employer is duty-bound to demonstrate the reasonableness of its decision to terminate the employment.
74. This is commonly known as the 'reasonable responses test'. In the case of *British Leyland UK Ltd. V. Swift* [1981] IRLR 91 Lord Denning analyzed this test as follows:

"The correct test is: Was it reasonable for the employers to dismiss him? If no reasonable employer would have dismissed him, then the dismissal was unfair, but if a reasonable employer might reasonably have dismissed him, the dismissal was fair. It must be remembered that in all these cases there is a band of reasonableness, within which an employer might reasonably take one view: another quite reasonably take a different view. One would quite reasonably dismiss the man. The other quite reasonably keep him on. Both views may be quite reasonable. If it was quite reasonable to dismiss him, then the dismissal must be upheld as fair even though some other employers may not have dismissed him"
75. Similarly, in *Nampak Corrugated Wadeville v Khoza* [1998] ZALAC 24 the Court rendered itself thus:

"The determination of an appropriate sanction is a matter which is largely within the discretion of the employer. However, this discretion must be exercised fairly. A court should, therefore, not lightly interfere with the sanction imposed by the employer unless the employer acted unfairly in imposing the sanction. The question is not whether it could have imposed the sanction imposed by the employer, but whether in the circumstances of the case the sanction was reasonable."
76. Applying the 'reasonable responses test' to this case, it is this court's view that a reasonable employer faced with the same set of circumstances as the Respondent herein, would not terminate the employment of an employee.
77. I say so, for the reasons stated above, that the Claimant merely shared the information in question to his personal email account and not to an unauthorized third party. What's more, this is information that was already within his knowledge. He did not access it in a clandestine manner.
78. All in all, the Court is not satisfied that the Respondent has proved that the reason advanced for terminating the Claimant's employment was valid, fair and reasonable within the meaning of Sections 43 and 45 of the Employment Act.



Procedural fairness?

79. The requirement for fair procedure is generally provided for under Section 45 (2) (c) of the Act. Further, Section 41 of the Act makes specific requirements with regards to the process to be followed by an employer in effecting termination of employment.
80. In the case herein, the Claimant was issued with a Notice to Show Cause dated 30th May 2022. In his letter dated 2nd June 2022, the Claimant requested to be furnished with the documents cited in the Notice to Show Cause. Through a letter dated 6th June 2022, the Respondent's Managing Director, Mr. Ruoro informed the Claimant that the said documents were in his possession. Nonetheless, he advised him to get in touch with the Group Risk and Compliance Manager who was also copied in the said letter.
81. In his letter dated 6th June 2022, the Claimant indicated that he had not accessed the documents as the Group Risk and Compliance Manager had informed him that he could only access the documents in the Respondent's system on read-only mode. In this regard, the Claimant stated that he did not have full access to the documents.
82. From the record of the disciplinary proceedings, it is apparent that the disciplinary panel deliberated at length with regards to the Claimant's request to access the Policies in question. From the deliberations, it is quite clear that the contention was with respect to the mode in which the Claimant was allowed access to the said documents. Whereas the Disciplinary Panel stood its ground that the Claimant could only access the Policies on read-only mode, the Claimant maintained that he could not proceed with the disciplinary hearing as he required physical copies of the said documents.
83. During the deliberations, the Chairperson of the disciplinary panel proposed that the Claimant takes ten minutes to review the Policies and thereafter, the disciplinary hearing would proceed. The Claimant rejected this proposition and insisted on being given physical copies of the documents. In the end, the disciplinary hearing proceeded without the Claimant accessing the documents in the form he had requested.
84. Article 35(1)(b) of *the Constitution* of Kenya guarantees every person the right of access to information held by another person and required for the exercise or protection of any right or fundamental freedom.
85. This constitutional provision was reaffirmed by the court in the case of *Katiba Institute v Presidents Delivery Unit & 3 others* [2017] eKLR as follows:
- “ 32. *The Constitution* therefore, grants citizens' access to information as a constitutional right and only the same Constitution can limit that access... [34]. On the above basis, the right to access information is inviolable because it is neither granted nor grantable by the state. This is a right granted by *the Constitution* and is protected by the same Constitution.”
86. On access to information, Clause 11.5.4 (iv) of the Respondent's Human Resource Policy & Procedures Manual provides as follows:
- “No documentary evidence shall be used against the employee unless he has been supplied with copies or extracts thereof and given access thereto at least twenty-four hours before the disciplinary hearing.”



87. It is this court's view that Article 35 of *the Constitution* as well as Clause 11.5.4 (iv) of the Respondent's Human Resource Policy & Procedures Manual envisages reasonable access to information. Therefore, such access to information if granted, ought to be practical and should serve the intended purpose.
88. In this case, it was not reasonable for the Respondent to limit the Claimant's access to the Policies he had allegedly violated to read-only mode. This is bearing in mind that the Claimant had been cited for violating four of the Respondent's Policies. As such, it was unreasonable to expect him to read all the said documents in the form provided and prepare adequately for the disciplinary hearing.
89. Granted, the Claimant may have been aware of the Policies in question and perhaps even read them in the past. Be that as it may, he was facing a disciplinary panel and was fighting to save his job and for that fact, the source of his livelihood. As such, requesting to be allowed access to the Policies in physical form was not too much to ask in the circumstances.
90. The upshot of the foregoing is that in as much as the Claimant was allowed "access" to the documents he had requested, the "access" granted in the circumstances was unreasonable in my view and in the end, was not useful to the Claimant during the disciplinary hearing.
91. Indeed, it is highly doubtful if the "access" granted to the Claimant during the disciplinary hearing served the purpose intended under Article 35 of *the Constitution* and Clause 11.5.4 (iv) of the Respondent's Human Resource Policy & Procedures Manual.
92. In light of the foregoing, my conclusion on this issue is that the Claimant was denied right to a fair hearing on the basis that he did not have reasonable access to the documents (Respondent's Policies) he had requested ahead of the disciplinary hearing.

Reliefs?

93. As the Court has found that the reason advanced for termination of the Claimant's employment was not fair, valid and reasonable and that the Claimant was not accorded a fair hearing during the disciplinary hearing, he is awarded three (3) months' salary in lieu of notice as per his contract of employment and compensatory damages equivalent to ten (10) months of his gross salary. This award takes into account the length of the employment relationship which spans close to 30 years, comparable employment opportunities available to the Claimant, and the fact that the Claimant's illustrious career was cut short for a reason that was not valid, fair or reasonable.
94. The claim for leave allowance is declined as it is apparent that the same was paid as part of the Claimant's terminal dues.

Orders

95. In the final analysis, Judgment is entered in favour of the Claimant against the Respondent as follows: -
 - a. The Claimant is awarded three (3) months' salary in lieu of notice being the sum of Kshs 2,991,479.00.
 - b. The Claimant is awarded compensatory damages in the sum of Kshs 9,971,597.00 being equivalent to ten (10) months of his gross salary.
 - c. Total award is Kshs 12,963,076.00.
 - d. Interest on the amount in (c) at court rates from the date of Judgment until payment in full.
 - e. The Claimant shall also have the costs of the suit.



DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF FEBRUARY, 2025.

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STELLA RUTTO

JUDGE

Appearance:

For the Claimant Mr. Kairaria

For the Respondent Mr. Ochieng instructed by Mr. Kiche

Court Assistant Kemboi

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 15th March 2020 and subsequent directions of 21st 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

