



**Holeh v Kenya Marine & Fisheries Research Institute (Cause
005 of 2025) [2025] KEELRC 782 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 782 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 005 OF 2025
M MBARŪ, J
MARCH 6, 2025**

BETWEEN

GLADYS MWAKA HOLEH CLAIMANT

AND

KENYA MARINE & FISHERIES RESEARCH INSTITUTE RESPONDENT

RULING

1. The claimant filed an application dated 21 January 2025 seeking orders that the court be pleased to restrain the respondent, either itself, servants, or agents, from sharing with the institution offering the claimant her PhD programme, the lecturers supervising her, or anyone else any documents or accounts that she has been summarily dismissed by the respondent.
2. The application is supported by the claimant through her affidavit and because in July 2019, the respondent appointed the claimant as a research assistant (aquaculture). In June 2024, the claimant received a letter in which the respondent questioned the authenticity of certificates for KCSE on allegations that the claimant was required to show cause. The claimant replied, explained her academic history, and denied the allegations.
3. The claimant avers in her affidavit that on 15 November 2024, she was summarily dismissed from her employment by the respondent despite her responses and testimony exonerating herself from the allegations. The claimant has appealed against the decision and is apprehensive that any disclosures of any document or accounts leading to the unfair summary dismissal will be detrimental to her ongoing PhD programme. The claimant is currently at Gent University in Belgium. Securing admission into the programme was done through the respondent; hence, sharing adverse documents, data, or information showing summary dismissal will be detrimental. The claimant suffers irreparable loss and damage if the orders sought are not issued.



4. In reply, the respondent filed the Replying Affidavit of Dr James M. Mwaluma, the acting director, who avers that the claimant was employed as a research scientist on 27 June 2019. By the time of summary dismissal, she was a senior research scientist in grade 5. Under the Public Service Commission circular dated 22 May 2023, public institutions were tasked to audit the academic and professional certificates of all newly appointed officers in the last 20 years and submit a report to the PSC. The institutions were directed to dismiss from service any officer found in possession of forged certificates in line with the Public Officers Ethics Act and the Leadership and Integrity Act and to also continuously validate academic and professional certificates to appointments and promotions and file the same through the compliance and quality assurance quarterly and make annual reports to the PSC.
5. The respondent undertook the audit and established that the claimant was among those who had presented forged academic certificates to the respondent during employment. Upon granting the claimant a fair hearing and conducting a review of the report from the Human Resource and Administration Committee, the respondent's board recommended the dismissal of seven (7) employees, including the claimant, found with forged certificates.
6. The claimant was dismissed from her employment following the law. An ongoing appeal process has commenced for the claimant regarding termination of employment. However, the claimant has not demonstrated any action on the part of the respondent to cause apprehension that the respondent is planning to share information on the PhD programme. The suit has no cause of action, and no dispute is demonstrated in an employer-employee relationship to justify invoking the court jurisdiction. The application and suit should be dismissed with costs.
7. Both parties have filed written submissions, which have been analyzed.
8. In the Memorandum of Claim filed together with the Notice of Motion dated 21 January 2025, the claimant is seeking final orders that;

The respondent, through its servants and agents, shall otherwise be restrained from publishing, sharing, notifying, or in any manner letting the University of Ghent, Belgium, know that the claimant has been summarily dismissed.
9. This is the substantive order sought by the claimant. Save for urging the court that there is unlawful summary dismissal, there is no linkage in the final orders. The respondent's submissions that the court's jurisdiction is not properly invoked stand correct.
10. The parties' history is based on employment. However, the employment relationship was terminated through a notice dated 15 November 2024. No final orders are sought that this notice is wrongful, unlawful, or unfair.
11. The question of sharing information about the PhD programme with the supervisor or anyone else is now outside the claimant's employment relationship with the respondent. The orders sought cannot be secured in these proceedings upon the termination of the unquestioned employment relationship.
12. To maintain the suit as couched would not achieve the orders sought before this court. The virtual proceedings are available, and any search would expose the claimant to any interested reader. Before filing these proceedings, the claimant took no measures to protect her identity. The claimant cannot tie the respondent based on the terminated employment relationship.
13. Fundamentally, without any challenge to the audit undertaken by the respondent as directed by the Public Service Commission, the claimant does not contest as being among those who had presented forged academic certificates to the respondent during employment. As a public institution, the



respondent is bound to act lawfully and within the dictates of its mandate. To use the court to gag the respondent would be to act contrary to the dictates of the law.

14. The court's jurisdiction is invoked wrongly, the orders sought are without merit; the application and suit dated 21 January 2025 are hereby dismissed. The claimant is to meet the costs due to the respondent.

DELIVERED IN OPEN COURT AT MOMBASA THIS 6TH DAY OF MARCH 2025.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet

..... and

