



**Abdi v Garissa County Public Service Board & another (Employment and Labour Relations  
Judicial Review E049 of 2024) [2025] KEELRC 1303 (KLR) (7 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1303 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS JUDICIAL REVIEW E049 OF 2024**

**HS WASILWA, J**

**MAY 7, 2025**

**BETWEEN**

**HARED SAMBUL ABDI ..... APPLICANT**

**AND**

**GARISSA COUNTY PUBLIC SERVICE BOARD ..... 1<sup>ST</sup> RESPONDENT**

**COUNTY GOVERNMENT OF GARISSA ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The Applicant filed a Notice of Motion dated 26<sup>th</sup> November 2024 seeking orders that: -
  1. this Honourable Court be pleased to grant the Applicant herein an order of Prohibition against the Respondent from acting jointly and severally from proceeding with the proceeding after the process after the conclusion of the interview conducted from 16<sup>th</sup> September 2024 to 20<sup>th</sup> September 2024
  2. cost of this application be provided for.

**Applicant's Case**

2. The Applicant avers that the dispute emanates from interviews for the position of County Administrators and Deputy County Administrators conducted on 16<sup>th</sup> September 2024 to 20<sup>th</sup> September 2024 as the positions were held by others and this court gave orders for their reinstatement to their previous positions in ELRC No. E205 of 2022.
3. The Applicants avers that the interviewers and interviewees are destined to making a misconceived decision which ultimately shall be unlawful, oppressive and/or unfair to the other employees who are still waiting for the determination by the Court of Appeal in Civil Application E068 of 2024 touching on the same matter in question.



4. The Applicant avers that any decision arising from the interviews will disenfranchise the ex-parte Applicant's rights to a fair administrative action and other county employees who were unfairly and unlawfully dismissed as their positions will no longer be vacant.
5. It is the Applicant's case that the advertisement, subsequent shortlisting, interview and any decision thereon is illegal and a continuation of the Respondent's unlawful actions that this Court hear and determined in ELRC No. E205 of 2022.
6. The Applicant avers that the Respondent's action is a violation his and the aggrieved employees' employment rights and against *the constitution* as it is marred but nepotism and favouritism from the Respondent in its selection and shortlisting.

### **Respondents' Case**

7. In response to the Application, the Respondents filed a replying affidavit dated 27<sup>th</sup> December 2024 sworn by Mohamud Mursal, the 2<sup>nd</sup> Respondent's County Secretary.
8. It is the Respondents' case that the application is overtaken by events since the impugned interviews sought to be prohibited were concluded on 20<sup>th</sup> September 2024 and successful applicants recruited and issued with appointment letters.
9. The Respondents aver that an order of prohibition can only prevent the making of a decision; such an order cannot be issued in vain to stop an already implemented decision.
10. The Respondents aver that in November 2022, 1054 aggrieved employees filed a Constitutional Petition ELRCPET E205 of 2022 at Nairobi seeking reliefs against it. The Respondents objected the petition arguing the said employees were ghost workers who were not procedurally and/or lawfully recruited.
11. The Court subsequently ordered on 22<sup>nd</sup> June 2023 that the Public Service Commission should conduct verification of all the aggrieved employees to confirm whether they were procedurally recruited.
12. The Respondents aver that pursuant to the court order, PSC conducted an independent audit and submitted a report dated 25<sup>th</sup> September 2023 which recommended that apart from 1 employee, who was seconded from the National Government to the County, the rest were not lawfully employed into the County Government as there are no documents to support their alleged appointment as required by the County Government Act and County Human Resource Manual.
13. The report was challenged in court and vide a ruling delivered on 7<sup>th</sup> December 2023 the court upheld the report and held that in view of the Commission's findings, the fate of the Applicant and other aggrieved employees was now in the hands of the County Government of Garissa. Consequently, the 2<sup>nd</sup> Respondent legally and fairly terminated the 1053 employees rendering the positions vacant.
14. It is the Respondents case that there are no orders reinstating the aggrieved employees in ELRCPET E205 of 2024 or restraining the Respondents from proceeding with the recruitment process. Further, if there was any contempt, the proper forum would be the same court which issued the orders defied and not institute a fresh case.
15. The Respondents aver that they advertised for the position of Sub county and ward administrators, revenue officers and revenue clerks in March 2024; and following the shortlist successful applicants were interviewed from 16<sup>th</sup> to 20<sup>th</sup> September 2024. That the recruitment process followed the law and the allegation of nepotism and favouritism are unsubstantiated.



16. I have considered the averments of both parties herein. The application avers that the aggrieved employees were reinstated in LRC Petition No. E205 of 2024. That being the case, the proper forum to ventilate any breaches or contempt of the orders of the court would be in the same file Petition E205 of 2022.
17. I do not find the orders being sought by the applicants merited having also been overtaken by events as per the orders of this court of 19/9/2024. I therefore dismiss this judicial review application with no order of costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 7<sup>TH</sup> OF MAY, 2025.**

**HELLEN WASILWA**

**JUDGE**

