



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Kariuki v Tangaza University College & another (Cause E375 of 2022)
[2025] KEELRC 2017 (KLR) (25 June 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2017 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E375 OF 2022
DKN MARETE, J
JUNE 25, 2025**

BETWEEN

DAVID KIMENJU KARIUKI CLAIMANT

AND

TANGAZA UNIVERSITY COLLEGE 1ST RESPONDENT

APOLLINAIRE CHIHEBE CHISHUGI 2ND RESPONDENT

JUDGMENT

1. This matter was originated by way of a Memorandum of Claim dated 24th May 2022. The issue in this dispute is therein cited as;

Unfair and wrongful termination of the Claimant by the Respondent by the failure to follow any disciplinary process and termination without any reasons and without given him the reason for termination. Claim based on the principle of Legitimate Expectation.

2. The Respondent in a Respondents Memorandum dated 12th July, 2022 denies the claim and prays that it be dismissed with costs.
3. The Claimant's case is that on 1st February, 2010 the 1st Respondent offered him an employment as a Financial Accountant for three (3) years renewable. On 14th February, 2013, this contract was renewed for a further three (3) years all based on appraisal by the head of department.
4. This was repeated in 2016 and 2019 with a promotion to Chief Accountant on 18th February, 2021 and re-designated as Strategic Planning Manager on or about 17th August, 2021 when his duties as Chief Accountant were removed. On 3rd November 2021, he was appointed Acting Director of Finance and Strategy with extensions until 2nd March 2022. On 26th February 2022, the 2nd Respondent issued him a letter notifying the Claimant that his contract would not be renewed upon expiry. The Claimant contended that this amounted to unlawful termination, violating his legitimate



expectation of renewal and due process under the Employment Act, 2007. The claimant therefore deems the action of the Respondent unfair and unlawful termination of employment and prays that this be quashed in toto.

He prays as follows;

1. A Declaration that the 2nd Respondent was unqualified to hold the position of the Vice Chancellor of the 1st Respondent by virtue of his citizenship and limitations in his work permit and as such had no authority, legal or otherwise to unilaterally terminate the services of the claimant.
2. The Honourable court does call into this court and quash the letter dated 26th February 2022 signed by the 2nd Respondent.
3. Damages for unlawful dismissal.
4. Damages for unfair dismissal.
5. The Respondent's case is a denial of the claim. It is her case that the claimant's main contract was for three (3) years effective 3rd February, 2019 to 2nd February, 2022. This was extended for a month to 2nd March, 2022.
6. The Respondent's further case is that at a meeting held on 26th January, 2022 the Management Board of the 1st Respondent decided that the Claimant contract would not be renewed on expiry. This was a fixed term contract and did not raise any legitimate basis for renewal as espoused by the Claimant. It did not raise any issues of unfairness or unlawfulness. The Claimant was notified of this non-renewal and paid all his dues including pension and one (1) months salary in lieu of notice.
7. The Respondent's case in the penultimate comes out as follows;
 - a. In light of the above facts, the Respondents did not terminate the Claimant's employment but his contract expired on 2nd March 2022, and he was duly notified of its non-renewal.
 - b. The Claimant was paid all his terminal dues under his employment contract and he withdrew his pension from the staff pension and hence no further payments are due to him from the Respondents.

She prays as follows;

- a. A declaration that the Respondents' actions were justified under the circumstances.
 - b. Declaration that the Claimant is not entitled to any damages or compensation from the Respondents for non-renewal of his employment contract upon expiry.
 - c. The Claimant's expiry.
 - d. The Claimant's case be dismissed with costs.
8. The matter came to court various until the 20th February, 2025 when it was heard inter partes.

The issues for determination therefor are;

1. Whether there was a termination of the employment of the Claimant by the Respondent.
2. Whether the termination, if at all, was wrongful, unfair and unlawful.
3. Whether the Claimant is entitled to the relief sought.
4. Who bears the costs of tis cause?



9. The 1st issue for determination is whether there was a termination of the employment of the Claimant by the Respondent. The law on employment distinguishes between termination of employment and expiry of a fixed-term contract of employment. In the circumstances of this case, the Respondents have demonstrated that the claimant contract lapsed on 22nd March, 2022 and he was notified of non-renewal on 26th February, 2022. The Respondent chose to buttress her case by relying on authority of Registered Trustees PCEA v Ruth Gathoni [2017] eKLR held that non-renewal of a fixed-term contract is not termination unless the contract imposes a renewal obligation. Here, the contract had no such clause. The Claimant's reliance on Sections 41 and 45 of the Employment Act, 2007 is misplaced, as these provisions apply to termination, not expiry. The Respondents complied with Section 35(3) by giving one months notice of non-renewal.
10. The Claimant case and submissions on the doctrine of legitimate expectation as articulated in Oshwal Academy v Indu Vishwanath [2015] KECA 120 (KLR) is not applicable in the circumstances. This would apply where an employer's conduct creates a reasonable expectation of renewal. The Claimant's 12-year service and promotions could suggest such an expectation. However, the email of 2nd February 2022 merely noted a confusion of roles and did not guarantee, imply or suggest renewal. Reliance was had on the authority of Transparency International v Omondi (Civil Appeal 81 of 2018) [2023] KECA 174 (KLR) where the court emphasized that legitimate expectation requires a clear promise or representation which was absent in this case. The Claimant's contract of employment lapsed by effluxion of time and the Respondent was not obligated to re-new it. There was therefore no termination of employment in the circumstances and I find as such.
11. With a finding of no termination of employment, the other issues for determination fall by the way side. They are not useful material for determination.
12. I am therefore inclined to dismiss the claim with orders that each party bears their costs of the same.

DELIVERED, DATED AND SIGNED THIS 25TH DAY OF JUNE 2025.

D. K. Njagi Marete

JUDGE

Appearances:

1. Miss Kerubo instructed by Achach & Associates Advocates LLP for the Claimant.
2. Onsando instructed by Onsando Ogonji & Tiego Advocates for the Respondent

