



Bett v Murang'a University of Technology (Employment and Labour Relations Cause E849 of 2021) [2025] KEELRC 2131 (KLR) (17 July 2025) (Judgment)

Neutral citation: [2025] KEELRC 2131 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E849 OF 2021**

**MN NDUMA, J
JULY 17, 2025**

BETWEEN

NELSON KIPNGETICH BETT CLAIMANT

AND

MURANG'A UNIVERSITY OF TECHNOLOGY RESPONDENT

JUDGMENT

1. The suit by the Claimant against the Respondent was filed on 13/10/2021. The Claimant seeks the following reliefs:-
 1. Reinstatement to previous position; alternatively
 2. Kshs. 22,020,440.00 being compensation for loss of employment and damage for loss of reputation and unfair labour practices.
 3. Costs and interest.
2. Claimant (CW1) adopted witness statement dated statement filed on 13/10/2021 as his evidence in chief. The Claimant states that he was employed by the Respondent on 14/10/2013 as a lecturer. That he served the Respondent diligently until his employment was terminated by the Respondent on 19/2/2021 on the alleged offence of unethical and inappropriate relationship with a student (redacted) on 7th August 2019, 22nd August 2019 and 1st September 2020 contrary to the Murang'a University of Technology (MUT) Staff Code of Conduct, Ethics Act Cap 183 Laws of Kenya and [Leadership and Integrity Act](#) No. 19 of 2012 and the MLT Terms of Service for Academic Staff.
3. That on 9/12/2019 the Claimant received a letter of suspension and was on 7/2/2020 invited to appear before a disciplinary committee on 3/3/2020 to answer to the charges of having carnal knowledge with a student without consent, on diverse dates details whereof are confirmed in the charge sheet set out in the witness statement including count I of sexual harassment that on 7/8/2019, being an employee



of MUT and serving in a capacity of Assistant Lecturer and Acting Chairman in the Department of Electrical and Electronic Engineering, he invited (redacted) a female student to his residential house located in Murang'a town and had carnal knowledge of her without her consent.

4. Count II and III contain the same particulars except that the offences occurred on 22nd August 2019 and 1st September 2019 respectively.
5. By the time suit was filed the Claimant had attended a disciplinary hearing on 3/3/2020 and was found guilty and his employment terminated between the period 3/3/2020 and 19/2/2021, the Claimant was on suspension on half pay.
6. The Claimant states that in terms of MUT Terms of Service for Academic Staff clause 6.2(i) suspension is to be for a period not exceeding ninety (90) days. The Claimant states that the Respondent violated this clause. That the Claimant attended the disciplinary committee hearing again on 12/1/2021 before the matter was finally concluded.
7. During the 2nd hearing the offence of having carnal knowledge on diverse dates had been amended to read "for an unethical and inappropriate relationship." The location and dates of the offence remained the same. The Claimant said he was not given opportunity to cross-examine his accuser to test the truthfulness and veracity of the allegations made against him. That the victim did not make any formal complaint as the basis of the case nor did she present a sworn statement explaining particulars of the offence. That no report was made to the police in respect of the alleged serious charges.
8. The Claimant concludes that the process that led to his dismissal was unfair and violated rules of natural justice and Article 50 of *the Constitution* of Kenya 2010.
9. That on 19/2/2021, the Claimant was summoned by Murang'a DCI office to record a statement. That this was the same day the Claimant received a letter of dismissal.
10. That the charges were made up and have no basis. That the same are malicious and unsubstantiated. That his reputation as a lecturer and family person has been gravely damaged. That the Claimant has lost means of support and has suffered unbearable emotional trauma.
11. That the Claimant seeks reinstatement to his job and in the alternative grant of 12 months' salary in compensation for the unlawful and unfair dismissal and damages for loss of reputation; career prospects in future and being subjected to unfair labour practices.
12. That demand notice was issued on the Respondent to no avail.
13. That the Claimant be granted the reliefs sought.

Defence

14. The Respondent filed statement of response to the claim dated 20/1/2022 in which particulars of employment of the Claimant are admitted. Respondent pleads that delay in conduct of disciplinary hearing was occasioned by the Ministry of Health restrictions on meetings at the time due to the COVID-19 pandemic.
15. The Respondent called RW1 (Redacted) as a witness. She adopted a witness statement dated 27/8/2018 as her evidence in chief. She said she joined MUT on 27/8/2018 for a Bachelor of Commerce Degree.
16. That she joined a work study programme to assist her to pay tuition fees headed by one Mr. Musoga. That on 2/8/2019, while working near the electrical lab she met Mr. Musoga the supervisor in the



- company of the Claimant who he introduced as a lecturer in the Electrical Department and a tribes man of the Claimant.
17. That on 6/8/2019 she met the Claimant near the electrical lab as RW1 was going for a call of nature and he greeted RW1 and requested for her telephone number which RW1 gave him.
 18. That on the same day, they chatted on line when the Claimant flattered her with sweet words. That the chats continued as RW1 thought he was a good person.
 19. That on 7/8/2019, the Claimant called RW1 at around 6:30 p.m. and asked her to visit him. RW1 excused herself but he persisted and RW1 took a boda boda and visited him at his house in Murang'a town.
 20. That the Claimant went to sleep and later prepared dinner for her. That the Claimant asked her to take a shower. After some time, the Claimant invited her to the bedroom but she was afraid. That the Claimant then held her by the hand and took her to the bedroom. That RW1 declined to have sex with him but he forced her to do it. That he initially used condom but later on removed it and continued with the sex.
 21. They both had breakfast in the morning and Claimant gave RW1 Kshs. 100.00 fare to go back to school.
 22. That on 22/8/2019 the Claimant persuaded RW1 again to visit his house and he had sex with her immediately without supper. The Claimant gave RW1 Kshs. 100.00 in the morning for fare.
 23. On 1/9/2019, the Claimant called RW1 again to her house and had unprotected sex with her.
 24. RW1 said she was afraid that the Claimant would cause her trouble in her studies hence she accepted his advances although she experienced a lot of pain during the intercourse as she had undergone an operation on the appendix.
 25. That later the Claimant introduced his girlfriend to her by the name Grace Munyiva. The Claimant continued pestering RW1 continuously until she could not take it any longer and reported the matter at the university's guidance and counselling office.
 26. That she was attended to by M/s. Ronoh Goretti and told her all that had happened to her. RW1 said she was advised by Goretti to report to the vice Chancellor what had transpired between her and the Claimant and on 4/12/2019 she wrote a letter accordingly explaining her ordeal.
 27. That she was summoned to the office of the vice Chancellor next day 5/12/2012 at 9:00 a.m. That she narrated the incident to the Chief Security Officer but was afraid and preferred to speak to a woman. The Chief Security Officer advised her to be careful about men and sent her back to class. That later RW1 reported to the Dean of Students who advised her to see the Legal Officer since the officer was a lady and tell her story which she did.
 28. RW2 Dr. Peace Agufana testified as RW2 and adopted his witness statement dated 18/9/2023 as his evidence in chief. He said he was Registrar in charge of Administration and Planning. That he invited the Claimant to a disciplinary committee hearing. That the Claimant was accompanied by two (2) union officials, being, Dr. Stephen Njenga Muranga UASU Chapter and Mr. James Mwona of National office. That matter was referred to further investigations so as to frame the charges properly. That the chief security officer was mandated to conduct further investigation and the finding was that there was no sufficient evidence to establish carnal knowledge but evidence was sufficient to support charges of inappropriate relationship between the Claimant and the student. The charges were amended accordingly.



29. The matter could not proceed expeditiously because the university was closed due to COVID-19 pandemic for a period of about a year. The hearing was thus held on 12th January 2021. The Claimant declined to attend the hearing via a letter dated 15/1/2021. The Claimant attended the hearing on 20/1/2021 with the UASU officer and a lawyer.
30. The Claimant was presented with the amended charges and he proceeded to defend himself stating that he was assisting RW1 in buying medicine and that he had paid for it and also sent money to her mother. Mr. Musoga was invited to explain the matter and he stated how he introduced the Claimant to RW1. The Claimant was given opportunity to cross-examine Mr. Musoga.
31. That the UASU officials also submitted on behalf of the Claimant.
32. RW2 stated that having considered the case, they found the Claimant guilty as charged and made a decision to terminate his employment.
33. That on 25/2/2021, the Claimant appealed the decision. That the 1st appeal hearing was scheduled for 19/4/2021 but was adjourned to 14/6/2021 due to the pandemic. That the Claimant attended the appeal hearing with 2 union officials named Dr. Mwigge Rugera and Peter Kiunga. The Claimant testified and his evidence was considered by the Appeal Committee.
34. The appeals committee confirmed the decision to dismiss the Claimant from employment.
35. RW3 Geoffrey Musoga also testified and adopted a witness statement dated 8/9/2023 as his evidence in chief. RW3 confirmed that he introduced the Claimant to RW1 in August 2019. RW3 said that was the only time he saw the Claimant speak to RW1. He confirmed that he had explained that before the disciplinary committee.
36. RW4, prof Prisca Tuitoek, adopted a witness statement dated 18/9/2025 as her evidence in chief. She testified that she was the Deputy vice Chancellor in-charge of Academic and Student Affairs (DVC-ASA). She explained that on 17/3/2020, the university was closed due to government directive on COVID-19 pandemic. That the university resumed in January 2021 and this caused the delay in finalizing the disciplinary process involving the Claimant. RW4 said the Claimant admitted he was in communication with RW1 and that he assisted her to buy medicine. That he met her and assisted her in her studies though she was not in his department. That he showed her exam results.
37. RW4 said that the committee found that the Claimant had inappropriate relationship with RW1 and recommended termination of his employment. That the Claimant appealed the decision but the appeal was dismissed.
38. RW4 stated that the Claimant was on half pay during the period of suspension from 9/12/2018 until the date of dismissal. RW4 agreed that in ordinary times, suspension should not exceed 90 days per the MUT Policy. RW4 denied that the Claimant requested for any documents nor did he contest the accuracy of the minutes of the disciplinary hearing before court. RW4 said the minutes were signed by the Chairman of the Committee but not by the Claimant.
39. RW5 Runnoh Goretti adopted a witness statement dated 18/9/2023 as her evidence in chief. RW5 said that RW1 approached her and narrated her ordeal caused by the Claimant. That she referred the Claimant to the vice Chancellor to report the matter. That she did not personally see the Claimant with RW1. That RW1 signed consent form before she took her through a counselling session. That RW1 revealed what had happened to her during the counselling session with her.
40. RW6 Jacob Asige Chavulimu adopted a witness statement dated 8/9/2023 as his evidence in chief. He said he was the Acting Dean of Students at MUT and this matter was reported to her by RW5



seeking advice on the way forward. That he asked RW5 to formally write to him on the matter and RW5 wrote a memo dated 3/12/2019. That RW6 reported the matter to the DVC-ASA. That he directed the counsellor to do a report which was presented to the DVC-ASA. RW6 said he did not receive any evidence directly from RW1 as that was not his work.

41. RW7 Felix Kimotho adopted a witness statement dated 18/9/2023. He said he was the Chief Security Officer of MUT. That he had collected evidence from various witnesses in this matter including from RW1 and reported accordingly. RW7 said he had no direct evidence regarding any contact between RW1 and the Claimant other than the reports he got from the investigation. RW7 said he did not attend the disciplinary hearing but attended the hearing of the appeal.
42. RW7 said the student stated that the Claimant had raped her. That RW7 advised the DvC -ADA to involve the DCI as this was a very serious matter. That DCI was involved but no criminal charges were commenced against the Claimant. RW7 said since there was no direct evidence of carnal knowledge, he had advised that the Claimant be charged with the offence of having inappropriate relationship with a student.
43. Counsel for the Claimant closely cross-examined RW1 TO RW7. They all were consistent, candid and stood with their narrative.

Determination

44. The parties filed written submission which the court has carefully considered together with the evidence adduced by all the witnesses before court. The issues for determination are: -
 - a. Whether on the facts before court, the Respondent had a valid reason(s) to terminate the employment of the Claimant following a fair procedure
 - b. What reliefs if any is the Claimant entitled to.
45. In terms of section 43(1) and (2) of the *Employment Act*, 2007, the employer has the onus to prove that it had a valid reason to terminate the employment of the Claimant.
46. Section 44(1) of the Act provides reason for which employment of a person may be terminated or summarily dismissed.
47. The employer has the onus also to demonstrate it followed a fair procedure as provided under section 41 of the Act in arriving at the decision to terminate the employment of the Claimant.
48. In the case of *Walter Ogal Anuro v Teachers Service Commission* [2013] eKLR, the court stated: -

“In light of the foregoing, I find that Respondent had a genuine reason for terminating the Claimant’s employment as required under Section 43 of the *Employment Act*. However, for a termination to pass the fairness test, it must be shown that there was not only substantive justification for the termination but also procedural fairness.”
49. Section 45(1) and (2) provides that no employer shall terminate employment of a person, for no valid reason and without following a fair procedure.
50. The Respondent has by preponderance of evidence proved on a balance of probability that the Claimant was engaged in inappropriate relationship with a student in violation of the code of ethics for MUT.
51. Indeed, the court is satisfied that the evidence by RW1 in particular demonstrates on a balance of probability that the Claimant had established a sexual relationship with a student at the university



where he was a lecturer and had subjected RW1 to harassment, emotional and psychological trauma, necessitating her to seek counselling services through which the atrocious conduct by the Claimant came to light.

52. Accordingly, the termination of the employment of the Claimant was for a valid reason(s) established following a fair procedure as demonstrated by the witnesses for the Respondent. The Claimant was charged and afforded opportunity to explain himself but failed to exonerate himself from the charges of misconduct framed against him.
53. The reason for delay in conclusion of the disciplinary process was beyond the control of the Respondent. The delay was occasioned by closure of the university for a period of about one year due to COVID-19 pandemic. This delay did not negate the disciplinary process that was underway at the time. The process was concluded in a reasonable and fair manner.
54. Furthermore, the Claimant was afforded opportunity to appeal the decision. He was heard during the hearing of the appeal and the same was found to lack merit.
55. Accordingly, the suit by the Claimant lack merit and is dismissed in its entirety with costs.

DATED AT NAIROBI THIS 17TH DAY OF JULY 2025.

MATHEWS NDUMA

JUDGE

Appearance:

Mr. Koceyo for the Claimant

Ms. Taank for the Respondent

Mr. Kemboi – Court Assistant

