



Murugami v County Government of Kiambu & another (Employment and Labour Relations Cause E928 of 2021) [2025] KEELRC 2142 (KLR) (17 July 2025) (Judgment)

Neutral citation: [2025] KEELRC 2142 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E928 OF 2021**

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

BETWEEN

JOSEPH NJENGA MURUGAMI CLAIMANT

AND

COUNTY GOVERNMENT OF KIAMBU 1ST RESPONDENT

HON JAMES NYORO - GOVERNOR KIAMBU COUNTY 2ND RESPONDENT

JUDGMENT

1. The suit was filed on 10/10/2021 by the Claimant against the County Government of Kiambu and the Governor of the County.

The Claimant seeks the following reliefs from the Respondent:-

- a. A declaration that the constructive termination of the Claimant's employment by the Respondent was unfair, irregular and in breach of the law, terms of employment existing between the parties and or natural justice.
- b. Unpaid salary and benefits for the remainder of his three (3) year contract period of Kshs. 153,170/= per month plus expected increments including gratuity.
- c. Damages equivalent to 12 months' pay for unlawful termination.
- d. Payment of all other benefits due to the Claimant
- e. Interests in (b), (c) and (d) of court rates from the day each payment fell due and payable until payment in full.
- f. Issuance of a certificate of service.
- g. Costs of this suit and interest thereof.



2. The cause of action as set out in the memorandum of claim was elaborated by the testimony of the Claimant (CW1) that the Claimant was appointed by the County Government through the then Governor of the County as the political advisor vide a letter dated 18/12/2018.
3. That the Claimant commenced working on a three (3) years contract basis.
4. The said letter dated 18/12/2018 is before court and is written and signed by the Governor. The Claimant was appointed on job Group CPS 13 03 on an entry scale of Kshs. 115,290.00 per month, plus house allowance as approved by Salaries Remuneration Commission.
5. The Claimant attached a payslip for the month of May 2019 wherein the basic salary is stated to be Kshs. 118,290.00 and rental house allowance of Kshs. 25,000 and commuter allowance of Kshs. 16,000.00 making a total monthly salary of Kshs. 159,290.00
6. That sometimes in May 2020, the 2nd Respondent, the new Governor verbally terminated the employment of the Claimant without any formal termination letter and his salary was stopped with effect from May 2020.
7. That the termination was not preceded by any notice, notice to show cause or hearing.
8. That his work comprised of providing advice to the Governor on policy and legislative matters and he had discharged his duties diligently. That upon his termination, the new Governor appointed one John Mugenye to serve in place of the Claimant. That his official vehicle was then withdrawn.
9. That the Claimant suffered loss and damage and prays for the reliefs sought.
10. The Respondent filed a notice of preliminary objection to wit:-
11. That under section 31 of the [County Governments Act](#) No. 17 of 2012 the then Governor (Hon. Ferdinand Waititu Babayao) did not have the authority to make the appointment as he did vide the appointment letter dated 18/12/2018 as this is the preserve of the County Public Service Board in terms of section 59 of the Act.
12. That the suit lacks any basis and it be dismissed with costs.
13. The Respondent further filed a statement of response. The Claimant withdrew the suit against the 2nd Respondent and so the suit is presently against the County Government.
The Respondent did not adduce any evidence before court.
14. The parties filed submissions and the issues for determination are as follows:
15.
 - a. Whether the Claimant was a personal employee of the Governor and not of the County Government.
 - b. Whether the Claimant has established cause of action against the County Government.
 - c. What reliefs if any the Claimant is entitled to
16. Section 59(1) (a) (b) of the [County Governments Act](#) provides that the functions of the County Public Service Boards shall be on behalf of the County Government to:-
 - a. Establish and abolish offices in the county public office;



- b. Appoint persons to hold or act in offices of the County Public Service including in the Board of cities and urban areas within the County and to confirm appointments.
17. That the position of political advisor to which the Claimant was appointed personally by the Governor has not been demonstrated to be a position in the establishment of the County Government established by the County Public Service Board.
18. The Claimant has equally not demonstrated that his appointment was made and/or approved by the County Public Service Board.
19. Under section 30 of the County Government Act, Cap 256 Laws of Kenya, the function and responsibilities of a County Governor are set out as follows:-
30(2) subject to the Constitution, the Governor shall:-
- (a) Diligently execute the functions and exercise the authority provided for in the Constitution and legislation;
 - (b) ---
 - (c) ---
 - (d) Appoint, with the approval of the County Assembly the County Executive Committee in accordance with Article 179(2)(b) of the Constitution.
 - (e) Constitute the County Executive Committee portfolio structure to respond to the function and competencies assigned to and transferred to each County.
20. Article 179(1) of the Constitution of Kenya 2010 provides that:-
- “(1) The executive authority of the County is vested in, and exercised by a County Executive Committee
 - (2) The County Executive Committee consists of:-
 - (a) The County Governor and the Deputy Governor and
 - (b) Members appointed by the County Governor, with the approval of the assembly from among persons who are not members of the assembly.
21. Article 179 of the Constitution only grants the Governor authority to appoint Executive Committee members and no more. Neither the Constitution nor the County Governments Act gives authority to the Governor to personally appoint other persons. That is the preserve of the County Public Service Board to whom the Governor may recommend appointment of any persons the Governor deems suitable to fulfil the functions of the County Government in terms of a structure established by the County Government.
22. Accordingly, the Claimant was a personal employee of Governor Waititu and the subsequent Governor had no obligation to retain him once Governor Waititu was removed from office.
23. Accordingly, the Claimant has not made out any case against the County Government of Kiambu.
24. The Claimant has recourse only against the person who appointed him and not the County Government.



25. The claim lacks merit and is dismissed with no order as to costs.

It is so ordered.

DATED AT NAIROBI THIS 17TH DAY OF JULY 2025.

MATHEWS NDUMA

JUDGE

Appearance:

Ms. Wachanga for the Claimant

Mr. Muchiri for the Respondent

Mr. Kemboi – Court Assistant

