



**Kithuka v Meru University of Science & Technology (Employment and Labour Relations  
Petition E001 of 2023) [2024] KEELRC 298 (KLR) (16 February 2024) (Judgment)**

Neutral citation: [2024] KEELRC 298 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MERU  
EMPLOYMENT AND LABOUR RELATIONS PETITION E001 OF 2023**

**ON MAKAU, J**

**FEBRUARY 16, 2024**

**IN THE MATTER OF ARTICLE 1,2,3,10,22, 23,  
34,35,46,48,73, 75,156,159,161,162,165,201,232,233,235,AND  
258 OF THE CONSTITUTION OF KENYA, 2010**

**AND**

**IN THE MATTER OF THE EMPLOYMENT ACT, 2007**

**AND**

**IN THE MATTER OF THE STATE CORPORATIONS ACT**

**AND**

**IN THE MATTER OF MWONGOZO, THE CODE OF  
GOVERNANCE FOR STATE CORPORATIONS, JANUARY 2015**

**BETWEEN**

**DAVID NJOE KITHUKA ..... PETITIONER**

**AND**

**MERU UNIVERSITY OF SCIENCE & TECHNOLOGY ..... RESPONDENT**

**JUDGMENT**

**Introduction**

1. This is a public litigation suit, challenging appointment of persons to senior positions in the respondent university. By a petition dated 1<sup>st</sup> February 2023, the court is urged grant the following reliefs: -
  - a. A declaration that the Respondent failed in its duty to uphold the rule of law, *the constitution*, and to protect the public interest in the recruitment of the Human Resource Manager and the



Corporation Secretary/ Head of Legal Affairs, without public advertisement for the positions, conducting interviews, without conducting public competitive and seamless recruitment of the said senior staff.

- b. A declaration be and is hereby issued that the appointment by the Respondent's Vice Chancellor of Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs, in January 2023, was invalid, null and void ab initio.
  - c. An order be and is hereby issued quashing the Respondent's appointment of Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs in January 2023.
  - d. Other and further orders that this Honourable Court may deem fit be granted hereof.
  - e. Costs of the Petition be provided for.
2. The petition is opposed by the respondent through a Replying Affidavit sworn on 22<sup>nd</sup> February 2023 by the vice Chancellor of the University.

### **Factual background**

3. The Petitioner describes himself as a public-spirited resident who together with many other citizens and members of the public are aggrieved by the Respondent's action in the recruitment of its Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs on 18<sup>th</sup> January 2023 contrary to the law. The appointment was done with the approval of the respondent's Council on 16<sup>th</sup> January, 2023 and they were to serve on contract basis.
4. It is the petitioner's case that the appointments were made by the Vice Chancellor secretly since no advertisement was published either internally or externally, and no interviews were conducted. Consequently, the petitioner avers that the recruitment did not meet the legal threshold of competitive and transparent process.
5. He contended that the Vice Chancellor is obligated to declare all vacancies within the establishment to the Council in accordance with the HR Manual, for purposes of filling them substantively or in acting capacity. In this case, the said vacancies were, allegedly not declared by the Deputy Vice Chancellor (AFP). Besides, external recruitment is only considered for Job Grade 2 to 13 if internal advertisement does not yield to any suitable candidate.
6. It is the Petitioner's case that the said decision raises integrity issues and it offends Articles 10 and 73 of *the Constitution*, the Mwongozo for state Corporations January 2015, and the Respondent's Human Resource Policy. As such the petitioner contends that the impugned decision fails to meet core values such as integrity, equity, transparency and competitiveness since it is shrouded in secrecy.
7. The Petitioner averred that he has the locus standi to sue pursuant to the preamble and Articles 258 of *the Constitution*. He added that the Court is vested with jurisdiction to hear disputes regarding violation of rights and protection of *the Constitution* by Articles 1(c), 4(2), 10, 22, 23, 50(1), 159, 165, 258 and 259 and section 5 of the *High Court (Organization and Administration) Act*, No. 27 of 2015.
8. On the other hand, the Respondent filed Replying Affidavit sworn on 22<sup>nd</sup> February 2023 by Prof Romanus Odhiambo, the Respondent's Vice Chancellor. It is the respondent's case that the University is aware and compliant with the Circular Ref: OP/CAB.9/1A from the Head of the Public Service which froze recruitment of new staff; and directed that the corporations whose Human Resource instruments were yet to be approved by State Corporations Advisory Committee (SCAC), are to seek approval from the Head of Public Service, to recruit new staff on exceptional circumstances.



9. The respondent contended that it sought for approval to fill the positions of Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs which are critical senior positions, but the same was yet to be given. As such, the University Council in its 54<sup>th</sup> full council meeting held on 13<sup>th</sup> January 2023 decided to fill the position, on a one-year contract basis pending the approval of the HR Instruments and the Head of Public Service Approval. The said resolution was anchored on the University Statutes Provisions, more so schedule III 2(d) which empowers the Vice Chancellor (VC) to make temporary appointments to Academic and Administrative posts for renewable Contractual period not exceeding one year.
10. It is further respondent's case that the said power is applicable in the filling of urgent gaps provided the candidates possessed requisite qualifications to hold office, and where there were no qualified internal staff to fill the gaps. That it was not the first time the power was exercised since there are other employees serving on the said terms.
11. In the instant case, it was deposed that there were no qualified staff to fill the positions and that the HR Manager position, budgeted for, and filled at the time of filing of the Petition. Therefore, the respondent prays for the Petition to be dismissed with costs for being an abuse of court process.

#### **Petitioner's submissions**

12. The Petitioner filed written submissions dated 14<sup>th</sup> April 2023 in which he basically reiterated the contents of the petition that the recruitment was contrary to the HR procedures Manual and the Mwongozo for State corporation. As such he submitted that he is entitled to the reliefs sought since the recruitment offends Article 10, 73 and 75 of *the Constitution*. He fortified his submissions by citing the case of John Mirigi Temoi & Anor v Governor of Bungoma County and 17 others [2014] eKLR.
13. He further submitted that the court has jurisdiction to grant the reliefs sought in the petition and further that he has the locus standi to file the petition before the court when *the constitution* or a right in the Bill of Rights is violated or threatened. He fortified his case by citing provisions of *the Constitution*, the *Employment Act*, the *Employment and Labour Relations Court Act*, the Mwongozo for state corporations, 2015 and the Fair Administrative Actions Act.
14. He contended that leadership without integrity adversely affects rights of the citizens, social services and affects core values under Article 10 of *the constitution*. He maintained that all organs and persons are bound by *the Constitution* and any breach adversely affects the citizens and service delivery to the public. He clarified that he brought their petition herein in the public interest.

#### **Respondent's submissions**

15. The Respondent framed the following issues for determination:
  - i. Whether the Petitioner has the locus standi to institute the subject petition.
  - ii. Whether the Circular Ref: OP/CAB.9/1A issued by the Head of Public Service is still in force and if so, whether the same binds the Respondent.
  - iii. Whether the University Statutes empower the Respondent to recruit members of staff on a temporary basis and if so whether the correct procedure was followed?
  - iv. Who should bear the costs of the suit?
16. It was submitted for the respondent that, the Petitioner lacked locus standi to institute the Petition and that it is not clear which of his rights were allegedly denied, violated, infringed or threatened by the



Respondent. It was further submitted that the Petitioner was merely a busy body as he did not indicate his residence or who are the other many citizens he represents.

17. It was also submitted that the respondent was bound by the circular dated 7<sup>th</sup> February 2022 and hence he was not expected to advertise for the positions in question as the same would amount to an illegality and insubordination. It was argued that the Respondent via the council was empowered by the charter under paragraphs 21(1) & (2) to recruit staff on temporary basis. It was submitted that the meeting of 13<sup>th</sup> January 2023 was pursuant to the said powers. Reliance was placed on the case of Nairobi HC Misc Application No. 30 of 2007 Republic v the Vice Chancellor Jomo Kenyatta University of Agriculture and Technology, where the court upheld the power of the University Council to hire and fire staff.
18. It was again submitted that the Respondent sought approval from the Cabinet Secretary to fill the two administrative positions, vide letter dated 18<sup>th</sup> July 2022, indicating that the financial implication for the recruitment would be Kshs. 6,993,816.00 included in the 2022/2023 budgetary allocation. However, the National Treasury declined to approve the request prompting the Respondent to fill the position on temporary basis under the University statutes. It was argued that the competitive recruitment process was not provided for under the statutes but all that was required was that appointees should be qualified.
19. It was argued that the Petitioner did not file a further affidavit and as such the averments in the Replying Affidavit remained uncontroverted hence the petition should be dismissed with costs.

#### **Petitioner's rejoinder**

20. In his further submissions dated 13<sup>th</sup> June 2023, the Petitioner argued that the under clause 2.16.3 of the respondent's HR Manual, the disputed appointments ought to be competitively done, whether temporary or not, since they fall under Job Grade 14. He maintained that there were competent employees in the establishment which could have been used to fill the gaps including one Peter Gichagi Wekesa who holds a masters in HR and has worked with the University for more than 3 years; Lucy Nyaga, who has a masters in HR and acted as Deputy HR for more than 3 years; and Doris Evalene Gitonga who worked as HR in grade 14 for over 8 years before being deployed to planning department.
21. The Petitioner contended that the only way to establish whether there were no internally qualified persons was through an internal advert, but it was not done. He argued that the Respondent's HR manual emphasised the need for conducting an annual need assessment but no such report was produced by the Respondent. Further that the DVC AFP who is the head of the HR Department did not present any need assessment report or requested for filling of the gaps. He argued that there was a staff who served in the position in acting capacity and whose performance was never put to question but was not appointed.
22. He maintained that the recruitment process was not done competitively but in a secret manner between the VC and a friend of the candidate contrary to law. He submitted that the University Charter and the statutes relied upon to make the impugned appointments were subordinate to the labour laws and [the Constitution](#). Consequently, he urged the Court to exercise its inherent jurisdiction and grant the reliefs sought.

#### **Issues for analysis and determination**

23. I have considered the Petition and response, submissions by counsels and the authorities relied on. The issues that fall for determination are as follows: -
  - a. Whether the Petitioner has the locus standi to institute this Petition.



- b. Whether the impugned appointments complied with the lawful recruitment procedure.
- c. Whether the impugned appointments violated *the Constitution*.
- d. Whether the reliefs sought should be granted.

**Locus standi**

- 24. Locus standi is defined under the Black’s Law Dictionary 8<sup>th</sup> edition to mean: “the right to bring an action or to be heard in a given forum.”
- 25. The Petitioner invoked the provision of Article 22 in this Petition as the enabling provision, which provides that:

“22.

- (1) Every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
- (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—
  - (a) a person acting on behalf of another person who cannot act in their own name;
  - (b) a person acting as a member of, or in the interest of, a group or class of persons;
  - (c) a person acting in the public interest; or
  - (d) an association acting in the interest of one or more of its members.” [emphasis added]

- 26. Article 258 reiterates the provisions of Article 22 and outlines the persons who can bring an action on infringement of *the constitution* as follows:

“258.

- (1) Every person has the right to institute court proceedings, claiming that this Constitution has been contravened, or is threatened with contravention.
- (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—
  - a. a person acting on behalf of another person who cannot act in their own name;
  - b. a person acting as a member of, or in the interest of, a group or class of persons;
  - c. a person acting in the public interest; or



d. an association acting in the interest of one or more of its members.”

27. Articles 22(1) and 258 give every person the express right to institute proceedings where there is a fundamental breach, threat or violation of rights under the bill of rights and *the constitution* respectively. The Petitioner herein claims that the Respondent, by appointing the Human Resource Manager and the Corporation Secretary, fundamentally breached his and other persons rights. The said positions are public service positions that ought to be filled in accordance with *the Constitution* and enabling laws, due to public interest. In that regard, by dint of Article 22 of *the Constitution*, I find that the Petitioner has the locus standi to bring this suit against the Respondent.
28. I gather support from the decision of the Supreme Court in *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others* [2014] eKLR that:-
- “The NGO Act must be interpreted in conformity with *the Constitution*. Although Section 12(2) and (3) of the Act provides for the legal status of the 1st respondent, when read together with Articles 22, 258 and 260 of *the Constitution*, and in the public interest, it is to be inferred that the 1st respondent did not lose its locus standi, even if it were to be assumed to have lacked registered status. The three Articles give an enlarged view of locus standi, to the effect that every “person”, including persons acting in the public interest, can move a Court of law contesting infringements of any provisions in the Bill of Rights, or *the Constitution*. [emphasis added]
29. The Court in *John Wekasa Khaoya v. Attorney-General*, High Ct. Pet. No. 60 of 2012 brought out the requirements to be met for a suit to be considered as a public interest litigation as follows:
- “(18) Let me emphasize that where an application for exemption is premised on the fact that the matter is to promote public interest, then two issues must be established, to wit, 1) the intended suit must be public litigation and 2) should not be aimed at deriving any personal gain to the applicant.”
30. Having carefully considered the facts of this case, I am satisfied that the Petitioner brought this suit in good faith, for the good of the general public and does not stand to personally gain from it.

### **Compliance with the recruitment procedure**

31. The Respondent argued that although the law was clear on public recruitment, the University Charter granted him the powers to appoint employees on renewable contract for a period that does not exceed one year. It argued that it was not the first time that the said procedure was followed and sought to clarify that there were other employees currently serving on such terms.
32. The petitioner, on the other hand contended that the recruitment was unlawfully done because the respondent never sought approval from the Head of Public Service; that even if the university statutes allowed the Vice Chancellor to recruit on temporary basis, that did not take away the obligation to conduct open and competitive process; that the recruitment was done secretly without internal advertisement contrary to the HR manual; and that the positions involved are in Job Grade 14 which require advertisement before appointment.



33. I have considered the above contentions and the Circular issued by the Head of Public Service on 7<sup>th</sup> February, 2022 which reads as follows:

“RE: Recruitment of New Staff

Reference is made to Circular Ref: OP/SCAC.9/21/1/1 of 15 May 2017 where all State Corporations are required to submit the four Human Resources instruments to the State Corporations Advisory Committee (SCAC) for approval, to aid in determination of optimal staffing needs for State Corporations.

Further reference is made to circular ref: OP/CAB.39/4A of 28<sup>th</sup> July 2017 which froze recruitment of any new staff, unless in exceptional circumstances where agencies are required to seek approval from this office.

It has however been noted that several State Corporations have achieved a good level of compliance, and have had respective Human Resources instruments approved by the Committee. They have in place optimal structures of effective delivery of mandates.

In view of the above, it has been decided as follows:

- i. State corporations with SCAC approved human Resource Instruments will henceforth be exempt from the requirements of Circular Ref: OP/CAB.39/4A of 28<sup>th</sup> July 2017, and can therefore recruit staff, including replacement of staff, in line with the SCAC approved staff establishment.
- ii. The recruitment as in (i) should however only be undertaken upon:
  - a. Alignment with the approved Human Resource Instruments
  - b. Possession of a written confirmation of requisite budgets for the recruitment and sustainability thereof, from the National Treasury
  - c. Existence of Board Resolutions approving the recruitment.
- iii. State corporations whose Human Resource Instruments have not been approved by the SCAC don't fall within this exemption and will be required to continue complying with the Circular No. OP/CAB.39/4A of 28<sup>th</sup> July 2017 for all recruitments including replacement posts.

Therefore, it is reiterated that henceforth, state corporations with SCAC approved Human Resource Instruments are exempt from Circular No. OP/CAB.39/4A of 28<sup>th</sup> July 2017. A freeze on recruitment is however still in place for agencies whose human Resource Instruments are yet to be approved by the Committee.

Please take necessary action.

Joseph Kinyua, EGH

Head of the Public Service”

34. The above circular reiterated that the recruitment of new staff of State Corporations like the respondent, remained frozen pursuant to the Circular issued on 28<sup>th</sup> July 2017 except with the



approval of the Head of the Public Service. It categorically laid down the circumstances under which corporations were exempt from the above said circular.

35. In my view the Circular is self-explanatory and a simple reading exudes the meaning and intended purpose of the circular. From the Respondent's express indication that its Human Resource Instruments were yet to be approved, it is quite apparent that the Respondent fell under the non-exempted category. It was obliged to seek approval from the Head of Public Service before recruiting new staff. Admittedly, it never sought approval from the said office but instead sought the same from the Cabinet Secretary, National Treasury.
36. No good reason was given as to why the Head of Public service was not addressed the letter requesting for the approval and the only reasonable inference I can make is that, the Respondent wanted to circumvent the said Circulars.
37. Suffice it to say that, by a letter dated 24<sup>th</sup> October 2022, the Principal Secretary, Ministry of Education, State Department for University Education and Research, notified the respondent's Vice Chancellor that the request to recruit critical staff was declined by the National Treasury.
38. In view of the foregoing matters, it is not clear what other pending approval was referred to by the Respondent in its reply and in the minutes of the council meeting of 13<sup>th</sup> January 2023. Having evaluated the facts of the case before me, I am satisfied that the impugned recruitments were done contrary to the Circular by the Head of the Public Service and without approved HR Instruments for the University. The recruitments smacks of insubordination of the Head of the Public Service and clear policy guidelines issued by the government.
39. The recruitment was also done secretly without internal or external advertisement. I say so based on the email written on 11<sup>th</sup> January 2023 by Mourine Ntinyari Muriuki to the respondent's Vice Chancellor, which read as follows:
- “Kindly find my application attached as requested. Reference is made to documentation above.”
40. The said email, forwards an earlier email dated 31<sup>st</sup> October 2019 whereby the applicant had applied for the position of Legal Officer. The said application was done directly to the Vice Chancellor's email vc@must.ac.ke and copied to beatieowiti@gmail.com. From this sequence, it is quite apparent that the application was personalized and not within the parameters of open recruitment process required to fill a public office. It is also clear that the candidates were handpicked without giving other qualified candidates a chance to participate. Consequently, I find that the impugned appointment of the two officers was procedurally faulty.
41. The court recognizes the power by the University Council to hire and fire staff under the Universities Act and respondent's statutes. I also recognize the power by the vice chancellor under Schedule III (2) (d) of the respondent's statutes to appoint employees on temporary basis. However, this power is subject to the Constitution.

### **Constitutional violation**

42. Article 2 of the Constitution provides for the supremacy of the Constitution in the following terms:-

“2.

- (1) This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.



- (2) No person may claim or exercise State authority except as authorized under this Constitution.
- (3) The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.
- (4) Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.”

43. Article 10 of *the Constitution* obliges every public officer to observe the national values and principles of good governance whenever performing their duties or implementing decisions. The said Article provides as follows:

“ 10.

- (1) The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them—
  - a. applies or interprets this Constitution;
  - b. enacts, applies or interprets any law; or
  - c. makes or implements public policy decisions.
- (2) The national values and principles of governance include—
  - a. patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
  - b. human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
  - c. good governance, integrity, transparency and accountability;
  - and
  - d. sustainable development”

44. Article 232 of *the Constitution* spells out the values and principles of public service as follows:

“ 232.

- (1) The values and principles of public service include—
  - a. high standards of professional ethics;
  - b. efficient, effective and economic use of resources;
  - c. responsive, prompt, effective, impartial and equitable provision of services;



- d. involvement of the people in the process of policy making;
  - e. accountability for administrative acts;
  - f. transparency and provision to the public of timely, accurate information;
  - g. subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
  - h. representation of Kenya's diverse communities; and
  - i. affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
    - i. men and women;
    - ii. the members of all ethnic groups; and
    - iii. persons with disabilities.
- (2) The values and principles of public service apply to public service in—
- a. all State organs in both levels of government; and
  - b. all State corporations.
- (3) Parliament shall enact legislation to give full effect to this Article.”

45. The above Articles reflects the new national Culture in this country in which public officers, public organs and institutions of government are bound to observe the national values and principle of good governance while exercising their mandate. If they fail to do so, this court will readily invoke its jurisdiction to declare the supremacy of *the constitution* over the decisions and actions by public officers and entities which are inconsistent with *the Constitution*.
46. The case before me involves recruitment of officers to work in a public university by the respondent's Vice Chancellor. Admittedly, there is a freeze on recruitment of new officers in all Public Corporations except as directed by the said Circulars issued by the government through the Head of the Public Service. There is no dispute that the respondent' Vice Chancellor has made the impugned appointments without the approval of the Head of the Public Service as required by the Circular dated 7<sup>th</sup> February 2022. Such state of affairs is untidy in government operations. It is not in consonance with the principle of good governance and therefore it offends the provisions of Article 10(2) of *the Constitution*.
47. It further offends Article 73 of *the constitution* which provides for the principles of leadership and integrity in public service. Among other things, public officers are required to exercise their mandate in such a manner that brings honour to the nation and dignity to the office; and promotes public confidence in the integrity of the office. The provisions of Article 73 are to be read through the lenses



of Article 10 of the Constitution and section 52 of the Leadership and Integrity Act. Section 52 of the Leadership and Integrity Act provides that: -

“Pursuant to Article 80(c) of the Constitution, the provisions of Chapter six of the Constitution and part II of this Act, except section 18, shall apply to all public officers as if they were state officers.”

48. Apart from making the impugned appointments contrary to the national values and principles provided under Article 10 and 73 of the Constitution, the Vice Chancellor also violated the values and principles of public service as enshrined under Article 232 of the Constitution. The said values and principles include high standard of professional ethics; efficient, effective and economic use of public resources; accountability for administrative acts; transparency; fair competition as the basis for appointments and promotions; representation of Kenya’s diverse communities; and affording equal opportunities for appointment.
49. Article 232(2) of the constitution provides that the said values and principles of public service apply to public service in all state organs in both levels of government; and all the state corporations. No one can purport to derogate from these strict underpinnings of the Constitution and run away with it. In this case, the Vice Chancellor of the respondent University recruited the said two senior officers without first seeking approval from the Head of the Public Service and after being denied the permission to do so by the National Treasury. The denial of the permission was communicated to him by the Principal Secretary in charge of department for University Education in the Ministry of Education.
50. However, he secretly did the impugned recruitment on the basis of Schedule III 2(d) of the respondent’s University Statutes. With due respect, the said statute is subject to the Constitution and the Leadership and Integrity Act, and as such whenever the Vice-chancellor wishes to invoke it, he is obliged to do so through the lenses of Article 10, 73, 80 and 232 of the Constitution and section 52 of the Leadership and Integrity Act. He ought to act with high standards of professionalism. He ought to make appointments under the provisions of the University Statute through open and competitive manner so as to bring honour to the State and dignity to his office. Opaque recruitment process does not promote public confidence and having the integrity of the office of the vice- chancellor.
51. In view of the matters above matters, I am satisfied that the impugned recruitment and appointment of the two officers was done contrary to the national values and principles of governance and public service as enshrined under Article 10 and 232 of the Constitution. It was also done contrary to the principles of leadership and integrity as enshrined under Article 73 read with Article 80 of the Constitution. Since the said appointments were inconsistent with the Constitution, then the same were unconstitutional, null and void ab initio.

### Reliefs sought

52. In view of the foregoing finding that the respondent’s Vice chancellor breached the Constitution by appointing the Human Resource Manager and Corporation Secretary/Head of Legal Affairs without compliance with due process and contrary to the values and principles enshrined in the Constitution, I find that the petitioner is entitled to the reliefs sought. The violation was condoned by the University Council. Consequently, I proceed to make the following orders:
  - a. A declaration is hereby made that the Respondent failed in its duty to uphold the rule of law, the constitution, and to protect the public interest in the recruitment of the Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs, through an open and competitive process.



- b. A declaration is hereby issued that the appointment by the Respondent's Vice Chancellor of Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs, in January 2023, was invalid, null and void *ab initio*.
- c. The appointment of Human Resource Manager and the Corporation Secretary/ Head of Legal Affairs by the respondent in January, 2023 is hereby quashed.
- d. Since this is a public litigation case, I award no costs.

**DATED, SIGNED AND DELIVERED AT NYERI THIS 16TH DAY OF FEBRUARY, 2024.**

**ONESMUS N MAKAU**

**JUDGE**

**Order**

This judgment has been delivered to the parties via Teams video conferencing with their consent, having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

**ONESMUS N. MAKAU**

**JUDGE**

