



**Nyangongo v Public Service Commission & another (Employment and Labour Relations  
Petition E005 of 2023) [2024] KEELRC 514 (KLR) (7 March 2024) (Directions)**

Neutral citation: [2024] KEELRC 514 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU  
EMPLOYMENT AND LABOUR RELATIONS PETITION E005 OF 2023  
DN NDERITU, J  
MARCH 7, 2024**

**BETWEEN**

**EVANS MORARA NYANGONGO ..... PETITIONER**

**AND**

**PUBLIC SERVICE COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**TEACHERS SERVICE COMMISSION ..... 2<sup>ND</sup> RESPONDENT**

**DIRECTIONS**

1. In a notice of motion (the application) dated 29<sup>th</sup> November, 2023, the petitioner is seeking review of the judgment by Wasilwa J that was delivered on 19<sup>th</sup> October, 2023.
2. When the matter came before Wasilwa J on 13<sup>th</sup> February, 2024 the Judge recused herself from handling the matter indicating that the matter is res judicata as per the judgment alluded to above. The matter was then referred to this court.
3. Rule 33 of the Employment and Labour Relations Court Rules- 2016 provides as follows –
  1. A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time, apply for a review of the judgment or ruling –
    - a. if there is discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed on the order made;
    - b. on account of some mistake or error apparent on the face of the record;
    - c. if the judgment or ruling enquires clarification; or



- d. for any other sufficient reason.
2. An application for review of a decree or order of the Court under subparagraphs(b), (c) or (d), shall be made to the Judge who passed the decree or made the order sought to be reviewed or to any other Judge if that Judge is not attached to the Court station.
3. A party seeking review of a decree or order of the Court, shall apply to the Court by way of notice of motion supported by an affidavit and shall file a copy of the Judgment or decree or Ruling or order to be reviewed.
4. The Court shall, upon hearing an application for review, deliver a ruling, allowing or dismissing the application.
5. Where an application for review is granted, the Court may review its decision to conform to the findings of the review or quash its decision and order that the suit be heard again.
6. An order made for a review of a decree or order shall not be subject to further review.
4. In the circumstances and in view of the above provisions of the law, this court shall not hear the application as the court that delivered the judgment is still sitting at Nakuru. It would be analogous to this court sitting on appeal of the judgment.
5. Therefore, the petitioner has to either to go back to the court that delivered the said judgment and have that court hear and determine the application or in view of the recusal by the said court file an appeal against the said judgment.
6. This file is therefore returned to the registry for the petitioner to consider and take whatever lawful option that he may deem fit and appropriate in the circumstances.

**DELIVERED VIRTUALLY, DATED, AND SIGNED AT NAKURU THIS 7<sup>TH</sup> DAY OF MARCH, 2024.**

.....  
**DAVID NDERITU**

**JUDGE**

