



Ocharo v Anti – Female Genital Mutilation Board & 2 others; Salaries and Remuneration Commission & 21 others (Interested Parties) (Petition E189 of 2023) [2024] KEELRC 2436 (KLR) (4 October 2024) (Judgment)

Neutral citation: [2024] KEELRC 2436 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION E189 OF 2023
J RIKA, J
OCTOBER 4, 2024

BETWEEN

MEMBA OCHARO PETITIONER

AND

ANTI – FEMALE GENITAL MUTILATION BOARD 1ST RESPONDENT

STATE CORPORATIONS ADVISORY COMMITTEE 2ND RESPONDENT

THE ATTORNEY-GENERAL 3RD RESPONDENT

AND

SALARIES AND REMUNERATION COMMISSION INTERESTED PARTY

PETER NJAGE INTERESTED PARTY

ELIAS DULO INTERESTED PARTY

GEORGE MOGUSU INTERESTED PARTY

CHRISTOPHER PETER INTERESTED PARTY

MOSES MAINGI INTERESTED PARTY

JOHN MBUGUA INTERESTED PARTY

JOSEPHAT IRERI INTERESTED PARTY

SALOME MUTIGA INTERESTED PARTY

TERESIA MBARU INTERESTED PARTY

TOM SIRAWA INTERESTED PARTY

LEAH MAINGI INTERESTED PARTY

SHEM OWALA INTERESTED PARTY



ANN MUTHINGANI	INTERESTED PARTY
MARTHA WANJUKI	INTERESTED PARTY
NIXON DARIA	INTERESTED PARTY
FRED OWITI	INTERESTED PARTY
EVERLYNE MUSYOKA	INTERESTED PARTY
PAUL SIRMA	INTERESTED PARTY
JANE MWERERU	INTERESTED PARTY
CHRISTABEL ADHIAMBO	INTERESTED PARTY
JULIUS MUSAU	INTERESTED PARTY

JUDGMENT

1. The Petition herein, bears similar factual and legal background, as Petition E013 of 2021.
2. Petition E013 of 2021 was filed by the Petitioner, on behalf of 7 former Employees of the 1st Respondent Board.
3. The current 2nd to 22nd Interested Parties, were Co-Employees of the 2nd to 9th Interested Parties in the previous Petition.
4. It is not clear why they did not come to Court, when their colleagues did so, in the year 2021.
5. Their grievances against the 1st Respondent Board, are the same; the violations pleaded and the remedies claimed are the same; and these grievances were considered and determined by the Commission on Administrative Justice, in its Inquiry File FGM /012/423/2018.
6. There is a Judgment recorded under Petition Number E013 of 2021. The Court endorsed the findings of the Commission on Administrative Justice, in its Judgment. It has no reason to retry the facts, and to depart from the existing Judgment.

It is ordered: -

- a. Judgment in Petition Number E 013 of 2021 is adopted as the Judgment of the Court, in Petition E 189 of 2023.
 - i. The findings of the Commission on Administrative Justice, in its Inquiry File FGM /012/423/2018, are adopted as the findings of the Court.
 - ii. It is declared that the 1st Respondent violated the 2nd to 22nd Interested Parties' constitutional and statutory rights under Articles 27, 41 and 236 of the *Constitution*, Section 4 of the *Fair Administrative Action Act* and Section 5 of the *Employment Act*.
 - iii. The 1st Respondent shall pay to the 2nd to 22nd Interested Parties the difference between the salaries paid in accordance with the 2nd Respondent's Advisory, and those that should have been paid in accordance with the salary structure approved by the 1st Interested Party, over the period of deployment.



- iv. The 1st Respondent shall pay each of the 2nd to 22nd Interested Parties, general damages at Kshs. 300,000 each for violation of their constitutional and statutory rights identified in the Petition E013 of 2021.
- v. Costs to the 2nd to 22nd Interested Parties.
- vi. Interest granted at court rates from the date of Judgment, till payment is made in full.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 4TH DAY OF OCTOBER 2024.

James Rika

Judge

