



Amwoma v Nyaribo Governor, Nyamira County & 2 others (Petition 012 of 2022) [2023] KEELRC 83 (KLR) (25 January 2023) (Ruling)

Neutral citation: [2023] KEELRC 83 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
PETITION 012 OF 2022**

S RADIDO, J

JANUARY 25, 2023

IN THE MATTER OF ARTICLES 1, 2, 3(1), 10, 19, 21, 22, 27(1),(2) & (3), 28, 41(1), 47(1) & (2), 48, 50(1), 165(3)(B) AND 258(1) OF THE CONSTITUTION OF KENYA AND IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS PURSUANT TO ARTICLES 27(1),(2) & (3), 28, 41(1), 47(1) AND 50(1) OF THE CONSTITUTION OF KENYA AND IN THE MATTER OF RULES 4, 10, 11, 13 AND 20 OF THE CONSTITUTION OF KENYA (SUPERVISORY JURISDICTION AND PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL) HIGH COURT PRACTICE AND PROCEDURE RULES, 2013 AND IN THE MATTER OF SECTION 31 OF THE COUNTY GOVERNMENTS ACT, NO. 17 OF 2012 LAWS OF KENYA AND IN THE MATTER OF SECTION 45 OF THE EMPLOYMENT ACT BETWEEN

BETWEEN

JOSEPH AMWOMA PETITIONER

AND

**AMOS KIMWOMI NYARIBO GOVERNOR, NYAMIRA COUNTY 1ST
RESPONDENT**

COUNTY GOVERNMENT OF NYAMIRA 2ND RESPONDENT

NYAMIRA COUNTY PUBLIC SERVICE BOARD 3RD RESPONDENT

RULING

1. For determination is a Motion dated November 23, 2022 by the Respondents seeking orders:
 - (1) That this Honourable Court be pleased to dismiss the Petitioner's Claim/Petition as it discloses no reasonable cause of action.
 - (2) That the costs of this suit and application be borne by the Petitioner.



2. The grounds in support of the Motion were that the Court had in a Ruling delivered on March 25, 2021 held that the Petitioner's employment was tied to the tenure of the appointing Governor and consequently there was no contractual relationship with the 1st Respondent who took office upon the demise of the appointing Governor.
3. The Court gave directions on the application on November 24, 2022. None of the parties complied with the directions within the set timelines.
4. The Court has looked at the record, Motion and affidavit in support.
5. The Respondents lodged an application dated April 21, 2021 seeking similar orders to the ones now under examination.
6. The Court sitting in Kericho heard arguments on the application and dismissed it in a Ruling on the merits delivered on September 21, 2021.
7. This Court, therefore declines the invitation by the Respondents to revisit the issue. The application is not only an abuse of the court process but res judicata.
8. The Motion is dismissed with costs to be paid personally by the Respondents' advocate on record.

DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 25TH DAY OF JANUARY 2023.

Radido Stephen, MCI Arb

Judge

Appearances

For Petitioner Mwae & Associates Advocates

For Respondents Ligunya Sande & Associates

Court Assistant Chrispo Aura

