



**Mayeku v University of Embu (Cause 504 of 2019)  
[2023] KEELRC 2380 (KLR) (28 September 2023) (Judgment)**

Neutral citation: [2023] KEELRC 2380 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 504 OF 2019  
M MBARŪ, J  
SEPTEMBER 28, 2023**

**BETWEEN**

**PHILIP WAFULA MAYEKU ..... CLAIMANT**

**AND**

**UNIVERSITY OF EMBU ..... RESPONDENT**

**JUDGMENT**

1. The claimant is an adult and the respondent is a public university established under the [Universities Act](#).
2. On 26 July 2016 the respondent employed the claimant as Lecturer in the Department of Physical Science. The claimant served in his employment and was elected chairperson, Universities Academic Staff Union, University of Embu Chapter.
3. The claim is that in October 2018, the Vice Chancellor (VC) of the respondent authored a plot to terminate the claimant in his employment on the basis that he had defamed and acted in a manner that was insubordinate by failing to attend a meeting on 11 and 29 October 2018. The meetings were as per the VC invitation via text messages and were intended to be a personal meeting with the claimant's wife to resolve an alleged domestic issue not related to his employment.
4. The claim is also that the claimant had been made aware that the VC was involved in an extra marital affair with his wife who was not an employee of the respondent but staying with the claimant in the respondent's premises. The text messages between the claimant and the VC were to the effect that the VC wanted to meet the claimant and his wife in his office at 8.30 to 9pm in his office but the claimant noted that this was a private and domestic matter and his family at home had summoned them for conciliation but his wife had declined, the wife had humiliated him, and the claimant proposed to only meet the VC alone. The VC responded that the wife had made very serious allegations against the claimant, being in occupation of the respondent premises created a responsibility for him to attend and address and hence the VC wanted to establish the truth.



5. The claimant's case is that it was not part of his terms and conditions of employment for the VC to solve his domestic issues and the proposed meetings were inappropriate and in gross violation of his privacy and unprofessional of the VC. He therefore did not attend the meeting. The VC was aggrieved and so he proposed another meeting for 29 October 2018 and that failure to attend would leave him with no choice but to take action.
6. The action taken by the VC was that he reported to the Deputy Vice Chancellor (DVC) Planning and Finance who wrote to the claimant on 22 January 2019 demanding an explanation on the exchanged text messages between the claimant and the VC. On 24 January 2019 the claimant responded to the DVC and noted that the VC had invited him to resolve his personal affairs but he declined to attend because it was not an official meeting. The claimant noted that his relationship with his wife and the threats made that she would instigate termination of his employment through the office of the VC made him to decline the invitations made to have a meeting with the VC as his wife had planned the occasion to disparage and embarrass him.
7. The responses given by the claimant were not found satisfactory and on 8 March 2019 he received a letter of show cause notice. On 2 May 2019 the claimant received a telephone call to attend a disciplinary hearing without any chance of having his union representative present. The disciplinary hearing was conducted on the same day which was discriminatory since there was no prior notice or charges made to allow the claimant to prepare for the hearing or call any witnesses. The hearing was one-sided without the claimant being allowed an opportunity to make his representations and the panel made condescending comments and unwelcome remarks against the claimant with a predetermined mind.
8. During the disciplinary hearing, apart from the alleged defamatory accusation, several other allegations were made that he had neglected his duties which he addressed and stated that the alleged failure to teach assigned units on 24 and 31<sup>st</sup> October 2017 and 12 and 13 March, through a letter he sent to the respondent on 13 November 2017 he noted that the classes were made up of units that had already been covered 100% hence there was no need for the classes. This allegation was being revived after 2 years and had been resolved.
9. The claimant was alleged to have failed to invigilate supplementary exams on 18 July 2018 and the respondent sent a letter to him on 18 July 2018 and he responded on 20 July 2018 and explained the unfortunate circumstances and whereby his actions were within the allowed regulations of the respondent.
10. With regard to alleged mishandling of examination transcripts of 2018/2019 the claimant responded through letter dated 14 January 2019 stating that the exams were invigilated and results released to students and no malpractices occurred.
11. With regard to alleged observed anomalies in submission of class attendance, the claimant responded that he was aware of the allegations during the disciplinary hearing which allegation was without particulars to allow him offer any response.
12. The claim is that the show cause notice issued solely with regard to the text messages he had with the VC and the other allegations made were an afterthought meant to terminate his employment unfairly. The disciplinary process was merely cosmetic and meant to cover up the unfair labour practices he was being subjected to by the respondent. No witness or evidence was called to substantiate the allegations made, he had covered all his allocated class units within each semester, he took care of examination scripts assigned, he attended his lectures which led to good performance but the respondent opted to terminate his employment on 9 May 2019 which was unfair.



13. On 5 July 2019 the claimant filed his appeal against termination of employment but the Appeals Board consisted of the same persons as the disciplinary panel and hence upheld the termination of employment.
14. The actions of the respondent were in breach of the law as the claimant was condemned unheard and has suffered loss and damage and seek an order of reinstatement without loss of benefits and in the alternative;
  - a. Compensation for 12 months at Kshs. 154,668 x 12 = Kshs. 1,856,016;
  - b. 30 days leave Kshs. 154,688;
  - c. Damages for discrimination, harassment and unfair labour practices Kshs. 5,000,000;
  - d. Costs of the suit.
15. The claimant testified in support of his claim that since the respondent terminated his employment he has not been able to secure new employment; he has responded to all advertisements without success. He has suffered loss and damage and seek an order of reinstatement back to his employment.
16. The claimant testified that his problems started in the year 2018 when his wife reported their domestic problems to the VC who summoned the claimant with information that he was not paying school fees to his children which was not true. The claimant declined to attend such meeting since he was not comfortable with the VC discussing his personal matters and that his wife kept on meeting the VC at his office late into the night. The VC did not take this response well.
17. On 2 May 2019 the claimant received invitation to attend disciplinary hearing, the notice was sent via email and too short but he attended and was not allowed to make any representation and with new allegations which the claimant had no prior notice of. the respondent accused the claimant of failing to invigilate and mark exams or to submit scripts which was without evidence.
18. Upon cross-examination, the claimant testified that on the classes he was alleged not to have attended to teach were in a non-existent year. all allocated unit, he attended but in October 2016 he had travelled upcountry attending to elections and therefore could not teach. It is true he did not teach during this period and the respondent had a timetable. Stephen Ngunzi was the time-tabler done for each semester and where he did not teach, he was allowed for a make-up class without changing the time-table. He only needed to liaise with the class representative, the head of department or the time-tabler.
19. For the make-up classes, the attendance sheets were submitted but these are not signed by the supervisor and there is no time table for the makeup classes.
20. The claimant also testified that during the disciplinary hearing, the main charge was that he had failed to teach Chemistry 201 and that he did not administer the examination. The claimant admitted that he did not teach these classes but he made up for the same and administered examinations. For the examinations, he had travelled and delegated to somebody else though it was his duty to teach and administer examinations. Dr Eric Wangila was to give the examinations on his behalf but he failed to attend and the head of department had to intervene and during the disciplinary hearing, he gave his responses that he had allowed masters students to mark the scripts and this is not a stranger because the student is known to the respondent. It is true he gave exam scripts to the master's student for marking and the allegation was that this was a stranger which was not true.
21. The claimant also testified that he allowed a student to submit exam sheets for him to the examinations coordinator to avoid getting late. This was not mishandling of examinations as alleged.



22. The core of the matter was the personal interference of the VC with his family. He wanted to hold meetings with his wife late into the night but the claimant refused. He bought foodstuffs for her and there is evidence to this effect. He was the one employed by the respondent and not his wife and any communication with his wife was unprofessional.
23. In response, the respondent's case is that on 26 July 2016 the claimant was employed by the respondent and his employment was governed under his contract, the respondent's scheme of service and the law. The allegations made about interference with domestic affair and unprofessional conduct are diversionary and intended to portray the respondent negatively. The allegations made are meant to bring the office of the VC into disrepute and the respondent demands an apology.
24. The claimant was called to substantiate his claims through letter dated 22 January 2019 but he failed to respond. This is a show of disrespect to the respondent and the office of VC.
25. It was the duty of the respondent as the employer to counsel and assist its employees on the issue that were likely to impact negatively on their jobs or in any way bring the institution of the respondent into disrepute.
26. When called to give an explanation about his allegation against the VC, the claimant avoided the same and purported to introduce issues not relevant to the explanations demanded. The claimant was invited to a meeting with the VC with his wife but he declined and the VC did not pursue the matter further. This was not the basis leading to termination of employment as alleged.
27. On 9 May 2019 the respondent terminated the claimant in his employment following due process. In a letter dated 9 April 2019 the claimant was invited to a disciplinary hearing for 25 April 2019. On 11 April 2019 the claimant wrote to the respondent that the Union would represent him at the disciplinary hearing. Through notice dated 17 April 2019 the respondent informed the claimant of the hearing date and venue and on 18 April 2019 the respondent informed the claimant that the disciplinary hearing had been rescheduled to 2 May 2019 and this was held from 12.40 to 5.40pm and the decision communicated to the claimant through notice dated 9 May 2019.
28. The claimant was given all the charges against him and given time to make his representations before the disciplinary committee. The appeal was addressed in accordance with the respondent's appeals rules and a decision communicated to the claimant and the claims made are without merit and should be dismissed with costs.
29. In evidence, the respondent called Prof. Eucharia Kenya, Gladys Atambo, Prof. Kiplagat Kotut and Prof. Daniel Mugendi.
30. Prof. Kenya testified she is the DVC planning, administration and finance and the claimant was an employee as lecturer. On 22 January 2019 she issued the claimant with letter and noted that he had made grave and unsubstantiated allegations against the VC indicating that he had made constant communications with his wife and requested him to explain the basis of the accusations and he replied on 24 January 2019. On 8 March 2019 she wrote to the claimant with regard to his response and informed him that his responses were unsatisfactory.
31. On 9 April 2019 the witness wrote to the claimant and invited him to appear before the Staff Disciplinary Committee on 25 April 2019 and the allegations he was to respond to were particularised. In response, the claimant through his letter of 11 April 2019 informed the respondent that he would be represented at the hearing by the national office of his union. The disciplinary hearing was re-scheduled to 2 May 2019 and notice issued. The claimant attended and was able to address all matters put to him, he gave his responses and the outcome communicated through notice terminating employment



- on 9 May 2019 and allowed right of appeal which he did but no new grounds were addressed and the appeal was dismissed.
32. Gladys Atambo, the head of human resource testified that in April 2019 she received a memo dated 5 April 2019 from the DVC Academics, Research and Extension recommending disciplinary action against the claimant. She processed the claimant's file as per procedure and notice to appear before the disciplinary hearing was prepared and signed by the DVC, Planning, Administration and Finance and on 10 April 2019 issued notice to appear before disciplinary committee on 25 April 2019 and the claimant acknowledged receipt and indicated that UASU would attend and represent him at the disciplinary hearing. The hearing was re-scheduled to 2 May 2019 and the claimant attended and the witness prepared the minutes.
  33. Prof. Kotut testified that he is the DVC, Academics, Research and Extension with duties to ensure that teaching and learning was done as per the approved semester dates.
  34. The claimant was a lecturer but on 20 November 2017 he received a report that the claimant had failed to teach units assigned to him on 24 and 31 October 2017. The report indicated that the chair of department had written to the claimant seeking an explanation. The witness wrote to the claimant on 5 December 2017 with regard to his negligence in attending classes as scheduled in breach of his terms of employment and directed him to respond and to show cause why disciplinary action should not be taken against him. on 8 December 2017 the claimant responded.
  35. The witness continued to monitor the claimant in discharge of his duties as a lecturer and it came to his attention that he failed to attend classes as scheduled at the beginning of the semester in the year 2018. He wrote to the claimant on 10 January 2019 on his conduct and directed him to give an explanation.
  36. The claimant persisted in his acts of omission and casual approach to work leading to notice dated 12 February 2019 asking him to show cause why disciplinary action should not be taken against him. the details of the accusations were particularised and through response dated 19 February 2019, the claimant acknowledged receipt but failed to give any responses to the noted matters.
  37. The witness followed up with the claimant with notice dated 6 March 2019 that he had not given any responses and he was allowed a final chance to address but there was no response.
  38. Prof. Kotut also testified that on 28 March 2019 he wrote to the claimant giving him an opportunity to provide a detailed response to the issues raised against him but he declined to respond and through Memo dated 5 April 2019 he recommended that disciplinary action be taken against the claimant over his misconduct. This was the basis of his disciplinary hearing and leading to termination of employment.
  39. Prof. Mugendi the VC and responsible person at the respondent testified that in November 2017 after the UASU strike he called the claimant to his office for a meeting. He wanted to find out what plans he had put in place to make up for the classes that he had missed before the UASU strike commenced. It was agreed that he would come up with a programme on how to make up and a follow up meeting with the chair of his department would be done and to submit the plan to his office but this was not done.
  40. Prof. Mugendi testified that on 10 October 2018, while at his office, a lady came in and introduced herself as Mrs Mayeku, the claimant's wife. She was seeking for help from him as VC and indicated that the claimant had not been supporting her and the children. The claimant had not been home for the past three weeks but she was aware he was residing with another lady, an employee of the respondent. that the claimant and the children had been sleeping hungry and had to borrow food from neighbours and the children were not attending school for lack of school fees. That she was not working and had no means to support the family and sorely relied on the claimant.



41. Disturbed by this information, Prof. Mugendi gave her Kshs. 1,000 to buy food for the day and promised to follow up with the claimant. He called him and asked him to see him that evening and he followed up with a phone call. The claimant responded and indicated he would attend. Later they met and the VC narrated what had he was told by the claimant's wife and indicated he had given her Kshs. 1,000 to buy food. The claimant admitted that he was staying with the lady his wife had mentioned. The VC noted that he had an obligation to provide for his wife and children and after this meeting, the claimant promised to take care of his family and the issue would never arise again.
42. On 28 October 2018 at 5pm Mrs Mayeku once again came to the VC's office and wanted to discuss the same issues about her husband but the VC indicted that he needed to meet both of them but the claimant declined such meeting and protested that the VC should not engage in his domestic affairs. He ended that matter at such point.
43. However, the claimant took the chance to made disparaging remarks and allegations that he had an affair with his wife and that if he wanted the respondent to assist her, this should be done without his involvement. Such allegations were grave and placed him into disrepute, they were not true and the claimant wanted to divert attention from his conduct and should make an apology. On 8 January 2019 the claimant sent a text message indicting that he had information that the witness had been in constant communication with his wife and that he had instructed her to run away with his son to an unknown place and that he would resign from his employment. On 16 January 2019 the VC asked the claimant to substantiate his allegations because these were serious and grave but he declined to do so.
44. Prof. Mugendi testified that matters written by the claimant about him were disparaging, without evidence and meant to injure his reputation and an apology should issue from the claimant. After addressing the matter to this extent, he handed over the DVC in charge of planning, administration and finance for further action. UASU wrote to the VC through letter dated 16 April 2019 seeking to represent the claimant at the disciplinary hearing on the basis of a CBA between UASU and University of Nairobi and on 17 April 2019 the VC replied and noted that the respondent was a stranger to the CBA because it was not part of University of Nairobi and had not recognised UASU.
45. At the close of the hearing, both parties filed written submissions which are put into account and he issues which emerge for determination is whether there was unfair termination of employment; whether the claimant should be reinstated back to his employment with benefits; whether the alternative remedies should be gone into and who should pay costs.
46. On 9 May 2019 the respondent terminated the claimant in his employment on the grounds that he had contravened Section 44(4) (c) of the *Employment Act*, 2007 (the Act), the terms and conditions of employment Clause 4.2.4, the University Disciplinary Policy Clause 12.7.3(xiv) and the Code of Conduct and Ethics Clauses 9.1.9.6 and 10.1.
47. The particulars of these grounds were that the claimant had neglected duty by failing to teach assigned units on diverse dates in the years 2017/2018 1<sup>st</sup> semester on 24 and 31 October 2017, 2<sup>nd</sup> semester 12 and 13 March 2018; 2018/2019 2<sup>nd</sup> semester on 7 and 8 January 2019.

The allegations made against the claimant were that he had;

- a. failed to invigilate supplementary examinations that were scheduled on 16 July 2018.
- b. The claimant mishandled examination scripts for 1<sup>st</sup> semester 2018/2019 academic year.



- c. There were observed anomalies with reference to the submission of class attendance, course coverage and lecture attendance analysis forms for the units in the 1<sup>st</sup> semester 2018/2019 Academic year SCH 302, SCH 402, SCE 304 and SCH 306.
  - d. There were defamatory accusations against the office of the VC
48. Of these allegations, the claimant was taken through the disciplinary process and found guilty of negligence of duty on account of the following;
- a. Failure to teach assigned units on diverse dates in the following Academic years:  
2017/2018: 1<sup>st</sup> Semester on 24<sup>th</sup> and 31<sup>st</sup> October 2017,  
2<sup>nd</sup> Semester 12<sup>th</sup> and 13<sup>th</sup> March 2018,  
2018/2019: 2<sup>nd</sup> Semester on 7<sup>th</sup> and 8<sup>th</sup> January 2019.
  - b. Failure to invigilate supplementary examinations that were scheduled on Monday 16<sup>th</sup> July 2018.
  - c. Giving marked examination scripts and marks to a student to take to the examination coordinator.
  - d. Failure to respond to your Chairman of Department instructions to submit the original CAT II for SCH 302. ...
49. The last allegation with regard to defamatory accusations on the VC did not feature as a ground leading to termination of employment. four allegations were found as the core basis for termination of employment.
50. It is common cause that on 26 July 2016 the respondent employed the claimant as a Lecturer – Grade 12 and that;
- ... in the performance of your duties you will be answerable to the Principal or any other officer authorised by him/her who will prescribe specific duties to you as appropriate.
51. It was also a term of the employment that the claimant would be regulated in his employment by such lawful instructions given by the respondent through its authorised officers and to adhere to any other duties as may be appropriately assigned under his employment.
52. The claimant’s case is that his problems started when the VC started interfering with his domestic problems with his wife promising him that she would ensure that his employment was terminated and through her relations with the VC, this came to pass. That without prior communication on the nature of allegations he was facing, he was directed to attend disciplinary hearing on 2 May 2019 and where new allegations about his work were tabled without evidence or call of witnesses leading to unfair labour practices and unfair termination of employment. the allegations that he had failed to teach assigned units on 24 and 31 October 2017 and 12 and 13 March 2017 were not true since he had replied and he had made up classes and these matters were being reviewed two years late. The alleged failure to invigilate supplementary exams were due to unfortunate circumstances and the alleged mishandling of examinations was not true since this had been properly done. The alleged anomalies in submissions of class attendance was without evidence.
53. However, on the Notice to Show Cause dated 12 February 2019 and reiterated through notice dated 6 March 2019 Prof. Kotut outlined the various allegations put to the claimant and required to respond.



54. On the failure to teach assigned units during 1<sup>st</sup> semester 2017/2018 Academic year on 24 and 31<sup>st</sup> October 2017, the claimant responded and stated that;

... Prof. Kotut, the issues raised in this part are issues I have addressed both in writing and action. To single out a specific issue, the classes I am accused of missing in 2017. I remember this was almost the same period of the UASU national strike. I was asked to make up for these classes being monitored by the CoD and a copy of makeup schedule transmitted to your office and the office of the vice chancellor...

There is no evidence of such matter on the part of the claimant.

55. On the failure to teach assigned units during 2<sup>nd</sup> Semester 2017/2018 Academic Year on 12 and 13 March 2018, the claimant in response stated that ... I find it extremely demoralising that up to now (2019), your office is asking me to show cause why I should not be disciplined for missing these classes. I have worked in this University for two years now and in my own judgment, the delivery of my duties and commitment to my work (Teaching and research) has been consistent. ...

56. Nothing substantive was addressed. The claimant left this matter bare.

57. On alleged failure to invigilate supplementary examinations on Monday 16 July 2018 the claimant did not respond upon the notice to show cause. During the disciplinary hearing, the claimant admitted that he was away on 13 July and 16 July 2018 when the supplementary examinations were being administered but claimed to have made arrangements for the same to be done on his behalf. During the hearing in court, the claimant admitted to have asked Dr. Eric Wangila to do these duties for him but he forgot and the head of department had to intervene. The head of department had not been made aware of these arrangements. The end result was that the head of department invigilated the supplementary examinations since the claimant remained absent.

58. Indeed, in his response on 26 July 2018 the claimant noted as follows;

... I wish to explain my failure to invigilate supplementary examinations as scheduled on the timetable. I had made arrangements for my exams to be invigilated by Mr Musyoka Sammy. It was an oversight that I didn't realise that I had invigilation both on Friday and Monday. Hence, he only took care of Friday exams leaving out Monday ones. I wish by virtue of this letter to express my sincerely appreciation for your quick action to have the examinations invigilated and also regret that incidence with a promise that it will not happen again. ...

59. On the matter of mishandling examination scripts and marks, the case was that on 11 January 2019 the head of department Physical Science wrote to the claimant and asked him to explain why he had mishandled examination scripts for 1<sup>st</sup> semester 2018/2019 Academic year and the claimant in his response admitted that he had travelled to his rural home and to avoid being late in submitting his examination submissions, he asked a masters student to hand in the examination and mark sheet to the examination coordinator. That this was not a stranger as alleged since a post-graduate student, according to him was not a stranger.

60. With regard to anomalies in submissions of CAT attendance forms, the case was that on 7 February 2019 the CoD Physical Sciences wrote to the claimant to account for anomalies noted in the CAT attendance, course coverage and lecture attendance analysis forms he had submitted for units allocated during the 1<sup>st</sup> semester because he had failed to submit SCH 302 CAT II original attendance form and had instead submitted a photocopy of CAT I attendance form. On the submitted data, some indicated



SCH 302, SCH 402, SCE 304 an SCH 306 which did not tally with the records captured on the course coverage forms and the claimant failed to respond to the matters put to him.

61. Cumulatively, the claimant, as an employee of the respondent, specific under his employment, he was under a duty to undertake his work/duties as required. Absence from work without permissions, failure to undertake his assigned duties, allocation of his duties to other employees and to a master's student without prior approval and authorisation of his supervisor and head of department was in gross negligence of duty. It was direct abdication of duty. It was direct insubordination of his employer who had directed him to undertake his duties as required.
62. Abdication of duty is a fundamental breach of the employment relationship. The admission by the claimant that he allowed Dr. Eric Wangila his duties while away from work without head of department approval was such a breach.
63. The allocation of examination transcripts and marks to a masters' student, without approval by the head of department was such a breach. Indeed, in his response on 14 January 2019, the claimant wrote as follows;

... I reported to the University on 03/01/2019 to purposely finish up with marking SCH 302 script that was only remaining unmarked.

I was closely working with Justus Mukavi my M.Sc. student who was helping me arrange scripts to the mark list.

I was to hand in marks by myself but I got a serious emergency that needed my attention. I even by way of text message informed you that I was not going to be able to attend to my lecturers of the week but will make up for the classes when am back. ...

64. There is no response to this communication allowing the claimant to delegate his core duties to a student. The head of department with not give an approval for such matter to be delegated. No student had been allowed to help the claimant in his work.
65. Failure to attend work as directed by the employer is a fundamental breach of the employment relationship and justify summary dismissal in terms of Section 44(3) of the Act. Failure to attend work which in its nature is for the subject employee to undertake is gross misconduct and subject to summary dismissal in terms of Section 44(4) (c) of the Act;

(3) Subject to the provisions of this Act, an employer may dismiss an employee summarily when the employee has by his conduct indicated that he has fundamentally breached his obligations arising under the contract of service.

And;

(c) an employee wilfully neglects to perform any work which it was his duty to perform, or if he carelessly and improperly performs any work which from its nature it was his duty, under his contract, to have performed carefully and properly;

66. It is clear to this court that the claimant was made aware of the reasons for which termination of his employment was being considered through the notice to show cause on 12 February 2019, he responded and decided to take a diversionary approach from himself to the VC. His response avoided the issues placed in context for him to give answers. Through letter dated 6 March 2019 the respondent through Prof. Kotut reminded the claimant to respond to the show cause notice. he refused to respond.
67. The letter inviting the claimant for the disciplinary hearing where he was required to appear and defend himself is a confirmation that the respondent took all efforts to address his conduct. At the conclusion



of the disciplinary hearing, the claimant was duly informed of the reasons for the termination of his employment through the termination letter dated 9 May 2019. The reasons provided by the respondent aligned properly with the claimant's job description.

68. The court finds the respondent followed the provisions of section 43 of the *Act* read together with Section 44 and 41 thereof before terminating the claimant's employment. The sanction of summary dismissal ought to have issued.
69. The respondent took the option to terminate the claimant's employment. This was generous because the respondent offered to pay one months' notice. such was generous.
70. The remedy of reinstatement is not available in a matter where employment terminated for good cause and is hereby found lawful and the threshold of due process was addressed.
79. Accordingly, the claim is hereby dismissed in its entirety. Costs to the respondent.

The file shall be returned to ELRC Nairobi Registry.

**DELIVERED IN OPEN COURT AT MOMBASA THIS 28TH DAY OF SEPTEMBER 2023.**

**M. MBARŪ**

**JUDGE**

In the presence of:

Court Assistant: Japhet Muthaine

..... and .....

