

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

PETITION NO. E099 OF 2021

VINCENT SHINAKA MULIRO.....PETITIONER/APPLICANT

VERSUS

THE BOARD OF TRUSTEES,

NATIONAL SOCIAL SECURITY FUND.....1ST RESPONDENT

THE MANAGING TRUSTEE/CEO,

NATIONAL SOCIAL SECURITY FUND.....2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

RULING

1. The long and short of the matter is that no merit is found in the Notice of Motion. The Court does recall the sequence of events on the material day when Mrs. Mbabu was courteous enough to advise the Court that the Petitioner's advocate had reached out to her and informed her he was waiting to be admitted. The Court thereafter proceeded to confirm no one was in the lobby as all parties waiting to be admitted had been admitted after a brief break.

2. The matter was called out and in their absence was dismissed as no one appeared to prosecute the application. As no evidence of the alleged handicap has been adduced coupled with the fact that when Mr. Rotich appeared he did not notify the Court of a power surge. It would seem the current Motion is an afterthought and a belated attempt to bolt the stable doors after the horses have bolted out.

3. The fact that Mrs. Mbabu pointed out an issue that had been notified to her between the first and second sessions is clear indication she did the best she could as a professional and the absence of the Petitioner/Applicant cannot be laid at any one's door other than their own. As such the Motion being devoid of merit is dismissed with costs to the 1st Respondent who was forced to file a response due to the misrepresentation in the Motion.

Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 22ND DAY OF SEPTEMBER 2021

NZIOKI WA MAKAU

JUDGE