



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NYERI

PETITION NO. 14 OF 2015

**IN THE MATTER OF CHAPTER 4 OF THE BILL OF RIGHTS ARTICLES 1, 2, 3(1),
10, 19, 20, 21, 22, 23, 25, 27(1),(2) AND (3), 28, 41(1), 47(1), 48, 49, 50(1),(2)(a) AND (o),
159(2)(d), 258, 162 & 246(1), (2) & (3) OF THE CONSTITUTION OF KENYA 2010**

AND

IN THE MATTER OF THE EMPLOYMENT ACT

AND

IN THE MATTER OF THE NATIONAL POLICE SERVICE ACT, 2011

AND

IN THE MATTER OF THE FORCE STANDING ORDERS

UNDER THE POLICE ACT CAP 84 LAWS OF KENYA

AND

IN THE MATTER OF DISCIPLINARY/ORDERLY ROOM PROCEEDINGS

AND

IN THE MATTER OF THE REMOVAL FROM THE POLICE SERVICE

(FORMERLY POLICE FORCE)

BETWEEN

POLICE CONSTABLE HENRY NYAKOE OBUBA.....PETITIONER/APPLICANT

VERSUS

NATIONAL POLICE SERVICE COMMISSION.....1ST RESPONDENT

INSP. GENERAL NATIONAL POLICE SERVICE.....2ND RESPONDENT

DEPUTY INSP. GENERAL NATIONAL POLICE SERVICE.....3RD RESPONDENT

THE HON. ATTORNEY GENERAL.....4TH RESPONDENT

RULING

1. The Petitioner/Applicant filed the application seeking review of the order of this court in September 2018 dismissing the application for review on the basis that the court erred in holding that there was a pending appeal. The Petitioner/Applicant seeks review of the dismissal application as there is an error apparent on the face of the motion. Whereas it was true that an appeal has been preferred, the said appeal was struck out on 21st February 2018 due to the failure of the Respondents (Appellants) to file the record of appeal per the Rules of the Court of Appeal.

2. In disallowing the motion seeking review, I dismissed it whereas there was no appeal. The court thus fell into error and the review application is reinstated. The parties will take directions on the said review motion upon the delivery of this Ruling. The dismissal of the review motion is vacated. Each party will bear their own costs as the error was not attributable to either of them.

It is so ordered.

Dated and delivered at Nyeri this 20th day of February 2019

Nzioki wa Makau

JUDGE

I certify that this is a true copy of the Original

Deputy Registrar