REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LABOUR RELATIONS COURT

AT NAIROBI

PETITION NO. 55 OF 2019

IN THE MATTER OF: VIOLATIONS OF ARTICLES 41 & 47 OF

THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF : BREACH OF SECTION 2 & 4 OF THE

FAIR ADMINISTRATIVE ACTION ACT

AND

IN THE MATTER OF : BREACH OF SECTIONS 41, 43, 47 & 49

OF THE EMPLOYMENT ACT . 2007 AND

IN THE MATTER OF: UNLAWFUL & UNFAIR TERMINATION,

UNFAIR LABOUR PRACTICES & UNFAIR ADMINISTRATIVE

ACTION

BETWEEN

SAADIA ADAN KHALIF.....PETITIONER

VERSUS

KENYA URBAN ROADS AUTHORITY.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

JUDGMENT

Introduction

1. The petition herein is dated 6.3.2019 and it seeks the following orders:

a) "A **Declaration** that the termination of the Petitioner's employment was unprocedural, unfair, unlawful and contrary to the provisions of **Article 41** and **47** of the Constitution, **section 41, 43** and **45** of the Employment Act and **section 4(3)** of the Fair Administrative of Action Act.

b) A **Declaration** that the Respondent breached the Petitioner's right to fair labour practices, the right to fair disciplinary and administrative process and denied the Petitioner adequate time and opportunity to respond to the allegations against here.

c) An **Order for reinstatement** of the petitioner to the position of the 1st Respondent's Deputy Director Supply Chain Management Unit without loss of salary and benefits.

d) An **Order of Certiorari** to remove and bring to this Honourable Court and quash the Respondents letter dated **28th February 2019** and **5th March 2019** purporting to relieve the Petitioner of her duties and effectively terminating her without notice.

e) An **Order of Prohibition** prohibiting the 1st and 2nd Respondents from subjecting the Petitioner to a second vetting process which would be discriminatory and unfair.

2. The gist of the petition is that by a letter dated 5.3.2019 the 1st Respondent communicated her decision that she had relieved the petitioner of her work on allegation that she had refused to be vetted in accordance with the directive by the President of the Republic of Kenya that all the civil servants of her rank be vetted for suitability to continue serving. According to the petitioner the said decision was done without first according her an opportunity of being heard and as such it violated her rights under Article 41 and 47 of the Constitution; section 2 and 4 of the Fair Administrative Action Act ; and section 41, 43 and 45 of the Employment Act. The petition is supported by the petitioner's own affidavits sworn on 6.3.2019 and 25.3.2019. The gist of the affidavit is that she was vetted at Harambee House on 20.6.2018 as required and on 31.10.2018, the Respondent called her back to work upon advise of PSC vide letter dated 25.10.2018 that she had successfully been vetted.

3. On 8.3.2019 the court certified the matter urgent and granted the following orders:

a. **THAT** this application is certified urgent.

b. **THAT** a conservatory order or stay be and is hereby granted staying and suspending the decision by the 1st Respondent and the Principal Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works to terminate the Petitioner's contract of employment by way of dismissal, suspension or any other prejudicial administrative action as communicated in the letter dated **28th February 2019** and **5th March 2019**."

4. The respondent opposed the petition and the Notice of Motion by Replying Affidavits sworn by Francesca Cherotich sworn on 4.3.2019 and 26.3.2019. The gist of the Replying Affidavit is that the Claimant was not dismissed but was only relieved of her duties pending vetting to determine her suitability to continue serving as directed by the President. That indeed the Claimant had been recalled to work on advise from the Permanent Secretary infrastructure by the letter dated 25.10.2018 which stated that the petitioner had successfully been vetted. However on 1.3.2019, the 1st Respondent received another letter dated 28.2.2019 from the Principal Secretary Infrastructure referring to another letter dated 13.2.2019 from the Head of Public Service informing her that the Petitioner had not yet been vetted and her name was erroneously included in the list of the successfully vetted employees. The letter further advised that the petitioner be relieved of her duties to await conclusion of her case together with the other officers who were not cleared. It is the defence case that the petitioner services have not been terminated and the alleged violations under the cited provisions of the law are not true. The respondents therefore prayed for the suit to be dismissed because it has not been demonstrated with precision how the petitioner's fundamental rights and freedom under the Constitution have been violated or threatened contrary to Article 22 (1) of the Constitution and the decisions in ***Anarita Karimi Njeri case [1979]KLR 154*** *and* ***Mumo Materu vs. Trusted Society of Human Rights Alliance [2013] eKLR.***

5. On 1.4.2019, the court directed the parties to dispose of the petition by written submission and extended the temporary orders until the determination of the petition. The petitioner filed her submissions on 14.5.2019 while the respondent filed theirs on 28.5.2019. Thereafter counsel highlighted the submissions orally on 29.5.2019.

Petitioner's Submissions

6. The petitioner submitted on the following three issues:

a) Whether the Petitioner complied with the directive issued vide the circular dated 4.6.2018 by the Head of the Public Service.

b) Whether the 1st Respondent's decision to relieve her of her duties effective 5.3.2019 was lawful.

c) The legal effect of the decision in ***OKiya Omtata Okoiti vs. Joseph Kinyua & 2 others [2018]***

7. On the first issue, the Petitioner contended that she was appointed Manager Procurement on 11.12.2015 and thereby became in charge of Procurement for the 1st Respondent after a competitive recruitment process. That on 1.6.2018, the President issued a directive mandating fresh vetting of all the Heads of Procurement and Accounts in Government Ministries, Departments Agencies and Parastatals.. As a result, the Head of Public Service issued circular No. OP/CAB.39/1A directing all Heads for Accounting Units and all Heads of Procurement Units to hand over to their deputies and proceed on compulsory leave for 30 days effective 6.6.2018 and they were to submit to the Head of Public Service the required information in sealed envelope on or before 8.6.2018.

8. The Petitioner further contended that she complied with the circular by handing over her docket to her deputy and by submitting all the required documents on 8.6.2018 at the Harambee House and duly signed the Register kept by the Head of Public Service. That on 20.6.2018, she was summoned for an oral interview which was done extensively and released to go home. She produced copy of visitors pass that was given to her on the day she attended vetting.

9. The Petitioner further submitted that after her 30 days compulsory leave ended, she resumed work on 19.7.2018. That by letter dated 31.10.2918 the 1st respondent's Director General confirmed to her that The Principal Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works had advised that she (petitioner) had successfully gone through the vetting process and should therefore resume duty. She therefore contended that she fully complied with the circular by the Head of Public Service and was lawfully reinstated.

10. As regards the decision to relieve her of her duties to undergo vetting, the petitioner submitted that the decision was an afterthought and was made in breach or contravention of section 11.7.1.(a) – (k) of the 1st Respondent's Human Resource Policy and Procedure Manual. That the letter was ambiguous and unclear and did not state when she (petitioner) was supposed to conclude the disciplinary case with and the subsequent steps the petitioner should follow in clearing her name. In her view, she fully complied with the vetting requirements by submitting all the required documents within the stipulated timelines and thereafter attended the oral interview before being called back to work.

11. The petitioner further submitted that the allegation that she declined to be vetted is baseless, vague and does not meet the threshold for terminating employment as provided by section 43 and 45(2)(a) of the Employment Act. That the reasons for terminating her services is not valid and that she was denied the right to lawful, reasonable and procedural process in contravention to Article 41 and 47 of the Constitution, and section 4(j) and 4(3)(a) of the Fair Administrative Act. She relied on ***JMK vs. MWM & Ano. [2015]ekLR*** and ***Onyango Oloo vs. Attorney General [1986 -1989] EA 456*** to underscore the importance of the right to hearing before decision making.

12. Finally, on the legal effect of the decision in ***Okiya Omtatah Okoiti vs. Joseph Kinyua & 2 Others [2018]eKLR*** the petitioner submitted that the circular No. OP/CAB.39/1A was declared illegal and unconstitutional for lack of guiding procedural instruction, lack of adverse reason and for inefficient use of public resources through paying officers full salary and allowances while on compulsory leave.

For the same reason, the petition herein prayed that the court adopts the decision in **Okiya Omtatah Okoiti** case above where the court also found that there was no justifiable case why the public officer could not continue in office while vetting was going on.

13. She concluded by urging the court to find that the decision to relieve her of her duties on 5.3.2019 was founded on false allegation that she had declined to undergo vetting and prayed for reliefs sought in the

petition.

Respondents' submissions

14. The Respondents submitted that the petitioner has not proved that she was indeed vetted on 20.6.20183 by one Mr. Kihara from the Head of Public Service. They contended that the undersigned letters were clear that the petitioner declined to be vetted and she was inadvertently deemed to have been cleared and her name erroneously included in the list of those officers who were cleared. The Respondents wondered why the petitioner has failed to enjoin the person who vetted her or the Head of Public Service or even called Mr. Patrick Wanjuki, who she claimed that they were netted together on 20.6.2018.

15. The respondents relied on **Raila Amollo Odinga & Another vs. IEBC & 2 Others [2017]ekLR** to submit that the burden of proof squarely rests with the petitioner throughout. They intended that the law casts no onus on the respondent to prove. They further relied on **Kiambu County Tenants Welfare Association vs. Attorney General and another [2017]eKLR** to submit that the burden of proof rests with the petition to prove by evidence the alleged violation of his rights under the various provisions of the Bill of Right and the manner and the extent of the alleged infringement and the extent of the injury suffered (if any).

16. In this case the respondents submitted that the petitioner did not tender cogent evidence to prove that she was successfully vetted as required by the circular. They further contended that the claimant has not been dismissed from service but only relieved for her duties pending vetting to clear her name. That her position is reserved and as such, the employer's decision is reasonable and justified.

17. On the other hand, the respondents submitted that the President's directive of 1.6.2018 culminating in the circular for vetting of petitioner and others was Constitutional. They observed that, Ongaya J, in the ***Okiya Omtatah Okoiti*** Case, aforesaid held that the directive by the President during his Madaraka day speech to the nation was Constitutional and not a roadside declaration and that it was within the President's mandate to take measures towards combating corruption. Consequently, the respondent submitted that the letters dated 28.2.2019 and 5.3.2019 should not be quashed because they are communicating the decision which originated from the President.

18. Finally, the respondents submitted that the circular by the Head of Public Service No. OP/CAB.39/1A was never declared unconstitutional by Ongaya J. in ***Okiya Omtatah Okoiti case***, but only the imposition of compulsory leave was. That even on that finding the respondent submitted that the decision in ***Okiya Omtatah Okoiti*** above was binding on this court.

They wondered why the petitioner is fearing for the vetting and prayed that the reliefs sought be declined.

Analysis and Determination

19. There is no dispute that on 1.6.2018, the President directed that all heads of Procurement and Accounts in Government Ministries, Departments, Agencies and Parastatals be vetted to determine their suitability to continue serving; that on 4.6.2018 the Head of Public Service issued circular No. OP/CAB.39/1A to give effect to the president's direction; that on 13.6.2018, the petitioner handed over her duties to her deputy and proceeded on 30 days leave; that by letter dated 31.10.2018 the petitioner was recalled to work after the Permanent Secretary' Infrastructure confirmed by letter dated 25.10.2018 that the petitioner had successfully been vetted; and finally that the petitioner was relieved of her duties on grounds that the same Principal Secretary Infrastructure had informed the 1st Respondent by letter dated 28.2.2019 that the Petitioner had declined to undergo the vetting.

20. The issues for determination are:

(a) Whether the Claimant was successfully vetted before resuming duty.

(b) Whether the decision to relieve her of duty by the letter dated 5.3.2019 amounted to termination of her employment or suspension.

(c) If (b) is in the affirmative, whether the termination was substantively and procedurally unfair.

(d) Whether the respondents have violated the petitioners fundamental rights and freedoms under the Article 41 and 47 of the Constitution.

(e) Whether the relief sought should be granted.

Whether Petitioner was Vetted

21. The petitioner contended that she was fully vetted and thereafter resumed duty. She produced evidence to prove that she submitted all the documents on 8.6.2018 required to the Head of Public Service as required by the Circular dated 4.6.2018 and thereafter attended oral interview on 20.6.2018 at the same office. She produced copy of visitor's pass which she used to attend the said oral interview which was done by Mr. Kihara from the Head of Public Service office. It is upon the said vetting exercise that the Principal Secretary Department of Infrastructure notified the 1st Respondent that the petitioner had been successfully vetted and she could be recalled to work. Interestingly, the Petitioner had already resumed duty after the lapse of the 30 days compulsory leave with permission from the 1st Respondent.

22. The court finds the respondents demand that the petitioner provides prove of the vetting to be not only surprising but also capricious. They did not deny that on 8.6.2018, the petitioner submitted all the documents required from her by the said circular and signed the necessary Register. They have also not denied that the petitioner went to the office of the Head of Public Service on 20.6.2018 and used the visitors pass produced herein as exhibit by her to access the premises. Finally, they have not denied whether there is a Mr. Kihara who works at the office of the Head of the Public Service.

23. Whereas the court appreciates that the burden of proof lies with the petitioner herein, the court finds that the petitioner has proved on a balance of probability that she was indeed vetted through the documents she presented on 8.6.2018 and further by oral interview on 20.6.2018. I further find that the burden of proving that the petitioner declined the vetting lies with the respondents. They must prove by evidence the day she was summoned for the vetting, the venue, the persons who were the designated to vet her, the circumstances under which the vetting was declined and the immediate steps that were taken against her for such grave misconduct of declining the vetting ordered by the President.

24. The said burden of prove has not been discharged by the respondents who did not call any primary evidence to support the allegation that the petitioner declined to undergo vetting. All what the court was treated to was hearsay evidence in the form of Affidavits sworn by one Francesea Cherotich Boen, on the basis of allegations conveyed to the 1st Respondent's Acting Director General by Principal Secretary of the parent ministry, who did not witness the petitioner declining the vetting.

25. The foregoing notwithstanding, the court finds that under paragraph 2 of the Respondent's further Replying Affidavit, the respondent acknowledges that the petitioner was vetted. The paragraph is copied herein below:-

> *"2. **THAT** as deposed in my aforesaid Replying Affidavit the vetting process giving rise to this cause owes its origins to a Presidential Directive of 4th June 2018, and that when the said vetting process concluded the Petitioner's name was inadvertently omitted from the list of those who had not been cleared, which led to her being deemed to have been cleared and her inclusion to the list of the cleared ones"*

26. The foregoing, is however contradictory to the impugned letters and I therefore return that the petitioner successfully went through the vetting process as directed by the President on 1.6.2018 and thereafter the principal secretary of the parent ministry wrote letter dated 25.10.2018 to the 1st Respondent confirming that the petitioner was indeed successfully vetted and she should resume duty.

Consequently, dismisses the defence pleaded by the Respondents that the petitioner was cleared by mistake because it is hard to fathom how a person accused of insubordinating the President can be mistaken for an innocent one.

(b) Whether the petitioner was dismissed or suspended by letter dated 5.3.2019.

27. The letter dated 5.3.2019 stated as follows:

> ***"Deputy Director, Supply Chain Management***
>
> ***RE: PRESIDENTIAL PROCLAMATION ON FRESH VETTING OF PUBLIC OFFICER***
>
> ***We are in receipt of a letter Ref: MOTI HUB PW/CONF.E.21/5 VOL.IV (5) dated 28th February, 2019 (copy attached) from the Principal Secretary, State Department for Infrastructure. In the said letter, it is reported that the Head of Public Service vide letter OP/CA.39/1A dated 13th February 2019, has confirmed that you declined to be vetted and was inadvertedly deemed to have been cleared and your name was erroneously included in the list of those officers who were cleared.***
>
> ***In view of the above therefore, you have been relieved of your duties with immediate effect awaiting conclusion of your case. You are required to hand over to your deputy, Lizzy Makena Mwiti (Assistant Director, supply chain management) with immediate effect.***
>
> ***Yours faithfully***
>
> ***Eng. Silas M. Kinoti***
>
> ***Ag. Director General"***

28. The letter dated 28.2.2019 stated as follows:

> **"Eng. Silas Kinoti**
>
> **RE: PRESIDENTIAL PROCLAMATION ON FRESH VETTING OF PUBLIC OFFICERS –**
>
> **MS. SAADIA HAJI ADAN KHALIF**
>
> **SUPPLY CHAIN MANAGEMENT PERSONNEL** ***Reference is made to my letter Ref. No. MOTI HUD & PW/CONF. E.21/5 VOL.111(197) dated 25th October 2018 in which I informed you that Ms. Saadia Haji Adan Khalif, an employee of your Authority had successfully undergone the vetting exercise and had been cleared and should resume duties.***
>
> ***However, the Head of Public Service under letter OP/CAB.39/1A dated 13th February 2019 has confirmed that M/s. Adan Khalif declined to be vetted and was inverterally deemed to have been cleared and her name was erroneously included in the list of those officers who were cleared.***
>
> ***In the foregoing you are required to relieve the officer of her duties to await conclusion of her case together with the other officers who were not cleared.***
>
> ***Take necessary action.***
>
> ***Yours Sincerely***
>
> ***Julius Koris CBE***

Principal Secretary"

29. The gist of the foregoing two letters in my view, is that the employment of the petitioner has not yet been terminated but she is suspended forthwith pending action to be taken against her together with others who were not cleared during the vetting. I therefore find and hold that the petitioner has not proved on a balance of probability that her employment was terminated by the letter dated 5.3.2019.

(c) **Whether the decision in the impugned letters violated his the Petitioner's fundamental Rights and Freedoms under section 41 and 47 of the Constitution.**

30. This Court does not doubt the right of the employer to suspend her employee pending investigations into some misconduct. In this case, employer's (1st Respondent) allegation is that the petitioner has declined vetting as directed by the president. That allegation is not correct according to the evidence cited above which shows that the petitioner was duly vetted and called back to work.

31. In addition to the foregoing, it is clear that the decision to relieve the petitioner of her duties was done without according him a chance to defend herself.

32. Article 41 of the Constitution provides that every worker has the right to fair remuneration; reasonable working condition; to form, join or participate in the activities and programmes of trade union; and go on strike. On the other hand Article 47 (1) & (2) on the other hand provides that every person has a right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair; and if a right or fundamental freedom of a person has been or is likely to be affected adversely affected by administrative action, the person has a right to be given written reasons for the action.

33. In this case, the court has already found that the petitioner's employment has not been terminated. However, it is obvious from the impugned letters that her right to continue in employment is threatened. She has been directed to stay away from work pending action for alleged refusal to undergo vetting. The letters are clear that her fate in employment will be decided alongside other officers who have not been successful during the vetting. To that extent the court finds that the decision has been made that threatens the claimant's employment and the reason therefor has been communicated to him in writing as required by Article 47(2) of the Constitution.

34. The court is however of the view that a fair procedure was not followed before the decision to relieve the petitioner of her duties. As observed herein above, the Claimant underwent vetting by presenting documents on 8.6.2018 and oral interview on 20.6.2018 before being recalled to work for being successful in the vetting. Fairness demands that retracting from the said pronouncement by the respondent's required that the petitioner be heard first. What was difficult in serving the petitioner with a show cause letter first and thereafter verifying her response with any person she names as the person who vetted her?

35. Whereas the court does not insist that the employer must always hear the employee before suspending or interdicting her, the court distinguished the facts of this case from a normal suspension pending disciplinary action. In this case, in my view, the petitioner is not facing any disciplinary action by the employer. She was just ordered to undergo vetting to determine her suitability to continue serving within 30 days which she did. However, thereafter she was accused of declining the same vetting by a third party and then condemned to stay away from work and await for action to be taken against her by the said third party together with the officers who were allegedly not successful in the vetting exercise. Tying the petitioner with other officers who failed in the vetting is equal to condemning her unheard.

36. Paragraph 2 of the further Replying Affidavit acknowledged that petitioner was vetted but purports that she was not cleared. That contradicts the impugned letter (paragraph 2).

37. In view of the foregoing, I return that the decision to relieve the petitioner of her duties without prior hearing was not in accordance with a fair procedure and it infringed on her right to fair administrative action as envisaged under Article 47 of the Constitution and section 4 of the FAA Act. That in addition

the decision to reverse the earlier decision that cleared the petitioner during the vetting, and substitute it with another decision condemning her as having not been cleared was an affront to her right to fair labour practices and right to fair administrative action under Article 41 and 47 of the Constitution.

(e) **Whether the reliefs sought should be granted**

38. In view of the finding herein above that the employment of the petitioner had not yet been terminated, the court declines to make declaration that her employment has been terminated unprocedurally, unfairly, unlawfully and wrongfully contrary to Article 41 and 47 of the Constitution; Section 41, 43 and 45 of the Employment Act and Section 4(3) of the FAA Act. However, I make declaration that the respondents breached the petitioner's right to a fair disciplinary and administrative process by denying her an opportunity to defend herself before condemning her to be treated in the same manner as the officers who were not successful during the vetting process.

39. The petitioner prayed that I quash the letters by the respondents dated 28.2.2019 and 5.3.2019 for purporting to terminate her employment with the 1st Respondent. I have however found herein above that the letters did not terminate the petitioner's employment but only suspended her pending the same action with the other officers who were not successful in their vetting. It is the said suspension, condemning the petitioner to such treatment without prior hearing that rendered the said letters impugned.

Accordingly I quash the said letters for condemning the petitioner without a fair process in breach of Article 41 and 47 of the Constitution and section 4(3) of the FAA Act.

40. Finally, the petitioner prayed that I prohibit the respondents from subjecting her to a second vetting process which in her view would be discriminatory and unfair. The only reason cited by the respondent for relieving her of her duties, pending action with the other officers who had not succeeded in their vetting was that the petitioner declined to be vetted.

41. The court has already found that the petitioner was successfully vetted and recalled back to work by letter dated 31.10.2018 following confirmation by the Principal Secretary Infrastructure by letter dated 25.10.2018 that the Petitioner was successful in her vetting. The contrary has not been proved by the respondent. The impugned letters never stated that the petitioner was being required for another vetting. They just stated that she was relieved of her duties to await conclusion of her case with the other officers who were not cleared.

42. The issue of fresh vetting was only introduced herein by the respondents further replying Affidavit sworn by Fransesca Cherotich Boen on 26.3.2019 at paragraph 1 and 3. In paragraph 2 of the Further Affidavit acknowledged that the petitioner was vetted. The paragraph stated:

> ***"2 THAT as deposed in my aforesaid Replying Affidavit the vetting process giving rise to this cause owes its origin to a Presidential Directive of 4th June 2018, and that when the said vetting process concluded, the petitioner's name was inadvertently omitted from the list of those who had not been cleared, which led her being deemed to have been cleared and her inclusion to the list of cleared ones."***

43. The foregoing paragraph fortifies my finding herein above that the petitioner was vetted on 20.6.2019 and the contrary has not been proved by the respondents. No good reason has been shown by the respondent to justify any fresh or second vetting. There is also no basis for the second vetting either in the form of a fresh presidential proclamation or circular from the Head of the Public Service.

44. Paragraph 7 of the Respondents Replying Affidavit, stated that :

> ***"7. THAT thereafter, the 1st Respondent received communication through a letter dated Ref: MUTIHUB & PW/CONF.21/5 VOL. III (197) dated 25th October 2018 advising that the petitioner should resume duty immediately following her successfully vetting and also directed that officers who are charged in court, undergoing investigation or disciplinary process should***

not be reinstated until the matter is concluded."

45. The Petitioner was not facing any of the processes referred to above. The said paragraph did not also state that a second vetting was allowed against any officer. I therefore grant the prohibition order sought to prohibits the respondents from subjecting the petitioner to a second vetting because doing so would be discriminatory and unfair.

Conclusion and disposition

46. I have found that the petitioner was successfully vetted and the contrary has not been proved. I also found that the impugned letters did not terminate the petitioner's employment but they violated her right to fair labour practice and right to fair administrative action as enshrined under Article 41 and 47 of the Constitution because a fair process was not followed including granting her an opportunity to defend herself before reversing the earlier decision that she had been cleared during the vetting, and substituting it with the decision that she had not been cleared and she should await for conclusion of her unspecified case. Finally, I have found that a second vetting of the petitioner is not only unfounded but unjustified and proceeded to prohibit the respondents from subjecting the petitioner to the same.

47. In the end, the court returns that the petition is successful to the extent stated above and the courts grants the following reliefs:-

(a) A declaration that the Respondent breached the Petitioner's right to fair labour practices, the right to a fair disciplinary and administrative process and denied the Petitioner adequate time and opportunity to respond to the allegations against her;

(b) An order for reinstatement of the Petitioner to the position of the 1st Respondent's Deputy Director Supply Chain Management Unit without loss of salary and benefits;

(c) An order of certiorari to remove and bring to this Honourable Court and quash the Respondent's letter dated **28th February 2019** and **5th March 2019** purporting to relieve the Petitioner of her duties;

(d) An order of Prohibition prohibiting the 1st and 2nd Respondents from subjecting the Petitioner to a second vetting process which would be discriminatory and unfair;

(e) Costs of the suit to the Petitioner.

Dated, Signed and Delivered in Open Court at Nairobi this 20th day of September, 2019

ONESMUS N. MAKAU

JUDGE