

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NYERI

CASE NO. 192 OF 2018

JOSEPH MURIITHI NJERU.....CLAIMANT

VERSUS

COUNTY GOVERNMENT OF KIRINYAGA....RESPONDENT

RULING

1. The motion is granted in terms of the prayers sought by the claimant in prayer 3 and 4. The reasons will be best articulated on the detailed Ruling to follow.
2. Be that as it may the provisions of Section 50 of the County Public Service Act do not envision the transfer through redeployment to other arms of the County Government. A Sub-County Administrator stands in the position that is akin the position of a Deputy District Commissioner in the old regime. The functions for this office are spelt out in the Claimant’s instrument of appointment. His appointment as Sub-County Administrator was by the exercise of the prerogative of the County Public Service Board to employ the Claimant after interviews were conducted for the position. He has not been serving under a Ministry of the Respondent but has served in the administration of the County. This is a Public Service position delineated in statute.
3. Being a statutory position there is no grounds for the County Secretary to assume has carte blanche over every employee in the County. He should read the acts he operates under to appreciate the import. In as far as information goes, the County Secretary seems oblivious to the provisions of Articles of the Constitution that gave the citizens an expanded range of rights. In particular Article 35 provides there is information that is to be availed when sought. The Claimant/Applicant sought to be granted reasons for the deployment and specifically what the Claimant was tasked to do. If the appointment of the Claimant is one that can be tinkered with at the whim of County Secretary, then we are back in the dark days of hubris and disregard for statutory under pinnings of Public Service.
4. The motion is merited to this extent and I thus confirm the interim orders pending the hearing and determination of the suit as the Claimant and Respondent have raised sufficient dust to suggest all is not well with this “transfer”.

It is so ordered.

Dated and delivered at Nyeri this 11th day of July 2018

Nzioki wa Makau

JUDGE