



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS**

**COURT OF KENYA AT NYERI**

**CAUSE NO. 30 OF 2017**

**(Formerly ELRC NYERI 423 of 2017)**

**THARAKA NITHI COUNTY GOVERNMENT.....1<sup>ST</sup> RESPONDENT/APPLICANT**

**THARAKA NITHI PUBLIC SERVICE BOARD.....2<sup>ND</sup> RESPONDENT/APPLICANT**

**VERSUS**

**EUSTACE NDEKE KAMUNDE.....120<sup>TH</sup> CLAIMANT/RESPONDENT**

**RULING**

1. The 120<sup>th</sup> Claimant Ndeke Kamunde was captured per the Respondent's evidence speaking about the matter before Court in a manner that suggested contempt of Court. The Respondent's witnesses including the Newscaster and the Reporter on the ground identify the 120<sup>th</sup> Claimant as the person who spoke on the matter before Court. The Respondent's testimony on this was tested by the 120<sup>th</sup> Claimant. On his part he states that the recording is a manipulation of the voices that appear on the recording and the fact that Rosemary Gatiria confirms she did not record him and obtained it from elsewhere is sufficient basis for the dismissal of the said application. The court heard the clip, the record speaks for itself and if indeed the 120<sup>th</sup> Claimant is to be believed that the recording was manipulated and computer generated he must have spoken to facilitate the said alteration. I do not buy that argument and find that indeed there is basis for the Respondent's complaints to Court on the contempt. In as far as the 120<sup>th</sup> Claimant's defence goes it is clearly an attempt of obfuscation. I find him guilty of the offence of contempt of Court and accordingly convict him. He is to mitigate before I sentence him.

2. As Claimant No. 120 is a first offender and appeared to make a mistake that he regrets he is sentenced to one day of Community Service at Nyeri Law Courts. He will work as directed cleaning or whatever else he will be assigned to do from tomorrow at 8.00 am to 5.00 pm. For that he is to be taken by the Bailiff and processed to appear tomorrow to serve his sentence. He need not be placed in custody but give his personal recognisance to attend as directed. The Court will not punish him with an order for costs. This should serve as a warning to others who may be tempted to commit contempt of Court.

It is so ordered.

**Dated and delivered at Nyeri this 5<sup>th</sup> day of December 2018**

**Nzioki wa Makau**

**JUDGE**