



**Kago v Inades Formation Kenya (Cause E953 of 2021)  
[2024] KEELRC 2179 (KLR) (6 September 2024) (Judgment)**

Neutral citation: [2024] KEELRC 2179 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E953 OF 2021  
NJ ABUODHA, J  
SEPTEMBER 6, 2024**

**BETWEEN**

**MARY WANJIKU KAGO ..... CLAIMANT**

**AND**

**INADES FORMATION KENYA ..... RESPONDENT**

**JUDGMENT**

1. The Claimant filed her claim on 8<sup>th</sup> November, 2021 and pleaded inter alia as follows: -
  - a. The Claimant entered in to a contract of employment with the Respondent dated 12<sup>th</sup> November, 2018 where she was engaged as Chief Administration and Finance. That the contract was for a term of 2 years ending on 11<sup>th</sup> November, 2020.
  - b. The Claimant averred that during her employment with the Respondent she diligently and faithfully performed and discharged all her tasks and responsibilities as set out in the contract of employment which she served the contract in full. That after the lapse of her contract the Respondent extended the contract for a period of six months which she averred was discriminatory since contracts of other employees in similar rank to her had their contracts extended for a period of three years.
  - c. The Claimant averred that while serving her extended contract she was shocked to receive a termination notice date 30<sup>th</sup> April, 2021 informing her that her contract which was in force up to 31<sup>st</sup> July, 2021 would be terminated. That in the said termination notice the Respondent made serious allegations about her character and performance in the discharge of her contractual duties while under employment by the Respondent.
  - d. The Claimant further averred that she was never afforded the opportunity to challenge and/or respond to the said highly prejudicial allegations made against her by the Respondent and



contained in the said termination notice contrary to the principle of fair hearing as espoused in the Kenyan Constitution and the labour laws.

- e. The Claimant averred that the termination notice was inconsistent and full of contradictions because on one hand the Respondent alleged that it terminated her on non-performance while on the other hand it alleged that the employment contract lapsed through effluxion of time. That the said contradictions showed that the Respondent intended to terminate her employment to her great prejudice and detriment.
  - f. The Claimant averred that she was never subjected to any disciplinary process by the Respondent on account non-performance and dereliction of her duties as required by law. That there were deliberations and discussions between her and the Respondent but the same deliberations were in form of normal performance management of her work where no adverse or incriminating allegations were made against her.
  - g. The Claimant averred that the said allegations in the termination Notice were serious where she ought to have been issued with formal warning notices and being subjected to formal disciplinary process as required by law. That upon receipt of the said termination letter and being dissatisfied with the reasons thereon she wrote to the Respondent on 8<sup>th</sup> July,2021 stating that the said termination was unfair and unprocedural.
  - h. The Claimant further averred that she was not aware of any complaints relating to her discharge of duties where she worked for the Respondent from Novemeber,2018 and was earning a monthly salary of Kshs 142,445/= at the time of dismissal. That she suffered loss and damage as the bread winner of her family due to the loss of her employment upon the unfair termination.
2. The Claimant in the upshot prayed for the following against the Respondent;
- a. A declaration that the termination of employment contract of the Claimant by the Respondent was unfair, wrongful and illegal.
  - b. Payment of the sum of Kshs 1,709,340/= equivalent to 12 months salary for the unfair and wrongful termination of the Claimant's employment contract
  - c. Payment of the sum of Kshs 284,890/= equivalent to two month's salary being service pay for the period which the Claimant worked with the Respondent.
  - d. Payment of the sum of Kshs 59,735/= being payment for 13 leave days which were accrued by the Claimant but which were not taken.  
Total claim Kshs 2,053,965/=
  - e. Costs of the suit and interests.
3. The Respondent filed its Statement of Response dated 16<sup>th</sup> December, 2021 and averred inter alia as follows:
- i. The Respondent admitted that the Claimant was their employee on fixed term contract which expired on 31<sup>st</sup> July,2021. That the Claimant commenced employment with the Respondent on 12<sup>th</sup> November,2018 as chief of Administration and Finance under an initial fixed term of two years commencing 12/11/2018 and ending 11/11/2020.
  - ii. The Respondent averred that upon expiry of the initial term the same was extended for a further period of one and half months from 12th November,2020 and terminated on 31<sup>st</sup> Decembewr,2020. That upon the Claimant's appraisal for the year ending December 2020



a further contract was executed between the parties for a period of 7 months with effect 1<sup>st</sup> January,2021 to 31<sup>st</sup> July,2021.

- iii. The Respondent averred that it never terminated the Claimant's contract and maintained that the same came to end by effluxion of time. That it was not under obligation to renew the Claimant's contract and it was not prevented from pointing out her shortcomings during her employment. That there was no need for disciplinary hearing as the Claimant was not guilty of any misconduct requiring disciplinary hearing.
- iv. The Respondent averred that the extension of the Claimant's contract for a period of seven months was not discriminatory and that the Claimant did not perform her duties satisfactorily during her tenure with the Respondent. That the Claimant was aware of her shortcomings in her discharge of her duties as brought out in the various meetings reports, performance appraisals, performance plans and communications between the Claimant and the Respondent.
- v. The Respondent denied the particulars of loss and damage stating that the Claimant was aware that she had a seven months contract that was to lapse on 31<sup>st</sup> July,2021. That the contract with the Claimant was procedurally and lawfully terminated and three months' notice of intention of not to renew the contract duly issued to the Claimant hence she is not entitled to any damages for wrongful termination.
- vi. The Respondent averred that the Claimant was not entitled to any service pay for the period worked since the Respondent maintained a pension scheme with CFC Life Assurance Ltd and the Respondent having submitted her dues together with remittance of NSSF dues the Claimant was not entitled to any service pay. That the Claimant was not entitled to the 13 leave days.
- vii. The Respondent averred that the Claimant's suit was bad in law and did not bring out any issues for determination and prayed it be dismissed with costs.

### **Evidence**

4. The Claimant's case was heard orally on 28<sup>th</sup> November,2023. The Claimant (CW1) testified in court and adopted her witness statement together with the pleadings filed in court as her evidence in chief.
5. CW1 testified that her initial contract which commenced in November 2018 ended on November 2020 which was extended for one month. The donor contract was also ending hence it was extended awaiting the approval of donor budget. That she was later given a six month contract.
6. CW1 testified that she was the only one whose contract was extended for one month pending approval of the budget. That everyone's contract was ending in December so hers was extended for month so that she may be at par with the others.
7. CW1 testified that appraisal was done but for everyone. That she was the only one given 7 months contract the others were given three years. That the appraisals filed in court were done with her concurrence. That she never signed it and she never participated in the appraisal. That she was not given one month's notice of termination.
8. CW1 testified that if it was effluxion of time it could have happened in July. That she was never put on PIP as the PIP documents filed in court were standard documents for all employees.



9. In Cross-examination CW1 confirmed that her terms were contractual and fixed term. The last one was ending on 31<sup>st</sup> July,2021. That the letter indicated termination was in July,2021 and she continued working until her contract ended in July 2021. She further confirmed that she was not challenging the termination but she felt discriminated since everyone was given a three year contract That her job was advertised before she left and that she was given three months termination notice. That renewal as per article 5 was at the discretion of the employer.
10. CW1 confirmed that renewal or extension was based on performance and article 8 provided for termination before end of contract which required one month's notice of termination. That she did not call a witness to show they were given longer contracts.
11. CW1 confirmed that she signed the Performance plan, Development plan and assessment because it was standard appraisal document for everyone. That she was taken through appraisal by the board member. That she never indicated on the document if she never agreed with it.
12. CW1 confirmed that she was paid her terminal dues upon termination. That the employer had a pension scheme and the employer authorized release of pension contributions to her. She confirmed dropping the claim for leave days. She confirmed that renewal was responsibility of the employer and she never complained about the extension for 6 months.
13. In Re-examination CW1 clarified that under article 5 she was not given an opportunity to express if she wanted her contract renewed. That there was no appraisal before termination and she was never taken for capacity development training. That the board member was not involved in day to day affairs of the organization hence he could be biased.
14. The Respondent's case was heard on 28<sup>th</sup> February,2024 where the Respondent called two witnesses. The first witness was the IT expert who adopted his witness statement as his evidence in chief. RW1 testified that he serviced the Respondent's computers and he printed the email from the Respondent's servers. That he satisfied himself that the computers were in good condition without any viruses.
15. In cross examination RW1 confirmed that he never filed electronic certificate. That the email were for a third party and he could not verify the allegations in the email.
16. In reexamination RW1 Confirmed that as per his witness statement he serviced the computers and they were in good order free of any viruses.
17. The second Respondent witness was the accountant who testified that he was a member of the board of the Respondent and chair of finance committee. He adopted his witness statement filed in court as his evidence in chief.
18. RW2 stated that the Claimant's engagement was on contractual basis with the last contract being the one ending on 31<sup>st</sup> July,2021. That the Claimant served fully all the contracts and was paid all her dues by the Respondent. He further stated that the Claimant's contract was never terminated but it expired. That renewal was not automatic but depended among others on performance and whether there were enough donor funds and renewal was discretionary.
19. RW 2 further testified that the Claimant signed a job description and that she was informed of her underperformance through appraisals which is documented between her and her supervisor. That the Claimant was well trained as trainings took place every month. That she was not discriminated by extending her contract for seven months and that she never complained about the contract when issued with it and further that she was given three months' notice of non-renewal as per the organization policy.



20. In cross examination RW2 confirmed that he was a board member when the Claimant was working and the day to day operations were responsibility of the Managing Director. That he appraised the Claimant who refused to be appraised by the MD.
21. RW2 confirmed that staff contracts started and ended differently. That the Performance Management Report was for assessment period from January to December. That the document was appraisal form and part of PIP. That the Claimant was assessed by her supervisor and she refused to sign.
22. RW2 confirmed that under article 5 notification of intention to renew was three months. That termination notice was one month or one month's salary in lieu of notice. That the email between the Claimant and the MD were about work-related issues where she had issues with Audit.
23. RW2 confirmed that the trainings were not before the court and that he could be copied in email between the Claimant and the MD when necessary.
24. In Re-examination RW2 clarified that as per minutes of the board held on 5/12/2020 the Claimant was in attendance and that she refused to be appraised by the supervisor and that was how he came in.

### **Claimants' Submissions**

25. The Claimant through her written submissions dated 18<sup>th</sup> March,2024 and stated the termination notice was full of contradictions where at one hand it was based on her underperformance and on another hand on effluxion of time. That there were uncertainties as to the grounds and circumstances under which the contract terminated.
26. It was the Claimant's submissions that the termination notice barred her from expressing her intention to renew the contract one month to expiry. That the Respondent's allegations that she was aware of her short comings in discharge of her duties was not true as the IFK Performance Management of 9<sup>th</sup> December,2020 did not in any way indicate that the Claimant did not satisfactorily perform her duties save for the email that followed the report.
27. It was the Claimant's submissions that the email and computer electronic evidence produced by the IT services Consultant could not be admissible as per section 106B (1) and (4) of *Evidence Act* which evidence ought to be accompanied by certificate in accordance with Section 106(4) of the *Evidence Act* which the witness did not provide to the court to accompany the print out.
28. The Claimant submitted that in all the email there was nowhere she indicated she did not want to be evaluated by the manager. The minutes of 5<sup>th</sup> December,2020 only pointed out that she was defensive on the feedback provided by the manager but not that she refused to be evaluated or appraised. The Claimant relied on the case of Abraham Gumba v Kenya Medical Supplies Authority (2014)eKLR on proof of poor performance. That the Respondent did not lead evidence to show the Claimant's performance had been assessed to show if she needed to improve or not. The Claimant relied on the burden of proof stipulated under section 47(5) of the *Employment Act*.
29. On the issue of whether the Claimant was discriminated when her contract was not extended for similar period as those of her peers the Claimant submitted that after lapse of her contract her contract was extended for 6 months yet her peers their contracts were extended for 3 years. That all contracts lapsed at the same time as it depended on donor funding. The Claimant relied on the case of *Hesbon Ngaruiya Waigi vs Equitorial Commercial Bank Limited Industrial court at Nairobi cause No 60 of 2013* on discrimination.
30. On the issue of whether her termination of employment was valid both procedurally and substantively the Claimant submitted on section 41 on procedure and section 43 of the *Employment Act* on valid



reasons for termination. The Claimant relied on the case of Water Ogal Anuro v Teachers Service Commission(2013) eKLR on both procedural and substantive fairness.

31. It was the Claimant's submissions that the termination was unfair as it failed to adhere to mandatory provisions of section 41,43, 45 and 47(5) of the *Employment Act*. That she was not afforded an opportunity to be heard which is against article 50 of *the Constitution* in conjunction with the Fair Administrative Actions Act. That the Respondent's witness confirmed that she was never issued with show cause letter and the process outlined under section 41 was never followed as there was no disciplinary hearing.
32. It was the Claimant's submissions that the Respondent claim that the notice was for nonrenewal of contract and not termination was not true. That the Respondent ought to have stated the issue of non-renewal without going to the grounds of the same. That the complaints of underperformance should have been brought to her attention during her tenure and be given chance to defend herself on those complaints under section 41 of the *Employment Act*. She relied on the case of Mary Chemweno Kiptui vs Kenya Pipeline Company Limited(2014) eKLR on observant of section 41 above. That the dismissal was both substantively and procedurally unfair.
33. On the issue of whether the Claimant was entitled to the reliefs sought the Claimant submitted that she was entitled to compensation for unfair termination as per section 49(1) (c) of the *Employment Act* and proposed maximum compensation due to the manner of her termination which she alleged was unfair.
34. The Claimant also submitted that she was entitled to the service pay of two months' salary and submitted that she was paid salary for the last month and accrued leave days and abandoned the prayer for leave days.

### **Respondents Submissions**

35. The Respondent filed its written submissions dated 25<sup>th</sup> April, 2024 and submitted that vide the letter dated 30<sup>th</sup> April,2021 they informed the Claimant that her contract would not be renewed. According to the respondent the claimant admitted that her contract was fixed term contract running for 7 months and she admitted working for the entire period of the contract until 31/7/2021 when the contract expired.
36. It was the Respondent's submissions that the renewal of the contract was not automatic and depended on availability of donor funds, performance and it was solely at discretion of the organization. That article 5 of the contract provided that renewal was at the discretion of the employer. The Respondent relied on among other cases the case of Rajab Barasa & 4 others v Kenya Meat Commission(2021) eKLR to submit that fixed term contracts carry no expectation of renewal and that there was automatic termination of the contract by effluxion of time in fixed term contracts.
37. The Respondent submitted that it gave the Claimant notice of the fact that her contract ending 31<sup>st</sup> July, 2021 would not be renewed as per the terms and conditions of employment contract contained in clauses 2.4 and 2.5 of the contract. That this vitiated any expectation, legitimate or otherwise that the contract would be renewed which is the only exception to the rule of termination of term contracts by effluxion of time. The Respondent relied on the case of Margaret A Ochieng v National Water Conservation & Pipeline Corporation(2014) eKLR on the said exceptions.
38. The Respondent submitted that the said notice was issued procedurally as per the contract of employment and it did not raise inconsistencies and contradictions as alleged by the claimant. That its



- decision not to renew the contract was based on issues regarding the Claimant's performance which were known to her in line with Section 45 of the *Employment Act* on validity of termination.
39. On the issue of whether the Claimant was aware of the reasons given in the letter of 30/4/2021 the Respondent submitted that the Claimant was aware since she admitted executing performance assessment appraisal document of December 2020. The issues of underperformance in the letter were well documented in the email exchanged between the parties. That parties were expected to sign the appraisal where the supervisor and the employee must have seen and discussed the assessment.
  40. It was the Respondent's submissions that although the Claimant purported to state that although she signed the document she did not agree with it she did not adduce evidence to show she was coerced in to signing. That she voluntarily signed the appraisal after a meeting with her supervisors where the contents were discussed and the Claimant notified on areas she needed to improve. The Respondent invited the court to read the email before it which showed that the Claimant was aware of all the accusations.
  41. The Respondent submitted that although the Claimant's counsel raised the issue of the email not being accompanied by certificate under section 106B(4) of the *Evidence Act* the witness confirmed that he had serviced the computers which were free from viruses which guaranteed authenticity of the email as per the said Act Section 106B(2).
  42. The Respondent further submitted that it was not necessary to give reasons for the non- renewal of the contract; the Respondent gave the reasons in good faith and in adequate time to afford the Claimant chance to improve and aid her to be better in her further professional engagements and career. That the reasons were justified as per performance appraisal and email exchanged.
  43. On the issue of whether the Claimant was discriminated against by the Respondent the Respondent submitted that the Claimant did not prove this allegation by any shred of evidence. That she did not call or provide an independent evidence to prove this allegation. That the renewal of the contract was at the discretion of the board and there was no single letter by the Claimant challenging the 7-month contract extension. That she ought to have raised the issue of discrimination when the contract was given and not after serving the full term. The Respondent relied on the case of *Samson Gwer & 5 Others v Kenya Medical Research Institute & 3 others(2020) eKLR* on proof of the discrimination.
  44. The Respondent submitted that on the issue of training raised by the Claimant that the Claimant received training on her duties and her weakness could be remedied by her going back to class as it touched on her competence. The email by the Managing Director was questioning the Claimant why she did not attend the trainers meeting program. That the Claimant was never discriminated as she was treated equally as other employees when it came to trainings and work conditions.
  45. On the issue of if the prayers sought by the Claimant, the Respondent submitted that the Claimant was not terminated as her contract ended by effluxion of time. That the decision to renew was pegged on performance. The Claimant did not meet the expected standards necessitating the Respondent not to renew her contract. The Respondent relied on the case of *Civil Appeal No. 18 of 2018 Transparency International Kenya V Teresa Carlo Omondi(2023) eKLR* on there being no legitimate expectation once duration had lapsed in fixed term contracts.
  46. On the prayer for gratuity the Respondent relied on section 35 of the *Employment Act* to submit that since it remitted NSSF and Pension scheme with CFC Life Assurance Limited the Claimant was not entitled to any service pay. The Respondent relied on the case of *Kennedy Nyanguncha Omanga v Bob Morgan Services Limited(2013) eKLR*.



## **Determination**

47. The court has reviewed and considered the pleadings by both parties and testimony by both parties and I have come up with three main issues;
- a. Whether the Claimant was unfairly terminated or her contract terminated by effluxion of time.
  - b. Whether the Claimant was discriminated against by the Respondent.
  - c. Whether the Claimant is entitled to reliefs sought.

### **Whether the Claimant was unfairly terminated or her contract terminated by effluxion of time.**

48. The Claimant alleged that she was terminated by the Respondent while her contract was still in force on grounds of poor performance. The Respondent on the other hand alleged that the Claimant's contract was a fixed term contract and even the previous contracts renewed were fixed term contracts which expired and there was no legitimate expectation to renew them.
49. The court notes that the Claimant's contracts were fixed term contracts the last one being for seven months running from 1<sup>st</sup> January, 2021 to 31<sup>st</sup> July, 2021 the same was renewable at the option of the employer. Renewal depended on availability of donor funds as well as performance of the Claimant. Clause 5 of the contract provided as such and the Claimant admitted that her contracts were fixed term contracts during hearing. This goes in tandem with Section 10(3)(c) which provides that;
- where the employment is not intended to be for an indefinite period, the period for which it is expected to continue or, if it is for a fixed term, the date when it is to end;
50. This court in addition notes that the Claimant was notified on 30<sup>th</sup> April, 2021 that her contract will not be renewed for the reasons of the poor performance.
51. It is therefore clear that the Claimant served her full term of the contract up to 31<sup>st</sup> July, 2021; was paid her final dues then decided it was unfair termination and filed this case. It is interesting why the Claimant chose not to challenge the intended termination when she got the termination notice in April; waited until she served the full term, was paid her final dues then she decided thereafter it was unfair termination.
52. This court in the case of *Esther Muthoni Wachira v Vice Chancellor University of Nairobi & University of Nairobi* [2022] eKLR while relying on court of Appeal decision had this to say;
- In Registered Trustees Of The Presbyterian Church Of East Africa & Another Versus Ruth Gathoni Ngotho Kariuki 2017 EKLRC 'Bearing the foregoing in mind, we note that fixed term contracts carry no rights, obligations, or expectations beyond the date of expiry. Accordingly, any claim based after the expiry of the respondent's contract ought not to have been maintained. This is in relation to the salary for the months of April up to 5<sup>th</sup> May, 2010. Similarly, since the respondent's contract came to an end by effluxion of time any claim for wrongful termination could not be maintained'
53. In the case of *East Africa Sea Food Limited v Mwazito (Appeal E013 of 2020)* [2023] KEELRC 1257 (KLR) (20 April 2023) (Judgment) the court had this to say:-

Whether to issue a fixed term contract or not is regulated under the provisions of Section 10(3) (c) of the Act. An employer is allowed the prerogative to employ an employee under a





fixed term contract with a start and end date. the self-executing contract is lawful and valid in employment and labour relations. The Court of Appeal in Civil Appeal No. 18 of 2018 Transparency International Kenya v Teresa Carlo Omondi [2023] eKLR held that a fixed-term employment contract does not create a legitimate expectation of renewal. Further, the non-renewal of fixed-term employment does not amount to unfair termination of employment warranting compensation. Section 10(3) (c) of the Act then lifts the obligation on an employer to explain reasons for termination of employment in fixed-term contract as the same lapse by effluxion of time without creating a right of legitimate expectation of renewal.

54. In addition, in the case of Margaret A Ochieng v National Water Conservation & Pipeline Corporation [2014] eKLR the court while dealing with the question of whether there is automatic need for notice of renewal of a fixed-term contract held that;

“Automatic renewal [of a fixed-term contract] would undermine the very purpose of the fixed-term contract, and then revert to indeterminate contracts of employment...Courts have upheld the principle that fixed-term contracts carry no expectancy of renewal, in a catena of judicial authorities..... The Court is persuaded that the Claim has no merit. The fixed term contract had its own in-built termination notice, in that the date of termination was advised to the Claimant on execution of the three-year contract in December 2008. She knew termination would be upon the lapse of the three years in 2011 ...”

55. In this case the Claimant’s contract terminated by effluxion of time and the Respondent was not bound to give the grounds of poor performance for failure to renew her contract. In any case the court has perused all the documents relied on by the parties herein and it is clear that the Claimant knew she was not performing as expected. Email and the appraisal for December 2020 are evidence of these.
56. It is therefore clear that the Claimant was never terminated, the Respondent had no obligation to issue termination notice so long as it notified her in three months’ time that it will not be renewing her contract. The claimant was therefore not terminated but her contract ended by effluxion of time.

#### **Whether the Claimant was discriminated against by the Respondent.**

57. The Claimant alleged that she was the only one whose contract was extended for 7 months while the rest of employees in her rank had their contracts extended for three years. The Claimant did not adduce any evidence to support this allegation or call any witness like a fellow employee whose contract was extended for three years. It was also clear that the Claimant did not complain to the Respondent when her contract was renewed for seven months and only complained after serving full term.
58. In the case of *Gichuru v Package Insurance Brokers Ltd (Petition 36 of 2019)* [2021] KESC 12 (KLR) (22 October 2021) Discrimination was explained as follows:

“Discrimination was failure to treat all persons equally when no reasonable distinction could be found between those favoured and those not favoured. Not all cases of distinction amounted to discrimination. Discrimination could be said to have occurred where a person was treated differently from other persons who were in similar positions on the basis of one of the prohibited grounds like race, sex disability or due to unfair practice and without any objective and reasonable justification.”



59. Equally, in Francis Njeru Kariuki v Crown Paints Kenya Limited [2022] eKLR it was held that:

“According to the Court of Appeal in Barclays Bank of Kenya Ltd & another v Gladys Muthoni & 20 others [2018] eKLR –“...Discrimination means affording different treatment to different persons attributable wholly or mainly to their descriptions ... whereby persons of one such description are subjected to ... restrictions to which persons of another description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description...”

In the instant case, apart from stating that position of Business Development Manager was given to another person, the Claimant provided no factual basis for the allegation. It is the finding of the Court that the Claimant has not on a balance of probabilities established that he was discriminated.

60. In this case the Claimant has therefore not discharged her burden of proof that she was discriminated against by the Respondent since it came out clear during oral hearing that she was trained to undertake her work well and the email attached by the Respondent show that she was the one not attending the trainings. She was the author of her own misfortunes to this extent.

#### **Whether the Claimant is entitled to reliefs sought**

61. The court has established that the Claimant was never terminated that her contract terminated by effluxion of time. She was notified of the intention not to renew her contract upon expiry. She was also paid her final dues which included her leave pay. The Claimant is therefore not entitled to any compensation for unfair termination. The claim in its entirety is therefore found without merit and is hereby dismissed with costs.

62. It is so ordered

**DATED AT NAIROBI THIS 6<sup>TH</sup> DAY OF SEPTEMBER, 2024**

**DELIVERED VIRTUALLY THIS 6<sup>TH</sup> DAY OF SEPTEMBER, 2024**

**ABUODHA NELSON JORUM**

**JUDGE**

