

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: cSenate@parliament.go.ke



Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2017

30th March, 2017

Mr. John Kimani Gitau,
P.O. Box 17207,
NAKURU.
Tel: 0719704061



Dear ,

**RE: PETITION TO THE SENATE ON ALLEGED WRONGFUL DISMISSAL
FROM THE PUBLIC SERVICE**

I acknowledge, with thanks, receipt of your Petition on the above subject matter.

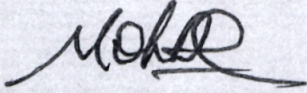
Upon reviewing the Petition in terms of Senate Standing Order 220 (3), it is advised that the Petition, though it raises important issues for consideration by the Senate, is not admissible in its present form. This is for the reasons that -

- i) the subject-matter of the Petition has not been indicated on every sheet, as required under Section 3 (e) of the Petition to Parliament (Procedure) Act (No. 22 of 2012), and Senate Standing Order 223 (e);
- ii) the Petition fails to state whether the issues in respect of which it is made are pending before any court of law or other constitutional or legal body, as required under Section 3 (g) of the said Act, and Senate Standing Order 223 (g);
- iii) the petition does not conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner in regard to the matter to which it relates, as required under Section 3 (h) of the said Act, and Senate Standing Order 223 (h);
- iv) the Petition has other documents annexed to it, which does not conform to the requirements set out at Section 3(k) of the said Act, and Senate Standing Order 223 (k); and
- v) the Petition is not signed, which is a mandatory requirement under Section 3(m) of the said Act, and Senate Standing Order 223 (m).

In the circumstances, it is requested that you amend the petitions to comply with the said requirements. Attached in this regard are the applicable provisions of the Petition to Parliament (Procedure) Act and the Senate Standing Orders, on the form of a public petition, as well as a template which you may adopt in redrafting the petition.

Mrs. Serah Kioko, Director, Legislative & Procedural Services (Tel No. 0722881777 and Email, skioko@parliament.go.ke or kiokoserah@gmail.com) is the officer responsible for facilitating this matter.

Yours *Sincerely,*

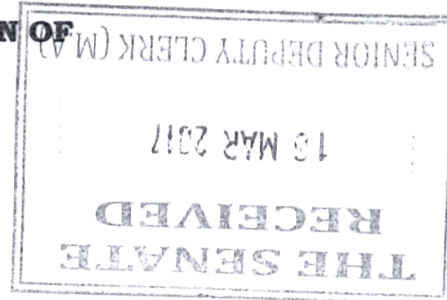


M. A. MOHAMED,
SENIOR DEPUTY CLERK,
FOR: CLERK OF THE SENATE

Encs.

Charles
Please deal
27/03/17
JOHN KIMANI
GITAU
P.O BOX 17207
NAKURU
TEL: 0719 704 061

THE CHAIRMAN
COMMITTEE ON ADMINISTRATION OF
JUSTICE AND LEGAL AFFAIRS
THE SENATE
PARLIAMENT BUILDINGS
P.O BOX 41842-00100
NAIROBI



Dear Sir/Madam,

REF: PETITION ON WRONGFUL DISMISSAL TORTURE MISTREATMENT
AND DENIAL OF ECONOMIC AND HUMAN RIGHTS

I am a Kenyan National my ID No is 7483579. I attended Lanet Primary School, Nakuru Day Secondary School, Kabarak High School for my Primary and post Primary education. I joined University of Nairobi in 1987 and graduated with a Bachelor of Commerce Degree (Bcom). In 2013, I sat for Kenya Accountants and Secretary National Examinations and earned Certified Public Accountants One (C.P.A.I)

I have two children. I have attached the relevant documents relating to these facts at the back of these petition.

This appeal observes Articles 119, 19, 20, 21, 25, 27 (1) (2) (3) (4) (5) 28, 29, 30, 37, 39 (1) 41 (1) (2) 43, 47, 48, 49 1 (f) 50 52 of the Constitution of Kenya 2010 and the Parliamentary Petitions (Procedure) Act 2012.

Therefore I urge the committee to find and declare.

- a) My fundamental rights and freedom were contravened by the Kenya National Commission of Human Rights for closing my file since it continued sending letters to me using a postal address number that I had informed it through a letter of 7.12.2000 that I longer used, (i.e the postal address number). I changed my Postal address number yet the commission continued using the changed address which meant that I could not communicated with it Hence the committee could not reach me thus if closed my file : My file Number at KNCHR is 367. The committee should be accountable for sending letters meant for me to wrong postal address number. The letter on change of address that I wrote to the commission is attached herein: and it was dated



7.12.2000 and it was headed "notification of change of address". The commission wrote to me on 5th of May 2005 expressing intention to close my file (that is file number 367). I did not get this letter and other subsequent letters from the commission because the commission was using wrong postal address number despite instructing it not to.

- b) I urge the committee to declare that the Kenya National Commission on Human Rights' action of closing the file as a perpetuation of oppression and denial of basic rights although the commission had recommended that I be compensated for wrongful dismissal and mistreatment.
- c) I urge the committee to find and declare that the Kenya National Commission on Human Rights, Public Service Commission, the Ministry of Finance and Kenya Revenue Authority took ten years to conclude the matter which is a very long period and therefore a contravention of the constitution.
- d) The Kenya National Commission on Human Right found out that I was wrongly dismissed from employment by Public Service Commission Kenya Revenue Authority and the Ministry of Finance and stated in its inter-memo of 7.10.2013 that I be compensated by the ministry of Finance. The inter office memo is attached herein. I urge the committee to declare that although the findings of KNCHR were commendable: the findings were not specific nor exhaustive since I was denied the right to work and lead a dignified life as spelt out in the constitution. I was denied career progression professional advancement, earnings, right to decent housing, medical attention, my spouse left me and one of my children dropped out of school while only in form three all these deprivations were not taken into consideration by the Kenya National Commission on Human Rights in its recommendations.
- e) I seek declaration that my rights were infringed on when I was dragged from my office, taken to Kilimani Police Station and eventually taken before a magistrate on a false charge that was withdrawn by the state after four months of languishing in remand prison in deplorable and inhuman conditions (see court proceedings of case No CR2434/27) (also see paragraph 6 of Kenya National Commission on Human Rights Inter- Office Memo of 7.10.2003.
- f) I urge the committee to declare that I was subjected to both physical and mental torture and that this has continued today.
- g) I seek the declaration that I be compensated as follows:
 - Two Hundred Millions (200,000,000/=) for wrongful dismissal
 - Forty Millions for illegal confinement, physical and mental torture

- Forty Millions (40,000,000/=) for disruption of career progression and professional advancement (on this the committee should note that I sat for my CPA exams in 2013 and earned a CPA1 This is in addition to my Bachelor of Commerce). Alternatively the committee should declare that I be reinstated and promoted to Senior Assistant Commissioner of V.A.T and be paid my salaries and allowances at the current rates.

Any other agreeable option as way of compensation that will reinstate my basic rights and enhance constitutionalism will be acceptable to me.

Yours faithfully

Petitioner
John Kimani Gitau
ID No. 7483579

JOHN KIMANI GITAU
P.O BOX 17207
NAKURU
0719704061

13/03/2017

THE CHAIRMAN
COMMITTEE ON ADMINISTRATION
OF JUSTICE AND LEGAL AFFAIRS
THE SENATE
P.O BOX 41842-00100
NAIROBI

Dear Sir/Madam

**REF: WRONGFUL DISMISSAL, TORTURE, MISTREATMENT AND DENIAL OF
ECONOMIC AND HUMAN RIGHTS.**

1. I was dismissed on allegation of being absent from duty. This dismissal was malicious callous and contrary to M2 of Civil Service Code of Regulation (C.O.R) which stipulates that "A medical certificate signed by a Government medical officer or a private practitioner must be submitted by an officer in every case of absence from duty on account of illness". I did provide genuine medical certificates but they were disregarded thus denying me justice. The medical certificates are attached herein.
2. Damaging allegations were made against me via a letter drafted by the Commissioner of V.A.T headed "Discipline" a letter of 11 June 1997. This letter is attached in here. The Public Service Act Cap 185 section 33 states that "Where proceedings have been taken against a public officer under this part he shall be informed by the authorized officer, of the findings of each charge which has been preferred against him. seven allegations were made against me by the commission of VAT and none of these allegations were proved right neither was I informed of the findings of each of the allegations as per the requirement of the stated law

3. I was dismissed without a hearing and without regards to material facts. I was not given a hearing nor was I summoned to any disciplinary committee or tribunal. The dismissal was done by pure exchange and reply of letters between the Public Service Commission and the Ministry of Finance and Kenya Revenue Authority. I was not furnished with copies of the disciplinary proceedings which is contrary of section 31(1) Cap 185 which stipulated that "A public officer in respect of whom disciplinary proceedings are to be held under this part shall be entitled to receive a free copy of any documentary evidence relied on for the purpose of the proceedings or to be allowed access to it".
4. I was not given an opportunity to defend myself before any tribunal on allegations made by the Commissioner of V.A T. This is counter to the spirit and letter of section 36 (1) (b) of Cap 185 which stated "the public officer shall be notified in writing of charge charges against him and shall be given full opportunity of exculpating himself before a date to be specified in the notification
5. It took the Ministry of Finance, Public Service Commission and Kenya Revenue Authority three years and four months to (from November 1996 to February 2000) to conclude the matter of dismissing me. My salary was stopped in November 1996 and the final letter dismissing me by the Public Service Commission was dated 8th February, 2000. That letter is attached in here. This long delay was unwarranted, illegal and contrary to the Civil Service Code of Regulation G 37 (3) 9[^]) and section 30(1) Cap 185 of the laws of Kenya which stipulates "that All acts of misconduct by officers shall be delta with as soon as possible after the time of their occurrence" and that (Cap 185 section 20 (10) " disciplinary cases should be dealt with promptly and finalized within a period of six months"
6. **On secondment to K.R.A:** I was an employee of K.R.A. The argument put forward by K.R.A that I had been seconded to it ^{from} Ministry of Finance is illegal and not valid, I was employed as a V.A T inspector II job Group J. The Civil Service Code of Regulation (C.O.R) E (30) I is clear on matter of secondment it stipulated that "secondment to other administration will normally be arranged for periods not exceeding three years and will be confined to pensionable officers who are serving on salary scale not below job group "K" level" . I was only in job group "J" so the whole process of secondment as explained by KRA was illegal, malicious and unprofessional.

7. Malicious and damaging allegations were made against me via the letter by Commissioner of V.A.T dated 11th June 1997. The allegation could not be proved contrary to section 13 (36) of Public Service Commission Act (Cap 185).
8. The finding by Kenya National Commission on Human Rights are clear as per the Inter-Office Memo of 7th October 2003 and which was addressed to all the commissioners of KNCHR where upon the inter office memo of 7.10.2003 indicates in paragraph 6 that my problem emanated from differences between me and my colleagues in the office. The inter-office memo is attached here in. At one point my colleagues forcefully frog matched me from the office to Kilimani police station. My salary was stopped in November 1996. No reason was given to me and no dismissal letter was given to me either until seven month letter.. I received a letter in February saying I have been deleted from the payroll still no explanation was provided. One Mr. Noah Kariuki who was a V.A.T Office and one Mr. Dienye who was at KRA head office conspired to abduct and forcefully removed me from the KRA offices. This happened on 25th March 1997 when I went to inquire the state of my salary Mr. Kariuki and Mr. Dienye held me tightly, put me in a waiting vehicle at the car park of Social Security Building of Nairobi and took me to Kilimani Police Station. On 27/3/1997 I was taken to Kibera Law Courts which ordered that I be confined at Industrial Remand Prison. The charge before me was false, illegal and in- human. The complainant one Me. Noah Kariuki changed and said that I had no intention of harming him. I was released four and half months later: that is after the state withdrew the charge. However by this time I had suffered a lot of physical and psychological tortures while in the remand prison. My colleagues subjected me to these form of torture just because of trying to find the state of my employment. I have attached a copy of the court proceedings of case No CR2434/97. Herein.
9. The commissioner of VAT wrote to me a letter headed "Discipline on 11th June 1997 while I was in Remind prison where I had been taken by my colleagues that is one Noah Kariuki and Dienye. The letter tried to explain the reason as to why my salary was stopped. The letter was an after thought. The letter has been attached here. The allegations contained in the letter were a fabrication as they were proved wrong by the Public Service Commission. The public Service Commission made me answer to only

one allegation that of absenteeism. I have explained above how damaging the allegation were and how I was kept in dark during the process of resolving the allegations.

10. The findings of Kenya National Commission of Human Right on wrongful dismissal, mistreatment, torture, denial of both economic and human rights should be adopted. This findings are inform of inter-office memo on 7th October 2003; a copy of which is attached here

11. I petitioned the Standing Committee on Human Rights, the precursor to KNCHR, on wrongful dismissal and infringement of my basic rights. The commission recommended that I be compensated. However the commission closed my file as per the letter of 5th May 2005 that is attached herein. I had instructed the commission through a letter of 7.12.2000 of change of address. The letter was headed "change of my address" But the commission continued to send me mails via the address that I had told them to change hence the breakdown of communication. The letter of change of address is attached herein also. The commission therefore could not reach me until I decided to visit its offices sometime in 2015 whereby I learnt of the closure of my file. File No. 367 so the mistake was the commission's since it continued communicating to me through a postal address that I had informed them not to use.

Yours faithfully,

JOHN KIMANI GITAU

UNIVERSITY OF NAIROBI



This is to certify that

John Kimani Gitau

having satisfied the requirements
for the award of the degree of the

BACHELOR OF COMMERCE
(BUSINESS ADMINISTRATION OPTION)



was admitted to the degree
at a Congregation held at
this University on the

Eighth Day of September in the Year
1992

A large, stylized signature in black ink, likely belonging to the Vice-Chancellor.

VICE-CHANCELLOR

A smaller, stylized signature in black ink, likely belonging to the Deputy Vice-Chancellor.

DEPUTY VICE-CHANCELLOR (ACADEMIC AFFAIRS)

KASNEB

KASNEB Towers, Hospital Road, Upper Hill, P. O. Box 41362 - 00100 Nairobi, Kenya

Telephone: 254(020) 2712640/2712828 Cellphone: 0734 600624/0722 201214

Fax: 254(020) 2712915 Email: info@kasneb.or.ke Website: www.kasneb.or.ke

EXAMINATION RESULT NOTIFICATION

Registration No

NAC/194418

Name and ID Number

JOHN KIMANI GITAU

Date of Issue

15/01/2014

Examination Sitting

DECEMBER, 2013

Examination Centre

Code

380

Reference No

A1222013/10

EXAMINATION

CPA Part I Section 2

Paper Title

CA21: ECONOMICS
CA22: COST ACCOUNTING
CA23: AUDITING AND ASSURANCE

Result

Exempted
Pass
Pass

RESULT FOR THE SITTING:

PASS

END OF RESULT DETAILS

Remarks

This is a result notification and NOT a Certificate

JOHN KIMANI GITAU
P.O. BOX 17207
NAKURU
KENYA

ISSUED BY:

P.M. NDUATIH
SECRETARY

MINISTRY OF FINANCE

Telegrams: "VALUE ADDED TAX", Nairobi
Telephone: Nairobi 224275 and 503673



VALUE ADDED TAX DEPARTMENT

P.O. Box 49070

NAIROBI

KENYA

31st May, 1995

Communications on this subject
should be addressed to:
The Commissioner of Value
Added Tax
P.O. Box 49070
Nairobi, Kenya
and the following reference
quoted VAT/TRG/RES/26(68)

Your reference is

If you wish for an interview
please make a prior appointment

with

DEPARTMENTAL CHALLENGING COURSE

FINAL EXAMINATION

EXAMINATION RESULTS



NAME John Simon Mwangi
REGISTRATION NO. 1234567
PERSONAL NO. 1234567

Please find here described Examination Results of the examination
you sat on 31st May, 1995.

Principles of Control Verification	Pass
Value Added Tax	Pass
General Practice	Pass

These results are final and therefore no correspondence regarding
them will be entertained. Acknowledged

77

Yours faithfully,

Pingaj

PETERSON P. PINGAJ
HEAD OF TRAINING
FOR COMMISSIONER OF VALUE ADDED TAX

C N° 405896

REPUBLIC OF KENYA

CERTIFICATE OF BIRTH

Birth in the		Nairobi		District in the		Province	
No.	2630370	/19 93	Where Born	Pumwani Mat.	Name	Hadija Njeri	
Date of Birth	20th Aug., 1993	Sex	female	Name and Surname of Father	XXXXXXXXXXXXXXXXXXXXXXXXXXXX		
Name and Maiden Name of Mother	Farida Abdillahi Kimuri						
Signature, Description and Residence of Informant	sgd.midwife						
Signature of Registering Officer	DR.A.O.OYOO			Date of Registration	27.8.93		
Baptismal Name if added or altered after Registration of Birth							
Certified to be a true copy of a return/an entry in the Register of Births in the District above mentioned.							
Given under the seal of the Principal Registrar on the 8th day of July, 1998							
This certificate is issued in pursuance of the Births and Deaths Registration Act (Cap. 149) which provides that a certified copy of any entry in any register or return purporting to be sealed or stamped with the seal of the Principal Registrar shall be received as evidence of the dates and facts therein without any or other proof of such entry.							
Typed by: (JNW)		CA.618/B of 7.7.98					
Checked by: (Signature)							
FEE PAID: Fifty Shillings							

REPUBLIC OF KENYA

D No. 165256

CERTIFICATE OF BIRTH

Birth in the NAIROBI District in the Province

Entry No.	260047030	Where Born	Pumwani Hospital	Name	Abdillahi Kimui..
Date of Birth	9th Oct. 2000	Sex	Male	Name and Surname of Father	

Name and Maiden Name of Mother Faridah Abdillahi..

Name and Description of Informant

Sgd. Parent

Name of Registering Officer

D.B.M. KIMWELE

Date of Registration

28th November 2000

I, JANE MUNYI District/AssistantRegistrar for NAIROBI District, hereby certify that this certificate is compiled from an entry/return in the Register of Births in the District.District/Assistant RegistrarGiven under the Seal of the Principal Civil Registrar on the 7th day of March, 2002

This certificate is issued in pursuance of the Births and Deaths Registration Act (Cap. 149) which provides that a certified copy of any entry in any register or return purporting to be sealed or stamped with the Seal of the Principal Registrar shall be received as evidence of the dates and facts therein contained without any or other proof of such entry.

Note: A Birth Certificate is not proof of Kenya Citizenship.

/JN

CA.18921/B of 1st March 2002.