

Approved for tabling.

By SNA
22/10/15

Paper laid

By Hon. David Cikaria, MP
(on behalf of the Chairperson)
under Order No. 05 of
1500 Hrs on 22-10-2015
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NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION – 2015



DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPORT ON THE PETITION BY HON. SAMMY MWAITA, MP ON BEHALF OF MR. R. O. ABEDNEGO ETYANGA ON ALLEGED INTIMIDATION AND VICTIMIZATION THROUGH IRREGULAR TRANSFER/POSTING BY THE PRINCIPAL SECRETARY FOR INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT, DR. (AMB.) MONICA K. JUMA

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

OCTOBER, 2015

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1.0 PREFACE

On behalf of the Departmental Committee on Administration and National Security and pursuant to the provisions of Standing Order No. 227(2), it is my pleasant privilege and honour to present to the House the Report of the Committee on the Petition by Hon. Sammy Mwaita, MP on behalf of MR. R. O. Abednego Etyanga on alleged intimidation and victimization through irregular transfer/posting by the Principal Secretary For Interior And Coordination Of National Government, Dr.(Amb.) Monica K. Juma.

The petition was tabled before the House pursuant to Standing Order No. 225(2) (a) by the Hon. Sammy Mwaita, MP on behalf of MR. R. O. Abednego Etyanga on Wednesday 2nd July, 2015.

1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216 with the following terms of reference:-

- (i) study and review all legislation referred to it;*
- (ii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (iii) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (iv) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (v) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (vi) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;*

The Committee under Standing Order No. 227 is mandated to consider petitions committed to it by the House.

1.2 Committee Membership

The Committee comprise of the following Members:-

1. The Hon. Asman Kamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Alois M. Lentoimaga, MP- **Vice Chairperson**
3. The Hon. Ababu Namwamba, EGH, MP
4. The Hon. Joseph Lekuton, MP

5. The Hon. Alice Wahome, MP
6. The Hon. Zakayo K. Cheruiyot, MP
7. The Hon. Timothy W. Wetangula, MP
8. The Hon. Patrick Ole Ntutu, MP
9. The Hon. Ali IsaackShaaban, MP
10. The Hon. Samuel Moroto, MP
11. The Hon. Humphrey Njuguna, MP
12. The Hon. Francis K. Mwangangi, MP
13. The Hon. Rashid J. Bedzimba, MP
14. The Hon. David Gikaria, MP
15. The Hon. Mohamed Shidiye, MP
16. The Hon. Jane Machira, MP
17. The Hon. Regina NthambiMuia, MP
18. The Hon. Ibrahim AbdiSaney, MP
19. The Hon. Joseph O. Ndiege, MP
20. The Hon. (Maj. Rtd.) John K. Waluke, MP
21. The Hon. WanjikuMuhia, MP
22. The Hon. AkujaProtusEwesit, MP
23. The Hon. Joseph M. Kahangara, MP
24. The Hon. Ahmed Abdikadir Ore, MP
25. The Hon. Grace Kiptui, MP
26. The Hon. George Theuri, MP
27. The Hon. James Bett, MP
28. The Hon. BenardShinali, MP

1.3 Committal and Consideration of the Petition

Pursuant to Standing Order 227(1), the petition was referred to the Departmental Committee on Administration and National Security for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

The Committee proceeded with the consideration of the petition by holding meetings to set up the terms of reference and scheduling of meetings.

In considering the petition, the Committee held one meeting and wrote to the Ministry of Interior and Coordination of National Government to obtain a response to the issues raised by the petitioner.

1.4 Committee Observations

THE Committee held one meeting to considered the submissions presented on the petition, the Committee observed that:-

The matter was pending in the High Court in Milimani) J.R Misc.Civil Application No.202 of 2015- Republic-vs- Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Secretary, Public Service Commission and the Chief of Staff and Head of Public Service, on 1st July,2015.

The matter was transferred to the Employment and Labour Relations Court in Nairobi on 27th July, 2015 and registered as JR No. 7 of 2015. The matter was still pending before this Court and the hearing date for a Notice of Motion was fixed for August 13th August, 2015.

Therefore since the matter was pending in Court, it falls under the sub judice rule in accordance with Standing Order 89. Further according to Standing Order 223(g), the petitioner was required to state in the petition whether the matter was pending in a court of law or other constitutional or legal body. The Petitioner stated that the matter was not pending before a court of law; however this was not the case. Hence the Committee could not proceed with the consideration of the petition

1.5 Response to the prayers in the petition

The petitioner had prayed that the National Assembly through the Departmental Committee on Administration and National Security:-

- (i) Ensures that the petitioner's plight is addressed;
- (ii) Establishes whether due process was followed in the transfer of the petitioner;
- (iii) Intervenes and ensures that the irregular transfer is revoked;and
- (iv) Makes any other order or direction that it deems fit in the circumstances of the case.

In response to the above prayers, the Committee recommends that: - The Committee recommends that since the matter was pending before court, and was therefore *sub judice*. The petitioner should exhaust the judicial process in addressing the prayers.

1.6 Adoption of the Report

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on the Petition by Hon. Sammy Mwaita, MP on behalf of Mr. R. O. Abednego Etyanga on alleged intimidation and victimization through irregular transfer/posting by the Principal Secretary for Interior and Coordination of National Government, Dr. (Amb.) Monica K. Jumaand affix our signatures to confirm our approval and confirm its accuracy, validity and authenticity today 28th August, 2015 as per the attached list(Appendix I).

1. The Hon. AsmanKamama, MGH, OGW, MP - **Chairperson**
2. The Hon. Jane Machira, MP
3. The Hon. Zakayo K. Cheruiyot, MP
4. The Hon. James Bett, MP
5. The Hon. BenardShinali, MP
6. The Hon. Grace Kiptui, MP
7. The Hon. George Theuri, MP
8. The Hon. Samuel Moroto, MP
9. The Hon. Humphrey Njuguna, MP
10. The Hon. Francis K. Mwangangi, MP
11. The Hon. Rashid J. Bedzimba, MP
12. The Hon. David Gikaria, MP
13. The Hon. (Maj. Rtd.) John K. Waluke, MP
14. The Hon. WanjikuMuhia, MP
15. The Hon. Ahmed Abdikadir Ore, MP

1.7 Acknowledgement

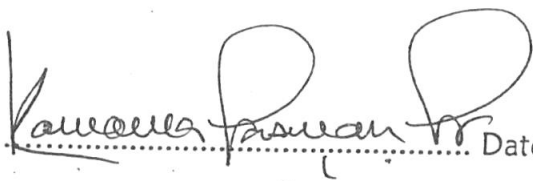
The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to this Committee. Their efforts made the work of the Committee and the production of this Report possible.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work, which enabled the Committee to complete the tasks within the stipulated period.

The Committee is also grateful to all the witnesses/ general public who made submissions and presentations before the Committee during the meetings. Their contributions gave the Committee the much needed insights into the issues raised in the petition and possible solutions.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Administration and National Security to present this report to the House pursuant to the provisions of Standing Order 227(2).

Signed.......... Date.....21/10/2015.....

Hon. Asman Kamama, MGH, OGW, MP
Chairman, Departmental Committee on Administration and National Security

2.0 BACKGROUND INFORMATION

2.1 Article 37 and 119 of the Constitution provides that any person has the right to petition Parliament to consider any matter within its authority as contemplated in Articles 94 and 95 of the Constitution, including enactment, amending or repealing any legislation. Standing Order 227(2) provides that, *“whenever a petition is committed to the a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading of the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the House...”*

2.2 The Petition by Hon. Sammy Mwaita, MP on behalf of Mr. R. O. Abednego Etyanga on alleged intimidation and victimization through irregular/transfer/posting by the Principal Secretary for Interior and Coordination of National Government, Dr. (Amb.) Monica K. Jumawas tabled before the House on Wednesday 2nd July, 2015 pursuant to Standing Order No. 225 (2) (a).

2.3 Pursuant to House rules, the petition was referred to the Committee on 2nd July, 2015 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

2.4 The petitioners wished to draw the attention of the House to the following, that:-

- (i) Mr. Abednego Etyanga, the petitioner, was a senior Deputy Secretary in the Directorate of Immigration and Registration of Persons, Ministry of Interior and Coordination of National Government;
- (ii) Article 236 of the Constitution provides for the protection of public officers from victimization, discrimination and removal from office subject to disciplinary action without due process of law;
- (iii) The Principal Secretary for Interior victimized the petitioner by transferring him from the Ministry of Interior and Coordination of National Government to the Ministry of Agriculture, Livestock and

Fisheries;

- (iv) The Public Service Commission delegates human resource function to Cabinet Secretaries of respective Ministries in line with the Constitution and the policy on decentralization of human resource management in the Civil Service;
- (v) The Public Service Commission had placed a caveat on inter-ministerial transfers unless in situation where a vacancy has been advertised;
- (vi) Due process was not followed in the transfer of the petitioner and that the transfer was not recommended by the Central Human Resource Committee;
- (vii) The transfer of the petitioner was as a result of a proposal on virtual border management made to the Ministry of Interior with regard to the management of the porous Kenya- Somali border ;
- (viii) The posting /transfer and subsequent directive by the Principal Secretary to the petitioner to proceed on leave pending re-deployment amounts to intimidation and harassment of a public officer and contravened the Constitution, labour laws and Public Service regulations;
- (ix) The petitioner lodged several appeals with the Ministry regarding the matter but efforts to resolve the matter had been futile; and
- (x) The matters presented in the petition were not pending before any Court of law or tribunal

3.0 SUBMISSIONS AND EVIDENCE

Having been seized of the Petition, the Committee commenced its consideration by holding a meeting to consider the petition.

3.1 Meeting to consider the petition

The Committee held one meeting to consider the petition, during the meeting; the Committee was made aware, through a letter from the Principal Secretary for Interior, of an ongoing case in the High Court regarding the same matter. The Committee established that the matter was pending in the High Court in (Milimani) J.R Misc. Civil Application No.202 of 2015- Republic -vs- Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Secretary, Public Service Commission and the Chief Staff and Head of Public Service, on 1st July, 2015.

The matter was transferred to the Employment and Labour Relations Court in Nairobi on 27th July, 2015 and registered as JR No. 7 of 2015. The matter was still pending before the Court and the hearing date for a Notice of Motion was fixed for 13th August, 2015.

4.0 COMMITTEE OBSERVATIONS

The Committee noted that:-

The matter was pending in the High Court in (Milimani) J.R Misc. Civil Application No.202 of 2015- Republic -vs- Cabinet Secretary, Ministry of Interior and Coordination of National Government, the Secretary, Public Service Commission and the Chief Staff and Head of Public Service, on 1st July, 2015.

The matter was transferred to the Employment and Labour Relations Court in Nairobi on 27th July, 2015 and registered as JR No. 7 of 2015. The matter was still pending before this Court and the hearing date for a Notice of Motion was fixed for August 13th August, 2015.

The Committee therefore observed that the matter was *sub judice rule* as it was pending in Court in accordance to Standing Order 89. Furthermore in accordance with ~~to~~ Standing Order 223(g), the petitioner was required to state in the petition whether the matter was pending in a court of law or other constitutional or legal body. The Petitioner failed to disclose the factors in the petition.

5.0 COMMITTEE RECOMMENDATION

In response to the prayers by the petitioner, the Committee recommends that since the matter was pending before Court, and was therefore *sub judice*, the petitioner should exhaust the judicial process in addressing the prayers.

MINUTES

MINUTES OF THE 45TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY HELD ON 28TH AUGUST, 2015 AT
FLAMINGO HOTEL, MOMBASA AT 3.00 P.M.

PRESENT

1. The Hon. Asman Kamama, MGH, OGW, MP - Chairperson
2. The Hon. Alois Lentoimaga, MP - Vice Chairperson
3. The Hon. Wanjiku Muhia, MP
4. The Hon. Grace Kiptui, MP
5. The Hon. George Theuri, MP
6. The Hon. Ahmed Abdikadir Ore, MP
7. The Hon. Zakayo Cheruiyot, MP
8. The Hon. Humphrey Njuguna, MP
9. The Hon. Francis Mwangangi, MP
10. The Hon. (Maj. Rtd) J. K. Waluke, MP
11. The Hon. Patrick Ole Ntutu, MP
12. The Hon. Benard Shinali, MP
13. The Hon. Joseph Lekuton, MP
14. The Hon. James Bett, MP
15. The Hon. Ababu Namwamba, MP
16. The Hon. Rashid Bedzimba, MP
17. The Hon. Shaaban Ali Isaack, MP
18. The Hon. Jane Machira, MP
19. The Hon. Samuel Moroto, MP

ABSENT WITH APOLOGY

1. The Hon. Alice Wahome, MP
2. The Hon. Joseph Ndiege, MP
3. The Hon. Mohamed Shidiye, MP
4. The Hon. Protus Akuja Ewesit, MP
5. The Hon. Regina Nthambi Muia, MP
6. The Hon. David Gikaria, MP
7. The Hon. Joseph Kahangara, MP
8. The Hon. Ibrahim Saney, MP
9. The Hon. Timothy Wetangula, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

- | | | |
|------------------------|---|---------------------------------|
| 1. Mr. Leonard Machira | - | First Clerk Assistant |
| 2. Ms. Hellen Lokwang | - | Third Clerk Assistant |
| 3. Mr. Mohamed Boru | - | Third Clerk Assistant |
| 4. Mr. Eugene Apaa | - | Research and Policy Analyst III |
| 5. Mr. Salem Lorot | - | Legal Counsel |
| 6. Mr. Abdi Salat | - | Sergeant At Arms |

MIN.NO. 163 /ANS/2015 - PRELIMINARIES

The Chairperson called the meeting to order at 3.15 p.m. with a prayer by Hon. James Bett MP

MIN.NO. 164 /ANS/2015 - ADOPTION OF REPORTS

The Committee adopted the following reports:-

- (i) The Report on the petition by the Hon. Alois Lentoimaga MP on behalf of residents of Samburu North Constituency regarding action towards recovery of illegal firearms within the North Rift region.

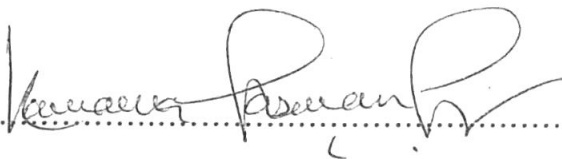
In response to the above prayers, the Committee recommended that:-

1. The Government continues with the disarmament and registration of illegal firearms in the North Rift region.
 2. The Government conducts a joint security operation, comprising of specialised police units and the Kenya Defence Force in Lamirok village, Samburu North Constituency within the next three (3) months to disarm bandits who killed 42 police officers in Baragoi in 2012 and were allegedly hiding in the village.
 3. The Government should implement the recommendation on the National Assembly report *on a fact finding visit to Samburu East and Isiolo North Districts; 21st to 23rd September, 2009* to establish the causes of inter-clan conflict and banditry in the region.
- (ii) The Report on the petition by Mr. Abednego Etyang'a on alleged intimidation and victimization through irregular transfer/posting by Principal Secretary of Interior, Ms. Monica K. Juma.

The Committee recommended that since matter was pending before court, the petition falls within the sub judice rule hence no further discussion would be held on the on the matter

MIN.NO.165/ANS/2015 - ADJOURNMENT OF THE MEETING

There being no other business the meeting was adjourned at 5.00 p.m. The next meeting will be held on 10th September, 2015.

Signed..........

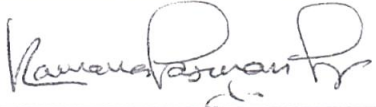

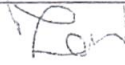

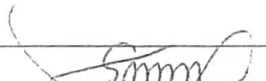
(Chairperson)

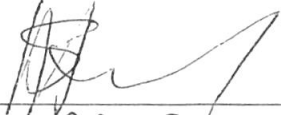
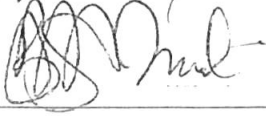

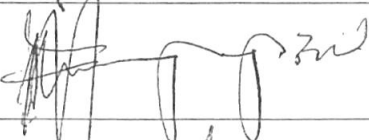

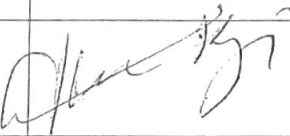
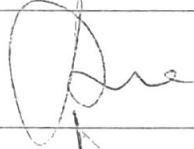
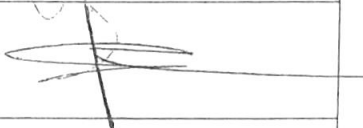


Date.....21/10/2015.....

APPENDIX I
ADOPTION LIST

We Members of the Departmental Committee on Administration and National Security have pursuant to Standing Order 199 adopted this report on the Petition Mr. R.O. Abednego Etyang'a on alleged intimidation and victimization through irregular transfer/posting by the Principal Secretary of Interior, Ms. Monica K. Juma

DATE: 28th August 2015 TIME: 3:00pm VENUE: FLAMENGO HOTEL

S/NO.	NAME	SIGNATURE
1.	The Hon. Kamama Asman, MGH,OGW,MP – Chairperson	
2.	The Hon. Alois M. Lentoimaga, MP – Vice-Chairperson	
3.	The Hon. Ababu Namwamba, EGH, MP	
4.	The Hon. Alice Wahome, MP	
5.	The Hon. Joseph Lekuton, MP	
6.	The Hon. Mohamed Shidiye, MP	
7.	The Hon. Jane Machira, MP	
8.	The Hon. Joseph Kahangara, MP	
9.	The Hon. Zakayo K. Cheruiyot, MP	
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13.	The Hon. Grace Kiptui, MP	

14.	The Hon. Samuel Moroto, MP	
15.	The Hon. Benard Shinali, MP	
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21.	The Hon. Regina Nthambi Muia, MP	
22.	The Hon. (Maj. Rtd.) John K. Waluke, MP	
23.	The Hon. Akuja Protus Ewesit, MP	
24.	The Hon. Ahmed Abdikadir Ore, MP	
25.	The Hon. David Gikaria, MP	
26.	The Hon. Timothy W. Wetangula, MP	
27.	The Hon. Wanjiku Muhia, MP	
28.	The Hon. George Theuri, MP	

APPENDIX II
PETITION

REPUBLIC OF KENYA



Approved
SVA
2/7/15

THE NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT
(THIRD SESSION)

PUBLIC PETITION
BY MR. R.O. ABEDNEGO ETYANG'A ON ALLEGED INTIMIDATION AND
VICTIMIZATION THROUGH IRREGULAR TRANSFER/POSTING BY THE PRINCIPAL
SECRETARY OF INTERIOR, MS. MONICA K. JUMA

I, the UNDERSIGNED, on behalf of Mr. Abednego Etyang'a, a citizen of Kenya,
DRAW the attention of the House to the following;

- i. THAT, Mr. Abednego Etyang'a is a Senior Deputy Secretary in the Directorate of Immigration and Registrar of Persons, Ministry of Interior and Coordination of National Government;
- ii. THAT, Article 236 of the Constitution provides for protection of public officers from victimization, discrimination and removal from office or subjection to disciplinary action without due process of law;
- iii. THAT, the Principal Secretary for Interior victimized the Petitioner by transferring him from the Ministry of Interior and National Coordination to the Ministry of Agriculture, Livestock and Fisheries (State Department of Agriculture);
- iv. THAT, the Public Service Commission delegates human resource function to Cabinet Secretaries of respective Ministries in line with the Constitution and policy on decentralization of human resource management in the Civil Service;
- v. THAT, the Public Service has in place a caveat on inter-ministerial transfers unless in situations where a vacant position has been advertised;
- vi. THAT, due process was not followed in the transfer of the Petitioner and that the transfer was not recommended by Central Human Resource Committee;

A handwritten signature in black ink, appearing to be 'R. O. Abednego Etyang'a'.

PUBLIC PETITION
BY MR. R.O. ABEDNEGO ETYANG'A ON ALLEGED INTIMIDATION AND
VICTIMIZATION THROUGH IRREGULAR TRANSFER/POSTING BY THE
PRINCIPAL SECRETARY OF INTERIOR, MS. MONICA K. JUMA

- vii. THAT, the transfer of the Petitioner was as a result of a proposal on virtual border management made to the Ministry of Interior and Nationals Coordination with regard to the security management of the porous Kenya Somali Border;
- viii. THAT, the posting/transfer and subsequent directive by the Principal Secretary to Petitioner to proceed on leave pending re-deployment amounts to intimidation and harassment of a public officer and is in contravention of the Constitution, Labour Laws and the Public Service regulations.
- ix. THAT, the Petitioner lodged several appeals with Ministry officials regarding the matter but efforts to resolve the matter have been futile;
- x. THAT, the matter presented in this petition is not pending before any tribunal or court of law;

THEREFORE, your humble Petitioner PRAYS that the National Assembly through the Departmental Committee on Administration and National Security:

- (i) Ensures that the Petitioner's plight is addressed;
- (ii) Establishes whether due process was followed in the transfer of the Petitioner;
- (iii) Intervenes and ensures that this irregular transfer is revoked; and
- (iv) Makes any other order or direction that it deems fit in the circumstances of the case.

And your PETITIONER will ever pray.

PRESENTED BY,



HON. SAMMY MWAITA, MP

MEMBER FOR BARINGO CENTRAL CONSTITUENCY

DATE 27/7/2015

PUBLIC PETITION

BY MR. ABEDNEGO R.O ETYANG'A

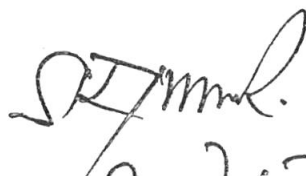
ON

THE INTIMIDATION AND VICTIMIZATION OF MR. R.O. ABEDNEGO ETYANG'A THROUGH IRREGULAR TRANSFER/POSTING BY THE PRINCIPAL SECRETARY - INTERIOR, MS. MONICA K. JUMA

I the undersigned, on behalf of **Mr. Abednego R. O. Etyang'a**, Senior Deputy Secretary, Directorate of Immigration and Registration of Persons, Ministry of Interior and Coordination of National Government;

Draw the attention of the House to the following,

- 1. THAT**, while Article 236 provides for the protection of public officers from victimization, discrimination and removal from office or subjection to disciplinary action without due process of law, the Principal Secretary victimized the petitioner through irregular transfer/posting from the Ministry of Interior and Coordination of National Government (Directorate of Immigration and Registration of Persons) to the Ministry of Agriculture, Livestock and Fisheries (State Department of Agriculture);
- 2. THAT**, the Public Service Commission has delegated human resource functions to Cabinet Secretaries of respective ministries pursuant to Article 234 (5) of the Constitution and in line with the policy on decentralization of human resource management in the Civil Service;
- 3. THAT**, such delegation shall be exercised in accordance with the provisions of the Constitution, relevant labour laws and any regulations and or guidelines issued by the Public Service Commission;



4. **THAT**, the Public Service Commission had put a caveat on inter-ministerial transfers unless in situations where a vacant position has been advertised;
5. **THAT**, the Central Human Resource Management Posting Committee (CHRMPC) is tasked with the mandate of recommending transfer of officers on Job Group Q and above for approval of the Public Service Commission;
6. **THAT**, the re-designation of staff in Job Group Q and above shall remain the responsibility of the Public Service Commission while the Cabinet Secretary shall have the power to re-designate officers from job group A to P upon recommendation of the Ministerial Human Resource and Development Advisory Committee (MHRMAC);
7. **THAT**, the posting of Mr. Abednego R. O. Etyang'a to the Ministry of Agriculture, Livestock and Fisheries (State Department of Agriculture) was not discussed and recommended by the Central Human Resource Committee or approved by the Public Service Commission as required;
8. **THAT**, the posting of Mr. Abednego R.O Etyang'a, Senior Deputy Secretary, Immigration and Registration of Persons, was as a result of a proposal on virtual border management made to the Ministry with regard to the security management of the porous Kenya Somali Border; and
9. **THAT**, the said posting and subsequent directive by the Principal Secretary to the said officer (Mr. Abednego R.O Etyang'a, Senior Deputy Secretary) to proceed on leave pending re-deployment amounts to intimidation and harassment of a



senior public officer and is in contravention of the Constitution, labour laws and the public service regulations.

That, the issues raised in this petition are not pending in any court of law or constitutional body.

THEREFORE your humble petitioner prays that the National Assembly, through the Departmental Committee on Administration and National Security:-

1. Investigates the conduct of the Principal Secretary Interior in the transfer of the petitioner and whether due process was followed in the transfer;
2. Intervenes with the relevant authorities to ensure the payment of the June, 2015 salary and May 2015 salary arrears for Mr. Abednego R. O. Etyang'a;
3. Intervenes with the relevant authorities to ensure that the irregular transfer is revoked and the petitioner reinstated and protected at his work station; and
4. Intervenes with the relevant authorities to ensure protection of career civil servants in the execution of their duties without fear of intimidation.

And your humble **PETITIONER** will ever pray.

Presented by

Hon. Sammy Mwaita, MP

Member for Baringo Central Constituency

Sign: 

Date: 29/6/2015

PUBLIC PETITION

BY MR. ABEDNEGO R. O. ETYANG'A

ON

THE INTIMIDATION AND VICTIMIZATION OF MR. ABEDNEGO
R.O. ETYANG THROUGH IRREGULAR TRANSFER/POSTING BY
THE PRINCIPAL SECRETARY - INTERIOR, MS. MONICA K.
JUMA

The Petitioner

Name

ID. No.

SIGNATURE

ABEDNEGO R. O. ETYANG'A

7424670

Abnd

25/06/2015

P.O. Box 36985-00100

Nairobi

TEL. 0923207347

**APPENDIX III
SUBMISSIONS BY THE PRINCIPAL
SECRETARY STATE DEPARTMENT OF
INTERIOR**

①

D/Committees

1219

URGENT



② MACHIRA

pls deaf
FA 13/18

OFFICE OF THE PRESIDENT

Telegraphic address: "Rais"
Telephone: Nairobi 2227411
When replying, please quote

MINISTRY OF INTERIOR
AND CO-ORDINATION
OF
NATIONAL GOVERNMENT

P.O. Box 30510-00100
Nairobi

Ref. No. **OP/209/015/NB/778**
and date

11th August, 2015
....., 20.....

Mr. Justin Bundi, CBS
Clerk of the National Assembly
Parliament Buildings
NAIROBI

Dear *Mr. Bundi,*

RECEIVED
12 AUG 2015
CLERK'S OFFICE

RE: PUBLIC PETITION BY MR. ABEDNEGO R. O. ETYANG'A

This is to acknowledge your Summons dated 6th August, 2015 for the Cabinet Secretary to appear before the Departmental Committee on Administration and National Security on Tuesday, 18th August, 2015 to answer to Notice of Motion dated 2/7/2015 filed with the House regarding the transfer of one Mr. Abednego R. O. Etyang'a through Hon. Sammy Mwaita, Member of Parliament for Baringo Central Constituency.

The Motion among other things seeks to have the House investigate the transfer of Mr. Etyang'a from the Ministry of Interior and Coordination of National Government to the Ministry of agriculture, Livestock and Fisheries.

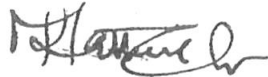
The Petition states that the transfer of Mr. Abednego Etyang'a is in violation of the Constitution, Labour Laws and the Public Service regulations. The Petitioner further states at paragraph x that, "the matter presented in this petition is not pending before any tribunal or court of law".

We wish to draw your attention to the fact that this matter was filed in the High Court in Nairobi (Milimani) J. R. Misc. Civil Application No. 202 of 2015 - Republic - vs - Cabinet Secretary Ministry of Interior & Coordination of National Government, The Secretary Public Service Commission, The Chief of Staff & Head of Public Service on 1 July, 2015.

The High Court Miscellaneous Civil Application 202 of 2015 was transferred to the Employment & Labour Relations Court at Nairobi on 27th July, 2015 and registered as JR No.7 of 2015. The Matter is still pending before the Employment and Labour Relations Court and the Hearing date for a Notice of Motion is fixed for Thursday, 13th August, 2015. Attached hereto is the photocopy of the communication from the Attorney-General on notice for the Hearing of the matter.

Submitted for guidance.

Yours



AMB. MONICA JUMA, DPhil., MBS
PRINCIPAL SECRETARY - INTERIOR

CC:

Hon. Maj. Gen. (Rtd.) Joesph Nkaisserry, MGH
Cabinet secretary
Ministry of Interior & Coordination of
National Government
NAIROBI

} for information.


REPUBLIC OF KENYA
OFFICE OF THE ATTORNEY-GENERAL
DEPARTMENT OF JUSTICE

AG/LIC/OP/80/15

7th August, 2015

Principal Secretary
Ministry of Interior & Coordination of
National Government
P.O. Box 30510 – 00100
NAIROBI

NAIROBI HCC JR 7/2015
ABEDNEGO REUBEN OKARIKODI ETYANG VS.
THE ATTORNEY GENERAL
CABINET SECRETARY MINISTRY OF INTERIOR &
CO-ORDINATION OF NATIONAL GOVERNMENT,
PRINCIPAL SECRETARY MINISTRY OF INTERIOR &
CO-ORDINATION OF NATIONAL GOVERNMENT
THE SECRETARY PUBLIC SERVICE COMMISSION,
CHIEF OF STAFF AND HEAD OF PUBLIC SERVICE

We refer to the above matter and advise that the case is scheduled for hearing on 13-8-2015

We further inform that we have fully appraised the issues and intend to prepare Replying Affidavits in response to the claim.

The affidavits will in essence set out the facts and further amplify and clarify the respective mandates of 2nd -4th respondents. This is very critical to enable the Court appreciate the rationale of the guidelines in the National Executive Public Service (Civil Service).

To this end, please note that we are preparing three (3) affidavits to be sworn by:-

1. Principal Secretary, Ministry of Interior & Coordination of National Government.
2. Secretary, Public Service Commission.
3. Director, Human Resource Manager, Ministry of Interior & National Government.

We have attached a bound copy of the claimant's Memorandum of Claim together with the Amended Notice of Motion and Supporting Affidavit for record.



Ms. Wanjiku A. Mbiyu (OGW)

Chief State Counsel

FOR: HON ATTORNEY GENERAL

C.C.

Office of the Chief of Staff &

Head of Public Service

HARAMBEE HOUSE