

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(FOURTH SESSION)

NCCA/TJ/PL/2025(34)

4TH MARCH 2025

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Standing Order 221, I beg to lay the following Paper on the Table of this Assembly, today Thursday 4th March 2025:

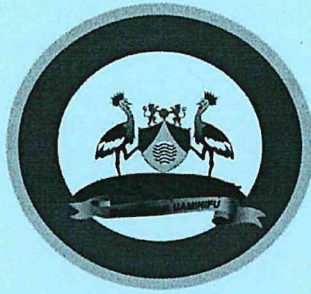
- THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE CONSIDERATION OF THE PETITION BY MS. ELIZABETH WANJIRU REGARDING UNLAWFUL DISMISSAL BY NAIROBI CITY WATER AND SEWERAGE COMPANY LIMITED (NCWSC)

(Chairperson, Sectoral Committee on Labour and Social Welfare)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

*Paper/Report laid by
Hon. Allan Maina, MCA
on 4th March 2025
4/3/2025*

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(FOURTH SESSION)

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26/02/2025

NCCA/TJ/PL/2025(34)

25TH FEBRUARY 2025

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Standing Order 221, I beg to lay the following Paper on the Table of this Assembly, today Tuesday 25th February 2025:

- **THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE CONSIDERATION OF THE PETITION BY MS. ELIZABETH WANJIRU REGARDING UNLAWFUL DISMISSAL BY NAIROBI CITY WATER AND SEWERAGE COMPANY LIMITED (NCWSC)**

(Chairperson, Sectoral Committee on Labour and Social Welfare)

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NAIROBI CITY COUNTY GOVERNMENT



NAIROBI CITY COUNTY ASSEMBLY
(THIRD ASSEMBLY- FOURTH SESSION)

THE REPORT OF THE SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON
THE CONSIDERATION OF A PETITION BY MS. ELIZABETH WANJIRU REGARDING
UNLAWFUL DISMISSAL BY NAIROBI CITY WATER AND SEWERAGE COMPANY LTD
(NCWSC)

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
NAIROBI

FEB, 2025

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Submissions by Ms. Elizabeth Wanjiru

Submission by Nairobi City Water & Sewerage Company LTD

Minutes

1.0. PREFACE

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare is one of the Sectoral Committees established under Standing Order 209. The Committee is mandated under the 3rd Schedule of the Standing Orders to “*Investigate, inquire into and report on all matters related to “labour, trade union relations, manpower or human resource planning; County Public Service; youth, gender and social welfare”*”.

The Committee is responsible for overseeing the work and administration of the Public Service Management Sector, the County Public Service Board, Youth Affairs, Social Services, and Gender & Inclusivity Sub-Sectors.

1.1. Committee Membership

The Committee on Labour and Social Welfare comprises the following Members:

1. Hon. Allan Maina Githuku, MCA Chairperson
2. Hon. Patrick Karani, MCA Vice Chairperson
3. Hon. Catherine Okoth, MCA
4. Hon. Jane Muasya, MCA
5. Hon. Nancy Mwaura, MCA
6. Hon. Oscar Lore, MCA
7. Hon. Anthony Kimemia, MCA
8. Hon. Joyce Muthoni, MCA
9. Hon. Kennedy Oyugi, MCA
10. Hon. Absalom Onyango, MCA
11. Hon. Peter Mwangi, MCA
12. Hon. Abbas Khalif, MCA
13. Hon. Benter Juma, MCA
14. Hon. Simon Maina, MCA
15. Hon. Paul Wachira, MCA
16. Hon. Paul Mathu, MCA
17. Hon. Joyce Lugonzo, MCA

18. Hon. Cicilia Wairimu, MCA
19. Hon. Farhiya Daudi, MCA
20. Hon. Evans Nyangicha, MCA
21. Hon. Agnes Njeri, MCA
22. Hon. Jane Musangi, MCA
23. Hon. Wanjiru Kariuki, MCA
24. Hon. Fiunifiu Thuo, MCA

Hon. Speaker,

On behalf of the Members of the Sectoral Committee on Labour and Social Welfare, it is my pleasant duty and privilege to present the Committee's Report on its inquiry into the petition regarding the unlawful dismissal of Ms. Elizabeth Wanjiru by Nairobi City Water and Sewerage Company Ltd.

The core objective of the said petition was to inquire whether Ms. Elizabeth Wanjiru, an employee of Nairobi City Water and Sewerage Company Ltd., was unlawfully dismissed from her duties.

1.2. Appreciation

Hon. Speaker,

The Sectoral Committee on Labour and Social Welfare wishes to thank the offices of the Speaker and the Clerk of the Nairobi City County Assembly for the support extended to it in the conduct of this inquiry.

Further, the Committee extends its gratitude to the Secretariat for their contributions during and after the investigation and compilation of this report.

Finally, I sincerely thank the members of the Sectoral Committee for their commitment during the inquiry, which contributed immensely to the compilation of this report.

SIGN.....

DATE...11/02/2025

HON. ALLAN MAINA, CHAIRPERSON
SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

2.0. INTRODUCTION

Hon. Speaker,

The Committee Members received the petition from MS Elizabeth Wanjiru, a former employee of Nairobi Water and Sewerage Company LTD, regarding unlawful dismissal from the company.

The Committee deliberated on the said issue and resolved to conduct an inquiry by inviting the petitioner, the Managing Director of Nairobi Water and Sewerage Company LTD, and the Kenya City Government Workers Union to report on the same.

The petitioner, Ms. Elizabeth Wanjiru, and the Managing Director of Nairobi City Water & Sewerage Company Ltd. attended the meetings. However, the Kenya County Government Workers Union did not honor the invitations forwarded to them and instead sent a written submission.

3.0. THE INVESTIGATION

3.1. Ms. Elizabeth Wanjiru's Submissions

The committee had a meeting with Ms. Elizabeth Wanjiru, who gave the below suggestions: -

- She was employed by Nairobi City Council on 25th February, 1999, and worked for 5 years up to 22nd April, 2004, when she was seconded to the newly formed Nairobi Water and Sewerage Co. Ltd. under its terms and conditions of service;
- On 23rd October, 2013, she was accused by NCWS alongside two other colleagues, Nancy Nduta (PI no. 20040) and Simon Kiama (PI no. 73570);
- Elizabeth was accused of editing AC 1301556 in her show cause letter using Nancy Nduta's CMS profile;
- Nancy Nduta was accused in her show cause of giving Elizabeth her CMS profile, which was used in the account 1301556. She mentioned that it was okay for officers to share profiles if they are in the same department for reasons of serving customers;
- Simon Kiama Mwangi, payroll number. 73570, was accused of giving the wrong information and interfering with A/C No. 1301566 since the case involved the three of them;
- Elizabeth Wanjiru responded to the show cause given by stating that since she was in charge of customer care, it was her day-to-day work to edit accounts as per the information given by ground-meter readers like Simon Kiama and others who had

knowledge of the ground. She explained that she used Nancy Nduta's CMS profile since she had forgotten hers since she had been on leave;

- Simon Kiama, who was the source of the case and information for A/C 1301556, failed to show the security officials the position of the account on the ground twice;
- On 27th January, 2014, the three went through the company's disciplinary committee to explain their accusations, and on 14th May, 2014, Elizabeth Wanjiru received a summary dismissal letter for being guilty of account number 1301566, which was different from the one indicated in the show cause letter;
- Being a member of the Kenya Workers Union, she handed over the case to them so that they could follow up with the company, and they did so by writing to the Nairobi City and Sewerage Company to demand to know why a single person among the three was sacrificed. This complaint was reported as a trade dispute to the Ministry of Labour for further arbitration;
- The Ministry of Labour appointed a conciliator known as Mr. J.M. Kiraguri to deal with the case;
- The Conciliator, having listened to all the parties involved, made a recommendation for Ms. Elizabeth Wanjiru's reinstatement back to the service dated 16th October, 2015; Mentioning that her termination was not valid since the account she was accused of in the show cause 1301566 was different from the one indicated in the summary dismissal documents. It showed that there was discrimination since the case singled out one person in a case of three people;
- However, the Nairobi Water Sewerage Company failed to comply with the recommendations of the Ministry of Labour's appointed Conciliator, and the Union wrote several letters that were ignored;
- On 25th April, 2019, she followed up on the case and wrote to the General Secretary of the Kenya Workers Union in regards to the unresolved matter. She entrusted an officer to escalate the case to the Employment and Labour Relations Court, and since it had taken more than the stipulated three years to report to the court, the case was dismissed because it was time barred; and
- She was devastated that the service of more than twenty-three (23) years was just wasted by the company's committee, which refused to give her the right to justice as

envisioned by Kenya Chapter 4 (Article 48).

She therefore sent a prayer to the Labour and Social Welfare Committee to consider her case and help her seek justice, as she felt that she was dismissed unfairly without any valid reason.

3.2. Nairobi City Water & Sewerage Company Ltd. Submissions

On 1st August, 2023, the Committee met with the NSCSW, who gave the following submissions: -

- Ms. Elizabeth Wanjiru was employed by the City Council of Nairobi on 25th February, 1999. She was among the City Council employees seconded to the company on 11th April, 2004 and appointed as a radio operator based in the eastern region;
- The officer was suspended from duty on 22nd January, 2014, for allegedly colluding with Nancy Nduta, a Data Entry Assistant (Northern Region), to edit Account No. 1301556 in an itinerary for Dandora to read details of an itinerary in Mathare without authority using Nduta's CMC profile;
- The information was recomunicated to the office of the Human Resources Manager Office by the Regional Manager Northern. The investigation report via memo ref: NWSC/SD/2382/SGL/cw dated 18th February 18, 2014 indicated that the officer, while on leave, unprocedurally transferred the account 1301556 to the wrong itinerary using Nancy Nduta's CMS profile;
- The officer was issued with a show cause letter ref: NCWSC/HR.ADMIN./_/_/NR/33380/24/EMM/mmm dated 23rd October 23, 2013, on account of the fact of the fact that, without any authority, she unprocedurally edited account no. 1301556 from an itinerary in Dandora to read the itinerary in Mathare;
- In her response through a letter dated 28th October 28, 2013, she admitted having edited the account after she was instructed by Simon Kiama, an ammeter reader. She further stated that she used her colleague's profile, Nancy Nduta, considering that on that particular date she was officially on leave;
- The officer was summoned to appear before the Corporate Disciplinary Committee hearing on 16th April, 2014, which she attended. The Committee found her guilty as charged and recommended her summary dismissal. The decision to dismiss her was communicated via a letter dated 14th May, 2014;
- The officer appealed her summary dismissal, claiming that when the account in question

- was edited, she was alone in the customer care front office as two of her colleagues, Nancy Nduta and Chebet, were not at the station;
- She was summoned to appear before the Corporate Appeals Committee on 4th August, 2014, which she attended and was accorded a fair hearing. Upon deliberation, the committee upheld the decision of the Corporate Disciplinary Committee and recommended that the former staff should not be reinstated, and the same was communicated to her via a letter dated 8th January, 2015;
 - The officer registered a trade dispute with the Labour Office. The matter went through a conciliator, and as per the conciliator's report, it was recommended that the officer be reinstated to her former position and that she be paid all her salary from the date of suspension; and
 - The officer registered a case in the Employment and Labour Relations Court (E.L.R.C. No. 2317 of 2019—KCGWU (on behalf of Elizabeth Wanjiru Gichuru vs. NCWSC), which was dismissed since it took three years to file.

Therefore, it was the company's position that the officer was accorded a fair and just disciplinary and appeals hearing, and thus her summary dismissal was justifiable. They recommended that the Kenya Workers Union give their submission on why it took them three years to file the Officers Case.

3.3. Kenya County Governor's Workers Union Submissions

The Committee called for a meeting with the Kenya County Governor's Workers Union, which did not attend. However, they gave their submissions as follows: -

- Ms. Elizabeth Wanjiry Gichuru was employed as a cleaner by Nairobi City Council on permanent and pensionable terms and later seconded to Nairobi City Water and Sewage Co. Ltd. on 4th November, 2004;
- Elizabeth was posted to the eastern part of the company as a radio operator in 2005;
- She was issued a show cause letter to provide an explanation on account No. 1301556, which she had unprocedurally edited from itinerary in Dandora to read details of itinerary in Mathare within 32 hours, wherein she duly explained herself;
- She was suspended from work on 22nd January, 2014, and later summarily dismissed on 14th May, 2014;

- The Kenya County Governor's Workers Union, through various letters, engaged Nairobi Water & Sewerage Company Limited but failed to reply to the same, prompting them to move to the next level of arbitration with the Ministry of Labour, who appointed a conciliator. He listened to both parties's submissions and recommended that Ms. Elizabeth Wanjiru be reinstated to service, having ascertained that her dismissal was unlawful, which Nairobi Water & Sewerage Company Limited did not implement. Instead, they engaged in delay tactics by ensuring the case was not adequately resolved; and
- The Nairobi Water & Sewerage Company Limited stopped remitting the Union dues and thereafter took the case to court.

Hon. Speaker,

The County Public Service Board wrote another letter to the County Secretary, requesting an explanation for the transition of human resources to the Nairobi City County Government and being provided with: -

1. Recommendation or report from the Intergovernmental Relations Technical Committee (IGTRC) on the transfer of functions and human resources from the defunct Nairobi Metropolitan Services (NMS) to the County Public Service Board;
2. Referred Public Service Commission letter with terms to delegate back to the human resource functions;
3. Request justification, structure, and establishment that initiated the recruitment of the proposed officers by defunct Nairobi Metropolitan Services through the Public Service Commission;
4. Recruitment process by Nairobi Metropolitan Services that was employed by the Public Service Commission during recruitment;
5. List of all officers proposed by Nairobi Metropolitan Services for absorption and their critical and essential services that they are offering and which otherwise cannot be offered by the existing NCCG officers;
6. The justification of the recruitment of officers by Nairobi Metropolitan Services through the Public Service Commission on contract beyond the term of the deed of transfer; and
7. Substantive approved budget for the financial year 2022-2023 and any other document that shall be of essence to the request.

4.0. COMMITTEE FINDINGS

The Committee made the following observations during the said meeting: -

1. Ms. Elizabeth Wanjiru was dismissed without any lawful cause. It was not fair to dismiss one person in a case that involved three people, though the Human Resource Officer from Nairobi City Water & Sewerage Company Limited claimed that the petitioner did the act without any written instructions and from an officer who was not the petitioner's supervisor and was given an opportunity to show cause, and the justifications that she gave were not adequate;
2. Nairobi City Water & Sewerage Company Limited refused to implement the reinstatement resolution from the Ministry of Labour;
3. It was not possible for the company to intervene in the petitioner's case since she went to the Kenya County Government Workers Union and went to court; and
4. The Kenya County Government Workers Union took more than the stipulated three years to report to the court, leading to the case being dismissed because it was time-barred.

5.0. RECOMMENDATIONS

In view of the above investigation, the Committee recommends the following: -

- That Since Ms. Elizabeth Wanjiru's service of more than twenty-three (23) years was just wasted by the Nairobi City Water and Sewerage Company, which refused to give her the right to justice as envisioned by Kenya Chapter 4 (Article 48) and ignored the implementation of the reinstatement report from the arbitrator, the Ministry of Labour, she should be reinstated back to service as she is still in her reproductive years. In addition, she should be compensated for the unjust termination; and
- In light of the situation, the Nairobi City Water and Sewerage Company should review and improve their internal processes related to employee rights, dispute resolution, and adherence to labor laws to prevent similar incidents in the future.

MINUTES OF THE 01ST SITTING OF NAIROBI CITY COUNTY ASSEMBLY SECTORAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON TUESDAY, 11TH FEBRUARY, 2025, AT 11.00 AM. IN COMMITTEE ROOM 9.

PRESENT

1. Hon. Allan G. Maina, MCA - Chairman
2. Hon. Jane Muasya, MCA
3. Hon. Paul Wachira, MCA
4. Hon. Nancy Mwaura, MCA
5. Hon. Benter Obiero, MCA
6. Hon. Joyce Kamau, MCA
7. Hon. Jane Musangi, MCA
8. Hon. Simon Maina, MCA
9. Hon. Agnes Njeri, MCA
10. Hon. Cecilia Njathi, MCA
11. Hon. Paul Mathu, MCA
12. Hon. Absalom Odhiambo, MCA
13. Hon. Farhiya Daud, MCA
14. Hon. Joyce Lugonzo, MCA
15. Hon. Kennedy Oyugi, MCA
16. Hon. Evans Nyangicha, MCA
17. Hon. Catherine Okoth, MCA
18. Hon. Peter Maina, MCA

ABSENT

1. Hon. Patrick Karani, MCA - Vice - Chairperson
2. Hon. Abbas Khalif, MCA
3. Hon. Oscar Lore, MCA
4. Hon. Wanjiru Kariuki, MCA
5. Hon. Anthony kimemia, MCA

SECRETARIAT – COUNTY ASSEMBLY

1. Mr. Mohammed Abdi – First Clerk Assistant
2. Ms. RoseEdna Kanana – Clerk Assistant
3. Ms. Halima Abdi – Clerk Assistant

MIN. 001/SC - L&SW/FEB/2025: PRELIMINARIES

The Chairperson called the meeting to order at 11.15 a.m. and begun with a word of prayer. The Chairperson took Members through the agenda, which was adopted as proposed by Hon. Joyce Lugonzo, MCA, and seconded by Hon. Evans Nyangicha, MCA, as follows:

AGENDA

1. *Preliminaries (Prayers & adoption of the agenda)*
2. *Adoption of Committee report on the consideration of a petition by Ms. Elizabeth Wanjiru regarding dismissal by Nairobi City Water and Sewerage Company Ltd (NCWSC); and a petition by Esther Mbithi P/No 20150071668 an employee of Nairobi City County regarding unresponsiveness to her concerns relating to historical injustice and right placement by the Public Service Board;*
3. *Any Other Business; and*
4. *Adjournment.*

MIN.002 /SC - L&SW/FEB/2025: PETITION BY MS. ELIZABETH WANJIRU REGARDING DISMISSAL BY NAIROBI CITY WATER AND SEWERAGE COMPANY LTD (NCWSC).

The Secretariat tabled the draft report on the consideration of the petition by Ms. Elizabeth Wanjiru regarding unlawful dismissal by Nairobi City Water and Sewerage Company Ltd (NCWSC). Hon. Evans Nyangicha, MCA took the Committee through the Observation and recommendation of the report. As follows;

Committee Observations

1. Ms. Elizabeth Wanjiru was dismissed without any lawful cause. It was not fair to dismiss one person in a case that involved three people, though the Human Resource Officer from Nairobi City Water & Sewerage Company Limited claimed that the petitioner did the act without any written instructions and from an officer

who was not the petitioner's supervisor and was given an opportunity to show cause, and the justifications that she gave were not adequate;

2. Nairobi City Water & Sewerage Company Limited refused to implement the reinstatement resolution from the Ministry of Labour;
3. It was not possible for the company to intervene in the petitioner's case since she went to the Kenya County Government Workers Union and went to court; and
4. The Kenya County Government Workers Union took more than the stipulated three years to report to the court, leading to the case being dismissed because it was time-barred.

Committee recommends

1. That Since Ms. Elizabeth Wanjiru's service of more than twenty-three (23) years was just wasted by the Nairobi City Water and Sewerage Company, which refused to give her the right to justice as envisioned by Kenya Chapter 4 (Article 48) and ignored the implementation of the reinstatement report from the arbitrator, the Ministry of Labour, she should be reinstated back to service as she is still in her reproductive years. In addition, she should be compensated for the unjust termination; and
2. In light of the situation, the Nairobi City Water and Sewerage Company should review and improve their internal processes related to employee rights, dispute resolution, and adherence to labor laws to prevent similar incidents in the future.

In this regard, the Committee adopted the said report for tabling as proposed by Hon. Joyce Lugonzo, MCA, and seconded by Hon. Paul Wachira, MCA.

MIN.003/SC - L&SW/FEB/2025: PETITION BY MS. ESTHER MBITHI P/NO 20150071668 AN EMPLOYEE OF NAIROBI CITY COUNTY REGARDING UNRESPONSIVENESS TO HER CONCERNS RELATING TO HISTORICAL INJUSTICE AND RIGHT PLACEMENT BY THE PUBLIC SERVICE BOARD.

The Secretariat tabled the draft report on the consideration of the petition by Ms. Esther Mbithi P/No. 20150071668 an employee of Nairobi City County regarding unresponsiveness to her concerns relating to historical injustice and right placement by the

Public Service Board. Hon. Nancy Mwaura, MCA took the Committee through the observation and recommendation of the report. As follows;

Committee Observation

1. The Committee verified that the petitioner had indeed faced significant delays and a lack of response from the Public Service Board regarding her complaints. There were multiple attempts by her to seek resolution, with minimal to no acknowledgment or action from the relevant body;
2. The Committee noted that testimonies and documented evidence suggest that the petitioners claims of discrimination and unfair treatment are credible. There were identified patterns of behavior within the Public Service Board, including but not limited to lethargy that aligned with the petitioner's experiences, indicative of broader systemic issues;
3. It was palpable that the Public Service Board lacks efficient and transparent mechanisms for addressing grievances related to discrimination and placement, which has contributed to the prolonged unresponsiveness to the petitioner's concerns;
4. An assessment of the petitioner's qualifications and career history revealed that her current position does not align with her expertise and experience. As such, the misalignment supports her claim of improper placement within the service; and
5. The County Public Service Board took a lot of time to consider her case; nevertheless, it is possible for the Board to still consider her since she used the right channel and never went to court for the same.

Committee recommendation

1. The County Public Service Board should take immediate steps to address the petitioner's placement issue, ensuring that she is positioned in a role that matches her qualifications and experience;
2. The County Public Service Board should conduct a thorough review of historical injustices within its operations, with a focus on identifying and rectifying systemic

biases. The said review should be independent and involve external oversight to ensure impartiality;

3. The Board, in conjunction with the Public Service Management Sector, should develop and implement a robust grievance redress mechanism that is transparent, efficient, and accessible. The said mechanism should ensure timely responses and actions on complaints related to discrimination and unfair treatment;
4. To prevent future occurrences of discrimination and bias, the County Public Service Board should institute regular training programs on diversity, inclusion, and equity for all its members and staff;
5. The County Public Service Board should undergo periodic audits to assess the effectiveness of implemented changes and to ensure continuous improvement in addressing employee concerns and promoting a fair workplace environment; and
6. The Chairperson of the County Public Service Board should submit a status progress report to this Committee within sixty (60) days of the adoption of this report and provide updates on the implementation of the above recommendations.

In this regard, the Committee adopted the said report for tabling as proposed by Hon. Paul Wachira, MCA, and seconded by Hon. Nancy Mwaura, MCA.

MIN. 04/SC – L&SW/FEB/2025: ANY OTHER BUSINESS.

It was resolved that the County Public Service Board be invited to a Committee meeting to deliberate, among other matter, on the submitted annual report of the County Public Service Board for the year 2023/24.

MIN. 05/SC – L&SW/FEB/2025: ADJOURNMENT

There being no other business to consider, the Chairperson adjourned the meeting at 12.05pm. The next was scheduled to be held on Wednesday, 12th February, 2025 at 11:00 a.m. at Committee room 9.

CONFIRMED AS TRUE RECORDS OF PROCEEDING

CHAIRPERSON.....

DATE.....18/02/2025.....

