

**IN THE COURT OF
APPEAL AT NAKURU**

**(CORAM: WARSAME JA. (IN
CHAMBERS)) CIVIL APPLICATION NO.**

E141 OF 2025 BETWEEN

EGERTON UNIVERSITY.....APPLICANT

AND

KENNETH METHU THIONGO.....RESPONDENT

(An application for extension of time to file an intended cross- appeal out of time from the judgment of the Employment and Labour Relations Court of Kenya at Nakuru (Mwaure, J.) delivered on the 30th May 2025

in

ELRC Cause No. E014 of 2024)

RULING

1. By notice of motion dated 29th September 2025, the applicant seeks extension of time within which to file a notice of cross-appeal, under Rule 4 of the Court of Appeal Rules. The relief sought seeks to challenge aspects of the judgment delivered on 30th May 2025, by Mwaure J.
2. The genesis of this application lies in an employment dispute between the parties wherein the trial court awarded the

respondent various sums including unremitted pension deductions, deferred gross pay, deferred CBA arrears, and loan deductions totaling several million shillings, with no orders to costs.

3. Following the judgment, the respondent filed a notice of appeal on 5th August 2025 and subsequently commenced execution proceedings to enforce the decree. It was only then, some four months after judgment, that the applicant filed the instant application seeking extension of time to file a cross-appeal.
4. The reason advanced for the delay is that the applicant's advocate received instructions to appeal on 20th September 2025, and that, being a public entity, institutional processes were required before a decision to appeal could be made.
5. The respondent has filed a replying affidavit dated 22nd October 2025 opposing the application, contending that the delay of four months without tangible explanation constitutes indolence and should not be condoned. Furthermore, the bare assertion of institutional delay is unsupported by any documentary evidence such as internal correspondence, memos, or resolutions showing when deliberations occurred

and when the

decision to appeal was made. The respondent emphasizes that the application was only prompted by the commencement of execution proceedings.

6. The principles governing applications for extension of time are well settled. As stated in **Abdul Aziz Ngoma vs. Mungai Mathayo [1976] eKLR**, this Court's discretion to extend time under Rule 4 only comes into existence after 'sufficient reason' for extending time has been established. As further elaborated in **Fakir Mohamed vs. Joseph Mugambi & two others, Civil Application No. Nai. 332/04**, the exercise of this Court's discretion is unfettered, and relevant factors include the period of delay, the reason for the delay, the chances of the appeal succeeding, the degree of prejudice to the respondent, and the importance of compliance with time limits.
7. I have considered the application, the arguments advanced by both parties and the principles governing applications such as this. In my view the delay of four months is not inordinate. Furthermore, given the context that this is an application by a public university where institutional processes inevitably, more often than not, require consultation with relevant

authorities

before litigation decisions can be made, I find the explanation offered, that instructions were received on 20th September 2025 following internal institutional processes, plausible for a public entity.

8. While the respondent correctly notes the absence of supporting documentation, the nature of institutional decision making in universities is well understood and it is evident that the application was filed promptly once instructions were received.
9. In the end, I find sufficient cause has been shown for me to exercise my discretion. I therefore allow this application and direct that the notice of cross-appeal be filed within 7 days from the date of this ruling, with costs to the respondent.

Dated and delivered at Nakuru this 21st day of November, 2025.

M. WARSAME

.....
JUDGE OF APPEAL

*I certify that this is
a true copy of the
original.*

Signed

DEPUTY REGISTRAR