



**Kirinyaga County Public Service Board v Kenya Union of Medical Laboratory  
Officers; Public Service Commission of Kenya (Interested Party) (Civil  
Application E013 of 2025) [2025] KECA 563 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KECA 563 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CIVIL APPLICATION E013 OF 2025  
S OLE KANTAI, JA  
MARCH 28, 2025**

**BETWEEN**

**KIRINYAGA COUNTY PUBLIC SERVICE BOARD ..... APPLICANT**

**AND**

**KENYA UNION OF MEDICAL LABORATORY OFFICERS ..... RESPONDENT**

**AND**

**PUBLIC SERVICE COMMISSION OF KENYA ..... INTERESTED PARTY**

*(An application for extension of time to lodge a Notice of Appeal from the  
Judgment of the Employment and Labour Relations Court at Nyeri (O.  
Makau, J.) delivered on 9th August, 2024 in E.L.R.C. JR. No. E001 of 2023)*

**RULING**

1. The applicant, Kirinyaga County Public Service Board has by Motion brought under various provisions of law including rule 4 of the Court of Appeal Rules prayed in so far as a single Judge can entertain the application, that I be pleased to enlarge time for filing notice of appeal and that its notice of appeal lodged on 27<sup>th</sup> August, 2024 be deemed as properly filed and served or in the alternative that I enlarge time within which the applicant would file and serve a notice of appeal.
2. In grounds in support of the Motion and in an affidavit of Ruth Wanyonyi, its lawyer, it is said amongst other things that Makau, J. delivered a judgment on 9<sup>th</sup> August, 2024 where the applicant's Judicial Review application was dismissed; that the applicant was granted leave to appeal but that on 20<sup>th</sup> August, 2024 while attempting to upload notice of appeal the applicant encountered technical hitches with the CTS and was completely unable to upload notice of appeal; that the applicant only managed to access CTS on 24<sup>th</sup> August, 2024 when the Judiciary e-filing platform was restored; that upon



accessing the CTS the applicant’s lawyers realized that they had been mapped out of the system and the case ELRCJR No. E001 of 2023 had disappeared from the court tracking system;

“That as it stands, there exists no job vacancies for Medical Laboratory Officers and as such their resumption of duty will mean that the County Government of Kirinyaga has two parallel sets of employees discharging the same functions and drawing a salary from the public coffers for the same work ...”;

that the respondent’s members were dismissed over 7 years ago and that it would be impractical to reinstate them; that the intended appeal has high success of success.

3. There is a replying affidavit by Pius Nyakundi, the General Secretary and Chief Executive Officer of the respondent who gives the history of the case before the Public Service Commission and Employment and Labour Relations Court. He says that there is a similar matter in Civil Appeal No. E009 of 2025 and that this application should abide that application.

4. The principles that apply to an application of this nature were well set out in the case of Leo Sila Mutiso vs. Helen Wangari Mwangi [1999] 2 EA, as follows:

“It is now well settled that the decision whether or not to extend the time for appealing is essentially discretionary. It is also well settled that in general the matters which this court takes into account in deciding whether to grant an extension of time are: first, the length of the delay: secondly, the reason for the delay: thirdly (possibly), the chances of the appeal succeeding if the application is granted: and, fourthly, the degree of prejudice to the respondent if the application is granted.”

5. The applicant has explained the technical problems it encountered while attempting to lodge an appeal on time. I recognize the technical change in our systems where documents are now lodged in the court filing system online as opposed to the earlier system where the party or its lawyer would physically appear at a court registry to lodge documents. Here, the applicant tried to file notice of appeal on time but was frustrated by the system which failed to accept the documents. I accept this explanation. I extend the time for lodging notice of appeal and I deem the notice as duly filed subject to payment of court fees if not already paid. Costs of the Motion will be in the appeal.

**DATED AND DELIVERED AT NYERI THIS 28<sup>TH</sup> DAY OF MARCH, 2025.**

**S. ole KANTAI**

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**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

