



**Opiyo v Teachers Service Commission (Civil Application  
E048 of 2022) [2023] KECA 786 (KLR) (23 June 2023) (Order)**

Neutral citation: [2023] KECA 786 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT KISUMU  
CIVIL APPLICATION E048 OF 2022  
F TUIYOTT, JA  
JUNE 23, 2023**

**BETWEEN**

**MOSES KIMATHI OPIYO ..... APPLICANT**

**AND**

**TEACHERS SERVICE COMMISSION ..... RESPONDENT**

*(Being an Application to extend time for filing a Record of Appeal against  
the Ruling of the Employment and Labour Relations Court at Kisumu  
(Radido, J) Dated 23rd November, 2020 in KSM. ELRC No. 4 of 2019)*

**ORDER**

1. By Directions issued by the Court, the application dated March 23, 2022 was to be disposed of by way of written submissions without requiring appearance of the parties or their counsel. On the morning of the hearing, being June 16, 2022, Faith Kaluai, Advocate for the respondent wrote to Court stating that the respondent had not been served with the application or submissions by the applicant and was therefore unable to comply with the directions of the Court requiring it to file a replying affidavit and submissions in response.
2. I was not in a position to verify the validity of this complaint, coming as it did on the date of hearing. Yet if it is true that the application and the applicant's submissions had not been served, then the respondent would be hamstrung in responding and it can hardly be said that the respondent has been given a fair chance to respond to the application.
3. In the circumstances, I direct that the Deputy Registrar of this Court do, within 7 days of today, serve the application and the applicant's submissions upon the advocate of the respondent who shall within 3 days of service file both a replying affidavit and submissions in response. The file shall thereafter be placed before me for preparation of a Ruling.



4. These Directions should have come earlier but for the reason stated in the Court's notice of May 3, 2023 to parties.

**DATED AND DELIVERED AT KISUMU THIS 23<sup>RD</sup> DAY OF JUNE, 2023.**

.....

**F TTUIYOTT**

**JUDGE OF APPEAL**

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

*Signed*

**DEPUTY REGISTRAR.**

