



**Gachiri v Attorney General & another; Kenya Judges Welfare Association
& another (Interested Parties) (Constitutional Petition E304 of 2023)
[2024] KEHC 5893 (KLR) (Constitutional and Human Rights) (24 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5893 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
CONSTITUTIONAL PETITION E304 OF 2023
EC MWITA, PM NYAUNDI & LN MUGAMBI, JJ**

MAY 24, 2024

BETWEEN

PETER MWANGI GACHIRI PETITIONER

AND

THE HON ATTORNEY GENERAL 1ST RESPONDENT

THE SALARIES AND REMUNERATION COMMISSION 2ND RESPONDENT

AND

KENYA JUDGES WELFARE ASSOCIATION INTERESTED PARTY

THE JUDICIAL SERVICE COMMISSION INTERESTED PARTY

RULING

1. Upon delivery of the Judgment this morning, the 1st and 2nd Respondents made oral applications as follows: -
 - i. The 1st Respondent applied for certified copy of the proceedings and judgment and a stay of execution for 60 days against the processing of payment as ordered in Order No. 4 of the Judgment.
 - ii. 2nd Respondent applied for 60 days stay of execution of the judgment to enable the filing of an appeal.
2. The Petitioner does not oppose the application for stay but was concerned about the duration of the stay which he says is too long and that a 30 days stay would be sufficient.



- 3. The 1st and 2nd interested parties are opposed to the stay of execution on the ground that the actions of the respondent have been declared unconstitutional.
- 4. We have considered the application and declined to grant and order of stay for the reason that our decision has declared the impugned actions unconstitutional and by dint of Article 2(4) the declaration makes the decision by the Salaries Remuneration Commission to be void.
- 5. Issuing an order of stay would go against the spirit of Article 2(4) of the Constitution.
- 6. As regards copies of proceedings and judgment, we order that they be supplied upon payment of copying charges if applicable.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 24TH DAY OF MAY, 2024.

.....
E C MWITA

JUDGE
.....

P N NYAUNDI

JUDGE
.....

L N MUGAMBI

JUDGE

