

IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY
AT DAR ES SALAAM

MISCELLANEOUS CIVIL APPLICATION NO.35 OF 1995
THE BANK OF TANZANIA APPLICANT

VERSUS

1. THE MINISTER OF LABOUR AND YOUTH
DEVELOPMENT
2. OWDEN KASANJA
... RESPONDENTS

BUBESHI, J.

R U L I N G

In course of hearing this application for leave, the 1st and 2nd respondents, hereafter the respondents, have filed two preliminary objections, namely, that the application is incompetent for being time barred, and secondly that public law remedies cannot issue against a private individual, to wit the 2nd respondent.

On the first ground the respondents are arguing that the application was filed on 24/8/1995 while the event ^{took place} complained of ~~was~~ 26/1/1995. That Section 18 (3) of Act No.55 of 1968 provides for the statutory period of six months within which to file for such an application. That by filing the application on 24/8/1995, the same is out of time by about 30 days. That no extension of time has been sought and granted in this respect, Mr. Kamba has therefore prayed for the dismissal of the application.

Again he has added that even assuming the applicant became aware of the decision on 8/3/1995, a date doubted by the respondent, the applicant should have filed the application before 27/7/1995.

On ground two, the respondents submission is that the application for prerogative orders cannot lie against individuals except public bodies - See CLIVE LEWIS on "Judicial Remedies in Public Law", 1992 London and DAVID FOULKES -

"Introduction to Administrative Law,
4th Ed. London 1976.

Mr. Mkamba ~~called~~ his submission with a prayer for the dismissal on grounds of being ~~frivolous~~.

In their response, the applicant concede that the decision complained of was made on 26/1/1995 and was notified on 8/3/1995. The applicant is therefore arguing

that the Labour Commissioner contributed to the delay.


The applicant has referred this court to the decision of Lugakingira, J (as he then was) in the case of

P. S. SHIRIMA v KAMATI YA ULINZI NA USALAMA,
WILAYA YA SINGIDA and two OTHERS (1983) TLR 375

I have taken time to read the decision referred to me by the applicant. However I hasten to say that I see no relevance with the matter at hand. The applicant is supposed to advance reasons on their delay to file the application within the statutory period.

I have considered the objections raised by the respondents and I am inclined to agree that they have merit. In sum, I uphold the same and dismiss the application for being filed out of time.

Delivered before
Mselem for the Applicant and
Malaba for the Respondent


A. G. BUBESHI

JUDGE

16/11/95