

IN THE HIGH COURT OF TANZANIA

(D'SALAAM MAIN REGISTRY)

AT DAR ES SALAAM

MISC. CIVIL CAUSE NO.47 OF 1999

ARDONI MATHIAS MTENGULE.....APPLICANT

VERSUS

1. MINISTER FOR LABOUR AND YOUTH DEVELOPMENT

2. ATTORNEY GENERAL.....RESPONDENTS

RULING

MSUML.IK:

Applicant's employer dismissed him summarily for being absent from work without reasonable cause. His appeal to the Conciliation Board was successful and it was ordered that he be reinstated. The employer appealed to the Minister. The decision of the Conciliation Board was set aside and agreed with the employer that applicant should be summarily dismissed. This decision was given on 20/11/97.

In this application, which was filed on 7/5/99 the applicant is seeking an extension of time to file an application for leave to apply for the prerogative orders of Mandamus and Certiorari against the decision of the Minister. To support the application, applicant has filed an affidavit. In his affidavit, applicant says that though the decision of the Minister was issued on 20/11/97, the same was communicated to him on 13/4/98. Because he is a layman, applicant goes on to say, he had to look for legal opinion on what steps he should take in order to challenge the said decision of the Minister. Among other steps which the applicant took was to write to the Attorney General and the Office of the Prime Minister. The applicant goes on to say that by the time when he was advised to seek redress by way of judicial review, the limitation period of six months had elapsed.

Besides the affidavit, the Chamber Summons is also accompanied with a statement in which the decision of the Minister is faulted for upholding the punishment of summary dismissal while applicant was first offender of the disciplinary offence of absenteeism. According to the disciplinary code, such punishment is for a fourth offender. The highest punishment for the applicant would have been a fine as imposed by the Conciliation Board.

After considering the submissions of both sides, applicant has managed to offer reasonable cause why he had been unable to file the intended application for judicial review within the limitation period. The delay was not caused by any negligence on his part. Furthermore from the intended application for prerogative orders has prima facie legal support. In the circumstances of this case, this additional fact makes me inclined to accept the application. In conclusion, this application is granted as prayed.

H.A.Msumi

JA.II KIONGOZI.

23/3/2000

For the applicant: present in person

For the respondent: Chidou.