

**IN THE HIGH COURT OF TANZANIA  
AT DAR ES SALAAM**

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**CIVIL CASE NO.172 OF 2001**

**1. JAILOS MBUTA  
2. LUDOVICK NDULANGO  
3. ISMAIL CHINGWILE**



**PLAINTIFFS**

**VERSUS**

**TANZANIA CONCRETE ARTICLES LTD.  
& OTHERS.....DEFENDANTS**

*Date of last order:29/5/2007*

*Date of Ruling: 3/7/2007*

**RULING**

**ORIYO, J.**

The plaintiffs were former employees of the first defendants. According to paragraph 9 of the plaint, they filed this suit claiming payment of their terminal benefits upon termination of their employment. Paragraph 9 states as follows :-

*"The plaintiffs employment was terminated  
by the 1<sup>st</sup> Defendant without being paid  
salaries due, arrears of salaries, fringe and  
terminal benefits totaling  
shs.11,726,501/="*

At the instance of the court, parties were required to address the court on whether the suit is in the nature of a trade dispute or not. A schedule was agreed for filing of written submissions whereby the defendants were to file by 20/10/2006, the plaintiffs by 6/11/2006 and if there was any rejoinder, the same was to be filed by 14/11/06. The defendants submissions were duly filed on 20/10/06 as ordered. However, the plaintiffs filed nothing by 6/11/06. Some 5 months later, on 11/4/07, the plaintiffs counsel filed written submission out of time and without leave of the court.

The status of such submissions is that there is nothing before the court and the purported submissions are illegal and are hereby rejected. The ruling is therefore made without the plaintiffs' input.

Is the suit in the nature of a "trade dispute"? The defendants' submit that the suit is a trade dispute and this court has no jurisdiction to determine it. The defendants cited the provisions of SECTION 4 (1) of the Industrial Court of Tanzania Act [ Cap 60, R.E. 2002] and the Court of Appeal decision in the case of TAMBUENI ABDALLAH AND 89 OTHERS VS NSSF, DSM Registry, C/A 33/2000 (unreported) in support.

The Industrial Court of Tanzania Act defines trade dispute as follows in its SECTION 3 :-

*"means any dispute between an employer and employees, or an employee in the employment of that employer connected with the employment or non-employment or the terms of the employment, or with the conditions of labour of any of those employees or such an employee."*  
(emphasis mine)

In the instant suit, the claim is connected with the payments made in connection with their non-employment/termination of service. It is now beyond controversy that the plaintiffs claim is in the nature of a trade dispute. It is the law that jurisdiction over trade disputes is vested with the Industrial Court of Tanzania. This court has no original jurisdiction over trade disputes (see Ramadhani, J.A. in the case of TAMBUENI ABDALLAH, supra).

On the foregoing, this court has no jurisdiction to entertain the suit. It is accordingly struck out.

In view of the circumstances of the case, I make no order for costs.

K.K. Oriyo

**JUDGE**

**3/7/2007**

3/7/2007

Coram: Oriyo, J.

For the Plaintiff  
For the 1<sup>st</sup> Defendant  
For the 2<sup>nd</sup> Defendant  
For the 3<sup>rd</sup> Defendant  
CC: Emmy

**Court:** Parties absent but aware of date.

Ruling delivered in the absence of parties.

**Order:**

1. The suit is in the nature of a trade dispute
2. This court has no original jurisdiction over trade disputes
3. The suit is struck out
4. No or for costs

K.K. Oriyo

**JUDGE**

**3/7/2007**