

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY
AT MWANZA**

MISC. CIVIL APPL. NO. 11 OF 2007
*(Originating from District Court of Nyamagana Emp.
Case No. 112 of 2006)*

REHEMA JOSEPHAPPELLANT

Versus

**CHAIRMAN
MWANZA INSTITUTE CLUB-MWANZA RESPONDENT**

JUDGMENT

06.11.2008 – 07.11.2008

G. K. RWAKIBARILA. J

The appellant **Rehema Joseph** was the plaintiff in Mwanza Employment Cause No. 122 of 2006 which was dismissed on 03.05.2007 on grounds that the said court had no jurisdiction under Section 28 of the **Security of Employment Act, 1964** to try it. What sparked it was a report by the Labour Officer for Mwanza Region who filed it on 30.11.2006, reporting a dispute in which the respondent namely Mwanza Institute Club terminated summarily employment of appellant. According to the Labour Officer's report, appellant was claiming one month's salary in lieu of notice, severance allowance, 56 days leave and arrears of wages whose total amount was T. Shs 873,000/=

Records of the No. 122 Civil Cause show it was instituted in Mwanza District Court on 11.12.2006. By that time, the **Employment Act, 1964** was already ^{repealed} repeated and no longer in force because

under Section 94 (1) of the **Employment and Labour Relations Act, No. 6 of 2004** or Section 51 of the **Labour Institutions Act, No. 7 of 2004**, exclusive jurisdiction in all Labour matters was vested on Labour Courts. The Labour Institutions Act commenced on 01.02.2005 vide GN. 24 of 2005 and the **Employment and Labour Relations Act** ^{commenced} commenced on 05.01.2006 vide GN. 01 of 2006. Therefore on 11.12.2006 when the Employment Cause No. 122 of 2006 was instituted, the **Security of Employment Act** was no longer applicable and the procedure outlined under it was no longer the proper law to follow.

The proper procedure which should have been followed in this matter is outlined from Section 86 to Section 95 of the **Employment and Labour Relations Act** which involves mediators, arbitrators or Labour courts. It follows that the District Court had no jurisdiction to entertain this matter but invoked provisions of the repealed Law to dismiss it. The same suit was fit for dismissal therefore, even under the new Labour Laws.

This appeal is ultimately dismissed and parties shall shoulder their own costs.

G. K. Rwakibarila
JUDGE
06.11.2008

Date: 07/11/2008

Coram: G. K. Rwakibarila

Appellant: Present in person

Respondent: Kirpal Singh is present

B/C: Leorayrd
Leonard

Court:

Judgment read at Mwanza this 7th day of November, 2008 and right to appeal in time has been explained.

**G. K. Rwakibarila
JUDGE**

**At Mwanza
07.11.2008**