

IN THE HIGH COURT OF TANZANIA

AT ARUSHA

MISC. CIVIL APPLICATION NO. 46 OF 2006

M/S TANZANIA UNION OF GOVERNMENT]

AND HEALTH EMPLOYEES (TUGHE)

1.....APPLICANT

VERSUS

THE ARUMERU DISTRICT COUNCIL

.....RESPONDENT

RULING

R.SHEIKH, J

The applicant M/S Tanzania Union of Government and Health Employees (TUGHE) is by this application seeking leave to sue the respondent on its own behalf and on behalf of and for the benefit of 232 others who are members of the applicant Union listed in schedule "A" to the Affidavit of the applicant's Regional Secretary herein in support of this application. The application is brought under the provisions of O.43 r.2 and O.1 r.8 of the Civil procedure Code 1966 sub-rule (1) of which reads as follows:

- "8-(1) – Where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the court, sue or be sued, or may defend, in such suit, on behalf of or for the benefit of all persons so interested."

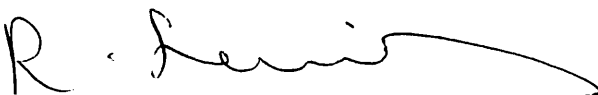
According to the affidavit evidence the applicant members are all employees of the central government and have common grievances in the action and the reliefs prayed for. In the intended plaint which is annexed to the affidavit it is alleged that the plaintiff's claim against the defendant is for a declaration that the defendant had acted without legal authority in dissolving the plaintiff 's District Branch at west Meru Hospital and that the said dissolution is null and void. The plaintiff's claim is also for an order ordering the defendant to remit to the plaintiff all the monthly deductions at the rate of 2% wrongfully levied upon the plaintiff's members from March 2005 to the date of judgement.

The respondent THE ARUMERU DISTRICT COUNCIL has resisted the application by counter affidavit. In its written submission in response to written submissions filed by learned counsel for the applicant the respondent has submitted that no branch of the applicant Union has been established with the respondent in terms of regulation 20(1) of the Trade Regulations G.N. No 507 of 2002, that what there is TALGWU which is the trade union for Local Government employees only. Teachers working with the respondent are not employees of Local Government Authorities, and for this reason they belong to a separate trade union.

After careful consideration of the arguments on both sides I am satisfied that this application meets the requirements provided in Order 1 rule 8 of the Civil Procedure Code 1966 for filing a representative suit. The persons on whose behalf the applicant is seeking this court's permission to sue the respondent are all employees

of the central government as aforesated, they are numerous and undoubtedly persons having the same interest in the intended suit as evidenced by the affidavit in support of this application. The provisions of the law relied on by the respondent are irrelevant and inapplicable to the instant application.


For the above reasons in terms of O.I r. 8 (1) of the Civil Procedure Code I will, and do hereby grant leave to the applicant to sue the respondent on its own behalf and on behalf of and for the benefit of the 232 persons listed in Annexure TUGHE- 4 to the applicant's affidavit, who are members of the applicant. I make no order as to costs.


R. SHEIKH

JUDGE

8/02/2008

Ruling read out this 14/02/2008 in the presence of Mr. Boniface learned counsel for the applicant, and in the absence of the respondent duly served, and with Mariam B/C present.



R. SHEIKH

JUDGE

14/02/2008

/mm