

**IN THE HIGH COURT OF TANZANIA**

**AT DAR ES SALAAM**

**MISC.CIVIL APPLICATION NO. 75 OF 2008**

**FATUMA KHATIBU.....APPLICANT**

**VERSUS**

**NBC HOLDING CORPORATION.....RESPONDENT**

*Date of last Order 7/10/2009*

*Date of Ruling 26/11/2009*

**RULING**

**MWARIJA, J.**


This is an application for extension of time to institute an appeal against the decision of the Industrial Court of Tanzania. The application has been made under s. 14(1) of the Law of Limitation Act, Cap. 89 R.E. 2002 and is supported by an affidavit sworn by Mr. Chabruma, learned counsel for the applicant. The application was argued by way of written submissions.

In his written submissions, Mr.Chabruma, learned counsel has attributed the reasons for delay in instituting the appeal to be the time spent in obtaining a copy of the decision

intended to be appealed against. He submitted that the copy was obtained on 19/2/2008.

The respondent was represented by Mr. Rweyongeza, learned counsel. In his submission, he opposed the application, on the ground that; the decision of the Industrial Court is not appellable to the Court of Appeal but rather, under S. 28 (4) of the Industrial Court Act, such a decision may be called in question before the High Court only on grounds of lack of jurisdiction by way of prerogative orders of certiorari and mandamus. With due respect to the learned counsel, those submissions were misconceived. Firstly, they were based on the application which was dismissed on 28/9/2009. Secondly it is not correct to say that the decision of the industrial court can only be challenged in the High Court by way of prerogative orders of certiorari and mandamus. Following amendment of S. 28 of the Industrial Court Act Vide Act No. 11 of 2003, decisions of the Industrial Court can be called in question by way of appeal to the High Court on any ground.

Clearly therefore the submission by the learned counsel for the respondent were misconceived. On the reasons for the delay in instituting the application the learned counsel for the applicant has submitted – that after having been supplied with a copy of the decision, the applicant had to seek the services of another advocate other than the one who was previously representing her. The letter of application of the copy of the decision shows that it was written by Mr. Kariwa Learned counsel. It is true therefore that the applicant has to find another Advocate. Given the fact that she has the right to be represented her indulgence in securing ~~a~~ <sup>se</sup> representation after having failed to continue with the services of her previous Advocate in my view amounts to a reasonable cause. I therefore find that I should exercise this court's discretion to grant the extension of time prayed. Accordingly the application is granted. The applicant to institute her appeal within 21 days from the date of this ruling.

  
A.G. MWARIJA  
**JUDGE**  
**14/12/2009**


Date 14/12/2009

Coram A.G.Mwarija,J.

For the Applicant : Mr. Chabruma

For the Respondent – Mr Zake for the Respondent

Ruling delivered

  
A.G. MWARIJA  
**JUDGE**  
**14/12/2009**