

IN ~~THE~~ HIGH COURT OF TANZANIA

AT DAR ES SALAAM

CIVIL REVISION NO. 50 OF 2006

GABRIEL MGIMBA.....APPLICANT

VERSUS

ABOOD SOAP INDUSTRIES.....RESPONDENT

RULING

MWARIJA, J.

The applicant applied for revision of the decision of the District Court of Morogoro in employment Case No. 24 of 2004. The application was brought under section 44(1) of the Magistrates' Courts Act, Cap 11 RE. 2002 and s. 79(1) & 95 of the Civil Procedure Code, Cap. 33 RE.2002. The respondent was represented by Mr. Semu, learned Counsel while the applicant appeared in person.

On 18th September, 2009 when the application was called for hearing in the presence of the applicant and Mr.

Msimu, learned counsel who held Mr. Semu's brief, it was ordered that the application be argued by way of written submissions. According to the schedule, the applicant was required to file his written submissions on or before 18th November, 2009. The respondent's submissions in reply were to be filed on or before 18th December, 2010 and rejoinder, if any, was to be filed by the applicant on or before 18th January, 2010.

The applicant did not comply with the time schedule in filing his written submissions. He instead filed them on 23rd November, 2009 vide ERV No 40147477. On that date the applicant was already late for about five days. Having failed to file his submissions within time, he should have applied first for leave of the court before filing the submissions. It is a trite law that failure to file submissions within the time fixed by the court amounts to a failure by a party to prosecute his case. In the case of **Tanganyika**

Motors Ltd & 4 Ors. V. Bahadurali Ebrahim Shamji,
Civil Application No. 65 of 2001, the Court of Appeal held
that written submissions filed two days after the scheduled
dates amount to being not before the court. Also in the
case of **NIC of (T) & Anr. v. Shengena Limited,** Civil
Application No. 20 of 2007, the same court held as follows:-

*“It is trite law that failure to file
submission(s) is tantamount to failure to
prosecute one’s case”*

In this case, the applicant who did not abide by the
schedule of submissions fixed by the court, failed to
prosecute his application. On that ground his case
deserves to be dismissed. The application is accordingly
dismissed. No order as to costs.


A.G. Mwarija

JUDGE

8/4/2011

08/4/2011

Coram: Hon A.G. Mwarija, J.

For the Applicant

For the Respondent – Absent

CC: Butahe

Ruling delivered.

A.G. Mwarija

JUDGE

8/4/2011

Order: Parties to be notified of the ruling


A.G. Mwarija

JUDGE

8/4/2011