

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

**MISCELLANEOUS CIVIL CAUSE NO. 22 OF 2018
IN THE MATTER OF THE DECISION OF THE PERMANENT
SECRETARY MINISTRY OF HOME AFFAIRS DATED 2ND
AUGUST, 2018**

AND

**IN THE MATTER OF A 24 HOURS RESIGNATION NOTICE BY
PETER MICHAEL MADELEKA DATED 25TH AUGUST, 2016**

AND

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO FILE AN
APPLICATION FOR ORDERS OF MANDAMUS AND PROHIBITION
BETWEEN**

PETER MICHAEL MADELEKAAPPLICANT

VERSUS

**THE ATTORNEY GENERAL1ST RESPONDENT
MINISTER FOR HOME AFFAIRS2ND RESPONDENT
PERMANENT SECRETARY MINISTRY
OF HOME AFFAIRS3RD RESPONDENT
INSPECTOR GENERAL OF POLICE4TH RESPONDENT**

RULING

18/10 /2018

T. M. MWENEMPAZI, J.

The applicant has filed an application for leave to apply for orders of Mandamus and Prohibition against the respondents and for costs. He has preferred an application Under Rule 5 (1) and (2) of the Law Reform (Fatal Accidents and Miscellaneous Provisions) Judicial Review Procedure and Fees) Rules, 2014.

Rule 5 (1) of GN 324/2014 makes it mandatory for a person seeking a judicial review to obtain leave of the court. Rule 5 (2) of the same law provides that the application for leave under Sub-rule (1) shall be made ex parte in be made ex parte in chambers and be accompanied by

1. a Statement providing for the name and description of the applicant;
2. the relief sought
3. the grounds on which the relief is sought; and Affidavits verifying the facts relied on.

I have reviewed the record of pleadings filed by the applicant and I am satisfied he has filed all documents as listed above. They are duly signed and attested as required by law.

At the hearing of the application, the applicant prayed for this court to adopt the affidavit sworn by Peter Michael Madeleka, the applicant herein, in its entirety. Then the applicant informed the court of the

provisions of Rule 7(1) of the Rules (GN No.324/2014) which provides that the court may invoke its powers and grant leave to the applicant without hearing him.

The court however had the view that, for the interest of it being acquainted with the knowledge from the mouth of the applicant, the application be heard and determined thereafter. Therefore the applicant was required to explain further his application viva voce.

The applicant submitted therefore that in seeking leave to file an application for prerogative orders, the applicant merely is required to raise arguable points. He is not required to prove the alleged errors, for that proof will be required during the hearing of the main application if at all leave will be granted. This position in the case of **Workers of Tanganyika Textile Industries Limited Versus Registrar of The industrial Court of Tanzania and Others**, in Miscellaneous Cause No.144 of 1993 HC (DSM), Kalegeya J.

The applicant in his submission has brought into the attention of this court the arguable points to enable the court to make decision:-

The same are:

1. Whether it was justifiable in law for the 3rd Respondent to disregard the applicant's 24 hours resignation
2. Whether it was justifiable in law for the 4th Respondent to deny the applicant of his salaries, allowances and other entitlement.
3. Whether it was justifiable in law for the fourth respondent to hold that the applicant has absconded from work and has had received

salaries without working for the same for the period starting August, 2016 – April, 2017

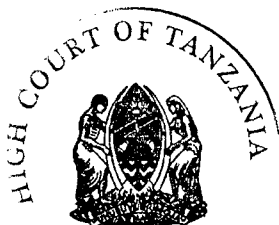
4. Whether the applicant has the right under the law to resign from the employment of the 3rd Respondent upon fulfilling the statutory procedures which govern resignation

The applicant after he had listed the arguable points as hereinabove shown, he proceeded to submit that the points will be strictly proved if this court will be pleased to grant leave to the applicant to enable him file the application for orders of Mandamus and prohibition against the Respondents. He concluded, by pointing out that the impugned decision of the third respondent, the subject of this application is the letter dated 2nd August, 2018 addressed to the applicant.

I have gone through the pleadings; chamber summons, Affidavit and its attachment and statement of the application and also heard the applicant. I am satisfied that the application has merit. There are legal issues which require the attention of the court to consider legality of the act of the respondent.

The application is therefore granted. The applicant is file the application for prerogative orders within fourteen days from the date of the ruling.

It is ordered according.




T. MWENEMPAZI
JUDGE
18/10/2018