IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LABOUR DIVISION)

AT IRINGA

REVISION NO. 14 OF 2019

BETWEEN

EXIM BANK TANZANIA LIMITED ------------- APPLICANT

VERSUS

NYAMHANGA MHAGACHI ---------- RESPONDENT

Date of Last Order: *28/04/2020*

Date of Ruling: *19/06/2020*

JUDGMENT

MATOGOLO, J.

This is an application by the applicant Exim Bank (T) Ltd praying to this court to revise and set aside the Commission for Mediation and Arbitration Award made on 19th December, 2017 by Honourable Arbitrator Joshua Mwaisengela in Labour Dispute No.CMA/IR/MAF/64/2017 and any other relief that the Court may deem fit to grant.

The application is by both Notice of application and chamber summons. The same was made under the provisions mentioned by the applicant in the notice of application and in the chamber summons the same is supported by an affidavit of one Thadeus Mkenda the applicant's principal officer. The grounds for revision are spelt out in the applicant's principal officer affidavit from paragraph 16 to paragraph 20, that is:-

(i) That, the Arbitrator erred in law and facts by holding that the respondent was not availed with opportunity of right to be heard by relying on undisputed fact that the Disciplinary hearing proceedings and appeal proceedings were not signed by the respondent. While the disciplinary hearing proceedings and appeal proceedings were sent to Iringa from Dar es Salaam via email for the Respondent to sign, of which he did receive as he was the Branch Manager.

(ii) That, the Arbitrator erred in law and facts by holding that the appeal against the outcome of the Disciplinary hearing committee by the respondent was to be heard and determined by the Chief Executive Officer (CEO) Contrary to the availed proof in paragraph 12 above.

(iii) That, the Arbitrator erred in law and facts by holding that the respondent was not given a right to have representatives during the hearing of his appeal against the outcome of the Disciplinary Hearing Committee.

(iv) That, the Arbitrator erred in law and facts by holding that the applicant did not prove the reason for termination and follow the required procedure while terminating the respondent from employment contrary to tendered testimonies of applicant's witnesses DW2, DW-3 and tendered exhibit D.18, D-19, D-20, D-21, D-22 and D-23.

(v) That, the Arbitrator erred in law and facts by awarding the applicant to pay the respondent 24 month's salary plus severance pay as compensation for unfair termination, without justification of payment of above 12 months statutory compensation.

The applicant therefore prays to this court to call for the record of the Arbitration proceedings and set aside the award of the Arbitrator and orders that the termination of the respondent was procedurally and substantively fair.

The applicant was represented by Mr. Fredrick Mbise learned advocate and the respondent one Nyamhanga Mhagachi was represented by Mr. Moses Ambindwile learned advocate. The application was argued by way of written submissions.

In his written submission, counsel for the applicant started with the first ground and said at page 10 of the Award in determining the first issue of whether there was just reasons to terminate the respondent, the Arbitrator did not determine the issue at all, as he simply jumped into exhibit D-6 collectively and attack the proceedings and minutes of the Disciplinary Committee that by missing the respondent's signature on the minutes of disciplinary committee then termination procedure were not just, hence the reasons for termination is not just as stated on page 11 of the Award.

He said, the arbitrator acted in a very contradictory way, as he pointed out that by missing the respondent's signature on the disciplinary committee minutes but then the arbitrator went on to the acknowledge the Appeal filed by the respondent against the decision of the disciplinary committee on page 11 and 12 of the Award. It is very strange for the arbitrator to acknowledge the appeal of the committee of which he denounced its existence in the first place. The learned counsel argued that the issue for the disciplinary committee minutes not being signed by the respondent was not an issue to be dealt with as a reason for termination. The first issue was only to determine if there was a fair reason to terminate the respondent but the Arbitrator jumped into the procedure by awarding that, missing signature of the respondent on the disciplinary committee minutes waives the commission from determining whether there was a fair reason for termination or not.

He submitted further that the applicant through Exhibit D-18 collectively Exhibit D-19 collectively, Exhibit D-20 collectively, Exhibit D-21 collectively and Exhibit D-22 collectively have proved before the Commission for Mediation and Arbitration that the respondent was cooking frivolous receipts to justify the unusual expenses of fuel, that prior his taking over office in 2015 as a manager, things were running smooth. But when he became a branch manager in 2016 there was a rise in expenditures, and after he was not incharge any more in 2017 the expenditure went low, the act which raised an alarm investigation was done and it was discovered that there were false expenditures. He said in

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the general ledger's Bank statement tendered by DW2 and admitted as Exhibit D-16 electricity bills and generator and motor vehicle expenses for the year 2015, 2016 and 2017 went up.

The learned counsel contended that by the rise of expenses and by proof of exhibits mentioned above it is clear the applicant had justifiable reason to terminate the respondent for gross dishonest as provided under Rule 12(3)(a) of the Employment and Labour Relations (Code of Good Practice) Rule, 2007.

On the second ground, it is the contention of the applicant's counsel that the law is very clear under the Guidelines for disciplinary, incapacity and incompatibility policy and procedures. Employment and Labour Relations (Code of Good Practice) G.N. No. 42 of 2007. Rule 4(12) provides that upon receipt of the appeal the chairman of the committee must refer the matter to more senior level of management.

According to the minutes of disciplinary hearing, Exhibit D-6 and D-12 collectively the two hearings were heard by a group of two committees where as the first hearing Exhibit D-6 was heard by Arafat Haji- Chairman, Ally Mandai - Member, Yusuf Mrimi- member, Mikidadi Ngoma – member, Hilder Mdope - member, Leserian Sayore- witness and Nyamhanga Mhagachi accused.

And the appeal was determined by Lijocha Naatokela –chairman Elizabeth Vilumba- member, Fikiri Kwibhulo – member Shangwe Kapinga observer, and Nyamhanga Mhagachi- Appellant.

He said in absence of the law that requires the CEO to hear the appeal, the Arbitrator's argument in finding the procedure for termination unfair is without merit.

Regarding the third ground that whether the Arbitrator erred in law and facts by awarding the applicant to pay the respondent 24 month's salary plus severance pay as compensation for unfair termination, without justification of payment of above 12 months statutory compensation, it is the argument by the applicant's counsel that the law under part IV Section 32(5) (b) of Labour Institutions (Mediation and Arbitration Guidelines), G.N. No. 67, provides that the Arbitrator in awarding compensation to consider (b) the extent in which termination was unfair. Mr. Mbise submitted further that there is no doubt that the arbitrator did not consider whether or not termination was fair as he jumped to determine the extent of existence of a fair reason for termination and jumped all the exhibits presented to him by the applicant and went straight to look for a signature of the respondent in the minutes of disciplinary committee which ought to have been scrutinized in determining fair procedures.

He said the respondent (sic) had a fair reason to terminate the respondent such that there was no justification for the arbitrator to award more than 12 months salary as compensation for termination. The respondent does not deserve compensation as he was given a fair procedural hearing prior to his termination. As to whether the Arbitrator erred in law and facts by awarding the respondent to be paid severance pay contrary to Section 42(3)(a) of the ELRA, Mr. Mbise submitted that it is

trite law that the employee who has been terminated on ground of misconduct like the respondent is not entitled to be paid severance pay under Section 42(3)(a) of the ELRA. He said the respondent was proved to have committed the offence of gross dishonest and was terminated hence the severance payment of Tshs. 13.084,615.38 was invalid. Mr. Mbise learned counsel prayed for the application to be granted.

However the applicant's counsel did not argue on the ground that the arbitrator erred in law and facts by holding that the respondent was not given a right to have representative during the hearing of his appeal against the outcome of the Disciplinary hearing committee contrary to the available proof in paragraph 18 of the affidavit. I therefore take it that he abandoned that ground.

On his part Mr. Moses Ambindwile learned counsel for the respondent in his reply submission, in relation to the first ground for revision contended that the commission was right to hold as it did. After the conclusion of hearing at the Disciplinary proceedings on 14th February, 2017 no minutes were signed by all members including the respondent. However on 8th March, 2017 the minutes were signed by the same members in exclusion by of the respondent. He said minutes being proceedings of the disciplinary meeting were supposed to be signed by all members in the same day of the meeting and not after wards. Otherwise the applicant was supposed to tender an attendance sheet which was signed by all members on the date the meeting was conducted. He said the respondent was denied a right to ascertain the authenticity of the said

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minutes after closing of the meeting hearing in mind that after the end of Disciplinary meeting as reflected at page 9 last paragraph of the minutes, the chairman informed the members as follows:-

> *"Kamati inahitaji kupitia baadhi ya vielelezo na kufanya mawasiliano na baadhi ya wahusika ili kufanikiwa kutoa matokeo ya kikao hicho".*

The learned counsel argued that this shows that after the closure of the meeting and before the outcome of the disciplinary hearing still the committee was busy in taking additional evidence from other persons who were not part of the disciplinary meeting. The fact which was also admitted by the applicant's witness one Mikidadi Ngoma.

He submitted further that the mistake of respondent's signature as committed in the Disciplinary minutes was also repeated in the minutes of the appeal which also were not signed by the respondent despite the fact that the rest on the part of management signed the minutes. Mr. Moses Ambindwile did not agree with the applicant's counsel explanation on the failure of the respondent to sign the disciplinary hearing minutes on the ground that they were sent to him by email as the usual means of communication in the Bank and treated that assertion as misleading information and not backed up by the proceedings of the commission. He said all emails which were sent to the respondent were on information for delaying to supply him with the hearing out come and not giving him the Disciplinary proceedings.

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The learned counsel contended that failure to serve the respondent with the minutes was tantamount to deny him right of fair hearing. He said the other reason used by the Arbitrator to rule out in favour of the respondent is that the applicant failed to give hearing outcome within five days per Rule 4(9) GN No.42 of 2007. The fact that the applicant extended time for giving the outcome through sending emails to the respondent does not hold water because the respondent was neither involved nor consented for such extension of time. He said the extension was done arbitrarily and on irrelevant reason. To that he cited the case of ***Small Industries Development Organization vs. Amina Kaumo and Another***, Revision No. 305 of 2013 High Court, Labour Division at Dar-es-Salaam (unreported), where it was held the omission was fatal as leads to the conclusion that the termination was procedurally unfair. The learned counsel argued further that not only the disciplinary hearing minutes were not signed, but the said proceedings were recorded in reported speech which is illegal. The same was supposed to be in narrative style or direct speech and supported his argument by citing the case of ***Mabula Damali and Another vs. Republic***, Criminal Appeal No. 160 of 2015 CAT at Tabora.

He said the cited case gets support from Rule 4(1)-(9) of the Employment and Labour Relations (Code of Good Practice), Rules, GN. No.42 of 2007,which provides guidelines on conducting Disciplinary hearing and how to collect evidence through using applicable form. He said the hearing form found under part 1, schedule of G.N No. 42 of 2007

Guidelines for Disciplinary incapacity and incompatibility hearing. The said form was neither filled nor signed by the chairperson. Even if the respondent would sign the disciplinary hearing minutes still the same would remain invalid. The learned counsel argued further that the applicant allegation that the respondent committed misconduct was not proved on the balance of probabilities. There is no circular issued to the respondent indicating the limit of branch expenditures and evidence to show that such limit was exceeded, the fact which was admitted by the applicant's witness one Anwari Aklan Ally who clearly said he was not aware if the respondent was given a circular on branch expenditures. Even the respondent's himself proved that in his evidence. The learned counsel contended that the only criteria used by the applicant to see the misconduct is by looking the previous expenditure of the branch before the respondent taking office in 2015 was low. But when he took over the office as branch manager in 2016 there was rise in expenditure. But he said if the applicant would have properly read the commission proceedings she would note that the rise of expenditure was due to the fact that the respondent increased number of customers and bank profits the fact which triggered him to look for markets outside Iringa municipality and in so doing the office vehicle was utilized to the alleged excess, but for the best interest of the applicant business. On the allegation of respondent looking frivolous receipts to justify unusual expenses of fuel is misplaced because the said receipts were not prepared by the respondent. They might have been cooked by the manager customer service and operation who was responsible for keeping records of all documents of the branch especially after the

suspension of the respondent. But that person was not called to testify. He invited this court to draw adverse inference against the applicant as it was held in the case of ***Hemed Said vs. Mohamed Mbilu (1984) TLR 114***.

Regarding the second ground of the application, it is the submission by the respondent's counsel, that the procedure applied by the applicant to deal with the respondent's appeal was quite unusual and contrary to the law particularly Rule 4(12) and (13) of the GN. No. 42 of 2007 as it is not the manager/ CEO who dealt with the appeal but a panel of three persons which is illegal.

Replying to the third and fourth grounds of the application, the learned counsel submitted that the Arbitrator did not error at all to pay the respondent 24 month's salaries and severance payment. In arriving at such payments the Arbitrator referred to the law, Section 40(1)(c)of the Employment and Labour Relations Act, No. 6 of 2004. He argued that payment of 12 months salaries is a minimum. But the law gives a room of measuring the amount and referred this court to the case of ***North Mara Gold Mine Ltd vs. Khalid Abdallah Salum,*** Labour Revision No. 25 of 2019,High Court Labour Division at Musoma. He said the Arbitrator ordered payment of 24 month's salaries because the applicant breached the law and severance payment was ordered since the applicant at the trial failed to prove misconduct alleged to have been committed by the respondent.

The learned counsel submitted further that another reason which made the arbitrator to decide in favour of the respondent is that the applicant ordered the respondent to present his defence in writing before

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or on the date of hearing. The respondent presented his defence on 10th February, 2017 as ordered contrary to Rule, 13(5) of G.N. No. 42 of 2007. The learned counsel therefore prayed to this court to dismiss the application.

Having carefully read the submissions by the learned counsel, and having gone through the commission proceedings record, the crucial issue for determination is whether this application for revision basing on the grounds raised has merit.

Revision in Labour disputes is the way of challenging the decision reached by the Commission for Mediation and Arbitration. Any person who is aggrieved with finding or award by the Arbitrator, can challenge it to this court by way of an application for revision under Section 91 ELRA and Rule 28 of GN. No. 106 of 2007, pointing out the errors or irregularities committed by the Arbitrator.

In the present application after the applicant was aggrieved with the Arbitral award, filed to this court an application for revision and the grounds for revision are as listed above.

In the 1st ground her complaint relates to the arbitrator's holding that the employer failed to give the respondent employee opportunity to be heard as the disciplinary hearing proceedings and appeal proceedings were not signed by the respondent. The applicant's contention is that the same were sent to the respondent via email which is the usual way of communication by the bank.

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However as submitted by the applicant's counsel, the Arbitrator did not expressly indicate in his discussion and resolve the issue whether there were just reasons to terminate the respondent. Instead he dwelt much on procedural fairness by making reference to exhibit D-6 collectively the disciplinary committee hearing minutes that were not signed by the respondent and that there was no justifiable reason for termination. I think the Arbitrator erred to rush to that conclusion. The record is crystal clear as can be seen from the commission proceedings. At page 34 during examination in chief the respondent was asked:-

"*S. Namna gani ushahidi wako uliweza kuzingatiwa katika muhitasari wa kikao cha nidhamu?*

J. Ushahidi wangu haukuzingatiwa kabisa"

S. Ni athari gani umezipata kutokana na kucheleweshwa kuletewa matokeo ya kikao cha nidhamu?

J. Reputation yangu nilipata matatizo ya kisaikolojia kwa maana ya msongo wa mawazo kwa kusubiri muda mrefu"

But again at page 37 during cross-examination, the questions and answers were recorded as follows:-

S: *Wakati wa kikao cha nidhamu ulisema ulitoa vielelezo umevitoa hapa mbele ya Tume"*

J: Nilitoa.

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S: *Ni kitu gani ulitaka kukiuliza wakati wa kikao cha nidhamu na hukukiuliza?*

J: *Sikusema ni kitu gani.*

S: *Unajua taratibu inayotumika kuunda kamati ya rufaa.*

J: *Sifahamu.*

S: *Katika kikao cha rufaa nini kilijadiliwa?*

J: *Sikuona tofauti na kikao cha kwanza.*

S: *Ni hoja zipi zilijadiliwa wakati wa kikao cha rufaa?*

J: *Ni hoja zote zilizokuwa kwenye rufaa.*

But again at page 38 it was recorded:-

"S: *Uliwahi kuitwa kwenye kikao cha nidhamu?*

J: *Ndiyo.*

S: *Ulipata nafasi ya kujileza?*

J: *Ndiyo.*

S: *Uliwahi kupokea email au barua inayohusu kuchelewashwa kwa matokeo ya kikao cha nidhamu?*

J: *Ndiyo"*

By the questions and answers the respondent gave as quoted above, there is no doubt that the respondent was given opportunity to be heard at

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the disciplinary hearing and at the appeal level per rule 13(5) of the GN No. 42 of 2007. It is therefore not correct to assert that he was not at all given opportunity to be heard at the disciplinary hearing. The only good reason given by the respondent for so asserting is that the disciplinary hearing minutes were not signed by him and the same was lately supplied to him. There is the legal requirement for the disciplinary hearing outcome to be served to the employee within five days, which every person involved in the hearing has to sign it. It was argued by the applicant that the disciplinary hearing minutes in the case at hand was sent to the respondent by email, but no sufficient reason was given for adopting such mode of communication and whether there was prior information to the respondent that he will be informed through such mode of communication. But there is no dispute that there was a delay to supply a copy to the respondent although he was notified of such a delay. That alone renders the proceedings before the disciplinary committee invalid although sometime it is difficult to comply with every requirement provided under Section 13(5) of the Rules but there are important procedures which cannot be skipped and must be implemented as directed by the Rules as failure to do so that cannot be fair hearing. Although the respondent attended at the disciplinary hearing, that was only one component of fair procedure, but supplying to the employee the outcome on time is another component. There is also another complaint by the applicant that although the arbitrator denounced existence of disciplinary hearing decision but in a contradictory way he acknowledged the appeal filed by the respondent against the decision of the disciplinary committee. This I think is not proper

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because if he doubted on the procedure at the disciplinary hearing and found it not valid, he could not again rely on it. However there is one act done at the disciplinary hearing which made it invalid, that is after the conclusion of the hearing the matter was adjourned for the committee to go through the exhibits and communicate with other responsible persons for them to give evidence. It was not put clear as to who were those responsible persons. This shows that hearing was not concluded. And what followed after wards the respondent was not involved, that cannot be fair hearing. Again, in the notice to the respondent to appear before the disciplinary hearing, he was required to submit his defence in writing before or on the date of hearing. This is not according to the procedure provided by Rule 13(5). The procedure is that the accused employee has to attend at the disciplinary hearing and be given opportunity to ask questions to witnesses if any. Then at the end he has to be given chance to submit his defence after he has heard his accusers. Further there is also another anomaly committed by the disciplinary committee in recording proceedings. The same was not done in a narrative form but was in reported speech. The applicant's counsel did not rejoin to this. The law is very clear as far as judicial proceedings are concerned. The same are to be in narrative form and not in reported speech which was discouraged in the case ***Mabula Damalu and Another vs. The Republic*** (supra). This also renders the proceeding fatal.

Regarding the second ground; it was correctly submitted by the counsel for the applicant that there is no any provision of the law or rule

with the requirement that the appeal against the outcome of the Disciplinary hearing must be heard and determined by the Chief Executive Officer (CEO) of the employer. The same has to be referred to the most senior level management as provided under rule 4(12) of the Guidelines for Disciplinary, incapacity and incompatibility policy and procedure Employment and Labour Relation (Code of Good Practice) (GN. No. 2 of 2007). The applicant in her submission demonstrated that the appeal was heard by a panel of different persons to those were involved in disciplinary hearing.

As to the third ground whether the Arbitrator erred in law and facts by awarding the applicant to pay the respondent 24 month's salary plus severance pay as compensation for unfair termination without justification of payment of above twelve months statutory compensation.

The remedies for unfair termination of employment are provided under Section 40(1) of the Employment and Labour Relations Act (No. 6 of 2004) which include;

(a) To reinstate the employee from the date the employee was terminated without loss of remuneration during the period that the employee was absent from work due to the unfair termination.

(b) To re-engage the employee on any term that the arbitrator or court may decide, or

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(c) To pay compensation to the employee of not less than twelve months remuneration.

(2) An order for compensation made under this shall be in addition to, and not substitute for any other amount to which the employee may be entitled in terms of any law or agreement.

(3) Where an order of reinstatement or re-engagement is made by an arbitrator or court and the employer decides not to reinstate or re-engage the employee, the employer shall pay compensation of twelve months wages in addition to wages due and other benefits from the date of unfair termination to the date of final payment.

At the Commission the Arbitrator decision was that the respondent termination was unfair, the compensation which was awarded has its basis on unfair termination on the grounds explained in the respondent's reply submission.

The basis for the respondent's employment termination is gross misconduct for approving unrealistic expenses transactions at the branch as compared to the previous time when the branch was under some ones else managerial. In his award the Arbitrator's finding is that the applicant did not prove the reason for termination and follow the required procedure while terminating the respondent from employment.

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Although the applicant alleged that there was unrealistic high expenses compare to previous expenses before the respondent assumed office as the branch manager.

It was correctly submitted by the counsel for the respondent that there was no any circular tendered by the applicant to show that limit for expenses which respondent was supposed to authorize. The comparison criteria applied by the applicant is not in my considered view a good criteria. Higher or lower expenditure of the branch can be due to several factors. In no way the expenses can be the same for the two or more different periods. The respondent stated in his evidence that expenses for fuel for example was due to the fact that he was going around the municipality searching for customers.

The mode of operation at two different periods may not be identical taking into account the current business competition by banks, unless there is circular limiting expenditure to a certain level. It is therefore correct as held by the arbitrator that the applicant did not prove that the termination of the respondent's employment was fair .It is the cardinal principle of law that he who alleges must prove per ***Hemed Said V. Mohamed Mbilu case.*** The applicant was bound to prove that the termination was valid and fair but she failed to do so. What are available are mere allegations without proof. But also the applicant did not follow the fair procedure for terminating the respondent's employment as demonstrated above. That being the position therefore the arbitrator correctly ordered compensation for unfair termination. The applicant

complained against the arbitrator's act of ordering compensation above 12 months. But as reproduced above, the compensation under Section 40(1)(c) of Act No. 6 of 2004 is of not less than twelve months remuneration.

Understandably the order for compensation is discretionary which of course is to be exercised judiciously. The arbitrator therefore was at liberty to award compensation of less that twelve months remuneration or more than twelve months. This court has decided in a number of cases that position of the law. In the case of ***Edwin Ntundu vs. Plan International Tanzania,*** Revision No. 251 of 2013 High Court Labour Division Dar es Salaam, the court insisted on the compensation of not less than 12 months. In the case of ***Denis Wambura vs Mtibwa Sugar Estate Limited*** Revision No. 3 of 2014 (unreported) the court also held that the arbitrator in his discretion can award more or less compensation than prescribed under Section 40(1)(c) to the ELRA. Rules 32(5) (a)-(f) of the Labour Institution (Mediation and Arbitration Guidelines), Rules (GN. No. 67 of 2007) provides:-

"32(5) subject to sub rules (3) an Arbitrator may make an award of appropriate compensation based on circumstances of each case considering the following facts.

(a) Any prescribed minima maxima compensation.

(b) The extent to which the termination is unfair.

(c) *The consequences of the unfair termination for the parties including the extent to which the employee was able to secure alternative work or employment.*

(d) *The amount of the employee's remuneration.*

(e) *The amount of compensation granted in previous similar cases.*

(f) *The parties conduct during the proceedings and any other relevant factors"*

As pointed out above, the compensation of 12 month salary provided under section 40(1)(c) is minimum one. The law does not provide for the maximum amount of compensation. In the case of ***Multichoice Tanzania Ltd V. Felix Nyari,*** Revision No. 9 of 2008 High Court Lab. Div. at Mbeya, this court interpreted the provision as follows:-

> *"The ELRA section 40(1) (c) provides for compensation of at least twelve months salary. This is a minimum requirement and the law gives a room of increasing the amount".*

What is important therefore in deciding the amount for compensation the same must be just and fair depending on the circumstances of each case. In the present case the arbitrator found that the termination was substantively and procedurally unfair. He was therefore correct in my view to award 24 month's salary compensation.

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Apart from an award of 24 months salaries compensation, the respondent was also paid severance pay which is payable under Section 44(1)(e) of the ELRA. The payment of severance pay is therefore statutory as there was no valid and fair reason for termination. I don't therefore see good complaint by the applicant which would justify this court to intervene and revise the sound decision by the Arbitrator despite few short comings pointed out above but which did not render the award invalid.

The applicant therefore lack merit, the same is dismissed.

F.N.MATOGOLO

JUDGE

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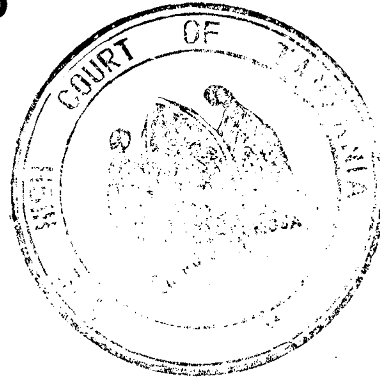

Date: 19/6/2020

Coram: Hon. F.N. Matogolo, Judge

Applicant: Mr. Michael Richard- present

Respondent: Present

C/C: Grace

COURT:

Judgment delivered.

F. N. MATOGOLO

JUDGE

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