

**IN THE HIGH COURT OF TANZANIA
MWANZA DISTRICT REGISTRY
AT MWANZA**

LABOUR REVISION No. 86 OF 2018

(Originating from, CMA/MZ/ILEM/ARB/680/2016)

TANZANIA CIVIL AVIATION AUTHORITY (TCAA)APPLICANT

VERSUS

CHILALA MAFURURESPONDENT

RULING

22nd July, 2020

TIGANGA, J

To day when this matter was called for hearing in a cleanup session of back cases, having been in this registry for more than one years without being heard, the counsel for the applicant Mr. Lameck Merumba addressed the court that there are important issues of law which were not taken on board during the drafting of the document which were used to institute the application at hand. In his further submissions he said the said issue touches the question of jurisdiction of the Arbitrator. On that basis, Mr. Merumba asked to withdraw the application with leave to refile.

The Respondent through Mr. Butahe Regional Secretary for TUGHE Mwanza region did not object the application but asked for an alternative

order that the same be dismissed with costs instead as the move of the applicant aims at delaying justice. In rejoinder Mr. Merumba submitted that as the matter is a labour dispute, the issue of costs should not arise and that as the applicant has already asked a withdraw order the issue of dismissal can not arise.

Now having considered the submission by both parties, I entirely agree with the respondent that this dispute has taken so long in the adjudication process. However, as the prayer to withdraw made by the counsel for the applicant on the application filed by him no way it can be refused. This is because the person who filed the case has asked to withdraw it though in this matter with leave to refile.

Now that being the state of affairs, only two issue as to whether the matter may be withdrawn with costs or not, the second being whether it be with leave to refile or not.

Starting with the issue of costs, the spirit of labour dispute regime was to do away with the issue of costs to the disadvantaged group of the workers who find themselves in dispute with the privileged group of Employer. Since in this case the costs is asked against the Employer who belongs to the advantaged or privileged group, this court after considering the facts that, the respondent has been coming to court for more than a year, the interest of justice requires this court to order costs to the respondent to be paid by the applicant.

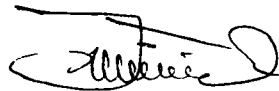
On the second issue as to whether leave to refile be granted or not, the answer is that, the prayers for leave is founded on the right to be

heard as enshrined under Article 13 (6) (a) of the constitution of the United Republic of Tanzania 1977, I thus find myself unable to refuse the prayer to refile. However as there was a complaint of delay, the point should be a limit in which the same must be refiled. Given the circumstances of the case at hand, I find it imperative to give only two weeks to the applicant if he is still interested to refile the said application.

Having said all these, I hereby find that the prayer to withdraw is hereby granted with leave to refile the same in two weeks from today.

It is so ordered.

DATED at MWANZA this 22nd day of July 2020



J.C. Tiganga

Judge

22/07/2020

Ruling delivered in open chambers in the presence of the counsel for both parties and the respondent in person as to per coram.


J.C. Tiganga

Judge

22/07/2020