

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA**

AT SHINYANGA

LABOUR REVISION NO.10 OF 2019
(Originating from Labour Dispute No.CMA/SHY/281/2018)

AMOS PETER BUZUKA..... APPLICANT

VERSUS

BULYANHULU GOLD MINE.....RESPONDENT

Date of Last Order: 14/11/2019

Date of Ruling: 28/02/2020

RULING

C. P. MKEHA, J

The applicant was employed by the respondent on 28/07/2010 in the capacity of "Miner Trainee." However, for reasons of illness on part of the applicant, his services were terminated by the respondent on 26/01/2015. The applicant took no step to challenge the said termination until the 7th day of December, 2018, when he filed an application for condonation of delay before the Commission of Mediation and Arbitration of Shinyanga, through Dispute No. CMA/KHM/SHY/281/2018. For reasons that the applicant had failed to adduce sufficient reasons for delay of more than 46 months/1393 days, the Commission dismissed the applicant's application

for condonation of delay. The present application therefore, seeks to fault the Arbitator's decision by way of Revision.

Whereas Mr. Benjamin Dotto represented the applicant before the Commission and before this court, Mr. Kange learned advocate represented the respondent before the Commission and before this court as well.

Through the present application, the applicant is moving the court to revise the Commission's award, allegedly due to irregularities on the face of it. The applicant is also moving the court for grant of an order for grant of an order for condonation delay.

In terms of paragraph 10 of the affidavit in support of the application and as per the written submissions of Mr. Benjamin Dotto for the applicant, the reasons for delay are the following:

- (i) That, after termination of the applicant's employment, the respondent failed to notify the applicant of his right to refer the dispute to the Commission of Mediation and Arbitration and
- (ii) That, the applicant was suffering from Mechanical Low Back Pain since 2013 and that, even after termination of his employment, the applicant have been attending treatment at

various hospitals including traditional herbalists and that, at all that time, he had restrictions including avoidance of travelling for a long distance, long standing and sitting for a long period.

According to Mr. Benjamin Dotto for the applicant, the applicant's delay was out of his power and control. Mr. Benjamin Dotto condemned the employer for failure to notify the employee of his right to refer the dispute to the Commission.

Mr. Kange learned advocate submitted in reply that the applicant had failed to show sufficient cause for the long delay, hence, the Commission's decision to dismiss the application for condonation of delay was proper.

In terms of paragraphs 11 and 12 of the applicant's affidavit supporting the application before the Commission, the applicant was aware of his termination on 26th January, 2015 but that, he did not take any step, not because he was not notified of his right to refer the dispute to the Commission, but, because of the conditions he had been given by the physicians, not to travel for a long distance and not to seat or stand for a long time.

There is no denial that the applicant used to travel from his place of domicile, Mwanza to Dar es Salaam and back, in his endeavour to seek treatment. The applicant was not specific, as for how many days he had to be treated by traditional herbalists or that, for how many days, after his termination, he was receiving medical treatment from formal hospitals. Medical documents referred to in paragraph 17 of the applicant's affidavit supporting his application before the Commission, refer back to the period before his termination, on 02/03/2012, 27/02/2013, 08/07/2013 and 04/12/2014.


With all that on record, I find it difficult to fault the Arbitrator's finding that the applicant had failed to account for the delay. This is because, he (the applicant) had a duty to account for every single day of delay. **See: Bushiri Hassan Vs Latifa Lukio Mashayo, Civil Application No.03 of 2007, CAT (Unreported).**

For the foregoing reasons, I confirm the Commission's award. The application is dismissed for want of merit.

Dated at **SHINYANGA** this **28th day of February, 2020.**


C. P. MKEHA
MKEHA
28/02/2020

Court: Ruling is delivered in the presence of the applicant in person and Mr. Kange learned advocate for the respondent.


C. P. MKEHA
JUDGE
20/02/2020

Court: Right of appeal explained.

