

**IN THE HIGH COURT OF TANZANIA**  
**[DODOMA DISTRICT REGISTRY]**  
**AT DODOMA**  
**MISC. LABOUR APPLICATION NO. 10 OF 2019**

*[Arising from the decision of the Commission for Mediation and Arbitration at Dodoma  
in Labour Dispute No. CMA/DOM/20/2019 and dated 4<sup>th</sup> June, 2019]*

**ISSA NIYA SIRAJI ..... APPLICANT**

**VERSUS**

**FEISAL CABLE NETWORK ..... RESPONDENT**

**JUDGMENT**

*3<sup>rd</sup> August, 2020 & 3<sup>rd</sup> August, 2020*

**M.M.SIYANI J.**

In terms of Rule 24 (1) (2) (a) (b) (c) (d) (e), (f), 24 (3) (a) (b) (c) (d) Rule 55 (1) and 56 (3) of the Labour Courts Rule GN No. 106 of 2007, the applicant herein one Issa Niya Siraji has moved this court to extend time within which to initiate revision proceedings against an award dated 4<sup>th</sup> June 2019 by CMA Dodoma in CMA/DOM/20/2019. Two reasons for the delay to take the necessary legal action, has been stated in an affidavit

sworn by the applicant himself to support the chamber application to be, illegality of the impugned award and the fact that the applicant was attending his sick father who however passed away.

At the hearing of the application, Mr. Emmanuel Bwire, the learned counsel who represents the applicant, briefly argued that the impugned CMA's award contains points of illegality for failure to include some of the terminal benefits which were due to the applicant upon his termination. He requested the court to grant the sought extension of time so that the alleged illegality can be addressed. He cited decision of this court in **CITI Bank Limited Vs Tanzania Telecommunications Company Ltd and others**, Commercial Case. No. 202 of 2017 to support his arguments. As to second grounds on why the applicant failed to apply for revision in time, counsel Bwire reiterated the contents of the applicant's affidavit and went further to contend that the applicant was attending his ailing father at Kigoma.

The reasons above were opposed by the respondent who enjoyed the legal services of counsel Christopher Malinga. While referring the Court of Appeal decision's in **FINCA (T) LTD Vs Kindogoro Acution Mart**, Civil Application No. 589/12 of 2018, counsel Malinga submitted that a mere mention of illegality was insufficient. According to him, for illegality to be a sufficient cause, the same must be of sufficient important and which contains an apparent error on the face of record. In view of counsel Malinga, there is no illegality in the complained decision and therefore, the applicant has failed to demonstrate sufficient cause. As far as the second ground is concerned, the learned counsel argued that no iota of evidence has been tendered by the applicant to substantiate his claim that he travelled to attend his ailing father and as such counsel Malinga prayed for dismissal of the application.

I have dispassionately considered the arguments of the parties herein and the filed documents. An established principle of law is that an application for extension of time is entirely in the discretion of the court to grant or refuse it. I am keenly aware of the position of law with regard to applications for extension of time as established by our apex court in

**Tanga Cement Vs Jumanne D. Masangwa & Amos Mwalandwa**, Civil Application No. 6 of 2001 (unreported) and **Benedict Mumello Vs Bank of Tanzania** (E.A.L.R.2006) Vol. 1, that such applications can only be granted where it has been sufficiently established that the delay was with sufficient cause, far from the applicant's negligence and so beyond his control.

I wish to be very brief. Settled is a position of law that where there is an allegation of an illegality, courts of law should not wring their hands in desperation but must give themselves an opportunity to look into the alleged illegality by extending time within which appeals or application can be filed. (See **Losindilo Zuberi Vs Ally Hamis Civil Application No. 5 of 1999**, (unreported)). In my considered view, the point raised by counsel Bwire that the CMA award excluded some terminal benefits which are due to the applicant after his termination, may be an apparent error on the face of record and therefore constituting an illegality of the said decision which is a sufficient cause to warrant this court to reopen its doors by extending time within which to present an application for revision.

For the reason above, I allow this application and extend time within which to present an application for revision of the CMA award in Labour dispute No. CMA/DOM/20/2019 dated 4<sup>th</sup> June 2019 to 14 days from the date of this order. As the instant application originates from a labour matter, I will make no order as to costs. Order accordingly.

**DATED at DODOMA this 3<sup>rd</sup> August, 2020**



**M.M. SIYANI**  
**JUDGE**