

**IN THE HIGH COURT OF TANZANIA**

**(LABOUR DIVISION)**

**(IN THE DISTRICT REGISTRY OF SONGEA)**

**AT SONGEA**

**MISCELENEOUS LABOUR APPLICATION NO. 13OF 2019**

**(Arising from Labour Revision Application no. 05 of 2017)**

**LADSLAUS BIGAMBO ..... APPLICANT**

**Versus**

**MVIWATA RUVUMA ..... RESPONDENT**

**RULING**

**Date of Last Order: 04/08/2020**

**Date of Ruling: 27/08/2020**

**BEFORE: S.C.MOSHI, J.**

The applicant filed this application seeking extension of time to file an application for revision of labour dispute No, CMA/SON/MAY/06/2014 out of time. The application is brought under the provisions of Rule 24(1),(2), (a)(b)(c)(d)(e), 24(3) (a), (b), (c), (d) Rule 56(1), of the Labour Court

Rules GN No. 106 of 2007. The application is supported by the affidavit which was sworn by Mr. Ladislaus Bigambo.

The application was disposed of by way of written submission. The applicant was represented by Khalifan Ahmad Nyungwa, TPAWU Regional Secretary whereas the respondent was represented by Ms. Nuru Pipino, advocate.

The applicant submitted among other things that, he instituted Labour Revision Number 5 of 2017 in this court which was struck out on 28/3/2019 after the preliminary objection by the respondent representative as the affidavit did not contain reliefs as per rule 24(3) of the Labour Court Rules.

He prayed that leave to file an application for Revision be granted for interest of justice.

Ms. Nuru on her part argued that, the applicant has been trying to hide the fact that before Labour Revision Number 5 of 2017 that was struck out on 28<sup>th</sup> March 2019, there were a series of other applications which were filed and struck out due to applicant's negligence.

She said that, there was Labour application number 11 of 2014 that was filed in this court on 22<sup>nd</sup> October 2004 which was struck out for

having defects caused by negligence on his part, thereafter he filed Labour Revision Number 5 of 2017 which was also struck out on 28<sup>th</sup> march 2019 for the reason that the affidavit did not have the reliefs.

Thereafter, the applicant filed Labour application number 4 of 2019 on 16<sup>th</sup> April 2019 which was also struck out on 3<sup>rd</sup> September 2019 due to preliminary objection which was raised to the effect that the affidavit was defective. After that he filed this application.

Ms. Nuru argued further that, the applicant has failed to give sufficient cause for his prayer since the cause of delay is negligence. He has been given several chances but he has been misusing them. She said that, the fact that the applicant has failed to expose other applications filed by him that is Labour Revision Number 11 of 2014, Labour Application Number 04 of 2019 that were all struck out due to the negligence on part of the applicant shows that he is clearly aware of his acts that have so far been tolerated by this court.

She further contended that, the applicant has failed to account for the delay by failing to give explanations, she cited the case of **Saafa Plastic Limited Versus Yona Onesmo and 70 Others**, High Court Labour Division at Dar es Salaam, (unreported), **Daudi Haga Versus**

**Jenitha Abdan Machaju**, Civil Reference No 1 of 2000 Court of Appeal (unreported) and **Tanzania Fish Processors Ltd versus Christopher Luhangangula** , Civil Appeal Number 161 of 1994, (unreported), where it was held that a person seeking for an extension of time had to explain every single day for delay to enable the court to exercise its discretionary powers.

She submitted further that the applicant was negligent since the court granted several chances to him but he misused them. She made reference to the case of **John Mosses and three others Versus Republic**, Criminal Appeal Number 145 of 2006, Court of Appeal (unreported) and **Elias Msonde Versus Republic**, Criminal Appeal Number 93 of 2005. In this case it was held that all that is expected from the applicant is to show that he was prevented by sufficient or reasonable or good cause and that the delay was not caused or contributed by dilatory conduct or lack of diligence on his part.

She finally argued that, the applicant's application does not carry any reason/weight whatsoever for the extension of time to be granted since the applicant failed to adduce good cause for delay and there is clear demonstration of negligence on his part, as he was given several chances

but he abused them which amount to abuse of court process and timely administration of justice.

That being the submissions of the parties, the issue is whether the applicant has demonstrated good cause to enable him to be granted extension of time.

As a matter of general principle, it is entirely in the discretion of the court whether to grant or refuse an application for extension of time. That, discretion is, however, judicial and so it must be exercised according to the rules of reasons and justice. However the applicant is duty bound to show good cause to the satisfaction of the court. As to what constitutes good cause depends upon a variety of factors which may include the length of the delay, the reasons for the delay, chances of the appeal succeeding if the application is granted and the degree of prejudice to the respondent if the application is granted. See the case of **Madore Versus Mbelekeni and Another**, Civil Application Number 13 of 2016, Court of Appeal sitting at Arusha (unreported).

Rule 56(1) of the Labour Court Rules GN 106/2007 provides that: -

*"The court may extend or abridge any period prescribed by these rules on application and on good cause shown, unless the court is precluded from doing so by any written law."*

As per the applicant's supporting affidavit and submission the reasons for the delay is that his application for revision was struck out on 28th March 2019. I have passed through the records of Commission for Mediation and Arbitration which is the genesis of this application whose award was given on 11/10/2014. The applicant has failed to state what transpired between 11/10/2014 up to 28<sup>th</sup> March 2019 when his application was struck out. However, the respondent explained it all; that he has been filing various applications which met a number of preliminary objections consequently they were struck out by this court.

This shows that the applicant is not serious in prosecuting his case; there is obvious indication of negligence and lack of diligence on his part or his representative. He was given several chances to file applications according to the law but he made various mistakes which led them to be struck out.

Again, he has also failed to account for the period beginning from 28<sup>th</sup> March 2019 up to 7<sup>th</sup> October 2019 when this application was instituted. It has been time and again held that delay of even a single day has to be accounted for. See **Loshilu Karaine and three others versus Abraham Melkizedeck Kaaya**, Civil application number 140/02 of 2018 Court of Appeal sitting at Arusha (unreported).

That being said, I am of the considered view that the applicant has failed to assign sufficient reasons for extending the period of filing extension of time to file a revision application out of the prescribed time limits. I therefore, accordingly dismiss the application.

It is so ordered

Right of Appeal Explained.

  
**S. C. MOSHI**

**JUDGE**

**27/08/2020**