

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF KIGOMA)

AT KIGOMA

LABOUR DIVISION

(APPELLATE JURISDICTION)

MISC. LABOUR APPLICATION NO. 12/2020

(Arising from Labour Dispute No. CMA/KAS/DISP/20/2011 Before: R. Katto, Muamuzi)

GILIARD LAZARO NA WENZAKE 65.....APPLICANT

VERSUS

MKURUGENZI WA HALMASHAURI

YA WILAYA KASULU RESPONDENT

RULING

26th & 26th Nov. 2020

A. MATUMA, J.

The Applicants are seeking extension of time to file a Revision in this Court against on Arbitration Award No. CMA/KAS/DISP/20/2011 which was issued and delivered against them on 11/5/2012.

This application has been heard exparte against the Respondent who did not file the Notice of opposition or counter affidavit.

Despite of the application having been heard exparte, that does not waive the duty of the Applicants to account each day of the delay to the satisfaction of the Court. It is apparent on record that the Applicants have delayed for almost nine (9) years.

Mr. Thomas Msasa who deposed the affidavit accompanying the chamber summons submitted that the delay was caused by one Amos Msuya (TUGHE) Secretary who after the commission award, the applicants entrusted him to make an Application for Revision in the Labour Court. That the said Amos Msuya informed the Applicants that he has already filed the Application for Revision but they came later to realize that they were being deceived. It is when they decided to prefer this Application.

The issue is whether the applicants have established any good cause for the delay.

It is my firm view that the applicants have in no way accounted for each day of delay as from the year 2012 to date which is almost nine years.

The allegations that someone else (Amos Msuya) used to lie to them that he was processing their Revision is not authenticated anyhow.

Even if I had to believe that averment still the applicants owed a duty to make a close follow up even obtaining the Revision Number from the said Amos.



By any due diligence they would have detected the lie if any, and acted promptly.

Not only that, before me only two of the applicants appeared; Giliard Lazaro and Marco Mrefu. The others are undisclosed. When I asked the two as to when they lastly met with the 64 others, they told me it was in 2012.

When I asked their advocate Mr. Thomas Msasa, he has not met any except the two who have instructed him.

In other words, the 64 others might even not be aware of this application and have in no way intended to pursue this case.

The issue of illegality cannot be invoked by the party as a ground for the extension.

The ground of illegality can be used to extend time in the Court's own discretion. Even though why such long delay did the illegality cause them to so delay? Obvious not. Otherwise they should have accounted how did the alleged illegality delayed them.

All in all, the nine (9) years delay is inordinate and has not been accounted for.

I therefore dismiss this application with costs. The costs are awarded against the two present applicants and not those 64 others.



For clarity this decision is as well against the two applicants herein above named. The right of any legal action including application for extension of time to those 64 others are reserved as I am satisfied that they are not behind this application.

It is so ordered.



A. MATUMA

JUDGE

26/11/2020

Court: Ruling delivered in chambers this 26th November, 2020 in the presence of Thomas Msasa Advocate for the Applicant and Emmanuel Ladislaus (Solicitor) for the Respondent.

Right of appeal is explained.

Sgd: A. MATUMA

JUDGE

26/11/2020