

**THE UNITED REPUBLIC OF TANZANIA  
JUDICIARY  
IN THE HIGH COURT OF TANZANIA  
(LABOUR DIVISION)  
AT MBEYA  
LABOUR REVISION NO. 18 OF 2017**  
*(Originate from Complaint No. CMA/MBY/124/2010)*

**HUMPHREY NGALAWA.....APPLICANT**

**VERSUS**

**COCA COLA KWANZA LIMITED.....RESPONDENT**

**R U L I N G**

***Date of the last order:*** 31/01/2010

***Date of Ruling:*** 11/03/2020

**NDUNGURU, J.**

The applicant, one Humphrey Ngalawa through the service of Mr. Fred Peter Kalonga learned advocate filed application for revision against the award of the Commission for Arbitration and Mediation at Mbeya (herein referred as CMA) in Complain No. CMA/MBY/124/2010.

The application is made under Section 91 (1) (a) (b) and 91 (2) (a) (b) of the Employment and Labour Relation Act, No. 6 of 2004 and

Rule 24 (2) (a) (b) (c) (d) (e) (f) and 24 (3) (a) (b) (c) (d) and Rule 28 (1) (c) (d) (e) of the Labour Court Rules, 2007 G.N. No. 106 of 2007. Upon being duly served with the application, the respondent filed notice of representation, counter affidavit and also raised a preliminary objection the subject matter of this ruling. The preliminary objection is couched thus:

1. The application for revision is incompetent in that it is brought through a defective Notice of Application, that offend Rule 24 (2) (e) of the Labour Court Rules, 2007 (G.N. No. 106 of 2007)

At the hearing of the objection, the Court ordered the preliminary objection be disposed by way of the written submission. Mr. Fred Peter Kalonga learned advocate appeared for the applicant whereas Mr. Mika Mbise learned advocate appeared for the respondent. The both parties respectively complied with the filing schedule.

Arguing for the preliminary objection, Mr. Mbise for the respondent submitted that the learned counsel for the applicant did not comply with the requirement of Rule 24 (2) (e) of the Labour Court Rules, 2007 (G.N. No. 106 of 2007) to the effect that the Notice of Application filed by the applicant required to provide for a notice advising the other party that if he/she intends to oppose the matter, that party shall file a counter

affidavit within fifteen days after the application has been served, failure of which the matter may proceed ex parte.

The counsel submitted further that, the Rule 24 (2) (f) of the Labour Court Rule 2007 (G.N. No. 106 of 2007) which was cited in the Notice of Application demands Notice of Application to contain a list and attachments that are material and relevant to the Application but the Applicant did not set out the list of documents that are material and relevant to the Application and also did not annex them as required by the said law. He cited the case of **Angyelile Elia Mkubwa vs. Coca Cola Kwanza Ltd.**, Revision No. 27 of 2018 and **Nicholaus Sigonda vs. Cocacola Kwanza Ltd.**, Labour Revision No. 30 of 2017 (both unreported) to concretize his submission.

In reply, Mr. Kalonga for the Appellant conceded to the Preliminary Objection and proceeded that this Court to strike out this Application with leave to refile as it has been its spirit for ages so as to serve the time for the Applicant who is still willing to prepare his Application for revision.

In rejoinder, Mr. Mbise objected the prayer advanced by the learned Counsel for the Applicant on account that such a prayer is misplaced in that one the present Application is struck out there will be

nothing upon which to place the order sought for. To bolster his argument, he referred this Court to read the cases of **Angyelile Elia Mkumbwa vs. Cocacola kwanza Ltd** (supra), **Nicholaus, Sigonda vs. Cocacola kwanza Ltd** (supra) and **Lugano Chonile vs. Tanzania Breweries Ltd.**, Labour Revision No. 28 of 2018 (unreported). In conclusion, he prayed that this Court to strike out the Application without granting leave to refile.

I have considered that written submission made by both parties and the records. I am satisfied that this Application is incompetent before this Court for not being complied with requirement of the Rule 24 (2) (e) and (f) of the Labour Court Rules, 2007 (G.N No. 106 of 2007) hence, the same is accordingly struck out.

Regarding the issue of granting leave to refile, my determination is that the spirit of this Court has always been to expedite the matter before it. Further it is undisputed fact that, the practice and procedure of the labour law is quite different from the practice and procedure of the normal civil law.

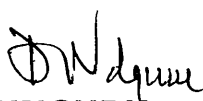
Also I am aware with the position elaborated by this Court in the cases of **Angyelile Elia Mkubwa vs. Coca Cola Kwanza and Lugano Chanila vs. Tanzania Breweries Ltd (supra)** cited by the

learned counsel for the respondent. I am of the different position from what is stated in the above cited cases. To my view labour disputes are of their own nature, they affect the parties to the dispute as well as those who depended on the employment as a means of their livelihood. To my view the spirit of extending jurisdiction to all judges is that labour disputes be disposed expediently and timely. Granting leave to file a proper application as it has been done as the practice of this Court to my view does not prejudice justice to either of the parties rather it serves time to both parties and ensures speed determination of the dispute.

For meeting good ends of justice between the parties, using power vested in this Court under Rule 55 (1) and (2) of the Labour Court Rules, 2007 (G.N. No. 106 of 2007, hereby grant the applicant leave to refile proper application for revision within 14 days from the date of this ruling. No order as to costs.

It is so ordered.



  
**D. B. NDUNGURU**  
**JUDGE**  
11/03/2020

**Date: 11/03/2020**

**Coram:** D. B. Ndunguru, J

**Applicant:**

**For the Applicant:**

**Respondent:**

**For the Respondent:** Mr. Mbise - Advocate


**B/C:** M. Mihayo

**Mr. Mbise – Advocate:**

The case is for ruling, we are ready.

**Court:** Ruling delivered in the presence of Mr. Mbise Advocate for the Respondent and absence of the Applicant.



  
**D. B. NDUNGURU**  
**JUDGE**  
11/03/2020