

**THE HIGH COURT OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA
LABOUR DIVISION
AT SHINYANGA**

APPLICATION FOR LABOUR REVISION NO. 62 OF 2018

**PETER ONESMO NKANDAAPPLICANT
VERSUS
PANGEA MINERAL LIMITEDRESPONDENT**

RULING

Date of Ruling, 27/03/2020

E. Y. Mkwizu, J

This is a ruling in respect of objection raised by the respondent in an application for revision against the CMA award.

Mr. Kange Geoffrey, counsel for the respondent raised an objection that the affidavit in support of the application is defective for containing a jurat that does not show whether the deponent was personally known to the attesting officer or was introduced by someone else. He argued that, the omission is contrary to s. 10 of the Oath and Statutory Declaration Act, Cap 34. He prayed that the application be struck out for being incompetent.

On his part Mr. Benjamini Dotto counsel for the applicant conceded to the pointed defect. He however prayed for the striking out of the application with leave to refile.

Having considered the parties submissions and the record, indeed the affidavit is defective. In the Jurat, the attesting officer omitted it indicate whether he knew the deponent personally or the deponent was introduced to him by someone else. This goes contrary to section 5 and 10 read together with the schedule to the Oath and Statutory Declaration Act, Cap 34 RE 2002.

In the case of **Emirates Airlines VS Irfan M. Dinani and another**, Tribunal application No. 07 of 2009, in fair Competition Tribunal of Tanzania at Dar es salaam, Hon. Shakh, J, said.

*"any affidavit whose jurat of attestation fall short of the requirement provided under 5 and 10 read together with schedule to the Oath and statutory Declarations Act, Cap 34 R.E 2002 is incurably defective as the use of the word '**shall**' means that the format provided therein shall be complied into the provision order section 10..."*

The jurat of attestation of affidavit in support of the application at hand fall short of the requirement of the requirement of the law cited above.

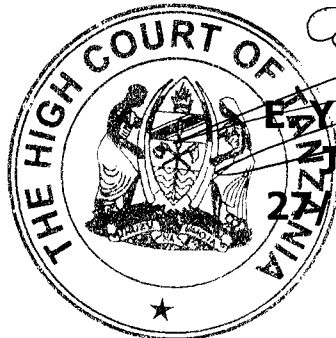
As correctly stated by the learned counsel for the Respondent and conceded to by the Applicant's advocate defective jurat renders the affidavit incurably defective to support the application before the court.

For the above reason. I am of the view that the application lacks a proper supporting affidavit and therefore offend the provision of rule 24 (3) (a) (b) (c) and (d) of the Labour Courts Rules, GN No. 106 of 2007 which requires every application to be supported by an affidavit.

In the circumstances, I strike out the application. However for the interest of justice leave is granted as prayed. Applicant to file his application by 8th April, 2020.

It is so ordered.

DATED at **SHINYANGA** this 27th day of March, 2020.

 *[Signature]*
EDY. Mkwizu
JUDGE
27/03/2020