

**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. 10 OF 2020

(Arising from Labour Appeal No. 2/2013 of the court, Originating from Labour Officer's Compliance Order Ref. No.KGM/LAI/5/22 dated 5th March, 2018)

KIGOMA HILLTOP HOTEL LIMITED..... APPLICANT

VERSUS

LABOUR COMMISSIONER..... RESPONDENT

R U L I N G

11th & 11th March, 2021

I.C. MUGETA, J.

The applicant applies for condonation order to appeal against the decision of the Labour Commissioner refusing her condonation to appeal the compliance order of the Labour Officer dated 5/3/2018. The reason for the delay is technical one because her appeal had been struck out by this court (Matuma, J.) on 22/1/2020 in Labour Appeal No. 2/2019 for failure to attach the decision of the Labour Commissioner which was not there anyway. The decision was obtained later and it is in a letter dated 4/5/2020 which is



annexture KHH-6 to the affidavit. Therefore, as my brother Matuma, J. found in Labour Appeal No. 2/2019, there was no decision to appeal against.

As I have said, the appeal was struck out 22/1/2020. Then the applicant embarked on obtaining the decision of the Labour Commissioner. On 24/3/2020, she applied to the Labour Commissioner for condonation to appeal against the compliance order. On 4/5/2020 the Labour Commissioner rejected the prayer for condonation. The applicant would wish to appeal against his decision but for being out of time, hence, this application.

The application is unopposed. The respondent delayed to file counter affidavits and their prayer for extension of time was rejected.

I have considered the content of the affidavit and the supplementary affidavit it is my view that throughout the period of delay the applicant has been trying to assert her rights, sometimes wrongly, through various labour institutions.

The record shows that the applicant have been delaying taking step at every stage of this dispute. It is further revealed by the record that more than three advocates have handled this dispute for the applicant at different stages. The reasons for the change are not on record. Had the respondent

filed counter affidavits, I would have been afforded much information for an objective determination of this case.

Be as it may, this is a labour dispute. Let it be determined upon considering all the facts surrounding the dispute. I hereby grant the application. The appeal to be filed within fifteen (15) days from the date of this order. No order as to costs.



Mugeta
I.C. Mugeta

Judge

11/3/2021

Court: Ruling delivered in chambers in the presence of applicant and his advocate, Mussa Kasimu while the respondent is represented by Clement Masua, State Attorney assisted by Neema Missan, Labour Officer.

Sgd: I.C. Mugeta

Judge

11/3/2021