

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IRINGA DISTRICT REGISTRY

AT IRINGA

LABOUR REVISION NO 13/2020

*(Originating from Commission for Mediation and Arbitration for Iringa on
Labour Dispute No 31 of 2020)*

COMUNITA'S DIS EGIDIO A CAP..... APPLICANT

VERSUS

FRANCIS KENAN RESPONDENT

RULING

Date of last order: 11/11/2021

Date of Ruling: 11/11/2021

MLYAMBINA, J.

Initially, the Respondent through representation of Yusuph Luwumba, Learned Counsel, filed a notice of preliminary objection on two points of law, namely:

- 1. That, the application is pre-mature brought contrary to Rule 50 of the Labour Court Rules G.N No. 106 of 2007.*
- 2. That, the affidavit filed to support the application is incurably defective for contravening Rule 24(3) (a) and (d) of Labour Court Rules, G.N. No. 106 of 2007.*

When the application came for hearing of the afore two points of objection, Learned Counsel Watson Peter raised one additional legal point of objection to the effect that:

The application is incompetent for failure to file Mandatory Notice of intention to seek *Revision CMA form No. 10 Contrary to Regulation 34 (1) of the Employment and Labour Relation (General Regulations) G.N. No. 47 of 2017.*

Counsel Watson went further to cite the decision of this Court in the case of **Uniliver Tea Tanzania Limited v. Paul Basondole**, *Labour Revision No 14 of 2020*, High Court of Tanzania at Iringa in which the Court held *inter alia* that:

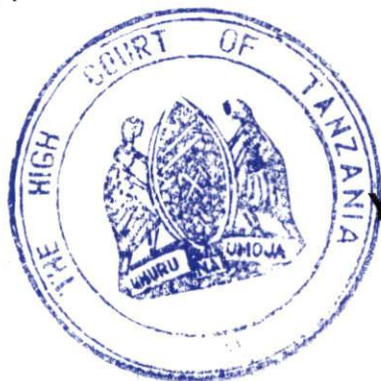
The Court worth of its meaning cannot ignore the laid down legal procedure of filing notice of revision on the pretext of avoiding technicalities, for doing so would be violating the law.

In response, Learned Counsel Edrick Mwinuka conceded to the legal objection on lack of notice to file the instant application.

As raised by the Respondent and conceded by the Applicant, *Regulation 34 (1) of the Employment and Labour Relations (General Regulation), G. N No. 47 of 2017* requires at a mandatory tone a person intending to seek revision before the Court to file CMA F10 and serve the adverse party before lodging the application for revision. Such notice is in a prescribed form provided at the *third schedule of G.N. No. 47 of 2017 (supra)*. It is such notice which commences the whole process of application for revision.

It therefore follows that non compliance with the requirement of *Regulation 34 (1) of the Employment and Labour Relations (General Regulations), G.N. No. 47 of 2017* renders the application incompetent.

In the end, the objection on lack of notice is hereby sustained. Consequently, the application is struck out for lack of notice.

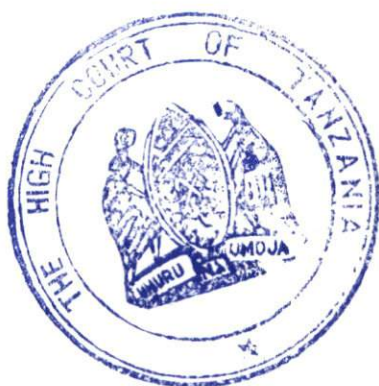


Y. J. MLYAMBINA

JUDGE

11/11/2021

Ruling delivered and dated 11th day of November, 2021 in the presence of Counsel Edrick Mwinuka for the Applicant and Watson Peter Kimbe holding brief of Yusuph Luwumba for the Respondent.



Y. J. MLYAMBINA

JUDGE

11/11/2021