

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)

AT ARUSHA

MISC. LABOUR APPLICATION NO. 70 OF 2020

(Arising from Labour Dispute No. CMA/ ARS/ARB/87/2018)

MARRY MASSAWE JOSHUA APPLICANT

VERSUS

HEALTH MASTER DISPENSARY..... RESPONDENT

RULING

22/9/2021 & 10/11/2021

ROBERT, J:-

This is a ruling on an application for extension of time to lodge a revision to this court against the decision of the Commission for Mediation and Arbitration (CMA), Arusha in Labour Dispute No. CMA/ARS/ARB/87/2018 delivered on 25th day of April 2019. The application is supported with an affidavit sworn by the applicant.

Before this court, **Mr. Frank Maganga**, Personal Representative, appeared for the applicant whilst Mr. Kapimpiti Mgalula, learned counsel represented the respondent. Hearing of this application proceeded by way of written submissions.

Submitting in support of the application, Mr. Maganga (PR), argued that, the applicant having been aggrieved by the CMA decision sought legal assistance from the office of Legal and Human Rights Center (LHRC) to file an application for revision. Unfortunately, the lawyers at the LHRC filed an application for execution instead of revision. Upon realising the mistake made, she decided to withdraw the application in order to file an application for revision. Thus, the delay was a technical one as the applicant was in court corridors for more than 18 months believing she was dealing with a revision and not an application for execution.

He submitted further that, the application for revision has overwhelming chances of success and prayed for the application to be granted. To support his argument, he cited the case of **Leornad Deus Mgeta vs G4 Security Services**, Revision No. 46/2012, LCCD of 2013.

Resisting the application, the respondent argued that, the applicant stayed for 219 days before filing of the application for execution which were not accounted for. Further to that, after the registration of Application for Execution No. 121 of 2019, the applicant attended for nearly a year until 11th day of September 2020 when she decided to withdraw the matter and filed the present application.

He submitted further that, the applicant being a layman is not a good reason for extension of time. He referred the Court to the case of **Ngao Godwin vs Julius Mwarabu**, Civil Application No. 10 of 2015, CAT (unreported) where it was held that, ignorance of law has never featured as a good cause for extension of time. Further to that, as the applicant was employed as a nurse it goes without saying that she knows how to read and write, thus, the applicant is just misleading this court with her excuse that she did not know what was going on before the court.

Mr. Mgalula submitted further that, the applicant did not state anywhere in her application that she engaged the LHRC to represent her. The application seemed to be have been drawn and filed by the applicant herself. Thus, the applicant failed to account for the days of the delay and this application should be dismissed with costs. (See the case of **Athman Rashid vs Boko Omari**, (1997) TLR 146 and Bushiri **Hassan vs Lukio Mashayo**, Civil Application No. 3 of 2007, CAT (Unreported).

From the submissions made by the parties it is apparent that the main issue for determination is whether the applicant has demonstrated sufficient cause for the delay.

An application of this nature will only succeed upon supply to the court of sufficient material upon which to exercise the discretion and grant the application. In the case of **Daudi S/O Haga vs Renatha Abdon Machafu**, Civil reference No. 19 of 2006 (unreported), it was held that:

"Where an extension of time is sought consequent to the delay the cardinal question is whether sufficient reason is shown for the delay."

The applicant alleged that it was the Legal and Human Rights office that prepared an application for execution instead of execution which caused the delay for more than 18 months. That could have amounted to sufficient reason if it could have been backed up with concrete evidence like a sworn affidavit of one of the advocates from LHRC offices. Unfortunately, that was not done.

This court finds it hard to believe that for more than a year the applicant was not aware of what transpired before the court regarding her application. The applicant alleged that being a lay person, she was not aware of what was going on before the court. Now, the question is whether ignorance of law amounts to sufficient cause for the court to grant the application for extension of time.

It is a settled law that, ignorance of law has never been a good cause for extension of time. In the case of **Hamimu Hamis Totoro @**

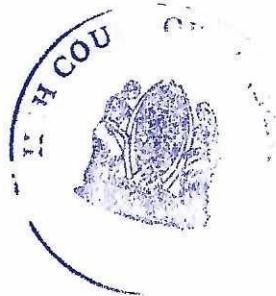
Zungu Pablo and 2 others v. the Republic, Criminal Application No.
121/07/2018 the CAT ruled: -


".... the issue is whether ignorance of law constitutes a good cause for extension of time. There is a plathora of authorities to the effect that ignorance of law has never been a good cause for granting extension of time."

That being the case, the court cannot therefore grant the orders sought by the applicant as she failed to demonstrate sufficient cause for the delay.

Consequently, this application is hereby dismissed.

It is so ordered.




K.N. ROBERT
JUDGE
10/11/2021