

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE SUB-REGISTRY OF MWANZA  
AT MWANZA**

**LABOUR REVISION NO. 43 OF 2021**

*(Arising out of the award in No. Ref. CMA/GTA/90/2017)*

**GEITA GOLD MINE LTD .....APPLICANT**

**VERSUS**

**SAMWEL JAPHET .....RESPONDENT**

**RULING**

*20<sup>th</sup> June, 2022.*

***KAHYOZA. J.:***

**Samwel Japhet** instituted a labour dispute to the Commission for Mediation and Arbitration (the CMA) Geita against **Geita Gold Mine Limited.**

**Samwel Japhet** emerged successful. Geita Gold Mine Limited instituted revision proceedings seeking this Court to call and examine the propriety of the award. The Company (Geita Gold Mine Limited) raised six issues for this court consider. I will not reproduce the issues as they are less important for reasons, I will unveil later.

The Company instituted revision proceedings on 16/11/2021 and the court called the Record of the CMA. It took seven (7) months for the CMA to

submit the record. The CMA submitted the record which contains pleadings, documentary exhibits, and an award. There are no typed or handwritten proceedings.

The Company's advocate addressed this Court that given the fact that there is no record of proceedings this court in its wisdom, may either quash the proceeding and order re-hearing or may call upon the CMA to produce the proceedings.

As pointed above the CMA delayed to submit the record to this Court for hearing for no good reasons for seven (7) months. The arbitrator was summoned to bring the record or show cause why he should not suffer consequences under law. He brought the record and explained that he left the file in fact when he left to pursue postgraduate studies. He came back and found proceedings missing. The arbitrator's account for the missing proceedings is not plausible.

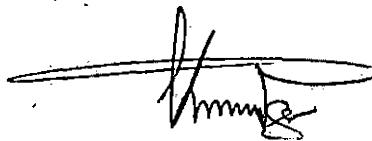
I agree that measure ought to be taken to ensure the CMA produces proceedings and if they fail to do so administrative or disciplinary measures be taken against all those responsible for the missing records. These steps will be against the CMA employees but as far as rights of parties to this case

are concerned, there will be no tangible solution. I will leave that at that state and direct the Deputy Registrar to pursue the matter administratively.

I revert to the parties who wished this matter to be determined on merit. There is no way the revision proceedings would be determined on merit unless this court is availed with the record of the CMA. Since the proceedings cannot be traced, there is only remedy which is to order a re-hearing of the dispute. For that reason, I quash the proceedings, set aside the award, and order another arbitrator to re-hear the parties' dispute immediately.

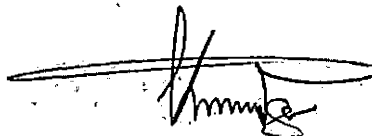
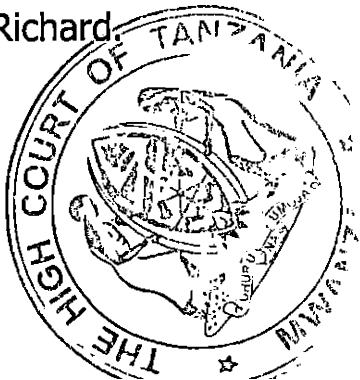
It is ordered accordingly.

**Dated at Mwanza**, this day of 20<sup>th</sup> June, 2022



**J. R. Kahyoza**  
**JUDGE**

**Court.** Ruling delivered in the presence of the applicant's advocate, Mr. Richard



**J. R. Kahyoza**  
**Judge**  
**20/06/2022**