

**IN THE HIGH COURT OF TANZANIA  
(LABOUR DIVISION)  
IN THE DISTRICT REGISTRY OF DODOMA  
AT DODOMA  
LABOUR REVISION NO. 01 OF 2021**

**ASSOCIATION OF LOCAL AUTHORITIES**

**OF TANZANIA.....APPLICANT**

**VERSUS**

**CHRISTINA EMMANUEL MHALA .....RESPONDENT**

**(From Award of the Commission for Mediation and Arbitration-Dodoma)**

**(J. R. Katto – Arbitrator)**

**Dated 23<sup>th</sup> November, 2020**

**In**

**Labour Dispute No. CMA/DOM/34/2020/14**

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**RULING**

**24<sup>th</sup> May&22<sup>th</sup>July,2022**

**MDEMU, J.:**

This ruling is in respect of a preliminary objection raised by the Respondent herein against the Applicant's application for revision of the decision of the Commission for Mediation and Arbitration (the CMA) in Labour Dispute No. CMA/DOM/34/2020/14. The notice of preliminary objection is to the effect that: -

*1. That, the Application for revision is incompetent for failure to cite statement of legal issue arising from material facts contrary to rule 24 (35) (c) of the Labour Court Rules GN 106/2007.*

On 19<sup>th</sup> of May, 2022 it was ordered that the preliminary objection be heard ex-parte following nonappearance of the Applicant by way of written submission. Mr. Paulo Mwashitete who represented the Respondent, complied with the order and filed his written submissions on 24<sup>th</sup> of May, 2022. Arguing in support of the preliminary objection, Mr. Paulo Mwashitete submitted that, the affidavit in support of the application contravenes the provisions of Rule 24 (3) of the Labour Court Rules, GN. No. 106 of 2007 as there are no legal issues arising from material facts deposed by the Applicant in his affidavit.

It was his submissions that, in Rule 24 (3) (c) the word "shall" is used of which, when applying section 53 (2) of the Interpretation of Laws Act, Cap. 1, the specific act must be performed. He added that, the said rule requires an affidavit in support of the application to contain a concise statement of legal issues. When the said duty is left unattended attracts legal consequences to the affidavit, that is, it renders it incompetent and liable to be struck out. He cited the cases of **James Daniel vs CATS - NET**

**Limited, Revision No. 258 of 2017; National Union of Mines and Energy Workers of Tanzania vs Dangote Cement Industry & 2 Others, Labour Revision No. 04 of 2020** (both unreported). He therefore prayed this Court to struck out the application with costs.

Having considered the Respondent's written submissions in support of the application and the entire record, the issue before me is whether the raised preliminary objection has merits. As said, the basis of the objection is on the defect in the affidavit for noncompliance of statutory requirements. In Labour matters, affidavits are governed by Rule 24(3) of the Labour Court Rules. The Rule provides that: -

*24 (3) The application shall be supported by an affidavit,*

*which shall clearly and concisely set out-*

- (a) the names, description and addresses of the parties;*
- (b) a statement of the material facts in a chronological order, on which the application is based;*
- (c) a statement of the legal issues that arise from the material facts;*
- (d) the reliefs sought.*

In the affidavit, item (c) in Rule 24(3) of the Labour Court Rules have not been complied for want of statement(s) of legal issues. As said, this was a mandatory legal requirement to be complied by the Applicant. He did not. In the case of **Raphael Nagomi vs. Desktop Production Limited, Labour Revision No. 193 of 2018** (unreported), the Court emphasized on the need to comply with that mandatory requirement. Specific in the case of **James Daniel vs CATS - NET Limited** (supra) cited in the written submissions, the Labour Court Division at page 14 stated that:

*In the present case, the supporting affidavit lacks the mandatory contents as prescribed in Rule 24(3) (c) of the Labour Court Rules, 2007 in which the affidavit does not contain a statement of legal issues that arise from the material facts. Suffice is to say, the supporting affidavit is incurably defective, therefore this ground of objection is sustained.*

In the same vain, since the Applicant herein did not comply with the mandatory legal requirement of the rule for want of statement(s) of legal issues, the affidavit is incurably defective and cannot support the instant application which is accordingly rendered incompetent. The immediate

remedy to the incompetent application has been decided in a number of cases, which is, to struck it out, as I hereby do. No order as to costs.



~~Gerson J. Mdemu~~  
JUDGE  
22/07/2022

**DATED** at **DODOMA** this 22<sup>th</sup> day of July, 2022.



~~Gerson J. Mdemu~~  
JUDGE  
22/07/2022