

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF SHINYANGA
LABOUR DIVISION SHINYANGA**

AT SHINYANGA

LABOUR APPLICATION NO 24 OF 2021

*(Originated from an award of the Commission for Mediation and Arbitration of Shinyanga
CMA/SHY/08/2021 dated the 3rd March, 2021)*

**REGINA MARTIN CHAMBI..... APPLICANT
VERSUS**

FRESHO INVESTMENT COMPANY LIMITED.....RESPONDENT

RULING

9th & 10 June 2022

MKWIZU J

This is an application for extension of time for filing an application for revision against the CMA decision dated 3/03/2021 in Labour Dispute No. CMA/08/2021 which was in favour of the respondent. The application was preferred in the chamber summons filed under Section 56 of the Labour Court Rules 2007, GN No 106 of 2007 supported by the applicant's own affidavit sworn on 31st December 2021. The application was opposed by the respondent.

The applicant was in person during the hearing of the application while Mr. Deus Richard advocate was for the respondent. Supporting the application, applicant submitted that the delay was caused by her quest for legal advice from the Shinyanga member of Parliament who delayed in tackling her issue leading to the applicant delay in filing revision

application before this Court. She was later advised to see the court officers who connected her to the paralegal officers hence this application.

Respondent's advocate contended that applicant has failed to show sufficient reasons for the delay and has miserably failed to account for the same.

I have considered the affidavit for and against the application and parties' rival submissions. The only issue for this court's determination is whether the applicant has managed to adduce good cause for delay. There is a plethora of authorities as to what is meant by good cause. See for instance **Phiri M. K. Mandari and Others Vs Tanzania Ports Authority**, Civil Application No. 84 of 2013; **Lyamuya Construction Company Limited Vs Board of Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 and **Topical Air (TZ) Limited vs. Godson Eliona Moshi**, Civil Application No. 9 of 2017, (all Unreported), to mention just a few. In the later case, the Court of Appeal set guidance on factors to be considered in an application for extension of time namely the applicant must account for all period of delay; delay should not be inordinate; applicant must show diligence and not apathy, negligence or sloppiness in prosecution of the action that he intends to take and any other reasons like the existence of a point of law of sufficient importance such as the illegality of the decision sought to be challenged.

This application was filed almost nine (9) months after the CMA's decision. The CMA award was delivered on 3/03/2021 and the application for extension of time was filed on 31/12/2021. In both her affidavit in support

of the application and oral submissions, applicant associates the delay with the wrong course taken in seeking other remedies from the Shinyanga Parliamentary member. She said on 11/3/2021 immediately after the ruling by the CMA she visited and wrote a letter to the office of the MP Shinyanga seeking for assistance on how to get her rights in vain. She was then advised to come to Court where she met a court officer who in turn referred her to the paralegal officers who facilitated her in drafting documents in respect of this application.

The pertinent question here is whether this reason qualifies the test of good causes specified in the cited cases above. As hinted above, the applicant delay goes to nine (9) good months. This is not an ordinate delay. I have dispassionately considered the reason given. The taking of the wrong course to the Shinyanga MP instead of coming to court asserted by the applicant is not by any standard not a good cause for the delay to warrant condonation. In the case of John **Mosses and Three others Vs. The Republic**, Criminal Appeal No. 145 of 2006, Court of Appeal held that:-

*"... it is now settled law that in application for extension of time to do an act required by law, **all that is expected of the applicant is to show that he was prevented by sufficient or reasonable or good cause and that the delay was not caused or contributed by dilatory conduct or lack of diligence on his part.**" (Emphasis mine).*

And even assuming that, applicants course taken was justified, still the application lacks explanation on what was happening from 11/3/2021 when she wrote a letter to the MP, to 31/12/2021 the date this application was filed. The Court of Appeal in **Ludger Benard Nyoni V National Housing Corporation**, Civil Application No. 372/01 of 2018 (Unreported) Cited with approval the decision in **Uitenhage Transitional Local Council V South African Revenue Service**, 2004 (1) SA 292 stating that;

"Condonation is not to be had merely for the asking; a full detailed and accurate account of causes of the delay and its effects must be furnished so as to enable the Court to understand clearly the reasons and to assess the responsibility"

To say the least, applicant's application is both deficiency of sufficient reasons and an account for the delay. The only option available is to dismiss the application with no order as to costs.

DATED at **Shinyanga** this 10th day of **JUNE** 2022.


E.Y. MKWIZU

JUDGE

10/0/2022