

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

IN THE DISTRICT REGISTRY OF MUSOMA

AT MUSOMA

LABOUR APPLICATION FOR INTERPRETATION No. 7 OF 2022

*(Arising from High Court (Musoma District Registry) in Labour Revision
No. 11 of 2020 & Labour Execution Case No. 56 of 2020; Originating
from the Commission for Mediation and Arbitration for Mara at Musoma
in Labour Dispute No. CMA/MUS/139 & 140 of 2017)*

KIRIBO LIMITED APPLICANT

Versus

1. SIMON MWITA MLAGANI
2. MANG'ENG'I MONATA } **RESPONDENTS**

RULING

06.09.2022 & 06.09.2022

Mtulya, J.:

This court on 26th November 2020 had resolved **Labour Revision No. 11 of 2020** (the revision) in favour of the respondents and finally ordered that:

...the respondent [Kiribo Limited] to pay compensation to each applicant, of 12 months remuneration subject to statutory deductions for unfair termination. The applicants are also entitled to other terminal benefits and they are entitled up to 1st May 2019, when the respondent terminated them.

Following the order, the respondents preferred **Labour Application for Execution Case No. 56 of 2022** (the execution) and claimed 137, 928,162.00Tshs, which was protested by the applicant's learned counsel Mr. Baraka Makowe, contending that the respondents declined to show how they have arrived into the figure and in any case the figure is not supported by the judgment or decree.

In showing the applicant's grievances, Mr. Makowe decided to lodge the present application asking this court to interpret the order of the court in the revision delivered on 26th November 2020. The application was preferred under the provisions of rules 48 (8), 24(1) & (2) (a)-(d) and 24 (11) of **the Labour Court Rules**, GN. No. 106 of 2007 (the Rules).

Today afternoon, when Mr. Makowe was invited in this court to explain on grievances of his client, he briefly stated that the record of the **Commission for Mediation and Arbitration for Mara at Musoma** (the Commission) in **Labour Dispute No. CMA/MUS/139 & 140 of 2017** (the dispute), which was resolved in the revision, shows that the respondents' salaries is 2,193,810/=Ths. and severance allowance of 511,

889/=Tshs., subject to statutory deductions. According to Mr. Makowe, the respondent instead of claiming a sum of 48,651,440/Tshs. in the execution, they pressed a total of 137,928,162.00Tshs. In order to bolster his argument, Mr. Makowe cited the authority of the Court of Appeal precedent in **National Insurance Corporation & Another v. Sekulu Construction Company** [1986] TLR 157 on divergence between the sum decreed as due and the sum allowed in execution proceedings.

On the other hand Mr. Paulo Obwana, learned counsel for the respondents conceded that the respondents displayed salary in the record of the Commission in the dispute to be 2,193,810/=Tshs. for one respondent plus two (2) items of severance amounting to 511,889/=Tshs. and annual leave of 2,193.810/Tshs. In his opinion, Mr. Obwana submitted that the total calculation for the two (2) respondents in terms of twelve (12) months' salaries (52,651,440/=Tshs.), severance allowance (1,123,770/=Tshs.) and annual leave payment (4,388,620/=Tshs) totaling a grand sum of 58,163,830/=Tshs.

Regarding the cited precedent in **National Insurance Corporation & Another v. Sekulu Construction Company** (supra), Mr. Obwana distinguished it with the present

application arguing that the amount stated in the ruling of the revision is similar to that displayed in the decree and corresponds with the claims of the respondents. In a brief rejoinder, Mr. Makowe submitted that he cannot dispute further on the order and leaves it to this court to interpret the order and grant appropriate figure to the respondents.

I have consulted the record and decision of the Commission delivered on 23rd March 2020 and perused the precedent of the Court of Appeal in **National Insurance Corporation & Another v. Sekulu Construction Company** (supra), and found out that there is no, as such, a dispute that invites interpretation of this court. However, as this court is asked to state exact figure to the respondents, I think, in my considered opinion, the record in CMA-F.1 and page 20 of the Award of the Commission provides it all. It is obvious that the order must be interpreted as per record of the dispute in the Commission.

The claims as per record is 2,193,810/=Tshs for salary, 511,889/=Tshs. for severance and 2,193,810/=Tshs for annual leave payment for each respondent. As per this court's order delivered on 26th November 2020, the respondents claim a total

amount of 58,163,830/=Tshs. and hereby order the same be paid to the respondents by the applicant. As this is a labour dispute, I order no costs. Each party shall bear its costs.

Ordered accordingly.



A blue ink signature of F. H. Mtulya, written in a cursive style with a long horizontal stroke extending to the left.

F. H. Mtulya

Judge

06.09.2022

This ruling was pronounced in chambers under the seal of this court in the presence of the first respondent, Mr. Simon Mwita Mlagani, and his learned counsel Mr. Paulo Obwana and in the presence of the applicant's learned counsel Mr. Baraka Makowe.

A blue ink signature of F. H. Mtulya, written in a cursive style with a long horizontal stroke extending to the left.

F. H. Mtulya

Judge

06.09.2022