

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**MUSOMA DISTRICT REGISTRY**  
**AT MUSOMA**

**LABOUR APPLICATION NO. 30 OF 2021**

*(Arising from Labour Revision No. 13 of 2021 in the High Court of Tanzania at Musoma)*

**BETWEEN**

**ALEX SITUMBURA ..... APPLICANT**

***VERSUS***

**MOHAMED NAWAYI ..... RESPONDENT**

**RULING**

*16<sup>th</sup> August & 29<sup>th</sup> September, 2022.*

**A. A. MBAGWA, J.:**

This is an application for extension of time within which to file Labour Revision in respect of Labour Dispute No. CMA/MUS/208/2020.

The application has been made by way of notice of application and chamber summons premised under rule 24 (1), (2) (a), (b), (c) (d), (e) and (f) and (3) (a), (b), (c), (d), rule 55 (1) and rule 56 (1), (2) and (3) of the Labour Court Rules, 2007 G.N No. 106 of 2007. The application is supported by affidavit affirmed by Alex Situmbura, the applicant.

In reply, the respondent opposed the application through the notice of opposition made under rule 24 (4) (a) and (b) of the Labour Court Rules, G.N No. 106 of 2007. The notice of opposition is accompanied by a counter affidavit deposed by the respondent's counsel, Ernest Alfred Mhagama.

A brief background of the matter is as follows. In October, 2020 the applicant filed the Labour Dispute against the respondent at the Commission for Mediation and Arbitration (CMA) at Musoma in CMA/MUS/208/2020. The dispute was resolved in favor of the respondent. Dissatisfied with the award of the (CMA), the applicant filed before this court Labour Revision No. 13 of 2021 (F. H. Mahimbali, J). The matter was, however, struck out on 21<sup>st</sup> December 2021 for being incompetent as the applicant failed to file the notice of representation contrary to the mandatory dictates of the law.

Owing to the fact that the applicant is still determined to impugn the award of the Commission for Mediation and Arbitration, he has filed this application to seek extension of time within which to refile the revision.

During the hearing of this application, the applicant appeared in person, unrepresented while the respondent had the services of Ernest Mhagama, the learned advocate.

Submitting in supporting of his application, the applicant adopted his affidavit to form part of his submission and prayed the court to allow his application so that the intended revision can be heard on merits.

In reply, Mr. Mhagama prayed to adopt the respondent counter affidavit to form part of his submission. The respondent's counsel was in total

opposition of the application. He argued that the reason for opposing the application is premised under paragraph 8 of the counter affidavit that the applicant has not counted for each day of delay.

Mr. Mhagama further strongly disputed the applicant's contention that he has chances of success in the intended labour revision if this application is granted. The Counsel also dismissed the applicant's claims that the award of CMA is tainted with illegalities. He thus, prayed the application be dismissed for want of merits.

Rule 56 (1) of the Labour Court Rules, GN No. 106 of 2007 provides as here under: -

***"The court may extend or abridge any period prescribed by these rules on application and on good cause shown, unless the court is precluded from doing so by written law".***

The question calling for determination is whether the grounds adduced by the applicant constitute good cause for extension of time to file the intended Labour Revision out of the prescribed time.

Through his affidavit, the applicant adduced three grounds for extension of time as follows;

1. That CMA award is tainted with serious illegalities.
2. That there is technical delay.

3. That there are great chances of success in the intended Labour Revision.

It has been amply demonstrated by the applicant in the affidavit that the first application i.e, Labour Revision No. 13 of 2021 was filed in time but later it was struck out for being incompetent on technical grounds.

It is a settled law that where technical delay is pleaded as ground for extension of time, such delay is excusable as it constitutes a sufficient reason for granting the prayed extension of time. See **Salvand K. A. Rwegasira vs China Henan International Group Co. Ltd**, Civil Reference No. 18 of 2006, CAT at Dar ss Salaam (Unreported), **Yara Tanzania Limited vs DB Sharpriya and Co. Limited**, Civil Application No. 498 of 2016, CAT at Dar es Salaam (unreported), **Zahara Kitindi and another vs Juma Swalehe and 9 others**, Civil Application No. 4 of 2005 (unreported) and **Bharya Engineering and Contracting Co. Ltd vs Hamoud Ahmad @ Nassor**, Civil Application No. 342/01 of 2017, CAT, at Tabora (unreported).

In view of the foregoing, it is common cause that the time which the applicant spent in pursuing Labour Revision No.13 of 2021 amounted to technical delay and should, therefore, be excluded in the computation.


Furthermore, it is clear that the applicant promptly filed this application i.e, two days after the previous application was struck out i.e, 23<sup>rd</sup> December, 2021. This, in my opinion, exhibits the applicant's punctuality and promptness.

In the circumstances, it is my considered opinion that the applicant has established technical delay as a reason for his delay which, on its own, is a sufficient cause. As such, the issue posed herein above is answered affirmatively that, the applicant has adduced sufficient reasons in the matter at hand for this court to grant the application. I accordingly grant the application.

The applicant should file the intended application for revision within thirty (30) days from the day hereof. I make no order as to costs since this is a labour matter.

It is so ordered.



  
**A. A. Mbagwa**

**JUDGE**

**29/09/2021**