

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
LABOUR DIVISION
AT ARUSHA

MISC. LABOUR APPLICATION NO. 42 OF 2022

(Arising from Labour Dispute No. CMA/ARS/ARS/483/19/274/19)

JEROME MAEDAAPPLICANT

VERSUS

NEW ARUSHA HOTEL LTD.....RESPONDENT

RULING

10/10/2022 &10/10/2022

GWAE, J

This ruling emanates from the application for extension of time filed by the applicant, Jerome Maeda under Rule 24 (1), (2) (a), (b), (c), (d) (e) and Rule 24 (3) (a, (b), (c) (d) and Rule 56 (1) & (3) of the Labour Court Rules, GN. 106 of 2007 in order that he can be able to file an application for revision to the court.

It is revealed from the applicant's sworn affidavit that, the applicant initially filed the application for revision within the prescribed period and the same was registered as Revision Application No.93 of 2021. The applicant's application for revision was however struck out on 21st June day of June 2022 due to being incompetent

Subsequent to the order of this court (**Philip, J**) striking out the applicant's application, on 6th July 2022 the applicant had physically filed this application for extension of time. On 10th day of October 2022, when this application was called on for hearing, one Miss Flora Okombo and Mr. Wilson Appeared as advocates of the High Court and courts subordinates thereto representing the applicant and respondent, New Arusha Hotel Limited respectively. The learned counsel for the respondent did not object by stating that, the applicant's delay is technical.

Examining the applicant's affidavits and annexed documents, it is clear that, the applicant's former application for revision was struck out due to technical fault. However, the applicant immediately thereafter filed this application. it is lucidly clear that from 21st June 2022 to 6th July 2022, there is a delay of about 14 days. Nevertheless, this court considers also a period when this application was electronically filed though the applicant did not state to that effect during hearing of this application. However, I am of the considered view that as a matter of practice, this application must have been electronically submitted and electronically admitted by the applicant and Deputy Registrar of the Court. It is thus my considered opinion that, the applicant's delay delay is not inordinate as was rightly stressed in the case of **Loshilu Karaine and thre others vs. Abraham**

Melkizedeck Kaaya (Suing as a legal representative of Gladness Kaaya),
Civil Application No. 140/02/ of 2018 (unreported-CAT) where at page 12
it was held that;

*"That, unexpected and unforeseen event definitely
needed re-organization and, to be fair, period of eleven
days cannot be said to be inordinate in preparing and
lodging the present application".*

I have further considered that the delay from when this application
was filed to when the applicant's former application for revision was filed
is a technical one as he is not the one to blame since the matter (former
application was pending in this court. I am fortified by the decision of
Court of Appeal in **Fortunatus Masha vs. William Shija & another** [1997]
TLR 154 where it was held;

*"...I am satisfied that a distinction should be made
between cases involving real or actual delays and those
like the present one which only involve what can be called
technical delays in the sense that the original appeal was
lodged in time but the present situation arose only
because the original appeal for one reason or another has
been found to be incompetent and a fresh appeal has to
be instituted. In the circumstances, the negligence if any
refers to the filing of an incompetent appeal not the delay
in filing it. The filing of an incompetent appeal having
been duly penalized by striking it out, the same cannot*

be used to determine the timeousness of applying for filing the fresh appeal."

of Appeal in


In our instant application, it is therefore clear that the delay when the former application for revision was pending in this court is legally excusable as demonstrated in the case of **Fortunatus** (supra) In these circumstances, this is enjoyed to exercise its discretion by granting this application in favour of the applicant.

Accordingly, I find the merit of this application and order that, the applicant is granted **ten (10)** days from the date of the delivery of this ruling within which to file an application for the intended revision. Costs of this application shall in the course.

It is so ordered.

DATED at Arusha 10th October 2022




M. R. GWAE
JUDGE
10/10/2022