

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

**LABOUR REVISION NO 09/2021**

(Arising from Labour Dispute reference CMA/KIG/219/2021 of Kigoma Commission for Mediation and Arbitration, at Kigoma)

**REHEMA TIMOTH MKAMA .....APPLICANT**

**VERSUS**

**EDWARDINA DANIEL (Administratrix of the Deceased Employer  
the late DANIEL SINYO BONYO) ..... RESPONDENT**

**JUDGMENT**

27/9/2022 & 6/10/2022

**L.M. Mlacha,J**

The applicant, Rehema Timothy Mkama filed an application for revision against the decision of the Commission for Mediation and Arbitration for Kigoma (the CMA) made in CMA/KIG/219/2021 refusing to extend the time within which she could file an application to enforce her claim for unpaid salaries. The application is accompanied by an affidavit sworn by Masendeka Anania Ndayanse stating the grounds upon which the revision is sought. The award of the CMA was attached in the affidavit for easy of reference. The respondent Edwardina Daniel (Administratrix of the deceased employer, the late Daniel Sinyo Bonyo) was duly served and filed

a counter affidavit in opposition. The applicant is represented by Mr. Kagashe while the respondent is represented by Mr. Daniel Rumenyela. Hearing was done by written submissions.

The record shows that the applicant worked at a business of the late Daniel Sinyo Bonyo described as 'Bar – Guest house'. She worked from 2001 up to 2020 when Mr. Daniel passed away. She was also her girlfriend. Following the death of Mr. Daniel, the respondent went to Ujiji Primary Court in probate cause No. 52/2020 seeking appointment. The applicant came to object alleging to be a co- wife without success. The matter went to the district court with no fruits. Using the services of Mr. Ndayanse she decided to go to the CMA to claim her salaries for 19 years saying she worked without pay for all the years. Knowing that she was late, she started with an application for extension of time saying she was held up at the primary and district court. The CMA had the view that the applicant was supposed to account for the delay starting from the date when the salaries were due, that is 19 years ago. There was no account made. It did not see good reasons to justify the delay. It dismissed the matter hence the application for revision.

It was the submission of the applicant that the cause of action arose on 31/5/2020 when the late Daniel Sinyo Bonyo passed away and not in 2001 when she was employed as held by the CMA. Counsel for the applicant submitted that her delay thereafter was justified because she had to wait for the appointment of an administrator and processes which followed. He argued the court to allow the application. The respondent maintained her earlier position that the cause of action rose in 2001 and not on the date of death of the employer. She argued the court to find that there was no account for the delay over the years and dismiss the application.

I had time to read the records and submissions closely. I must admit that this case has unique facts. It is a case of its own. The applicant says that she was a concubine of the deceased who was also her employer for 19 years. She is telling the court that she could not be paid salaries in the period and is now pushing the wife of the deceased to pay her. She is doing so after failing to get a share of inheritance at the primary court as a co-wife. She sued the respondent first as a co-wife and now as her employer, the successor of 'their husband'. She asked the CMA to extend the time so that she could sue her new employer, the wife of the

deceased, to get what she could not get from her old boyfriend, the deceased. She is late and is seeking extension of time.

In an application for extension of time, the applicant has to give good reasons to justify the delay short of which the court should exercise its discretion to reject the application. See **Magnet Construction Ltd v. Bruce Wallace Jones**, (CAT) Civil Appeal No. 459 of 2020.

Now can we say that she had justifiable reasons to delay to lodge her claim for unpaid salaries? Is it correct to say that her cause of action for unpaid salaries arose at the death of the deceased? These are the key questions at this stage. Having considered the matter carefully, I agree with the CMA that the cause of action for unpaid salaries arose from 2001 when the same were due for payment for each salary was supposed to be claimed when it fell due. It was not correct therefore to say that the cause of action arose at the date of death. No account for delay was given over the period of 19 years. That also applied for the period which followed because the applicant moved to the primary court to object the case while knowing that that she was not a wife but an employee.

Before going to rest my pen, a word may be useful for future guidance. The applicant has been a cause of unrest to the respondent for many years. There is every reason to tell her '*basi, imetosha*', stop, it is enough. She was a problem during the life of the deceased for 19 years. She was a problem at the primary and district court. She should now stop for her course is illegal and has serious pains to the respondent. Neither should any one of us take a route towards assisting her to add pains to the respondent. I think she must have had some benefits from the deceased. It is now time to take another route.

That said, like the CMA, I see no reason for extending the time because there has been no account for each day of delay as required by the Law. I find the application baseless and dismiss it. It is ordered so.



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**L.M. Mlacha**

**Judge**

**6/10/2022**

**Court:** Judgment delivered. Right of Appeal Explained.



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**L.M. Mlacha**

**Judge**

**6/10/2022**

ORIGINAL