

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE DISTRICT REGISTRY OF ARUSHA**

**AT ARUSHA**

**REVISION NO. 46 OF 2022**

(Originated from the Award of the Commission for Mediation and Arbitration at  
Arusha, Dispute No. CMA/ARS/ARS/279/20/153/201)

**KALELA SAID MOHAMED & 2 OTHERS ..... APPLICANT**

**VERSUS**

**MOUNT KILIMANJARO SAFARI CLUB.....RESPONDENT**

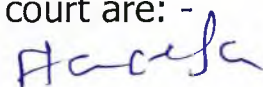
**RULING**

14/09/2022 & 21/10/2022

**MWASEBA, J.**

This is an application for Revision. It accrues from the Labour Dispute No. CMA/ARS/ARS/279/20/153/201 decided by the Commission for Mediation and Arbitration of Arusha. Aggrieved by the award given by the Arbitrator, Hon. Lomayan Stephano, the applicants have come to this court and filed this application for Revision of the award given by the Arbitrator on 16/07/2021.

The orders sought by the Applicants before this court are: -

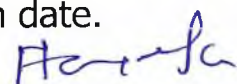


1. That, the Hon. Court may be pleased to call for record and revise the decision in CMA/ARS/279/20/153/20.
2. Any other relief that this court may be pleased to grant any order that it considers just and convenient to grant.

Prior to the hearing of the application the counsel for the respondent raised five (5) points of preliminary objection to wit:

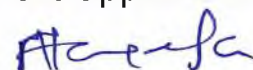
1. That, the Application is incurably defective for being time barred.
2. That, the application is defective for containing a misjoinder of parties.
3. That, the Application is incurably defective for being accompanied by improperly procured affidavit.
4. That, the Application is defective for containing defective verification clause.
5. That, the application is incurably defective for not containing issued contrary to the provision of rule 24 (3) (c) and 24 (3) (d) of the Labour Court Rules GN No. 106 of 2007.

When the application was called for mention on 10/08/2022 both the applicant and the respondent agreed to proceed with hearing of the raised preliminary objection by way of written submission and the court granted their prayer. Surprisingly, it was only the respondent who filed her submission supporting the raised points of preliminary objection. The applicant defaulted appearance despite of being aware with the scheduling dates of filing their submissions and mention date.



Clarifying the first ground of objection, it was the respondent's submission that the application is incurably defective for being time barred. She submitted further that the award of the CMA was delivered on 16/07/2021 and the current application was filed on 06/07/2022. It is the requirement of **Section 91 (1) (a) and (b) of the Employment and Labour Relations Act**, Cap 366 R.E 2019 that a revision against a CMA award has to be filed within six weeks from the day the award was delivered. Counting from 16/07/2021 up to when the present application was filed there are more than 11 months which was lapsed.

More to that prior to the filling of this application, the applicants filed Revision No. 79 of 2021 on 23/08/2021 before Hon. Phillip J which was struck out on 24/05/2022 on procedural irregularities with leave to refile within 30 days. However, the current application was filed on 06/07/2022 while the 30 days had already lapsed without any leave of the court. Thus, being guided by **Section 3 of the Law of Limitation Act**, Cap 89 R.E 2019, the consequence for filling an application out of time is dismissal. The same was held in the case of **NCBA Bank of Tanzania Limited Vs TACAS Limited and 2 Others**, Misc. Civil Application No. 1 of 2021 (HC-Unreported). Therefore she prays for the dismissal of the application.



Having heard the submission made by the respondent's counsel, the main issue for determination in this ground is whether the application is time bared.

In this application the respondent argued that an award of the CMA was delivered on 16/10/2021 and the first revision was filed on 23/08/2021 which was struck out on 24/05/2022 due to procedural irregularities with leave to refile within 30 days. However, the current application was filed on 06/07/2022 out of the 30 days which were ordered by the court. Thus, counting from 24/05/2022, 30 days came to an end on 25/06/2022 therefore on 06/07/2022 the applicants were late for 11 days and filed the application out of time without the leave of the court. More to that, even their affidavit supporting the application is silent regarding the delay of 11 days.

It should be noted that court orders must be complied with. This was well stated in the case of **Abrahamani Kinana Vs. Peter Msigwa MP**, Civil Case No. 108/2013, Dar es Salaam, District Registry (unreported) cited with approval in the case of **Shirika la Usafiri Dar Es Salaam Ltd vs Abbas Kingwaba & Others** (Revision 355 of 2018) [2020] TZHCLD 189 (TanzLii) in which it was held that:



*"Court orders should be complied forthwith. None compliance is not only a sign of disrespect, but, create chaos in the entire administration of justice."*

Being persuaded by the cited authority this court do concur with the respondent's counsel that the application was filed out of the prescribed time ordered by the court on 24/05/2022 for more than 11 days.


Since the first ground of objection disposes of the matter, I find no need to determine the rest of the grounds.

From the foregoing, I find that this application is time barred for being filed out of time and without leave of the court. The same is hereby dismissed with no order as to costs as this is a labour dispute.

Ordered accordingly.

**DATED** at **ARUSHA** this 19<sup>th</sup> day of October 2022.



  
**N.R. MWASEBA**

**JUDGE**

**19/10/2022**