

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT ARUSHA

REVISION APPLICATION NO.28 OF 2019

*(C/F Employment Dispute No. CMA/ARS/ARB/203/2015) at the Commission for
Mediation and Arbitration at Arusha)*

NGORONGORO CONSERVATION AREA AUTHORITY APPLICANT

VERSUS

AMIYO TLAA AMIYO.....1ST RESPONDENT

JUSTICE MUUMBA.....2ND RESPONDENT

JUDGMENT

Date of last order: 27-4-2022

Date of judgment: 6-5-2022

B.K.PHILLIP,J

This application is made under the provisions of Rule 24(1), (2) (a) (b) (c) (d) (e) (f), (3) (a) (b) (c) (d) , 28 (1) (a) (b) (c) (d) and (e) of the Labour Court Rules, G.N. No. 106 of 2007 and sections 91 (1) (a), (2) (b) (c) and 94 (1) (b) (i) of the Employment and Labour Relations Act, 2004 (Act No. 6 of 2004). The applicant prays for the following orders;

- i) That this Honourable Court be pleased to call for the records , proceedings and award of the Commission for Mediation and Arbitration at Arusha, Hon. Mourice Egbert Sekabila- Arbitrator, dated 14th March 2019 in Labour Dispute No. CMA/ ARB/203/2015 revise , quash and set aside the award.

- ii) Costs of this application be provided for.
- iii) Any other relief and /or further orders the Court may deem just to grant.

The application is supported by an affidavit affirmed by Dr. Freddy Safiel Manongi, the applicant's Conservator. The application is contested. The learned Advocate Method K. Kimomogoro swore a counter affidavit in opposition to the application.

A brief background to this case is as follows; That the 1st respondent was employed by the applicant in 1993 as a research Assistant Grade II . He was promoted to a number of positions up to a Manager Conservation Service. The 2nd respondent was employed as a Wildlife Veterinarian and was promoted to a Community Development Manager. In the year 2013, there were allegations of embezzlement and misappropriation of the applicant's funds. Consequently, the Minister for Nature Resources and Tourism appointed a Special Audit Team to carry out Special Audit at the applicant's office. Following the Special Audit, a report was prepared in which the respondents were implicated in the alleged embezzlement and misappropriation of the applicant's funds. Later on, they were charged of a number of offences before a disciplinary committee and found guilty of some of the offences. Consequently, they were demoted and ordered to pay back to the applicant a sum of USD 8,032 and USD 5,600 respectively. Being aggrieved by the aforesaid decision of the disciplinary Committee, the respondents lodged their complaints at the Commission for Mediation and Arbitration at Arusha, (Henceforth " the

CMA") .The respondents were the complainants at the CMA whereas the applicant was the respondent.

At the hearing of the respondents'/ complainants' complaints, the Arbitrator framed the following issues for determination ;

- i) Whether the complainants' demotion was procedurally fair.*
- ii) Whether the complainants' demotion was substantively fair.*
- iii) Whether the respondent lawfully ordered the complainants to refund the sum of USD 8,032 and USD 5,600.*
- iv) Whether the respondents have been constructively terminated.*
- v) Whether the complainants are entitled to damages for tort.*
- vi) To what reliefs both parties are entitled .*

On 14th March 2019, the Arbitrator delivered his award and ordered as follows;

- i) That the complainants' demotion was procedurally unfair.
- ii) That the complainants' demotion was substantively unfair.
- iii) That the respondent unlawfully ordered the complainants to refund the sum of USD 8,032 and USD 5,600 respectively.
- iv) That the complainants have been constructively terminated by the respondent from 11th August 2018.
- v) That the complainants are not entitled to damages for tort.
- vi) That the respondent to pay Amiyo Tlaa Amiyo Tshs 553,769,380/= and Justice Muumba Tshs 480,358,612/= covering remuneration arrears, 12 months remuneration compensation for unfair termination, and other terminal benefits as per the Act,

staffs regulations and Collective Bargaining Agreement. In relation to claims for GEAS, the respondent has to comply with Regulation 3.11.4 of her staffs Regulations to ensure Amiyo Tlaa Amiyo is compensated what is dutiful to him from the fund.

- Vii) That the respondent to issue to the complainants certificate of service as per the law.
- Viii) That the respondent has to comply with order (Vi) herein above within twenty (21) days from the day of the order.

The grounds for this revision are stated in paragraph 11 of the affidavit in support of this application, to wit;

- a) That the Arbitrator erred in law and fact in entertaining the dispute on unfair demotion/constructive termination without the applicants/complaints filling in part B of the CMA Form No.1.*
- b) That the Arbitrator erred in law in not dismissing the dispute on unfair demotion /constructive termination for want of the applicants /complainants resignation.*
- c) That the Arbitrator erred in law in applying the provisions of the Public Service Regulations in finding that there was procedural unfairness for contravention of Regulation 38(3) which prohibits amendment of charges beyond thirty days and Regulation 47(3) for not informing the applicants /complaints their right to have an advocate.*

- d) *The Arbitrator erred in law in finding that the demotion was procedurally unfair for having a secretariat outside the disciplinary committee members while there is no any law barring the same.*
- e) *The Arbitrator erred in law in finding that the hearing was procedurally unfair for want of investigation report while the applicants/ complainants were availed with all necessary requisite documents extracted from the report which were relevant to the disciplinary charges.*
- f) *That the Arbitrator erred in his evaluation of the evidence on Count No.5 and arrived to a wrong conclusion that the 1st respondent was not guilty while there are sufficient evidence on record to prove him guilty.*
- g) *That the Arbitrator improperly evaluated evidence and testimony of the parties in respect of count No.7 against the 1st respondent herein and arrived at a wrong conclusion that the said count was not proven by the applicant herein while there is ample evidence on record sufficient to prove guiltiness of the 1st respondent on count No.7.*
- h) *The trial Arbitrator erred in law and fact in his evaluation of evidence on Count No.14 against the 2nd respondent and thereby arrived at a wrong conclusion that is he is not guilty while there are evidence on the record proving the 2nd respondent guilty .*
- i) *The Arbitrator erred in law in awarding the respondent herein salary difference from November 2015 to November 2016 without proving that their salary had increased.*

- j) That the Arbitrator erred in awarding the respondent unpaid salaries from December 2016 to 11th August 2018 which their date of constructive termination while respondent had not worked for it.*
- k) That the Arbitrator erred in awarding the respondent herein terminal benefits while they have neither been terminated nor resigned.*

I ordered the application to be disposed of by way of written submissions. The learned Senior State Attorney Peter J. Musetti filed the submission for the applicant whereas the learned Advocates Emmanuel Sood and Method Kimomogoro filed the submission for the respondents.

In the determination of the grounds of revision, I will deal with the 1st and 2nd grounds conjointly since the arguments raised by the learned Senior State Attorney and, Mr. Sood and Mr. Kimomogoro, learned counsel in respect of the aforesaid grounds of revision are intertwined.

Starting with the 1st ground of revision, that is, *the Arbitrator erred in law and fact in entertaining the dispute on unfair demotion/constructive termination without the applicants/complaints filling in part B of the CMA Form No.1*, the learned Senior State Attorney, Mr. Peter Musetti argued that it is apparent on the CMA Form No. 1 lodged by the complainants (the respondents herein) at the CMA that the same was not filled in part B as required by the law for a complaint/case on unfair termination. He contended that it was mandatory for the respondents to fill in part B of the CMA Form No. 1 because the respondents themselves indicated in the

CMA Form No.1 that the nature of their claim/ dispute was demotion /constructive termination (forced resignation).He went on submitting that in his award the Arbitrator observed that part B of the CMA Form No.1 was not completed/filled , but surprisingly he came up with an irrational observation that the respondents were justified in not filling part B of the CMA Form No.1 because their complaints were not on unfair termination while the respondents' complaints and reliefs sought were among other things , compensation for constructive termination and in his award the Arbitrator granted the respondents 12 months remuneration after a making a finding that there was constructive termination of the respondents' employment .

Furthermore, he submitted that the respondents' complaints before the CMA fell under section 88 (1) (b) (i) of the Employment and Labour Relations Act (hence forth "The ELRA") and according to section 36 (a) (i) –(v) of the ELRA and Rule 71(1) of the Employment and Labour Relations (Code of Good Practice) Rules, 2007 termination of employment includes constructive termination (forced termination) due to unfair demotion. Mr. Musetti, insisted that the applicant had no concern with the CMA's jurisdiction to entertain the matter but the competency of the dispute on unfair termination which preferred without filling in part B of the CMA Form No.1.He invited this Court to hold that the respondents' claims /complaints before the CMA were incompetent for failure to fill in part B of the CMA Form No.1.

In rebuttal, the learned advocates , Mr.Emmanuel Sood and Mr. Method Kimomogoro submitted that looking at the information filled in by the

respondents in CMA Form No.1, it is clear that the respondents' cause of action was unfair demotion. They contended that the claim for constructive termination was just added as an alternative. They went on submitting that the next sub item in item 3 of the CMA Form No. 1 in which the respondents summarized the facts of the disputes/complaints it is stated that the respondents' complaints/claims were demotion due to unfounded reasons and unprocedural process from relieve of work to demotion, and refund of USD 8034 (on part of the 1st respondent) and USD 5600 (on part of the 2nd respondent). Mr. Sood and Mr. Kimomogoro were emphatic that the respondents did not fill in part B of CMA Form No. 1 because their complaint were on unfair demotion not unfair termination.

Furthermore, Mr. Sood and Mr. Kimomogoro refuted Mr. Musetti's contention that constructive termination is sort of unfair termination on the ground that if that was the case, the legislature would have articulated it in a clear, unambiguous and unequivocal way. To cement their arguments they cited the case of **Beatrice Dindi Odhiambo Vs Ranger Safari Limited Labour Revision No. 37 of 2019**(unreported)

Coming to the second ground of revision, that is, *the Arbitrator erred in law in not dismissing the dispute on unfair demotion /constructive termination for want of the applicants /complainants resignation*, Mr. Musetti argued that it is a condition precedent that for an employee to successfully institute a dispute on constructive termination, the employee

must first resign from employment with or without notice. Citing the provisions of Rule 7(1) (3) of GN.No.42 of 2007, he insisted that for a claim for constructive termination to be tenable, there must be a resignation prompted by the employer's creation of unfavorable working condition which makes employment intolerable to an employee. To cement his arguments he cited the case of **Stantley Jabulani Fakude Vs Spornet and others (JR 1327/06) [2010] ZALC 189**. Mr. Musetti submitted that in the instant case the respondents' complaint before the CMA were "*Demotion/Constructive Termination (forced Resignation)*" but neither the 1st respondent nor the 2nd respondent resigned from employment. He contended that the respondents' claims were supposed to be dismissed for being untenable and incompetent. The applicant raised a point of preliminary objection before the CMA to that effect, but the Arbitrator wrongly dismissed it. Mr. Musetti was of the view that in dismissing the applicant's point of preliminary objection on the tenability and competency of the respondents' claim the Arbitrator wrongly relied on the provision of section 6(2) (b) of GN.No.42 of 2007, which just provides that an employee may resign by giving a notice of termination or without notice and does not talk about a resignation letter which was the gist of the objection raised by the applicant's advocate.

In rebuttal, Mr.Sood and Mr. Kimomogoro submitted as follows;That unfair demotion and constructive termination are two different causes of action and in proving them different elements are required to be presented before the CMA. They maintained that the cause of action that was indicated in the CMA Form No. 1 is unfair Demotion. The Arbitrator

was justified in entertaining the respondents claim as well as the claim for constructive termination which arose in the middle of the CMA proceedings following the applicant's accusation against the respondents that they absconded from work. Mr. Sood and Mr. Kimomogoro referred this Court to Exhibits P25, P16, P17, D13, D12, D11 and D10, to bolster their arguments. Furthermore, they argued that practically it was not possible for the respondents to continue attending to work while they were challenging their demotion. The applicant erred to accuse the respondents of absconding from work. What the applicant could have done was to seek an interim order from the CMA requiring the respondents to attend to work pending the determination of their complaints. They insisted that the issue on constructive termination arose in the middle of the CMA proceedings and the Arbitrator gave the parties the right to address the same.

Moreover, Mr. Sood and Kimomogoro refuted Mr. Musetti's contention that resignation of an employee is a condition precedent for the claim for constructive termination to be entertained. They contended that Mr. Musetti gave a narrow interpretation of the provisions of Rule 7(1) of GN.No. 42 of 2007 and did not take into consideration the provisions of Rule 6 (2) (3) of GN.No. 42 of 2007 which provides that an employee may resign by giving a notice of termination or without notice if the employer has materially breached the contract. They pointed out that according to Rule 6 (4) of GN.No. 42 of 2007, conducts which can amount to material breach of contract of employment and may justify a summary termination of the contract of employment by employee includes among

others the refusal to pay wages. Mr. Sood and Mr. Kimomogoro, held a strong view that the applicant breached the contract of employment by denying the respondents their salaries from December 2016 to date .Therefore the claim for constructive termination was proper before the CMA.

Having dispassionately analyzed the rival arguments made by the learned State Attorney and learned Advocates, I noted that the same are hinged on the contents of the CMA Form No.1. Upon perusing the CMA Form No.1 filed by each respondent at the CMA, in particular the first part of item No.3 in which the respondents were supposed to state the nature of the dispute, I noted that in both forms the same reads as follows;

" Demotion and /or constructive termination (forced resignation)"

The second part of item 3 thereto in which the respondents were supposed to summarize the facts of the dispute, in both forms the same reads as follows;

"i) Demotion due to unfounded reasons and unprocedural process from relieve of work to demotion and refund of USD 8034 (for the 1st respondent ,USD 5600 (for the 2nd respondent) "

In item 4 of CMA Form No.1 in which the respondents were supposed to state the relief sought before the CMA , the 1st respondent stated as follows;

"(i) Retirement at 55 years as Manager Conservation Services (MCS)

Because I am due for this year OR

(ii) Unconditional reinstatement to my former position as MCS.

(iii) Damage for defamation and psychological torture for this

Constructive termination.

(iv) Refund of USD 8032 to NCAA be revoked out right".

And the 2nd respondent stated as follows;

(i) "Unconditional reinstatement to my position as Manager Community Development (MCD) OR

(ii) Retirement with benefits as per the laws of the Land, Collective bargaining agreement (CBA) and Staff Regulations AND

(iii) Compensation for Constructive termination.

(iv) Damages for defamation and Psychological Torture

(v) Refund of USD 5600 to NCAA be revoked outright."

Looking at the nature of the dispute and the reliefs sought as indicated in the CMA Form No. 1, the respondents' claims were either *"unfair Demotion or constructive termination or both that is, unfair Demotion and constructive termination"*. Thus, the claim for constructive termination could stand on its own. Likewise, the claim for unfair demotion could stand on its own too. In my opinion what can be deduced from the information

filled in item 3 and 4 of the CMA Form No. 1 is that the respondents were not certain on what they really wanted to claim as between unfair demotion and constructive termination (forced resignation) . Looking at the way the CMA Form No.1 was filled in by the respondents, I am of a settled opinion that Mr. Sood's and Mr. Kimomogoro's contention that the claim for constructive termination was just an alternative to the claim for unfair demotion is unfounded because it is not supported by what is filled in the CMA Form No.1 by the respondents.

I have also noted that the particulars in part one of item 3 of the CMA Form No.1 which requires a complainant to state the nature of the dispute do not match with what is stated in the second part of Item 3 which requires the complainant to summarize the facts of the dispute . The respondents gave facts in respect of the complaint for unfair demotion only. No explanations were given for the complaint on constructive termination (forced resignation). And this where the confusion and legal quagmire on the respondents' claims arose. I am saying so because, relying on the contents of the second part of item 3, Mr. Sood and Mr. Kimomogoro contended that the respondents' claim was on unfair demotion whereas Mr. Musetti is relying on the contents of the first part of item 3 to justify his contention that the respondents' claim was on unfair termination.

On the other hand, in his award the Arbitrator ruled out that the respondents' demotion was both substantively and procedurally unfair, and the respondents were constructively terminated. So the Arbitrator dealt with both complaints on unfair demotion and constructive termination.

whereas on the face of what is indicated in the CMA Form No. 1, the respondents intended to have a determination of a complaint on either unfair demotion or constructive termination.

In my opinion the nature of the dispute indicated in item 3 of CMA Form No.1 is the determinant factor on whether the complainant has to fill in part B of the CMA Form No.1 or not. At this juncture let me make it clear that I am of a settled opinion that since the respondents stated that their claims were unfair demotion or constructive termination (forced resignation), it means that their complaints included a claim for unfair termination too as I shall demonstrate hereunder.

As correctly submitted by Mr. Musetti, the provisions of section 36 of ELRA provides as follows;

"36. For the purpose of this sub-part

a) Termination of employment includes;

i) N/A

ii) A termination by employee because the employer made continued employment intolerable for the employee and ..."

Rule 7(1) of the Employment and Labour Relations (Code of Good Practice) Rules, 2007, (Henceforth "GN.No.42 of 2007) provides as follows;

"Where an employer makes an employment intolerable which may result to the resignation of the employee, that resignation amounts to forced resignation or constructive termination"

Section 36 of ELRA quoted herein above is under sub –Part E of Part II of the ELRA, whose heading is “Unfair Termination of Employment”. That means section 36 provides for matter related to unfair termination of employment. Reading Section 36 of ELRA together with Rule 7(1) of GN.No. 42 of 2007 it is clear that constructive termination amounts to unfair termination. Therefore , it is the finding of this Court that the respondents were supposed to fill in part B of the CMA Form No.1 as required by the law.

Let me point out that the CMA Form No. 1 can be equated to a plaint in a normal Civil suit in which the plaintiff gives precise particulars of his claims and attaches the relevant documents if any , for proving the case .It is part of the pleadings . In the hearing of a case the Court is guided by the contents of plaint.Likewise, during the hearing at the CMA the Arbitrator is guided by what is stated in CMA Form No.1. In the case of **Judicate Rumishael Shoo & 64 others Vs the Guardian Ltd, [2011-2012] LCCD 40**, this Court (Hon Moshi J,) while discussing the significance of the Referral CMA Form No.1 said the following;

" Referral Form is part of pleadings.Applicants' Claims have to be pleaded in the referral Form, i.e . Form No1.The CMA has to make a decision on what has been pleaded in Form No.1. The case of Powers Road (T) Vs haji Omary Ngomera ,Lab. Revision No.36/2007, clearly explains the position; that even the Arbitrator cannot change what is in the Form suo motto . If at all the applicant felt that they had not exhausted their claims, they ought to have

sought leave to amend the form. Thus , Form No. 1 is not a mere sample as submitted by one of the counsel..”

In the instant application, I have noted that one of the issue for determination framed by the Arbitrator was whether the respondents were constructively terminated. When he was making deliberations on the concern raised by the applicant's advocate that the respondents were supposed to fill in part B of the CMA Form No.1, the Arbitrator made a finding that the respondents' claims/ complaints were on unfair demotion not unfair termination. However, the pertinent question which arise here is, why did the Arbitrator frame an issue on whether the respondents were constructively terminated, if at all the respondents' claims were on unfair demotion only. Not only that at the end of the day the Arbitrator ruled out that the respondents were unfairly terminated . What I am trying to demonstrate here is that the Hon. Arbitrator erred in law to dismiss the concern raised by the applicant's advocate that the CMA Form No.1 was not properly filled and that part B of CMA Form No.1 was supposed to be filled because among the issues which he framed is the issue on constructive termination. Impliedly the Arbitrator recognized that the respondents were also claiming for unfair termination in addition to the claim for unfair demotion. The CMA Form No.1 indicates clearly that if a complaint/ dispute is on termination then the complainant has to fill in part B of the CMA Form No.1.

With due respect to Mr.Sood and Mr.Kimomogoro their argument that the claim for constructive termination arose in the middle of the hearing is also untenable since the issue on constructive termination was framed

from the beginning of the case. Therefore, from the beginning of the case it was well known that the respondents' complaints were on constructive termination and unfair demotion. Had it not been so, the issue as to whether the respondents were constructively terminated would not have been framed at the beginning of the case.

In his award the Arbitrator ruled out that the respondents were constructively terminated from 11th August 2018 whereas the complaints before the CMA were filed in 2015. Therefore, it means that the respondents lodged the complaints for constructive termination before they were terminated. In fact this justifies what I have alluded earlier in this ruling that the respondents were not sure of what they were supposed to claim as between unfair demotion and constructive termination (forced resignation). Consequently, they failed to fill in the CMA Form No.1 properly. In addition, the contention that the claim for constructive termination arose in the middle of the hearing the case is unfounded and lacks merit. Procedurally, there is nothing like "a claim arising in the middle of the hearing" and being entertained. To my knowledge, what the law demands is that if a new claim/dispute worth to be included in the case arises in the course the hearing then, the party who wishes the new claim to be included in the case has to move the trial Magistrate/Judge or in the case in hand the Arbitrator to grant an order for amendment of the pleadings, that is CMA Form No.1. [see the case of **Judicate Rumishael Shoo & 64 others**, (supra)], so as to include the new claim/ dispute in a proper manner and give the other party opportunity to respond accordingly. In the instant case there was no order

for amendment of the respondents' claims. That is why I am in one with Mr. Musetti that the claim for unfair termination was one of the respondents' claim from the beginning.

Not only, that the CMA records show that during the hearing, the Applicant (employer) is the one who started giving evidence. This means that the Arbitrator while conducting the hearing he had in mind that the respondents' claim was on unfair termination as per the issues framed for determination and what was filled by the respondents in the CMA Form No.1. I am saying so because according to Rule 23 of the Labour Institutions (Mediation and Arbitration) Rules , G.N. No. 67 of 2007 (Henceforth " G.N. No. 67 of 2007"), if the complaint is on unfair termination of employment , the employer starts adducing evidence and has the burden of proving that the termination was fair. Under the circumstances , going by the arguments raised by Mr. Sood and Mr.Kimomogoro that the respondents' complaints were not on unfair termination of employment, then the Arbitrator faulted the procedure since it is the employer (appellant herein) who started adducing evidence The vice versa may be true as well that the Respondents' complaints included unfair termination that is why the Arbitrator directed the respondents to start adducing evidence, and if the later is correct then, the respondents were supposed to fill in Part B of the CMA Form No.1.It has to be noted that the irregularity on the procedure on the hearing of the complaint in particular on who should start adducing evidence as between the employer and the employee is fatal because it has an implication on where the burden of proof lies.

I have explained herein above that the legal quagmire which arose from the contents of item 3 of the CMA Form No. 1. I do not need to be repetitive, but suffice it to say that the Arbitrator himself was caught in the net of uncertainty on the respondents' claim, he lost the direction and at the end he entertained both complaints on unfair demotion and constructive termination. That is why as I have alluded herein above he directed the applicant (employer) to start adducing evidence, which means that the complaint that was being adjudicated was on unfair termination, but surprisingly, in his award he indicated that the issue on termination of employment arose in the middle of the hearing. For clarity let me reproduced part of his findings hereunder;

"In fact the respondent unfairly demoted applicants. It was preceeded with reduced salaries while their appeal was pending in the CMA, then by non-payment of salaries, and after by the letter respondent kicking them out on the reason that they were terminated. These respondent's actions, in terms of Rule 6 (2) (b) materially breached applicants' employment contracts and was constructive termination"

From the foregoing, it is the finding of this Court that the CMA Form No.1 was not properly filled.

It is worth noting that, as correctly submitted by Mr. Sood and Mr. Kimomogoro, the claims for demotion and constructive termination arise from two different causes of action and the evidence required to be presented to prove each one is different. Similarly, they attract different reliefs. For instance, reliefs for unfair demotion are such as restoration to

the previous posts and payment of benefits denied due to unfair demotion whereas the reliefs for unfair termination are such as re-engagement, reinstatement or compensation of not less than twelve (12) months' salary. Therefore, the pertinent issue which arises here is whether the claims for unfair demotion and constructive termination are compatible? That is, could they be conveniently determined together?, I am posing this question because the Arbitrator combined them and made determination for both. In my considered opinion, the two causes of action cannot be conveniently determined together, because as I have elaborated herein above they attract different reliefs. That is why, even Mr. Sood and Mr. Kimomogoro in their arguments were trying to convince this Court that the respondents' claim was on unfair demotion and the claim for constructive termination was just an alternative. I am made to understand that they had in mind that the two causes of action cannot be combined together though their aforesaid line of arguments was contradictory to what transpired during the hearing and what was filled in the CMA Form No.1.

Now, what is the effect of failure to fill in the CMA Form No.1 properly? As I have said earlier in this ruling, the CMA Form is part of the pleadings. It can be equated to a plaint. Therefore, CMA Form No.1 which is not properly filled is defective and cannot be used to make any determination of the dispute between the parties therein. Consequently, the proceedings and the award made by the CMA using a defective CMA Form No.1 are null and void. Not only that, in this case I have shown that there are fatal procedural irregularities in the conduct of the hearing. Under the circumstance, I do not see any plausible reasons to continue with the

determination of the remaining grounds of revision. Thus, I hereby quash the proceedings of the Commission for Mediation and Arbitration and set aside the award made by the Arbitrator. The respondents are at liberty to institute fresh complaints / claims at the Commission for Mediation and Arbitration subject to time limitations as per the labour laws.

Dated this 6th day of May 2022



B.K.PHILLIP

JUDGE

