

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)**

AT ARUSHA

LABOUR MISC. APPLICATION NO. 58 OF 2021

(Originating from Commission for Mediation and Arbitration Dispute No.
CMA/ARS/ARS/672/2021)

ANDREW AKONAAY.....APPLICANT

VERSUS

MIOMBO ESTATES CO. LTD.....1ST RESPONDENT

ABDULATIF SULEIMAN.....2ND RESPONDENT

RULING

20.04.2022 & 11.05.2022

N.R. MWASEBA, J.

The applicant has preferred the instant application under Rule 24 (1), (2), (3) and 56 (1) and (3) of the Labour Court Rules, GN No. 106 of 2007. The gist of the application is as hereunder: -

a) That, this honourable court be pleased to extend time for the applicant to file his application for revision against the ruling of the Commission for Mediation and Arbitration in CMA/ARS/ARS/672/2021.

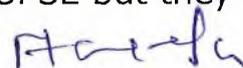


b) Any other reliefs as may deem just to grant.

In his affidavit duly deponed by the applicant himself, it has been revealed that the applicant herein was the complainant at CMA in Application No. CMA/AR/ARS/672/2021. He was claiming for unfair termination, severance pay, leave, salary arrears, certificate of service and notice. He alleged that the Honourable mediator denied him the right to be heard. Upon the decision of the mediator and being aggrieved by it, as a lay person, he approached the TUPSE officers for legal assistance but they did not assist him. Thereafter, he decided to approach Legal and Human Rights Centre (LHRC) for legal assistance, and LHRC availed him with legal assistance to lodge this application for extension of time to file the revision out of time. He further avers that if the same will not be granted the applicant will suffer irreparably.

At the hearing of the application which was done orally, the applicant appeared in person, whereas the respondents were represented by Mr. Arnold L. Ojare, Learned Counsel.

Supporting the application in addition to what was submitted in his affidavit, the applicant added that he was late to file the application for revision for 11 days due to the reason that he is ignorant to the law and its procedures. At first, he was represented by TUPSE but they remained



quiet despite several follow-ups that is why he went to Legal and Human Right Centre who assisted him to file this application. He prayed for the application to be granted so that he might get his rights.

Contesting the application, Mr. Ojare argued that they are opposing the application because the applicant did neither account for each day of delay nor explain if his application has overwhelming chances of success. He cited the case of **Dr. Ally Shabai Vs. Targa Bohora Jomati**, (1997) TLR page 307 where the Court of Appeal had highlighted that those who come to court of law must not show unnecessary delay in doing so; they must show great diligence.

It was his further submission that since the applicant did not show any reasonable cause for his delay, he prayed for the application to be dismissed.

In his brief rejoinder, the applicant told the court that he is not a lawyer and he was depending on TUPSE's assistance who did not give him any direction after the verdict.

I have keenly considered the arguments from both parties. From their submissions, the issue for determination is whether the applicant has shown reasonable grounds to warrant the grant of his application.

Haarja

To answer the issue, it is important to note that, it is entirely in the discretion of the court to grant or refuse an application for extension of time. However, the same must be exercised judiciously. The extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause. This had been expounded in various cases including the case of **Benedict Mumello Vs. Bank of Tanzania**, Civil Appeal No. 12 of 2002 (CAT) (unreported).

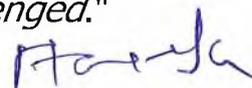
The factors which may be taken into account in considering whether or not the applicant has shown good cause for delay were illustrated in the case of **Lyamuya Construction Company Limited Vs. Board of the Registered Trustees of Young Women's Christian Association of Tanzania**, Civil application No. 2 of 2010 (unreported) which are:

"(1) That the applicant must account for all the period of delay;

(2) The delay should not be inordinate;

(3) The applicant must show diligence and not apathy negligence or sloppiness of the action that he intends to take;

(4) If the Court feels that there are other sufficient reasons, such as existence of a point of law of sufficient importance such as illegality of the decision sought to be challenged."

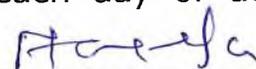


It is thus pertinent to consider whether the applicant has shown good cause for him to be granted the sought order. As shown above, according to the applicant's affidavit, the cause of his delay in filing the intended application for Revision within the prescribed period is that he was not aware of the legal requirement needed to be taken and that he was waiting for TUPSE who represented him at the CMA. In other words, the applicant is pleading ignorance of law as the cause of his delay.

It is a trite position that ignorance of law does not constitute good cause. The same was held in a case of **Wambura N. J. Waryuba Vs. The Principal Secretary, Ministry of Finance and Another**, Civil Application No. 320/01 of 2020 (Unreported). In the said case the Court observed as follows:

" As has been held times without number, ignorance of law has never featured as a good cause for extension of time."

On the basis of the reasons stated herein, apart from failing to account each day of delay (See the case of **Karibu Textile Mills Limited vs Commissioner General, Tanzania Revenue Authority**, Civil Reference No. 1 of 2017 (CAT)-reported at Tanzlii, where the court emphasized the importance of accounting each day of delay to the

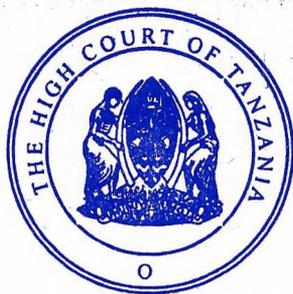


application of this nature), the applicant herein did not show good cause for grant of the sought order.

That being said, I find that the application is devoid of merit. The same is hereby dismissed. Each party should bear their own costs.

Ordered accordingly.

DATED at **ARUSHA** this 11th day of May, 2022.



N.R. Mwaseba

N.R. MWASEBA

JUDGE

11.05.2022