

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(DISTRICT REGISTRY OF MTWARA)

AT MTWARA

LABOUR REVISION APPLICATION NO 09 OF 2021

*(Arising from Labour Dispute No. CMA/MTW/LD/182/2016 of the Commission for
Mediation and Arbitration of Mtwara)*

JAMES ZACHARIA MPUYA..... APPLICANT

VERSUS

TANZANIA PORTS AUTHORITY (T. P. A)RESPONDENT

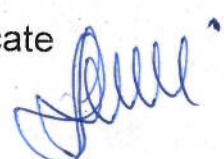
Date of Hearing: 16/05/2022

Date of Ruling: 16/05/2022

RULING

MURUKE, J.

When present labour revision application came for hearing today, this court raised preliminary objection *suo motu*, as to whether present revision is properly before the court, in line with Court of Appeal judgment in civil appeal number 12 of 2022 between Tanzania Posts Corporation Vs Dominic A Kalangi, which copy was supplied to the parties advocate



Mr. Steven Lekey who was holding Mr. Dickson Sanga brief, requested for short adjournment to consult, prayer that, was granted. Upon reforming hearing, Mr. Steven Lekey conceded to the Preliminary Objection raised by the court and submitted that

Mr Sanga has confirmed that applicant was terminated on 5 December 2016. Misc law Amendment Act no 13 of 2016 that amended section 32 of the public service Act Cap 298 by adding section 32A which now requires Public servant to exhaust all remedies in the Public Service Act before filing any dispute it was published on 18, November 2016. Applicant was terminated on 5 December 2016, after publication of amendment he should not have filed dispute at CMA. Thus proceedings and award of CMA is a nullity, that renders the application for revision incompetent.

On the other hand, Mr. Masunga Kamhanda, learned state Attorney and inhouse lawyer for the respondent insisted that, CMA lacked jurisdiction to hear dispute number CMA/MTW/LD/182/2016, filed by applicant on 30th December 2016, thus application is incompetent.

As correctly submitted by both counsels, not only application is incompetent, but also all the proceedings in dispute number CMA/MTW/LD/182/2016 is incompetent for lack of jurisdiction. Legally, any dispute determined by court or tribunal without jurisdiction is a nullity, that cannot be left to flourish in the court/ tribunal records. In the end present application is incompetent having emanated from incompetent proceedings. Thus, labour revision application number 9 of 2021 is struck out. Equally so, proceedings before CMA in dispute number



CMA/MTW/LD/182/2016 are all quashed and orders emanating there from are set aside. Being labour dispute, each side to bear own costs.




Z. G. Muruke

Judge

16/05/2022

Ruling delivered in the presence of Steven Lekey holding brief of Mr. Dickson Sanga for the applicant and Masunga Kamhanda and Comfort Laiza for the respondent.




Z. G. Muruke

Judge

16/05/2022