

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
(DISTRICT REGISTRY OF MBEYA)
AT MBEYA

MISC. CIVIL APPLICATION NO. 31 OF 2021

(From the High Court of Tanzania at Mbeya in Misc. Civil Application No.
20 of 2014)

JUMA BUSIYA.....APPLICANT

VERSUS

ZONAL MANAGER

SOUTH TANZANIA POSTAL CORPORATION.....RESPONDENT

RULING

Date of Hearing: 11/05/2022
Date of Ruling : 12/05/2022

MONGELLA, J.

This is an application for extension of time to file notice of appeal in the Court of Appeal and to file application for leave to appeal to the Court of Appeal against a decision of this Court rendered in Miscellaneous Civil Application No. 20 of 2014. It is brought under **section 11 (1) of the Appellate Jurisdiction Act, Cap 141 R.E. 2019** and supported by the affidavit of the applicant's counsel, Mr. Justinian Mushokorwa.



The matter traces its way back in 1994 whereby the applicant was terminated from employment by the respondent. He appealed to the Conciliation Board and later to the Minister for Labour who directed the respondent to reinstate him. The respondent however, did not honour the instruction, but opted to pay the applicant statutory compensation. Dissatisfied, the applicant sued in the resident magistrates' court whereby he lost. He appealed to the High Court and still lost whereby his appeal was summarily dismissed.

On further appeal to the Court of Appeal, it was ordered that the matter be remitted back to the High Court to be determined on merits. The High Court struck out his appeal on the ground that his memorandum of appeal was not accompanied by a copy of drawn order. Noting that he was time barred to re-file the appeal in the High Court, the applicant applied for extension of time in Misc. Civil Application No. 20 of 2014 to re-file the appeal. The application was dismissed. Still determined to pursue the matter, he filed in this Court Misc. Civil Application No. 05 of 2016 seeking for leave to appeal to the Court of Appeal to contest the dismissal of Misc. Civil Application No. 20 of 2014. The same was granted on 21st June 2019 by my learned brother, Ndunguru, J.

Given the grant of leave to appeal he filed an appeal in the Court of Appeal being Civil Appeal No. 273 of 2020. The appeal however was struck out on 27th September 2021 on the ground that he failed to serve the letter requesting to be supplied with certified copies of the impugned ruling, drawn order and the proceedings to the respondent. Given the



series of events and still determined to pursue his labour rights, he is before this Court seeking for the orders as mentioned earlier herein.

The application was argued orally. Mr. Mushokorwa briefly argued that after the appeal was struck out on 27th September 2021, he spent some days preparing the application whereby he as well needed to communicate with his client, the applicant, who lives in Mwanza region. He prayed for the application to be granted with no costs,

On the other hand, the respondent, through his legal counsel, Mr. Francis Rogers, learned senior state attorney, supported the application. He only prayed for the application to be granted without costs.

I have considered the arguments by the parties in this application. The law is clear to the effect that extension of time can only be granted upon good cause being shown and where the delay has not been caused or contributed by the dilatory conduct on the part of the applicant. See: **Benedict Mumello v. Bank of Tanzania**, Civil Appeal No. 12 of 2002 (CAT, unreported); and **Jaluma General Supplies Limited v. Stanbic Bank Limited**, Civil Application No. 48 of 2014 (CAT, unreported).

Considering that the time delayed from the date the appeal was struck out from the Court of Appeal not being inordinate and the explanation given by the applicant's counsel as to preparation of the application whereby he needed to communicate with the applicant who lives out of Mbeya region, I agree with both parties that reasonable explanation has been advanced.



I therefore proceed to grant the application as prayed. The applicant is granted 21 days from the date of this ruling to file notice of appeal to the Court of Appeal and to file application for leave to appeal to the Court of Appeal.

Considering the fact that both counsels agreed for no costs to be granted by the Court, I make no orders as to costs.

Dated at Mbeya on this 12th day of May 2022.


L. M. MONGELLA
JUDGE

Court: Ruling delivered in Mbeya in Chambers on this 12th day of May 2022 in the presence of Mr. Justinian Mushokorwa, learned counsel for the applicant.




L. M. MONGELLA
JUDGE