

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IRINGA SUB REGISTRY)
AT IRINGA**

REVISION APPLICATION NO. 16 OF 2022

*(Original Labour Dispute No. CMA/IR/92/2020, Commission for Mediation and Arbitration of
Iringa)*

BETWEEN

ACCESS BANK TANZANIA LIMITED APPLICANT

AND

VYONNE MUHANDO RESPONDENT

RULING

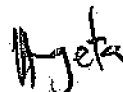
20/09/2022 & 9/03/2023

I.C. MUGETA, J:

The respondent raised a preliminary objection that the applicant's application is incompetent for failure to file a mandatory notice of intention to seek revision [CMA F. 10] contrary to Regulation 34(1) of the Employment and Labour Relations (General) Regulations No. 47 of 2017.

This court, Justice Utamwa (as he then was) also questioned the competence of the application on two grounds. Firstly, that there is no Chamber summons in the application. Secondly, that the affidavit supporting the application contained headings.

The objection and court issues were argued by way of filing written submissions. I shall first start with the preliminary objection raised by the respondent.



Advocate for the respondent argued that regulation 34(1) of the Employment and Labour Relations (General) Regulation, GN No. 47 of 2017 obligates a person intending to file revision before this court to lodge the said form and serve the adverse party before lodging the application for revision. In his view, this form commences the application for revision. Therefore, in the absence of it, the application becomes incompetent.

In opposing the preliminary objection, the applicant's counsel submitted that the objection contravenes the holding in **Mukisa Biscuit Manufactures Ltd v. West End Distributors Ltd [1969] EA. 696** that an objection must be on a point of law. This is because, he argued, in proving whether the notice has been filed or not there has to be evidence from the commission for mediation and Arbitration (the Commission) to show whether the Notice was filed or not. He buttressed his argument by the holding in **Alex Situmbura v. Mohamed Nawayi, Revision Application No. 13 of 2021**, High Court of Tanzania (HCT) at Musoma (unreported). In his view, the intention of "the parliament" in the said rule was aimed at speeding up preparation of copies of proceedings and award which are to be submitted to the High Court.

In his view, failure to comply with Regulation 34(1) of G.N No. 47 of 2017 is not fatal as long as the applicant has complied with mandatory

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conditions set under Rule 24 of G.N No. 106 of 2007. To cement his contention, he cited the case of **Ferdinand Nsakuzi v. Director General PCCB**, Labour Revision No. 7 of 2018, HCT at Iringa.

The issue for my determination is *whether the application at hand is incompetent for the applicant's omission to file the Form No. 10 at the Commission*. The provision of regulation 34(1) of the G.N No. 47 of 2017 provides as follows;

"The forms set out in the Third Schedule to these Regulations shall be used in all matters to which they refer".

The wording of Regulation 34(1) of the G.N 47 of 2017 and the Form itself show that the law maker did not intend to put them for cosmetics. It makes the filing of the form at the Commission a mandatory step before one can file a revision to this Court against any award of the Commission. It is a pre-condition for lodging the revisional application.

As contended by counsel for the respondent, the form also acts as a notice for the intended revision to both the Commission and the adverse party. It is intended to prompt the Commission to prepare the necessary documents for the revision and forward them to the High Court as shown in the said form. Therefore, it, indeed, commences the revision application process. In

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the case of **Arafat Benjamin Mbilikila v. NMB Bank PLC, Revision No. 438 of 2020**, HCT (Labour Division) at Dar es Salaam (unreported) it was held that failure to file form No. 10 makes the subsequent revision application fatally defective. I agree with this holding.

For the foregoing, I find merits in the preliminary objection. I uphold it and strike out the application. Having so held, I find no reason to determine the court issues as doing so shall be for academic purposes. Each party shall bear its own cost since this is a labour matter. It is so ordered.




I. C. MUGETA
JUDGE
09/03/2023

Court: Ruling delivered in chambers in the presence of Mr. Cosmas Charles Kishamawe for the Respondent and absence of the applicants.

Sgd: S. A. Mkasiwa
Ag. DR
9/3/2023