

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
LABOUR DIVISION  
AT ARUSHA**

**REVISION NO. 81 OF 2022**

(Originating from the Commission for Mediation and Arbitration of Arusha  
in Land Dispute, CMA/ARS/ ARS/258/2022)

**GODFREY PAULO ..... APPLICANT**

**VERSUS**

**NEPTUNE HOTELS TANZANIA LIMITED ..... RESPONDENT**

**JUDGMENT**

23<sup>rd</sup> November, 2023 & 15<sup>th</sup> January, 2024

**KAMUZORA, J**

This application was preferred by the Applicant under sections 91 (1) (a) & (b), 91(2) (b) (c) and 94(1) (b) (i) of the Employment and Labour Relations Act and Rule 24 (1), 24(2) (a) (b) (c) (d), 28(1) (c) (d) &(e) of the Labour Court Rules GN No. 106/2007. The Applicant seeks for this Court to revise the proceedings and decision of Commission for Mediation and Arbitration (CMA) in Labour Dispute No. CMA/ARS/ARS/258/2022 and the ruling issued therein. The application was supported by an affidavit sworn

disciplinary measures were taken before his termination as he was only prosecuted for a criminal case which however ended in his favor.

After hearing parties' submissions on application for condonation, the CMA was satisfied that no sufficient reasons were demonstrated by the Applicant to suffice the extension hence, dismissed the application. Being aggrieved by the CMA decision, the Applicant preferred this application challenging the CMA conclusion of dismissing the application for condonation.

Hearing of the revision application was by way of written submissions and as a matter of legal representation, the Applicant appeared in person while the Respondent was represented by a personal representative, Mr. Herode Bilyamtwe. Both parties complied to the submissions schedule.

Arguing in support of application, the Applicant submitted that when he was arrested for Criminal case No. 478 of 2019 reported by the Respondent at Karatu Primary Court, he was unable to communicate with his lawyers who would have assisted to prepare necessary documents for instituting Labour complaint to the CMA. That, he was not granted bail until his appeal was allowed on 10<sup>th</sup> December, 2021. That, he was not paid his salary and benefit since his arraignment to date.

In reply, the Respondent's personal representative, Mr. Herode Bilyamutwe referred **Rule 56(1)** of the Labour Court Rule, GN No. 106 of 2007 and the case of **Tanga Cement Limited Vs. Jumanne Masangwe & another**, Civil Application No. 6 of 2001, HC Dar es salaam (unreported) on what constitutes sufficient cause for extension of time. He challenged the application and argued that, spending eight months after the acquittal without filing a dispute, is unacceptable and high level of negligence and lack of diligence on the part of the Applicant. Bolstering his submission, he referred the case of **John Moses and three others Vs. Republic**, Criminal Appeal No. 145 of 2006, which cited the case of **Elius Msonde Vs. Republic**, Criminal Appeal 93 of 2005. He contended that, the Applicant herein failed to account each day of delay from 10<sup>th</sup> December 2021 after his acquittal hence, urged this court to refer the case of **Fish Processors L.T.D VS Christopher Luhangula** Civil Appeal No. 61/94(unreported) and dismiss the application as it lacks merit.

In rejoinder, the Applicant reiterated his submission in chief and added that he accounted for the delay and deserved extension of time. He added that the actions by Respondent are tainted with irregularities hence, a reason for extension of time. He referred the cases of **Brookside Dairy Tanzania**

grant of extension of time. What amount to good cause is a question of fact depending on the circumstance of each case. See, the case of **Tanga Cement Limited Vs Jumanne Masangwe & another (supra)** cited the case of **C.M. Van Stillevoeldt Vs. El Carriers Inc.** (1983) All ER 699 at page 703 wherein Griffiths, L.J had this to say;

*"In my judgment, all the relevant factors must be taken into account in deciding how to exercise the discretion to extend time. Those factors include the length of the delay, the reasons for the delay, whether there is an arguable case on appeal, and the degree of prejudice to the defendant if time is extended"*

The above position was adopted in our jurisdiction in number of cases including authorities cited by the parties herein. Applying the above position to our case, it is evident that the Applicant was charged for criminal case and was acquitted on second appeal on 10<sup>th</sup> December, 2021. He however, instituted application for condonation on 12<sup>th</sup> August, 2022 claiming that copies of judgment and proceedings were served to him on 30<sup>th</sup> June 2022. The proceedings were not attached to the application but the copy of judgment was attached and does not indicate the date it was issued. Another document called 'Decree in Appeal' was attached but it referred PC Civil Appeal No 4 of 2020 hence, irrelevant to the appeal which originated from

his acquittal by the High Court.

On the argument that there was illegality in his termination, the same could have been determined upon filing the application in time. The illegality alleged here is not the illegality referred in different case laws for extension of time. The illegality claimed here is the basis of the dispute which determine the merit of the case different from illegality of court proceedings, decisions and orders referred in different case laws. I therefore find that the same cannot be the basis for extension of time.

In the upshot, there was no sufficient reason warranting extension of time. I therefore proceed on dismissing the application. But in considering that this application emanates from labour dispute, I make no order as to costs.

**DATED** at **ARUSHA** this 15<sup>th</sup> day of January, 2024.



A handwritten signature in blue ink, appearing to read "D.C. Kamuzora".

**D.C KAMUZORA**

**JUDGE**