

IN THE HIGH COURT OF TANZANIA
IN THE DISTRICT REGISTRY
AT MWANZA

REVISION APPLICATION NO. 71 OF 2019

(Arising from the Award of Mwanza CMA/MZ/ILEM/612 – 154/2018 DATED 21/6/2019)

NICKSON LIVINGSTONE TEMU..... APPLICANT

VERSUS

NMB BANK PLC..... RESPONDENT

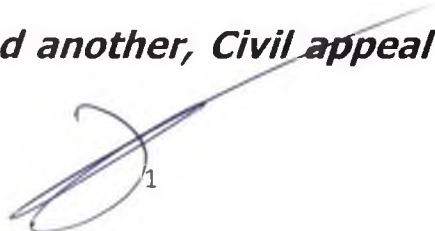
RULING

10th.05.2024

A. MATUMA, J.

When this matter came for hearing today Mr. Paschal Kamala learned advocate who represented the respondent and Mr. Marwa Samwel who represented the Applicant both addressed this court unanimously that this revision cannot substantively be determined because the evidence of the applicant is missing from the record and even on perusal of the court file, such evidence is not there.

They also added that even the available evidence of the Respondent was recorded without oath which vitiates its weight as it was held in various cases in chiding that of *Iringa Internation School versus Elizabeth Post, civil appeal no 155 of 2019* CAT and *Erick Dominic Massawe versus Richard Kelly and another, Civil appeal No. 343 of 2020* CAT at Mwanza.



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Having heard the parties as reflected above and going through the records, I agree with particularly to the fact that the evidence of the parties were recorded without oath and thus the proceedings are not tenable in law and cannot be used to substantially determine the rights of the parties.

The evidence recorded without administering oath offended various provisions of the Laws governing evidence including Labour Laws. See the case of Iringa International School supra which dealt with a labour matter with similar facts to the instant one where the court of appeal held that;

"The requirement for witness to give evidence under oath is mandatory and the omission to do so vitiates the proceedings"

I therefore quash the proceedings and set aside the CMA award and direct that the matter at CMA be heard denovo. Since the matter has been pending in court corridors for a long time, the CMA arbitrator is argued to speed up the hearing of this matter.

No orders as to costs.

It is so ordered.



A handwritten signature in blue ink, consisting of a large, stylized loop followed by a long horizontal stroke.

**A. Matuma,
Judge
10.05.2024**