

**THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(MWANZA SUB REGISTRY)**

AT MWANZA

MISC. CIVIL APPLICATION NO. 5055 OF 2024

BETWEEN

MARIAM JOSEPH MTOBA APPLICANT

VERSUS

MAGU DISTRICT COUNCIL1ST RESPONDENT

THE PERMANENT SECRETARY, PRESIDENT'S OFFICE,

PUBLIC SERVICE MANAGEMENT.....2ND RESPONDENT

THE PERMANENT SECRETARY, PRESIDENT'S OFFICE,

REGIONAL ADMINISTRATION AND

LOCAL GOVERNEMENT.....3RD RESPONDENT

THE HONOURABLE ATTORNEY GENERAL4TH RESPONDENT

RULING

28th & 28th May, 2024

A. MATUMA, J.

The applicant is seeking extension of time within which to apply for leave so that to file judicial Review proceedings against the decision of the President's office in confirming the decision of the Public service commission which terminated her employment.

The president's decision was issued on 20/01/2022 which is two years now while the application ought to have been made within six months.

At the hearing of this application, the applicant appeared in person while the Respondents were represented by Mr. Allen Mbuya learned State Attorney.

Arguing for this application the applicant submitted that after the president's decision she wrote another letter to the permanent Secretary in the President's office to call them to Review their decision but such letter has not been responded to up to date and that is why she decided to come in this court with this application so that to challenge the decision through judicial Review process.

On his part Mr. Allen Mbuga learned State Attorney argued that this application is devoid of any merit and it deserves to be dismissed because the principle is to account for each day of the delay but the Applicant has failed to do so.

The learned state attorney cited various cases which established that extension of time is the discretion of the court but upon good cause, that the applicant must account for the whole period of the delay and even if it is a single day the same must be accounted for.

Having heard the parties as reflected above, it is undisputed fact that the applicant's employment was terminated by her employer Magu District

council and her appeal to the Public Service Commission was dismissed and the dismissal confirmed by the President on 20/01/2022.

The applicant ought thus to have lodged her application for leave within six months after the president's decision but did not do so until when she found herself out of time of the prescribed period.

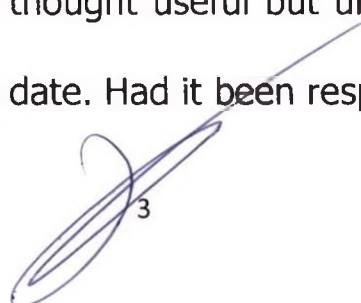
Even though I find her explanation that she took another step by re-writing to the permanent Secretary in the president's office to have the decision of the president reviewed reasonable.

I have seen such letter which is annexed to the affidavit and dated 13/04/2022.

The learned State attorney argued that ignorance of the law does not constitute sufficient cause for extension of time. To that effect he cited the case of **Omar R. Ibrahim Versus Ndege Commercial Service Ltd**, Civil Application No. 83/01 of 2020.

It is my firm finding that the applicant in re-writing the letter to the president's office calling it to review its decision on the grounds raised in such letter was not an ignorance.

It was a step the applicant thought useful but unfortunately such letter was not responded to up to date. Had it been responded to but the



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applicant continued to relax without taking the due steps, I would have agreed with the learned state attorney but in the presence of such letter I find that the applicant was optimistic that on the ground stated in her letters calling for review, the decision terminating her from employment would be reviewed.

Since the President's office remained silent without responding to such request to date, that amounts to good cause for the applicant's delay.

I therefore grant this application and extend the applicant thirty (30) days within which to file her intended application for leave to file application for Judicial Review.

In the premises, the arguments of the learned state attorney are hereby rejected.

It is so ordered.




A. Matuma
Judge
28/05/2024