

IN THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
HIGH COURT OF TANZANIA
MOSHI SUB-REGISTRY
AT MOSHI

LABOUR APPLICATION NO. 16 OF 2023

*(C/F Labour Dispute No. MOS/CMA/M/73/2016 in the Commission for
Mediation and Arbitration for Moshi at Moshi)*

GODWIN L. MPEPO APPLICANT

VERSUS

OCEAN LINK SHIPPING SERVICE LTD.....RESPONDENT

RULING

Date of Last Order: 08.05.2024
Date of Ruling : 28.05.2024

MONGELLA, J.

In the application at hand, the applicant is seeking for revision of the decision of the Commission for Mediation and Arbitration in Labour Dispute No. MOS/CMA/M/73/2016. His application is supported by his own sworn affidavit. The respondent expressed her opposition of the application vide a counter affidavit sworn by one, Jonas Mcharo, her officer able to depone to the facts therein. Along with the counter affidavit, the respondent filed a notice of preliminary objection on one ground that:

“This honourable court is not seized with jurisdiction to entertain the revision as the same is hopelessly time barred.”

The objection was argued by written submissions. The respondent was represented by Mr. Ndanu Emmanuel, while the applicant was represented by Mr. Elibariki H. Maeda, both learned advocates.

Submitting in chief, Mr. Emmanuel expounded that Labour Revision No. 17 of 2020 filed by the applicant originated from the Ruling of this court (Hon. B R. Mutungi, J.) dated 30.06.2020. That, in the said application, the applicant sought for extension of time and was granted 14 days within which to file his revision. He said, then the applicant filed Labour Revision No. 17 of 2020 on 14.07.2020 which was on the 15th day. In that regard, he had the stance that the application was time barred rendering this court with no jurisdiction to entertain the present application.

To cement his argument that the time ought to be reckoned from the date of Ruling, he cited the case of **Mohamed Salimini vs. Jumanne Omary Mapesa** (Civil Appeal 345 of 2019) [2020] TZCA 1825 (22 October 2020) TANZLII. Mr. Emmanuel further alleged that the applicant cannot rely on Section 19(1) of the Law of Limitation Act [Cap 89 R.E 2019) as the Ruling indicated that time would be computed from the day the Ruling was delivered.

The counsel contended since this application is yoked to Labour Revision No. 17 of 2020 which was withdrawn by the applicant on 21.11.2022 with leave to refile, the application cannot survive. He thus called for the application to be dismissed.

In reply, Mr. Maeda claimed that Application No. 17 of 2020 was filed in time. He alleged that the order issued by this court in Labour Application No. 04 of 2019 required the application for revision to be filed within 14 days from the date of the Ruling. Under **Section 60(1), (b) and (c) of the Law of Interpretation Act** [Cap 1 R.E 2019], the date of ruling is not included in computation of the 14 days. In his view therefore, the computation started on 01.07.2020 rendering the 14 days to end on 14.07.2020, the day in which Labour Revision No. 17 of 20202 was lodged. In that respect, he had the stance that the application is within time.

Further referring to the case of **Mohamed Salimini** (supra) he averred that the said case indicated that the period was to run from the next day. The counsel thus prayed for the objection to be dismissed for lack of merit.

Rejoining, Mr. Emmanuel first reiterated his submission in chief. He further emphasized that Mr. Maeda misconstrued the order made by this court by Hon. Mutungi J. He insisted that **Section 60(1), (b) and (c) of the Interpretation of Laws Act** cannot salvage the applicant's sloppiness in complying with court orders.

Referring to the case of **Mohamed Salimini** (supra), Mr. Emmanuel argued that since this court had already issued an order, it was the order that was to be considered and not the interpretation of laws Act. Insisting that court orders ought to be observed and that it is not for a party to interpret the orders as he or she wishes, he cited

the case of **Olam Tanzania Limited vs. Halawa Kwilabya**, DC Civil Appeal No. 17 of 1999 (unreported) in support of his argument.

The counsel concluded by maintaining that the applicant had been caught in the web of time limitation, hence the matter ought to be dismissed in its entirety.

After considering the rival submissions by both parties' counsels, I find that it undisputed that in Labour Application No. 03 of 2019 the applicant sought for and was granted extension of time to file a Labour Revision so as to challenge the CMA award. This court, in its Ruling of 30.06.2020 granted an extension of 14 days within which, the applicant was supposed to file his revision. In that respect, Labour Revision No. 17 of 2020 was filed on 14.07.2022 and was later withdrawn by the applicant with leave to refile. This was due to avoidance of the case being back log in consideration of the fact that an appeal had been preferred against Labour Application No 03 of 2019.

What is in dispute as discovered by Mr. Maeda is whether 14.07.2020, was within the 14 days awarded by this court in Labour Application No. 03 of 2019. It is therefore a matter of computation as from which date do the 14 days reckon. While the respondent believes that 30.06.2024 is included, the applicant believes it is excluded. To this point, I find it imperative to reproduce the order issued by this court in Labour Application No. 17 of 2020:

"All said and done, I am satisfied that, the applicant has adduced good cause in terms of Rule 56(1) of the Rules (supra) for this Court to extend time. Accordingly, the application for extension of time within which to file an application for revision is granted. The same to be filed within fourteen (14) days from the date of this Ruling."

I agree with Mr. Emmanuel that since the extension was granted by the court. **Section 60 (1)(b) and (c) of the Interpretation of Laws Act**, was inapplicable in the circumstances as the provision applies to interpretation of statutory provisions and not court orders. In **Barclays Bank T. Ltd vs. Jacob Muro** (Civil Appeal 357 of 2019) [2020] TZCA 1875 (26 November 2020) the Court of Appeal recognized **Section 60 of the Interpretation of Laws Act** to serve situations of statutory limitations. The Court stated:

"First, we are aware that in reckoning days prescribed by a statutory provision a court is enjoined to apply the provisions of section 60 of the Interpretation of Laws Act, Cap. 1 R.E. 2002 (now R.E. 2019) ("the ILA")."

However, contrary to Mr. Emmanuel's argument, where a period is to reckon from a specified date, such day is to be excluded. This position is well laid out under **Section 19 (1) of the Law of Limitation Act** which states:

"19. (1) In computing the period of limitation for any proceeding, the day from which such period is to be computed shall be excluded."

The order by this court as quoted earlier on clearly indicated that the application for revision was to be filed within 14 days from the date of the Ruling. According to the above cited provisions, that meant that the 14 days reckoned from 01.07.2020 to 14.07.2020 thereby rendering Labour Revision No. 17 of 2020 to be well within time.

In the foregoing, I find the objection without merit and I overrule the same. The matter shall proceed to hearing on merits. Given that this is a labour dispute, each party shall bear his/her own costs.

Dated and delivered at Moshi on this 28th day of May 2024.



X *L.M. Mongella*

L. M. MONGELLA
JUDGE
Signed by: L. M. MONGELLA