

**IN THE HIGH COURT OF TANZANIA  
LABOUR DIVISION**

**AT DAR ES SALAAM**

**MISCELLANEOUS APPLICATION NO. 521 OF 2019**

**TRAVEL PARTINER LIMITED .....APPLICANT**

**VERSUS**

**REVOCATUS MSHANE.....RESPONDENT**

**RULING**

*Date of last Order: 15/06/2020*

*Date of Ruling: 15/07/2020*

**Z.G.Muruke, J.**

Applicant filed revision number 52/2019 on 28 January, 2019, to challenge CMA award in Labour dispute reference number CMA/DSM/KIN/R.732/17. Same was dismissed for want of prosecution on 27 August, 2019, being after seven months from the date of filing. Current application is for restoration of the dismissed revision. Reasons are started in affidavit sworn by Miriam Ndeserua an advocate who did not appear on the date revision called for hearing.

At paragraph 3.4 and 3.5 she states that she fall sick on the date and could not get another advocate to handle the case immediately. There is medical document to prove she attended hospital and medication. Same is annexure TR 2 attached to the affidavit. Paragraph 4.2, of Mariam Ndeserua affidavit reveals that dismissed revision intended to challenge illegality of the award.

Respondent objected the application through his own sworn affidavit. In essence he is questioning applicant advocate if he was instructed to deal with the revision in terms of notice of representation. In totality, respondent sees no reason for restoration of the dismissed revision number 52/2019.

From the records of revision number 52/2019, sought to be restored following dismissal of the revision, there is no notice of representation filed that contains names of advocates that were appointed to respondent applicant. There is notice that says VAM associates advocates will present the applicant without mentioning of any advocate. So, none appearance of Miriam Ndearua is not connected with notice of representation by VAM Associate without mentioning a particular advocate. Equally, this court is not in a position to know advocates that are in VAM Associates. More, so, applicant advocate affidavit does not explain anything on that point. Therefore, this court cannot be taken for a ride to assume that, Miriam Ndeserua is amongst the advocate in VAM associates. Under those circumstances, there is no sufficient cause for none appearance of applicant counsel, as Miriam Ndesarua, is not in the notice of representation. Application for restoration lacks merits. Accordingly dismissed.



Z.G.Muruke

**JUDGE**

15/07/2020

Ruling delivered in presence of Miriam Ndesarua for the applicant and Hamza Rajabu, Personal representative of the respondent.



Z.G.Muruke

**JUDGE**

15/07/2020