

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

AT DAR ES SALAAM

REVISION NO. 778 OF 2019

DURBAN HOTELS LIMITED.....APPLICANT

VERSUS

DOMINIC CASPARY NG'OGE.....RESPONDENT

RULING

Date of Last Order: 13/07/2020

Date of Ruling: 13/07/2020

Z.G.Muruke,J

Applicant filed present revision supported by an affidavit sworn by Zabaliel Wilfest Mrema, that reads as follows:

1. That I am the Principal Officer of the above mentioned applicant thus I am conversant with the facts I am about to depone hereunder.
2. That I am making this application in order to seek for a revision on the judgment of CMA/DSM/ILA/R.268/19/138 dated 27th September, 2019.
3. That on 27th September, 2019 I received the judgment of CMA/DSM/ILA/R.268/19 of which ordered the applicant to pay the respondent as compensation amounting Tshs. 3,500,000/= of which I am opposing thereto. A copy of Judgment attached thereto and marked as annexure Durban 1 to form part of this application.
4. That the arbitrator's award was made improperly procured and therefore I am seeking for a revision.

5. That if this application is not granted the applicant will suffer irreparable loss.
6. That I swear this affidavit in support to my chamber application and prayers sought.

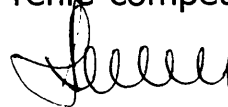
Clearly, the affidavit above sworn in support of the application lacks **one;** statement of the material facts in a chronological order, **two;** Statement of legal issues that arise from the material facts, **three;** the reliefs sought. Same is contrary to Rule 24(3)(c) and (d) of the labour Court Rules 2007 GN 106/2007 that reads as follows;
The application shall be supported by an affidavit, which shall clearly and concisely set out.

- (a) The names, description and address of the parties;
(Not applicable)*
- (b) A statement of the material facts in a chronological order, on which the application is base; (Not applicable).*
- (c) A statement of legal issues that arise from the material facts; and*
- (d) The reliefs sought. [emphasis mine]*

It must be understood that the Labour Court as a specialized court and Division of the High Court has its Labour Laws and Rules enacted and passed by the legislature with the aim of guiding the Labour Court to achieve its purpose.

Affidavit in Labour and Employment matters is governed by rules and requirements as spelt out in Rule 24(3)(a)(b)(c) and (d) above of the Labour Court Rules GN. No. 106 of 2007. Therefore a deponent must follow the same. Since the applicant did not follow the rules the affidavit is defective.

The applicant was wrong for not complying with the simplified **rules** and **requirements** of an affidavit as spelt out under Rule 24(3)(c) and (d) which are mandatory to be in the affidavit to form part thereof. The words "The application ***shall be supported by an affidavit, which shall clearly and concisely set out (a).....(b).....(c).....(d)*** pre-supposes the mandatory requirement in the circumstances. The language of Rule 24(3)(a),(b),(c) and (d) is coached on mandatory way, none compliance renders the affidavit defective, thus in competent application, that cannot be left to stand. Accordingly revision application number 884/2018 is struck out with leave of 14 days to refile competent application. Ordered accordingly.

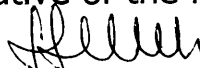


Z.G.Muruke

JUDGE

13/07/2020

Ruling delivered in presence of Abdallah Matumla for the applicant and Daudi Mshana, Personal Representative of the respondent.



Z.G.Muruke

JUDGE

13/07/2020