

**IN THE HIGH COURT OF TANZANIA**  
**LABOUR DIVISION**  
**AT DAR ES SALAAM**

**MISCELLANEOUS APPLICATION NO. 350 OF 2019**

**BETWEEN**

**PAULO MILANZI AND 39 OTHERS ..... APPLICANTS**

**VERSUS**

**RELI ASSETS HOLDING COMPANY ..... RESPONDENT**

**RULING**

*Date of Last Order: 28/05/2020*

*Date of Ruling: 30/07/2020*

**S.A.N. Wambura, J.**

The applicants in this case **PAULO MILANZI AND 39 OTHERS** have filed this application praying for extension of time so as to file an application for payment of termination arrears. The application is supported by a sworn affidavit of **PAULO MILANZI** who is the legal representative of the other unknown 39 applicants. I say unknown as I have not read their names anywhere in as far as this application is concerned.

The respondent **RELI ASSETS HOLDING COMPANY** did not file a counter affidavit but only a notice of preliminary objection challenging the application. The preliminary objection was dismissed for want of prosecution.

The brief facts of this matter are that the applicants challenged their retrenchment at CMA whereby parties entered a Deed of Settlement sometime in July, 2010. According to Annexure 'B' payments were effected between May, 2011 and November, 2011. The record is not clear as to when they realized that were underpaid but they filed an application at CMA praying for extension of time to file an application to claim their arrears for under payment which was dismissed.

Aggrieved the applicant filed an application for leave of representation which was granted on 24/9/2018. They thus filed Misc. Application No. 501/2018 praying for extension of time which was struck out on 15/5/2019. The present application was thus filed on 11/6/2019.

With leave of the Court the application was disposed of by way of written submissions. I thank both parties for adhering to the schedule and for their submissions.

Applicant submitted that the delay was caused by his sickness and travels. That there is a question of law to be determined, citing the case of **Joseph Paul Kyauka Njau & Catherine Paul Kyauka Njau Vs. Emanuel Paul Kyauka Njau & Hiacintha Paul Kyauka Njau**, Civil Application No. 7/05/2016 to that effect. They thus prayed for the application to be granted.

The respondents challenged the application on the ground that it has been filed after an inordinate delay and they have not accounted for each day of the delay; That the issue of illegality has not been expanded and cannot be discovered on the face of the record but by long drawn arguments citing the cases of **Zawadi Msemakweli Vs. NMB PLC**, Civil Application No. 221 of 2018 and **Hamisi Mohamed (as Administrator of the estates of late Risasi Ngawe) Vs. Mtumwa Moshi (as the administratix of the estates of late Moshi Abdallah)**, Civil Application No. 407 of 2017 to mention just a few.

Now there is no doubt that this Court has the jurisdiction of granting an extension of time were the applicant adduces sufficient cause for the delay as provided for under Rule 56(1) of the Labour Court Rules, 2007.

The question is whether the applicant has been able to convince this Court by adding sufficient reasons for the delay.

The applicant has alleged that they have accounted for the delay because the last person was paid in June, 2012 and they filed the matter at CMA in February, 2013. However there is no proof of that. Even if it was so proved as the ruling of CMA is not herein attached, there was no proof that the 1<sup>st</sup> respondent was sick and was travelling. But again there was no explanation as to what the other applicants were also doing at that time.

It is true that the applicant took time in Court when filing an application for leave to represent the other applicants. However it is unknown as to what they were doing for three weeks after their first application was struck out on 15/5/2019 to 11/6/2019 when they filed this application. Worse as I have stated earlier it is unknown as to who the other 39 applicants are.

It is the finding of this Court that matters should not be filed after an inordinate delay and that the illegality, should be seen on the face of the record as held in the cases of **VIP Engineering & Marketing Ltd & 3**

**Others Vs. Citibank Tanzania Limited**, Consolidated Civil References  
No. 6, 7 & 8 of 2006.

There is no doubt that there was an inordinate delay in filing this matter and that it cannot be said that there was an illegality on the face of record as the same was amicably settled by a Deed of Settlement. So this ground which if upheld one does not need to account for the delay nor adduce any further reasons as held in the case of **Hezron Magesa Mariogo Vs. Kassim Mohamed Saidi**, Civil Appl. No. 227 of 2015 cannot stand despite of the fact that the alleged respondent may longer be existing by now.

Having said so I herein dismiss the application for want of merit.

S.A.N. Wambura  
**JUDGE**  
30/07/2020

**IN THE HIGH COURT OF TANZANIA**

**LABOUR DIVISION**

**AT DAR ES SALAAM**

**MISCELLANEOUS APPLICATION NO. 350 OF 2019**

**BETWEEN**

**PAULO MILANZI AND 39 OTHERS ..... APPLICANTS**

**VERSUS**

**RELI ASSETS HOLDING COMPANY ..... RESPONDENT**

**Date: 30/07/2020**

Coram: Hon. F.A. Mtarania, Deputy Registrar

Applicants: } Mr. Anold Luoga Advocate  
For Applicants: }

Respondent: } Mr. John Mchomvu (Legal officer)  
For Respondent: }

CC: Lwiza

**COURT:** Ruling delivered today in presence of Mr. Anold Luoga Advocate for the Applicant and Mr. John Mchomvu (Legal Officer) for the Respondent.

  
F.A. Mtarania

**DEPUTY REGISTRAR**

30/07/2020