

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

MISCELLANEOUS APPLICATION. NO. 634 OF 2019

MOHAMEDI SALEHE..... APPLICANT

VERSUS

MANAGING DIRECTOR TCCL..... RESPONDENT

RULING

Date of Last Order: 29/07/2019

Date of Ruling: 07/08/2019

ABOUD, J.

This is an application for re-enrollment made under Rule 24(1), 24(2)(a) (b) (c)(d)(e) and (f), 24 (3) (a)(b)(c) and (d) and Rule 36(1)(2)(3) of the Labour Court Rules, GN No.106 of 2007 (herein the Labour Court Rules). The applicant moved the Court for the following orders;

- i. That this Honourable Court be pleased to grant an order for re-enrollment Inquiry No. 2 of 2000 as the matter stayed for waiting the settlement between two parties that failed. As the respondent did not complete payment until now.

- ii. Any other order (s) this Honourable Court may deem just and fit to grant.

The respondent did not file the counter affidavit and submission in support of the application.

In the course of writing this ruling the Court found that the application is incomplete before the Court. The applicant did not attach the impugned order of Inquiry No. 02 of 2000 contrary to Rule 24 (2) (f) of the Labour Court Rules which is to the effect that:-

"24(2) - the notice of application shall substantially comply with Form No. 4 in the schedule to these rules, signed by the party bringing the application and filed and shall contain the following information;

(f) - a list and attachment of the documents that are material and relevant to the application"

[Emphasis supplied]

As stated above, the application in which the applicant prays for this Court to enroll is Inquiry No. 02 of 2000 in which no any order or relevant document have been attached by the applicant to prove the existence of the relevant Inquiry. Furthermore attachment of the order in question would have led the Court to ascertain if it has been moved properly with the provisions cited by the applicant. I have said so because the applicant moved this Court to determine the application under Rule 36(1) of the Labour Court Rules which is to the effect that:-

"36 (1) - where a matter is struck off the file due to the absence of a party who initiated the proceedings, the matter may be re-enrolled if that party provides the Court with a satisfactory explanation by an affidavit, for his failure to attend the Court."

As quoted above the provision of Rule 36 (1) is applicable where the matter was struck out due to the absence of the party who initiated the proceeding. In the instant matter at paragraph 4 of the affidavit in support of the application, the applicant stated that, through his lawyer he

requested the court for the matter to be stayed for sometimes while waiting for settlement between the parties. However, in the applicant's application he did not state the court's order regarding the order in question or attaching the same to enable the Court to establish if it has been moved properly.

In my view if what is stated by the applicant is the exactly position of the matter, Rule 36 will not be the relevant provision to move the court to re-enroll it because the applicant himself requested for the matter to be settled out of Court.

On the basis of the above discussion it is my view that, this application is incompetent before the Court. That being the case the same is hereby struck out from the Court's registry. For the interest of justice leave is granted to the applicant to file a competent application on or before 22/08/2020.

It is so ordered.

A handwritten signature in black ink, appearing to be 'I.D. Aboud', with a stylized, cursive script.

I.D. ABOUD

JUDGE

07/08/2020