

**IN THE HIGH COURT OF TANZANIA**  
**LABOUR DIVISION**  
**AT DAR ES SALAAM**  
**MISCELLANEOUS LABOUR APPLICATION NO. 47 OF 2020**

**BETWEEN**  
**FLORAH B. KIBASA.....APPLICANT**  
**VERSUS**  
**ACADEMIC INTERNATIONAL SCHOOL.....RESPONDENT**

**RULING**

**Date of Last Order: 22/04/2020**

**Date of Ruling: 12/06/2020**

**A. E. MWIPOPO, J.**

The applicant namely the **FLORAH B. KIBASA** filed this application for extension of time to file revision application against the decision of the Commission for Mediation and Arbitration in Labour Dispute No. CMA/DSM/KIN/1135/18 delivered on 23/01/2019 before Hon. Moller, Mediator. The application is supported by the affidavit of Florah B. Kibasa. The applicant stated that the legal issue which arise from the material facts is whether the applicant have demonstrated the sufficient cause of delay in preferring the application for revision.

In opposition the respondent filed counter affidavit together with notice of preliminary objection to be raised on the first date fixed for hearing of the matter. The Court ordered the Preliminary Hearing to be disposed of by way of written submission. Both parties filed their submission according to the Court's order.

The respondent stated that he have two Objections on preliminary points of law. First, that the applicant's application is misconceived for being overtaken by events; and the second one is that the affidavit in support of the application is incurably defective for being attested by unqualified person.

Submitting on the first point of preliminary objection, the respondent stated that after the CMA dismissed the application for condonation in labour dispute no. CMA/DSM/KIN/1135/18, the applicant filed Revision Application no. 48 of 2019 which was struck out by this court for incompetence on 11<sup>th</sup> June, 2019 with the leave to file a competent application within 30 days. Following the order of the Court, the applicant filed revision application no. 550 of 2019. The Court heard both parties and delivered its decision on 21<sup>st</sup> November, 2019 where the Court found that there was no sufficient cause for delay shown to allow the applicant's application for condonation. Therefore the revision application was dismissed. On 19<sup>th</sup> February, 2020,

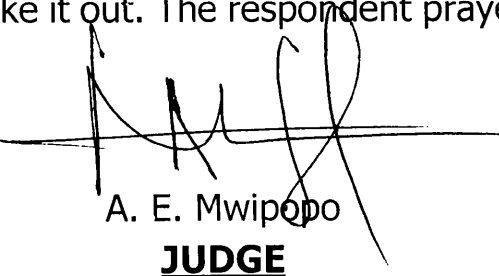
the applicant have filed the present application seeking the orders of the Court for extension of time to file revision in respect of CMA dispute no. CMA/DSM/KIN/1135/18. Therefore, the applicant is misleading this Court to entertain the matter which have already been determined on merits.

On the second point of preliminary objection he submitted that applicant's affidavit accompanying the present application was attested on 17<sup>th</sup> February, 2020 by Omega Steven Myeya of whom at that time he was purported to practice as a Notary Public and Commissioner for Oaths. However, he was not qualified for the reason that at that time Omega Steven Myeya had not renewed his practicing certificate which is contrary to sections 3 (1) (a) and section 4(1), (2), (3) of the Notaries Public and Commissioner for Oaths Act, Cap. 12 of R.E. 2019; and sections 39 (1) (b) (c) of the the Advocates Act, Cap. 341 R.E. 2019. For that reason the affidavit was defective for being attested by unqualified person.

The applicant in their reply submission conceded to the Preliminary Objections as the same have substance in the first point of law that the matter was determined before Hon. Z.G. Muruke, J. on revision no. 550 of 2019.

In rejoinder submission the respondent averred that as the applicant was aware that the preliminary have merits she decided to wait until the respondent have filed his submissions in support of the preliminary objection to concede. For that reason the respondent is praying for the application to be dismissed with cost as the application is frivolous, vexatious and it amount to the abuse of Court process.

Since the applicant have conceded to the Preliminary Objections that the matter has already been determined before Hon. Z.G. Muruke, J. on 21<sup>st</sup> November, 2019 in revision no. 550 of 2019, the applicant cannot come back in this court through another application for extension of time. The applicant being aware that matter have already been determined by this Court on merits decided to come by way of application for extension of time. I agree with the respondent that the application is frivolous, vexatious and it amount to the abuse of Court process. For that reason the application is hereby illegally and I hereby strike it out. The respondent prayer for cost is granted.

  
A. E. Mwipopo  
**JUDGE**  
12/06/2020