

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

AT DAR ES SALAAM

MISCELLANEOUS APPLICATION NO. 326 OF 2019

**RAMADHAN SEMGAZA.....1ST APPLICANT
NICHOLAUS STEPHEN MASIMBA.....2ND APPLICANT
JABIR JUMA AKIDA.....3RD APPLICANT**

VERSUS

ALISTAR JAMES COMPANY.....RESPONDENT

RULING

Date of last Order: 03/11/2020

Date of Ruling: 30/11/2020

Z.G.Muruke, J.

Applicants filed application for representative suit for Ramadhani Semgaza to represent them in an intended revision to be filed. Respondent filed counter affidavit and in the cause raised notice of preliminary objection that application is time barred. Hearing was conducted by way of written submission to accommodate un represented applicants. Semgaza Ramadhani was for the applicants while Daniel Kalashe represented respondent. In short, respondent representative submitted that, applicant filed dispute at CMA for unfair termination that ended up in their favour. Award was delivered on 8th September, 2017. Application like the present one is not provided in the Labour laws, thus application of Rule 55(1) of the Labour Court Rules GN 106/2007 come into

play by adopting Law of Limitation that provides for 60 days, in filing application like the present one. Application has filed out of time, thus prayed for dismissal of the same

Respondent on the other hand submitted that, application is not out of time, it is within time as they have been court for longtime seeking for their rights.

Heaving heard both parties submission, the issue is whether application is within time. As correctly submitted by respondent personal representative Daniel Kalashe, application of this natural, time is not provided by Labour Laws. Thus, court is guided by Rule 55(1) of the Labour Court Rules where we resort to Law of Limitation. Under part III Section 21 of Law of Limitation Act, Cap No. 89/1971 which provides that;

Application under Civil procedure code, magistrate court Act or other written law in which no time is provided is 60 days. "Sixty day.

From the records, CMA award attached to the application, issued in favour of applicants on 8th September, 2017. Current application for representative suit filed on 31st May, 2019, being after a period of 21 months. Extremely out of time. ***Time limitation is mathematics in law, one cannot overlook time specified within which to file certain dispute. Without limitation of time, court will have endless litigations at the whims of the parties.***

Application being filed after 21 months from the award sought to be challenged delivered, deserve to be dismissed in terms of Section 3 of Law

of Limitation Act Cap 89 RE 2002. Accordingly Misc application number 326/2019 dismissed for being time barred.



Z.G. Muruke

JUDGE

30/11/2020

Labour Court TZ.

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

MISCELLANEOUS APPLICATION NO. 326 OF 2019

**RAMADHANI SEMGAZA 1ST APPLICANT
NICHOLAUS STEPHEN MASIMBA 2ND APPLICANT
JABIR JUMA AKIDA 3RD APPLICANT**

VERSUS

ALISTAR JAMES COMPANY RESPONDENT

Date: 30/11/2020

Coram: Hon. S.R. Ding'ohi, DR.

Applicant: Present in person

For Applicant:

Respondent:

For Respondent:

} Absent

CC: Halima

Court: Ruling delivered this 30th day of November, 2020.


S.R. Ding'ohi
DEPUTY REGISTRAR
30/11/2020