

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

AT MOROGORO

MISCELLANEOUS APPLICATION NO. 16 OF 2020

ILLOVO DISTILLERS (T) LTD.....APPLICANT

VERSUS

GASPER RINGO.....RESPONDENT

RULING

Date of last Order: 25/11/2020

Date of Ruling: 27/11/2020

Z.G.Muruke, J.

Applicant filed application for extension of time to file revision, same is supported by an affidavit of applicant counsel Dunstan Kaijage. Respondent filed counter affidavit sworn by himself. On the hearing date, respondent absent despite receiving summons on 13rd November, 2020, for hearing today. Despite court order to appear yet respondent is absent. Court orders has to be respected and adhered to. None compliance of court orders not only is a disrespect, but create chaos on entire administration of justice. This cannot be left to continue. Thus, court to proceed with hearing in the absence of respondent who exempted himself from the hearing today.

Reasons are started in paragraph 4 and 5 of the applicant affidavit. On the hearing, applicant counsel narrated series of application filed to be able to access right to be heard. In totality, it was argued that 18 months'

salary compensation awarded to the respondent is illegal. Based on that illegality is the reason for extension sought.

Right to be heard is one of fundamental principals of natural justice, failure of which vitiates proceedings. Rule of natural justice states that no man should be condemned unheard and, indeed both sides should be heard unless one side chooses not to. **It is a basic law that, no one should be condemned to a judgment passed against him without being afforded a chance of being heard.** The right to be heard is a valuable right and it would offend all notions of justice if the rights of a party were to be prejudiced or affected without the party being afforded an opportunity to be heard.

To the best of my understanding, **the Principles** of natural justice should always be dispensed by the court, that is both parties must be heard on the application before a final decision. Failing which there is miscarriage of justice as it is wrong for the judge to impose an order on the parties and such order cannot be allowed to stand. **Implicit** in the concept of fair adjudication lie cardinal principles namely that no man shall be condemned unheard. Principles of natural justice must be observed by the court save where their application is excluded expressly or by necessary implication. It is un-procedural for a court to give judgment against the defendant without giving him an opportunity of being heard. **Every judicial or quasi-judicial tribunal must apply the fundamental principles of natural justice and natural justice will not allow a person to be jeopardized in his person or pocket without giving him an opportunity of appearing and putting**

forward his case. The issue of denial of the right to a hearing is a point of law which underline the proceedings the effect of which is to render a proceeding a nullity.

In the case of Ridge Vs. Baldwin [1963] 2 All ER 66, it was insisted that the consequence of the failure to observe the rules of natural justice is to render the decision void and not voidable. Official of the court must comply with the rules of natural justice when exercising judicial functions. Right to be heard was insisted in the case of **Kijakazi Mbegu and five others Vs. Ramadhani Mbegu** [1999] TLR 174.

From the records applicant has filed several revision and application since 2017. All these application is for applicant to be able to be heard on an intended revision. Same cannot be done without granting extension sought on the basic principle of right to be heard. Accordingly application granted. Applicant granted seven days leave to file intended revision from today. It is so ordered.


Z.G.Muruke

JUDGE

27/11/2020

Ruling delivered in the presence of Dunstan Kaijage for applicant and in the absence of respondent.


Z.G.Muruke

JUDGE

27/11/2020