

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

AT MOROGORO

REVISION NO. 03 OF 2019

LUKANAJA TALAI.....APPLICANT

VERSUS

UNITRANS TANZANIA LIMITED.....RESPONDENT

RULING

Date of last Order: 23/11/2020

Date of Ruling: 23/11/2020

Z.G.Muruke, J.

Applicant filed present revision on 4th January, 2019. Upon being served respondent counsel raised notice of preliminary objection that revision is out of time. On the hearing Lukanaja Talai (applicant) was represented by Mr. Gibson Kachingwe, personal representative of his own Choice, while Mr. Dunstan Kaijage represented respondent. In support of the preliminary objection respondent counsel vehemently argued that, CMA decision sought to be challenged was delivered on 15th November, 2017, present revision has been filed on 04th January, 2019, being after more than a year instead of six weeks from the date of Award served to the parties. More so, there is no extension sought before filing the revision, thus out of time.

Mr. Gibson Kachingwe applicant personal representative submitted Commission for Mediation and Arbitration (CMA) decision was served to the applicant on 29/09/2018. First revision application number 18 of 2018 was

filed on 23rd July, 2018, being 27 days from 29th September, 2018 when applicant received the award. Same was struck on 05th December, 2018. Order to struck out was received by applicant on 14th December, 2018, current application was filed on 4th January, 2019 being after 21 days from the date applicant received order striking out revision. Therefore revision is within time, preliminary objection is without merits, should be dismissed.

Having heard both parties submission, there is no dispute that, award sought to be challenged was issued on 15th November, 2017. Present revision was filed on 04th May, 2019 being after more than a year. Applicant representative argued that, after striking out first revision, his client was served with an order on 14th December, 2018. He then took 21 days only to file current revision on 4th January, 2019. With due respect, that is not right. When 1st revision number 18/2018 between the parties herein was struck out for incompetence implies that, such revision has never been there. Equally, order to struck out first revision by Honourable Wambura, J did not give applicant extension of time to file the same. To this court, time start to run from when the award was issued on 15th November, 2017. There was no any extension sought before this court for revision to be filed out of time. Filing revision application after a year, it is obvious, revision is out of time.

To this court, applicant representative is closing eyes to avoid a clear preliminary objection on time limitation that is glaring. Following, Revision application number 18/2018 to be struck out, there is nothing left for the court to hold for the applicants to prove that present application is within time. Way back 1966, in the case of Lakhamshi Bros Ltd Vs. Raja and

Sons (1966) E.A 313 at 314 court held that there is a principal which is of the very greatest importance in the administration of justice and that principle is this, it is the interest of all persons that there should be an end to litigation. ***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.***

First preliminary objection is upheld, thus, Revision application number 03 of 2019 is dismissed for being out of time with.



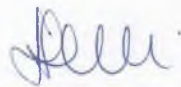

Z.G.Muruke

JUDGE

23/11/2020

Ruling delivered in the presence of Gibson Kachingwa, Personal Representative of the applicant and Danstun Kaijage for respondent.




Z.G.Muruke

JUDGE

23/11/2020