

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

REVISION NO. 106 OF 2020

BETWEEN

MOHAMED HASHIL.....APPLICANT

AND

NATIONAL MICROFINANCE

BANK LTD (NMB BANK).....RESPONDENT

RULING

Date of Last Order: 01/09/2020

Date of Ruling: 06/11/2020

A. E. MWIPOPO, J

The Respondent namely National Microfinance Bank Ltd (NMB Bank) filed Notice of the Preliminary Objection (P.O) on 30th April, 2020 that the application is time barred. The Respondent is praying for the Court to dismiss the application filed by the Applicant namely Mohamed Hashil. The court ordered the hearing of the Preliminary Objection to proceed by way of written submissions.

The Respondent who was represented by Advocate Sabas Shayo submitted that the Applicant filed this revision application on 2nd April, 2020, which is more than eight weeks from the date of the award. The Commission award was delivered by the Commission on 28th January, 2020. The law

provides under section 91(1) (a) of the Employment and Labour Relations Act, Cap. 366, R.E. 2019, that the party aggrieved by an arbitration award may apply for revision to the Labour Court within six weeks from the date that the award was served on the Applicant. The Respondent prayed for the application to be dismissed.

In reply, the Applicant Advocate namely Alex Felician Mianga submitted that this application was filed electronically on 10th March, 2020 and it was given control No. 82045162. Then, the hardcopy was filed on 16th March, 2020. The Applicant Counsel argued that the Judicature and Application of Laws (Electronic Filing) Rules, 2018 provides in Rule 21 (1) that a document shall be considered to have been filed if it is submitted through the electronic filing system before midnight, East African time, on the date it is submitted unless a specific time is set by the Court or it is rejected. The present application for revision was filed electronically on 30th March, 2020 which is well within 6 weeks provided by the law. The Applicant prayed for the preliminary objection be struck out with cost.

In rejoinder, the Respondent Counsel retaliated his submission in chief.

From parties' submission, I find it relevant to have a brief tour of the law providing for electronic filling of the documents in Court. The electronic filing system is recognized by our laws as among the means of filing documents in Court. It is governed by the Judicature and Application of Laws

(Electronic Filing) Rules, 2018, G.N. No. 148 of 2018. Rule 21(1) of G.N. No. 148 of 2018, provides that, I quote:

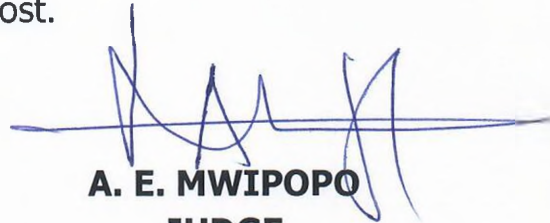
“A document shall be considered to have been filed if it is submitted through the electronic filing system before midnight, east African time, on the date it is submitted, unless specific time is set by the Court or it is rejected”.

From the above cited rule, filing of the document electronically is recognized by our laws as one of the means of filing a document in Court. The document which has been filed through electronic filing system is considered to be filed in Court on the date it was filed. It is a practice that after the document is lodged online the party has to file the hard copy too.

The applicant filed this revision application electronically on 10th March, 2020 at 21:14:03 and he submitted the hard copy on 16th March, 2020. I have checked the system which confirm that the application was filed on 10th March, 2020, as the Applicant's asserts. Counting from 28th January, 2020, when the Commission Award was delivered, which I assume is the date the award was served to the Applicant since the Applicant have said nothing as to when the award was served to him, to 10th March, 2020 when this Application was filed online it is clear that the Application was filed within six weeks provided by the law. It is not clear as to where the Respondent get the date he alleged to be filing date of this application which is on 2nd April, 2020. The evidence on record shows that the application was filed electronically on 10th March, 2020, and the hard copy was filed on 16th March,

2020. Thus, it is my finding that the revision application was filed through online filing system within time.

Therefore, I find the P.O. has no merits and I hereby overrule it. The Revision Application to proceed with hearing to its final determination on merits. No order as to cost.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

A. E. MWIPOPO
JUDGE
06/11/2020