

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

**AT MOROGORO**

**REVISION NO. 14 OF 2020**

**TANZANIA PLANTATION AGRICULTURE  
WORKERS UNION (TPAWU).....APPLICANT**

**VERSUS**

**TANZANIA UNION OF INDUSTRIAL AND  
COMMERCIAL WORKERS (TUICO).....1<sup>ST</sup> RESPONDENT**

**ILLOVO DISTILLERS  
TANZANIA LTD (IDTL)..... 2<sup>ND</sup> RESPONDENT**

**RULING**

*Date of last Order: 02/11/2020*

*Date of Ruling: 02/11/2020*

**Z.G.Muruke, J.**

When this matter come for hearing, first respondent counsel Jamal Ngowo, raised an objection that, present revision is out of time prescribed by section 91(1)(a) of Employment and Labour Relations Act, Act No. 6/2004. Decision sought to be challenged was delivered on 12<sup>th</sup> August, 2019, while present application was filed on 24<sup>th</sup> February, 2020.

Applicant representative John Vahaye, Deputy General Secretary, objected preliminary objection on the following reasons, that they filed prious Revision application that was struck by Honourable Mtarania, Deputy District Registrar, who then granted leave to refile. They duly filed present application on 22<sup>nd</sup> February, 2020 just a day, from the order of striking out the previous revision application.

Thus, concluded 1<sup>st</sup> representative that, application is with time. More so, there are tribble issue to be argued, there is a need to hear the application for revision on merits. In rejoinder first respondent counsel, submitted that, respondent representative is misleading the court, on 22<sup>nd</sup> February, 2020, it was Saturday, so, application could out have been filed. Orders sought to be granted by Honourable Mtarania not attached, and no mentioning of number of revision. Records proves clearly that application is out of time.

Having heard both parties submission, there is no dispute that decision sought to be challenged was issued on 12<sup>nd</sup> August, 2019, in terms of paragraph 5.1 of applicant own principle affidavit sworn by Kabegwe Ndebile Kabengwe, also CMA records prove the same. Present application field on 24<sup>th</sup> February, 2020, being after 6 months from the date of decision. Applicant representative argument that, they filed first revision that was struck out by registrar of this court, and granted leave to refile, is not backed up by records. There is no averment on the affidavit to that effect, and more so, no any attached evidence in the affidavit in support. **Two;** Assuming that there was an order striking out and leave granted, to refile, yet, Deputy Registrar had no capacity to grant leave. To this court, application is extremely out of time. Argument that, there is tribal issue, to be argued on revision, cannot be accepted once matter is found to be time barred. It would have been ground for extension before filing present revision. Time limitation it is mathematics in law, without limitation of time we will have endless litigation at the whims of the parties.

Time limitation is serious issue in smooth administration of justice, it touches jurisdiction of the court to hear the dispute. Court should not take it lightly even at the risk of injustice and hardship to the applicant. In the case of **Meis Industries Limited and two others Vs. Twiga Bankcorp, Misc Commercial Case No. 243 of 2015** where Court of Appeal quoted with approval the case of Daphne Parry Vs. Murray Alexander Carson [1963] 1 EA 546 and held:

**"Though the court should not doubt give a liberal interpretation to the words 'sufficient cause' its interpretation must be in accordance with judicial principles. If the appellant has a good case on the merits but is out of time and has no valid excuse for the delay, the court must guard itself against the danger of being led away of sympathy, and the appeal should be dismissed as time-barred, even at the risk of injustice and hardship to the appellant."**

Present revision application being filed out of time and without leave of the court there is nothing court can do. Same is dismissed for being time barred.

  
Z.G. Muruke  
**JUDGE**  
02/12/2020

Ruling delivered in the presence of John Vahaye, Deputy General Secretary, for the applicant Jamal Ngowo for the first respondent and Danstan Kaijage for 2<sup>nd</sup> respondent.

  
Z.G. Muruke  
**JUDGE**  
02/12/2020