

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

REVISION NO. 397 OF 2019

BETWEEN

SARAH BLACK ISAKWISA.....APPLICANT

VERSUS

KISHAN INDUSTRIES LIMITED.....RESPONDENT

RULING

Date of last Order: 06/08/2020

Date of Ruling: 23/10/2020

Aboud, J.

This ruling is in respect of the preliminary objections filed by the respondent Kishan industries limited against the revision application filed by the applicant. The preliminary objections raised on the following grounds:-

1. That the applicant's application is totally defective for non-citation of Section 94 (1) (b) (1), Section 91 (2) (a) (b) (c) of the Employment and Labour Relations Act, Cap 366 RE 2019,(Herein to be referred as Cap.366 RE 2019), Rule 24 (1) (2) (a-f), Rule 28 (1) (a) (b) (d) and (e) of the

Labour Court Rules GN.106 of 2007 (herein to be referred as Rule 106 of 2007).

2. That the application is bad in law for not being endorsed by the drawer contrary to Section 44 (1) of the Advocate Act.
3. The application for revision is hopelessly time barred contrary to Section 91(1) (a) of Cap. 366 RE 2019.

With leave of the court hearing of the preliminary objection was by way of written submission. It is from the records that only the respondent filed its submissions in regard to the preliminary objections. The applicant did not file her submissions in regard to the same.

On the 1st ground it was submitted that the application is incompetent for non-citation of Section 94 (1) (b) (1), Section 91 (2) (a) (b) (c) of the Employment and Labour Relations Act, Cap 366 RE 2019, Rule 24 (1) (2) (a) (b) (c) (d) (e) Rule 28 (1) (a) (b) (d) and (e) of the Labour Court Rules GN. 106 of 2007. Also the applicant cited the non-existing rules, to wit Rule 2 (1) 2 (2) (a) (b) (c) (d) and (e) of the GN. No.106 of 2007.

On the 2nd ground it was submitted that the application is bad in law for the applicant's failure to endorse the drawer of the Notice of Application and the Affidavit in support of the application, which is contrary to Section 44 (1) of the Cap.341 of 2002.

In regard to the 3rd ground the respondent's counsel submitted that, the application is time barred contrary to Section 91 (1) of Cap.366 RE 2019. That the impugned award was delivered on 22nd October, 2018 and the applicant filed the application for revision on 29th April, 2019 out of prescribed period of 42 days. They thus prayed for dismissal of the application.

After consideration of the respondent's submissions records and relevant laws, I will start to determine the 3rd ground of time barred. It is on record that the impugned award was delivered on 22nd October, 2018. On 30th November, 2018 the applicant timely filed Revision application No.892/2018 which was withdrawn by herself with leave to refile. The leave was granted on 2nd April, 2019 by this

Court. I find worth to reproduce the court's order for easy reference:-

"Order:-

Application is marked withdrawn with leave to refile on 18th April, 2019.

Sgd".

From the contents of the above cited order, the applicant was supposed to file her application on 18th April, 2019. However, the application was filed on 29th April, 2019, eleven days after the due date contrary to the Court order. I have cautiously gone through the records and I did not come across with either the application for extension of time or order allowing the applicant to file the application out of the time granted by the Court on 02/04/2020.

In the case of **Peter's Sec. School Vs. Heri Gabriel**, Revision Number 273/2008, (unreported) Hon. Justice Rweyemamu, J, held that:-

"Limitation is a material point in the speedy administration of justice. Limitation is there to ensure that a party does not come to Court as and when he chooses".

The applicant ought to have timely filed the application but she negligently failed to do so. In the case of **Vodacom Foundation Vs Commissioner General (TRA)**, Civil Application No. 107 of 20 of 2017, Court of Appeal of Tanzania at Dar es Salaam [unreported], His Lordship Mwambegele, J.A. at page 10, quoting the case of **Dr. Ally Shabhay Vs. Tanga Bohora Jamaat** [1997] TLR 305 at Page 306, held that:-

“Those who come to courts of law must not show unnecessary delay in doing so; they must show great diligence”.

Therefore, I fully agree with the respondent’s counsel submission that the application is time barred basing on the above discussion. I find no need to determine the remaining grounds of preliminary objection after the 3rd ground has disposed of the application.

In the result, I dismiss the application accordingly.



I. D. Aboud

JUDGE

23/10/2020