

**IN THE HIGH COURT OF TANZANIA**  
**LABOUR DIVISION**  
**AT DAR ES SALAAM**  
**REVISION NO. 11 OF 2019**

**ULTIMATE SECURITY (T) LIMITED.....APPLICANT**

**VERSUS**

**MOHAMED MAMBI.....RESPONDENT**

**JUDGEMENT**

*Date of Last Order: 4/09/2020*

*Date of judgment: .../10/2020*

**E.B. Luvanda, J**

The applicant Ultimate Security (T) Ltd, filed this application for revision against the award of the Commission for Mediation and Arbitration (CMA) in labour dispute No. CMA/DSM/KIN/R.289/524/2017 delivered on 29/11/2018 in favor of the respondent above mentioned.

Brief facts leading to the present application are as follow: the respondent was employed by the applicant as a Fire and Rescue Driver on 4<sup>th</sup> October, 2012 for a fixed employment of two years, for a monthly salary of 446,461.55.

He was retrenched on 15/2/2017 for the reasons of operational requirement. The respondent successfully challenged the retrenchment at CMA. CMA ruled that the termination was unfair as the applicant failed to prove basis on the retrenchment exercise, hence this revision.

The matter was argued by written submission.

Essentially the issue for determination is whether the applicant proved on the balance reason for retrenchment. In this matter the reason for the retrenchment was explained by DW1 Eliuta Francis, being due to overstaffing which was compounded by expiration of security contract with their clients which entailed loss of security sites. DW1 stated that the respondent did not have work to perform and failed to get alternative employment. On the other hand, PW1 (respondent herein) stated that in the department of firefighting where he was working, was not selected for retrenchment because had shortage of staffs. But when he was put to task on cross examination, PW1 said that a notice of retrenchment does not say if his department was excluded from retrenchment. To my view, the respondent was retrenched based on valid reason.



Indeed, the respondent was keeping on contradicting himself, as at first he said a notice of retrenchment was not posted at the area of his work at Kurasini. The respondent added that relevant information for retrenchment was not disclosed and no consultation meeting was convened. Surprisingly the respondent stated that he was told by the general manager that their department was not selected for retrenchment exercise. If he was not aware of notice including the whole process of retrenchment, how he obtained information from the general manager regarding the same exercise.

Now, as the procedure for retrenchment were abided and over 200 staffs were retrenched, the respondent complaint that at a department he was working there is still a vacant, or that his department is lacking a driver cannot be entertained. To this end, I prefer the testimony of DW1 & DW2 reflect the actual situation or status of the company/business. I therefore, rule that the reasons adduced by the applicant witnesses constitute valid reason for the retrenchment.

As I have ruled above, the procedures for retrenchment were followed by the applicant to the letter, in a sense that a notice for retrenchment (exhibit R1) was issued, consultation meeting was convened followed by second consultation meeting exhibit R2.

Having premised as above, I rule that the retrenchment of the respondent was both substantively and procedurally fair.

Therefore, the CMA award is set aside.

The application is granted.



E.B. Luvanda, J

**JUDGE**

9/10/2020