

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

**MISCELLANEOUS APPLICATION NO. 571 OF 2019**

**BETWEEN**

**THE REGISTERED TRUSTEES OF COMMUNICATION FOR  
DEVELOPMENT AFRICA INITIATIVE (DEVCOM) ..... APPLICANT**

**VERSUS**

**MALCOM N. ZAKARIA ..... RESPONDENT**

**RULING**

*Date of Last Order: 05/05/2019*

*Date of Ruling: 29/05/2020*

**S.A.N. Wambura, J.**

The applicant **THE REGISTERED TRUSTEES OF COMMUNICATION FOR DEVELOPMENT AFRICA INITIATIVE** is praying for extension of time within which they can apply for revision out of time of an exparte award dated 18/06/2019 in Labour Dispute No. CMA/DSM/ILA/1259/18. The application was supported with a sworn affidavit of Gaston Modest Kaziri the Managing Director of the applicant.

The respondent **MALCOM N. ZAKARIA** filed a counter affidavit challenging the application.

With leave of the Court the application was disposed of by way of written submissions. I thank both parties for filing their submissions as scheduled.

It was submitted by the applicant that the delay was caused by the fact that his Personal Representative one Denis Mwamakwela was nowhere to be accessed. That he personally made a follow up and on 24/6/2019 obtained a copy of the exparte award dated 18/06/2019. He however could not file the same as all of his documents were with the Personal Representative. It was sometime in September, 2019 when he met his Secretary one Roseana Festo who told him that Mr. Mwamakwela had moved to Mbeya and left his file with her. That she could not deliver the same in time as she travelled to Dodoma to attend to her sick mother.

It was after going through the file that he realized that the Personal Representative had tried to set aside the exparte award but the said application was dismissed.

He thus filed this application so that he can also be heard and cited a number of cases to that effect.

The respondent challenged the application as he argued that the applicant had to apply to set aside the *ex parte* award at CMA as provided for under Regulation 10 of LIA, 2007. Having received a copy of the award in time then he ought to have filed the same in time at CMA.

That it is not true that the applicants Personal Representative has moved to Mbeya as he still runs an Office in Dar es Salaam. That the delay is out of mere negligence.

In his rejoinder the applicant argued that CMA had dismissed their application to set aside the *ex parte* award on 15/05/2019 (Annexure DW4) so the application herein has been properly filed. He thus prayed for the application to be granted.

Now what this Court is expected to look at when granting an extension of time according to Rule 56 of the Labour Court Rules, 2007 is whether the applicant has adduced sufficient cause for being granted the same.

Rule 56 provides as herein quoted:-

*“Rule 56(1) The **Court may extend or abridge any period** prescribed by these Rules on application and **on good cause shown**, unless the Court is precluded from doing so by any written law.”*

*Emphasis is mine].*

In the cases of **Anthony Cholinga Vs. Bolore Africa Logistic (T) Ltd**, Misc. Appl. No. 357 of 2019, **Stephen Masato Wasira Vs. Joseph Sindi Warioba & The Attorney General**, [1999] TLR 332 at page 342 and **Sao Hill Industries Ltd Vs. Mbuli Ambrose**, Rev. No. 29/2014 the application was denied as no sufficient causes were adduced while in the cases of **Yusufu Same & Another v. Hadija Yusufu**, Civil Appeal No. 1/2002 and **Said Issa Abdullah & 30 Others v. Damina General Supplies**, Lab. Div., MZA, Misc. Lab. Appl. No. 23/2013 the application was granted as the applicant had adduced sufficient cause.

The applicant has cited a number of cases which insist on the right to be heard. This is not a ground for being granted an extension of time. At this juncture the applicant had to adduce reasons as to why he delayed to


file the same. He has stated that his Personal Representative is no longer operating business in Dar es Salam a thing which has been challenged. That he left his file with his Secretary is a mere allegation for Mr. Mwamakwela and the said Roseana Festo ought to have filed an affidavit in respect of their roles in the delay of handing him over his documents. This was not done.

In the cases of **Daudi Haga Vs. Jenitha Abdon Machafu**, Civil Reference No. 1 of 2000 and **Sebastian Ndaula Vs. Grace Rwamafa**, Civil Application No. 4 of 2014 it has been held that one has to account for the delay of each day a thing which has not been done.

The matter had to be filed promptly as held in the case of **Attorney General v Tanzania Ports Authority & Another**, Civil Application No. 87 of 2016 which is not the case in this matter.

In the case of **Tanzania Fish Processors Ltd Vs Christopher Luhangula**, Civil Appeal No. 161/1994 it was held that one should not be left to come to Court when one chooses to. The applicant thus cannot be left to do so either.

I thus dismiss the application as the applicant has failed to adduce sufficient causes for the delay. It is so Ordered.

  
S.A.N. Wambura  
**JUDGE**  
29/05/2020