

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

REVISION NO. 726 OF 2019

BETWEEN

MANAGING DIRECTOR, FALCON

ANIMAL FEEDS LIMITED..... APPLICANT

VERSUS

MUSSA ABDALLAH.....1ST RESPONDENT

HASHIM SAID NAI.....2ND RESPONDENT

RULING

Date of Last Order: 31/05/2021

Date of Ruling: 07/06/2021

Z. G. Muruke, J.

On the date set for hearing applicant counsel Amon Rwiza conceded to the preliminary objection on account of affidavit not complying with Rule 24(3) c & d of the Labour Court Rules. He thus asked court to struck of the application with leave of 14 days to file competent application for interest of justice. The two respondents who were in person objected prayer to refile, insisting that they have been suffering with their family for a long a time for reasons caused by applicant.

Clearly, the affidavit above sworn in support of application lacks **one**: Statement of legal issues, **two** relief sought. Same is contrary to Rule 24(3)(c) and (d) of the Labour Court Rules 2007 GN 106/2007. The said Rule requires supporting affidavit before this Court's proceedings to set out

legal issues and reliefs. For clarity Rule 24(3) of the Labour Court Rules provides that:-

24 (3) The application shall be supported by an affidavit, which shall clearly and concisely set out-

- a) The names, description and address of the parties; (Not applicable)*
- b) A statement of the material facts in a chronological order, on which the application is based; (Not applicable)***
- c) A statement of legal issues that arise from the material facts; and***
- (d) the reliefs sought. [emphasis mine]***

It must be understood that the Labour Court as a specialized court and Division of the High Court has its Labour Laws and Rules enacted and passed by the legislature with the aim of guiding the Labour Court to achieve its purpose. Affidavit in Labour and Employment matters is governed by rules and requirements as spelt out in Rule 24(3)(a)(b)(c) and (d) above of the Labour Court Rules GN No. 106 of 2007. Therefore a deponent must follow the same. Since the applicant did not follow the rules the affidavit is defective.

Applicant counsel was wrong for not complying with the simplified **rules** and **requirements** of an affidavit as spelt out under Rule 24(3)(c) and (d) which are mandatory to be in the affidavit to form part thereof. The words "The Application **shall be supported by an affidavit, which shall clearly and concisely set out (a)....(b).....(c).....(d)**

pre-supposes the mandatory requirement in the circumstances. The language of Rule 24(3)(c) and (d) is coached on mandatory way, thus must be followed.

In the up short, Revision application is incompetent for being accompanied by affidavit that has contravened Rule 24(3)(c) &(d) of the Labour Court Rules GN No. 106/2007, thus struck out.



Z.G.Muruke

JUDGE

07/06/2021

Ruling delivered in the presence of Amon Rwiza, Counsel for the applicant and two respondents in persons.



Z.G.Muruke

JUDGE

07/06/2021