

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)
AT DAR ES SALAAM**

REVISION NO. 140 OF 2019

BETWEEN

MAGDALENA CLETUS MGOMBERE APPLICANT

VERSUS

QUALITY GROUP LIMITED RESPONDENT

JUDGEMENT

S.M. MAGHIMBI, J:

The Applicant brought this application asking this honourable court to make an order setting aside the CMA award in referral number CMA/DSM/TEM/458/2017 dated 1st November, 2017 and replacing the same with an order directing continuation of the mediation interparties. At the CMA, the applicant had unsuccessfully lodged an application to set aside a dismissal order following a dismissal of the dispute for non-appearance of the applicant.

At the CMA, the grounds for non-appearance of the applicant was mainly attributed to the Applicant's counsel who was allegedly lying concerning the date fixed. The applicant came to find out that the counsel was not appearing before the commission while he was telling the Applicant that everything is in order. She urged the court to find that

the acts of the counsel of none appearing in court and telling the applicant that he has been appearing and everything is in order, amounts to misconduct of advocate. She then supported her arguments by citing the case of **Marco Iseke vs Trustees of Dioceses of Victoria Nyanza Rev. No. 65 of 2013** this court, Madam Justice Wambura, J, held that

Sufficient cause should not be interpreted narrowly but should be given wide interpretation to encompass all reasons or causes which are outside the applicant's control

I have taken keen consideration of the applicant's submissions and the affidavit in support of the Chamber Summons. I find that what the applicant is saying is sufficient to convince the court to use its discretionary powers. I have noted the acts of the applicant from the day she found out that the advocate was lying to her. She has never slept on her rights and has been in court corridors ever since. The conduct is sufficient to establish that it was not the applicant's fault that the matter was dismissed.

Owing to that I allow this revision. The order of the CMA in Dispute No. CMA/DSM/TEM/458/2017 by Hon. Abdallah, M dated 1st November, 2017 is hereby set aside. I further order that the Dispute No.

CMA/DSM/TEM/458/2017 be restored back to the records of the CMA to proceed from the stage of Mediation as it were before the dismissal.

Dated at Dar es Salaam this 03rd day of December, 2021.



A handwritten signature in blue ink, consisting of a series of loops and a final flourish.

S.M. MAGHIMBI
JUDGE