

THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

MISCELLANEOUS APPLICATION NO. 75 OF 2021

BETWEEN

G.P GLOBAL TANZANIA LTD APPLICANT

VERSUS

FAY RAYMOND RESPONDENT

RULING

Last order 13/9/2021

Date of Ruling 17/9/2021

B.E.K. Mganga, J

On 2nd March 2020, applicant employed the respondent as officer Documentation under one-year Contract but with six months' probation period. Respondent worked for three months and while still on six months' probation, she was terminated on 30th May 2020. Aggrieved by that termination, respondent filed Labour dispute No. CMA/DSM/473/2020/245/2020 at the Commission for Mediation and Arbitration alleging that the applicant has breached the contract. On 29th January 2021, Kokusiima. L, Arbitrator, after interparty hearing, awarded the respondent to be paid TZS 12,000,000/= as six months' salary

compensation. Being aggrieved by the said award, and being out of time, the applicant has filed the Notice of application seeking extension of time within which to file application for this court to revise the said award.

The Notice of application is supported by the affidavit of Merisha Walji, the principal officer of the applicant. The application has been resisted by the respondent who has filed a notice of opposition and a counter affidavit.

In the affidavit supporting the application and, in her argument, applicant advanced only one ground for delay namely COVID 19 pandemic in her office that led to closure of her office. That, at the time she opened her office, she found already out of time.

It was submitted by counsel for the applicant that she has adduced sufficient reasons to justify extension of time. The cases of ***Zaidi Baraka and 2 others v. Exim Bank (T) Limited, Misc. Commercial cause No. 300 of 2015, CAT*** (unreported) was cited to the effect that as matter of general principle, it is the discretion of the Court to grant extension of time and that discretion has to be exercised according to the rules of reason and justice and not according to private opinion or arbitrary.

It was submitted by counsel for the respondent that applicant has failed to show good cause to justify extension of time. He cited the case of ***Benedict Mumello v. Bank of Tanzania [2006] E.A 227*** that extension of time may only be granted if it has been established that the delay was due to sufficient cause. It was argued on behalf of the respondent that even if taking the alleged COVID 19 pandemic issue as a valid reason, applicant was supposed to file an application online. It was further argued that applicant has failed to show when the office was closed and when it was opened. Counsel for the respondent relying on the case of ***Regional Manager, Tanroads Kagera v. Ruaha Concrete Company Ltd, Civil Application No. 96 of 2007, CAT*** (unreported) submitted that the test for determination of an application for extension of time is whether the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted. He therefore prayed for dismissal of the application for failure to account for delay from 9th February 2021 the day the applicant was served with the award to the date of filing this application.

In rejoinder, counsel for the applicant submitted that the requirement of accounting each day of delay does not apply to all cases

but depends on case to case. Counsel for applicant submitted that, the delay is not inordinate, and that applicant has shown diligence in making this application.

In my view, the position of the law is settled that in an application for extension of time, applicant has to show sufficient cause or good cause for delay as it was held in the case of **Regional Manager, Tanroads Kagera** (supra) and **Benedict Mumello** (supra). In the application at hand, applicant has advanced COVID 19 pandemic as a reason that led to closure of her office and reason for delay. She has however failed to state as to the date she closed her office and date of opening so that from there the court can count and gauge whether that was sufficient reason for delay or not. Whatever the case, as it was correctly submitted by counsel for the respondent, applicant was supposed to file the intended revision application online as the Judicature and Application of Laws (Electronic Filing) Rules, 2018, GN. No.148 of 2018 permits. As applicant did not use that option cannot come now before the court with incautious excuse. By the way, all the time, this court and other offices continued to work as there was no lockdown. In short, the applicant has failed to adduced grounds that can

enable this court to use its discretion to extend time. The application therefore fails and is hereby dismissed.

It is so ordered.



A handwritten signature in black ink, appearing to read "B.E.K. Mganga".

B.E.K. Mganga
JUDGE
17/09/2021

LABOUR COURT TZ