

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

REVISION NO. 193 OF 2020

BETWEEN

DAR ES SALAAM CITY COUNCIL APPLICANT

VERSUS

ADRIAN MBWAMBO AND 15 OTHERS RESPONDENTS

RULING

S.M. MAGHIMBI, J:

The current application was lodged under the provisions of Rules 24(1), 24((1), 24(2)(a), (c), (d), (e), (f), 24(3)(a), (b),(c),(d), 28(1), (b), (c), (d), (e) of the Labour Court Rules GN No. 106 of 2007), Section 91(1)(a), 91(2)(a)(b) and Section 94(1)(b)(i) of the Employment and Labour Relations Act. Act No. 6 of 2004 (as amended) (ELRA). The applicant was aggrieved by the arbitration award of the Commission for Mediation and Arbitration at Dar es Salaam ("CMA") before Arbitrator Alfred Massay dated 31st day of October, 2017 and 15th April, 2020 in Labour Dispute No. CMA/DSM/ILA/R.900/16/872. In this application, the applicant is moving the court to grant the following orders:

a). That this Honorable Court be pleased to call for and examine the record of the decision/Arbitral Award of the Commission for Mediation and Arbitration at Dar es Salaam Zone before Alfred Massay Arbitrator, dated 31st day of October, 2017 and 15th April,2020 in Labour Dispute No.

CMA/DSM/ILA/R.900/16/872 for the purpose of satisfying itself as to correctness, legality, or propriety of the said proceeding and as to their regularity and revise it accordingly.

(a) Any other order this Court may deem fit and just to grant.

The application is supported by the Affidavit of one Jumanne U. Mtinangi, the Principle Officer of the applicant dated 22nd day of May, 2020. It is the affidavit in support of the application that is a subject of this ruling, following a preliminary objection on point of law raised by the respondents to the effect that the application is incompetent for being accompanied by a defective affidavit.

On the 10/08/2021 when parties came for mention, it was agreed that hearing of the preliminary objection proceed on 19/08/2021 at 09.00 am. The applicant was then represented by Mr. Aloyce Lyimo, learned advocate while the respondents were represented by Mr. Shafii Mafita, Personal Representative. However, when the matter came for hearing on the 19/08/2021, nobody appeared on behalf of the applicant and since there was no notice for the absence, hearing of the objection proceeded ex-parte of the applicant.

In his submissions to support the objection, Mr. Mafita submitted that the objection is in line with Rule 24(3) of the G.N No. 106/2007 whereas the applicants have just mentioned Adrian Mbwambo and 15 others while the requirement of the law is that all parties should also be mentioned. He submitted further that amongst the 16 respondents, some of them did not win at the CMA as their claims were dismissed. It is just a few of them who

were successful and these are the ones he believed the application is against. He argued that those parties should therefore be mentioned in that application. He concluded that owing to the identified issues; the application is incompetent; praying that the application be struck out.

Having considered the submissions of the respondent, I am in agreement with Mr. Mafita that the CMA award was not uniform to all the applicants. There were other parties at the CMA whom the decision was not in their favor. We are not sure if those parties are interested to pursue the Revision or not. We cannot allow the applicant to act on their behalf by pursuing the current revision without mentioning exactly whom they want to race against. To be more specific; the applicant ought to have been clear as to which part of the decision of the CMA she is aggrieved with as in favor of those particular parties. The way the application is crafted it is not clear against which parties the applicant wishes to seek the revision against. Owing to that, as correctly pointed out by Mr. Mafita, this application is incompetent and it is hereby struck out.

Dated at Dar es Salaam this 09th day of September, 2020.




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S.M MAGHIMBI,
JUDGE