

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

REVISION NO. 375 OF 2020

HAMADI N. MGAWE 1st APPLICANT
YASINI ISSA KIYOMOLE 2nd APPLICANT
OMARY IBRAHIMU 3rd APPLICANT
BAKARI JUMA 4th APPLICANT
ABDALLAH ATHUMAN 5th APPLICANT

VERSUS

KAMAKA COMPANY LIMITED RESPONDENT

JUDGEMENT

6th October & 26th November 2021

Rwizile, J

The applicants filed the present application urging the court to revise and set aside the decision of the Commission for Mediation and Arbitration (CMA) in labour dispute No. CMA/DSM/ILA/133/2020 delivered by Hon. Mollel, Mediator on 04/08/2020. Before the CMA the applicants were praying for extension of time to file a dispute of unfair termination. The CMA found that the applicants did not show good cause for their delay hence their application was dismissed. Aggrieved by the CMA's decision the applicants filed the present application on the following grounds: -

- i. That, the Honourable court did not carefully analyse and evaluate the evidence tendered by the applicant.
- ii. That, the Hon. Commission erroneously failed to consider that it was the acts of the respondent which made the applicants to delay in filing their complaint before the commission.

Before this court the applicants appeared in person whereas Mr. Bakari Juma, learned counsel represented the respondent. Arguing in support of the application the applicants submitted that the delay to file the dispute of unfair termination resulted from the respondent's promise letter to increase their salaries. They stated that through the said letter they believed that the dispute would have been settled amicably without intervention of the court. They added that they are laymen and not conversant with the law and legal procedure governing labour disputes and that they had no means to hire legal representatives.

The applicants further argued that the stated reasons for delay are sufficient to merit extension of time. To support their submission, the applicants, asked this court to refer cases of **Langson Nyalusu v. Usangu Logistic (T) Ltd**, Misc. Lab. Appl. No. 156 of 2014, **Felix Tumbo Kisima v. TTCL Limited and Another**, (1997) TLR 57 and

the case of **Selina Chibago v. Finihas Chibago**, Civ. Appl. No. 182 of 2007, CAT DSM. They therefore coaxed this court to grant this application.

Opposing the application, Mr. Juma learned counsel strongly disputed the fact that the respondent promised to increase the respondent's salaries. They added that the applicants did not attach the alleged letter of promise from the respondent. He argued that the promise to pay has never been a good ground for condonation as it was also held in the case of **Juma Nassir Mtubwa v. Namera Group of Industries Ltd**, Rev. No. 251 of 2019, HC. Dsm (unreported).

Mr. Juma went on to submit that the alleged promise did not prevent the applicants from filing the dispute at the CMA while waiting for the purported increase of salary. On the allegations that the applicants are laymen who could not afford legal fees, Mr. Juma submitted that such allegation is a new ground introduced at the revisional stage. He added that the same is also not sufficient ground to warrant extension of time.

Mr. Juma further argued that the applicants must account for each day of the delay. To support his submission, he cited the cases of **Juma Masunga Mayenga v. Kembo Matulanya Mpagulwa**, Rev. No. 56

of 2018 and **Tanzania Fish Processors Limited v. Eusto K. Ntagalinda**, Civ. Appl. No. 41/08 of 2018 CAT, Mwanza.

As to the cases of **Langson Nyalusu v. Usangu Logistics (T) Ltd** (supra) and **Selina Chibago v. Finhas Chibago** (supra), the learned counsel argued that they are distinguishable to the facts of the case at hand. Mr. Juma also submitted that the applicants did not submit on the grounds for revision that they focused much on the reasons for their delay. He therefore urged the court to dismiss the application.

In rejoinder the applicants reiterated their submission in chief.

After going through the rival submissions of the parties, court records and relevant laws, I find the court is called upon to determine whether the applicants had sufficient reasons for their delay.

At the CMA the applicants prayed for extension of time to file a dispute of unfair termination. It is the requirement of the law that disputes about the fairness of an employee's termination of employment must be referred to the CMA within thirty days from the date of termination, this is pursuant to Rule 10 (1) of the Labour Institutions (Mediation and Arbitration) Rules, GN 64 of 2007 (GN 64/2007). The record shows that the applicants were terminated from employment on the ground of

retrenchment on 30th November 2019. By simple calculations, the applicants were supposed to file their dispute on or before 01st November 2020.

The CMA F1 which initiates disputes at the CMA shows that the applicants filed their application for extension of time on 03rd February 2020. In such analysis, it is crystal clear that the applicants delayed to file their application for almost sixty-one days (61).

The applicants' reason for the delay to file the application was due to the unfulfilled promises of the respondent to increase their salaries as per the letter dated 30th December 2019 and the respondent's promise to reinstate them back into their position. I fully agree with Mr. Juma's submission that the applicants' reason for the delay is not proved. The applicants did not tender the alleged letter of promise from the respondent. Therefore, the applicants ground lacks merit because it is not backed up by evidence. I also subscribe to the case of **Juma Nassir Mtubwa v. Namera Group of Industries Ltd** (supra) cited by the respondent's Counsel where it was held that: -

'It is principle of law that, in any application for extension of time, the applicant must account on each day of his delay. The reason that, in whole 68 months he was


waiting for his employer to call him back after production increase cannot stand as a good cause for condonation. It apparently showing lack of diligence and seriousness on his part.'

The court also notes the applicants ground that they are laymen. It has been decided in numerous decisions, ignorance of law cannot stand as a defence. The applicants were supposed to account for each day of their delay and they have failed to do so. Each day of the delay should be accounted for as it was the position in the case of **Tanzania Fish Processors Limited v. Eusto K. Ntagalinda** (supra).

In the event, I find the CMA was correct to dismiss the applicants' application because they failed to substantiate their delay. Therefore, the present application has no merit and it is dismissed accordingly.

It is so ordered.





A.K.Rwizile

JUDGE

26.11.2021