

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

**REVISION NO. 519 OF 2020**

*(Originating from Misc. Application no. 11/2020/of CMA Morogoro zone, the ruling delivered Hon. Kiobya Z, Arbitrator)*

**BETWEEN**

**CHAMA CHA WALIMU TANZANIA ..... APPLICANT**

**AND**

**HUSNA HAMIS MJEWA & ANOTHER ..... RESPONDENTS**

**RULING**

**S.M. MAGHIMBI, J:**

The applicant herein is challenging the decision of the Commission for Mediation and Arbitration, Morogoro Zone (CMA) in Misc. Application No. 11/2020 which granted condonation of time to the respondent to file a dispute against the applicant who was her employer. The CMA was satisfied with the advanced grounds for the delay and granted the application. The applicant seems to be aggrieved by the decision and has lodged this application raising the following legal issues:

1. The commission for mediation and arbitration erred both in fact and law allowing the respondents above to file their dispute out of time without adducing the reasons to reach that decision.
2. The commission for mediation and arbitration erred both in fact and law by exercising its discretion power injudiciously.
3. The commission for mediation and arbitration erred both in law and fact by allowing the respondents above to file their labour dispute out of time while the applicant did not adduce any good cause of their delay.
4. The commission for mediation and arbitration erred both in law and fact by allowing the respondents above to file their labour dispute out of time the applicant did not account any single day of delay.
5. The commission for mediation and arbitration erred both in law and fact by not considering the written submission made by the applicant before it.
6. The commission for mediation and arbitration erred both in law and fact by for considering the written submission file by the Respondents out of time without leave of the commission.

The respondent then raised preliminary points of objection on points of law that:

1. The Honourable court is improperly moved by this application which contains improper citation of the law and has no clear provisions of the law.
2. The affidavit in support of this application is incurably defective for want of verification.
3. the application is bad in law as it contravenes Rule 50 of the Labour Court Rules Government Notice No. 106 of 2007.

Mr. Samwel Banzi, learned advocate represented the respondent and in his submissions to support the objection he started with the third point of objection that the application is bad in law as it contravenes Rule 50 of the Labour Court Rules Government Notice No. 106 of 2007. His argument was that it is clearly stated under Rule 50 of the Rules:

*"No appeal, review or revision shall lie on interlocutory incidental decisions or orders unless such decision has the effects of finally determining the dispute".*

He then submitted that this position of law has been applied in various cases before the courts of law, citing the case of **Geita Gold Mining Ltd Versus Lucas Ntobi, Revision Application No. 72/2019** at page 6 where it was held that:

*"The CMA's decision ...was in respect of an interlocutory application against which no appeal or revision can lie"*

He further cited the case of **Managing Director Souza Motors Vs. Riaz Gulamali and Another (2001) TLR 405** held that:

*"...a decision or order of preliminary or interlocutory nature is not appealed unless it has the effect of final determining the suit..."*

He also cited the case of **Equity Bank (T) LT Vs Abuhusein J. Mvungi Labour Revision No. 62 of 2019** whereby the same position was held. He then argued that, basing on statutory position of law and of the referred cases, the decision of the CMA is an interlocutory order since it has not determined the dispute to its finality. Therefore it cannot in any way be appealed, reviewed, nor be revised. His prayer was that the application is dismissed. The applicant did not make reply submissions.

I have considered the submissions of the applicant and I totally agree with Mr. Banzi that Rule 50 of the Rules prohibits any appeal, review or revision aimed to challenge an interlocutory decision of the CMA unless such decision has the effect of finally disposing the matter before it. The impugned decision at hand did not finalise the dispute, it just opened doors so that parties can be heard on the merits of the grievances between them. Therefore as correctly argued by Mr. Banzi, the revision is prematurely filed and it is prohibited under the cited Rule 50.

Owing to the above findings, I see no need to dwell on the remaining grounds of objection. Consequently, this application is hereby dismissed.

Dated at Dar es Salaam this 10<sup>th</sup> day of March, 2022.



  
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**S.M. MAGHIMBI**  
**JUDGE**