

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

**REVISION APPLICATION NO. 350 OF 2022**

**GODFREY NGWENYA ..... APPLICANT**

**VERSUS**

**NAS DAR AIRCO CO. LIMITED ..... RESPONDENT**

**RULING**

*Date of last Order: 9/03/2023*  
*Date of Ruling: 14/3/2023*

**B. E. K. Mganga, J.**

On 12<sup>th</sup> February 2020, applicant filed Labour dispute No. CMA/DSM/ILA/129/2020/101 before the Commission for Mediation and Arbitration henceforth CMA at Ilala claiming to be paid TZS 135,000,000/= alleging that respondent terminated his employment unfairly. On 18<sup>th</sup> May 2021, Hon. Faraja Johnson, L, Arbitrator having heard evidence of the parties issued an award that termination was fair both substantively and procedurally consequently dismissed the application.

Applicant was aggrieved with the award, as a result he filed Revision No. 345 of 2021 before this court. On 8<sup>th</sup> December 2021, when the said revision application was called on for hearing, Mr. Edward Ngatunga, personal representative of the applicant conceded to the preliminary

objection raised by Mr. Arnold Peter, learned counsel for the respondent that applicant filed the said revision application against a wrong person. The court (Hon. I. Arufani, J) noted that in the award the arbitrator recorded a wrong name of the respondent. The court struck out Revision application No. 345 of 2021 and directed the parties to seek correction of the CMA award and that after correction, parties may file a new revision subject to limitation of time.

On 18<sup>th</sup> October 2022 applicant filed this application for revision. in the application, applicant attached a copy of CMA award, the order of this court in Revision No. 345 of 2021 and one-page purported ruling allegedly issued by Hon. Faraja Johnson, L, Arbitrator dated 19<sup>th</sup> May 2022. In the purported Ruling it is indicated that the arbitrator corrected the name of the respondent to read NAS DAR AIRCO CO. LTD instead of NAS DAR AIR CO LTD.

When the application was called on for hearing on 9<sup>th</sup> March 2023, after examining the CMA record, I noted that the purported ruling is not part of the record. In noted further that though it is alleged that in the purported ruling that parties appeared before the arbitrator, there is no record in the CMA to the effect that parties appeared before the arbitrator.

With those observations, I asked the parties to address the court as to whether the order of the court(Hon. I Arufani, J) dated 8<sup>th</sup> December 2021 was complied with and the effect thereof.

Responding to the issue raised by the court, Mr. Ngatunga, personal representative of the applicant, conceded that there are no proceedings in CMA record showing that the order was complied with. He submitted that due to absence of those proceedings, validity of the purported decision of the arbitrator dated 19<sup>th</sup> May 2022 attached to the notice of application is questionable. He therefore prayed that this application be struck out and remit the file to CMA to comply with this Court's order (Hon. I. Arufani, J) dated 08<sup>th</sup> December 2021.

On the other hand, Arnold Peter, learned counsel for the respondent admitted that parties have perused CMA record and find that there are no proceedings showing that parties went back to CMA to correct the name of the respondent as it was directed by this Court on 08<sup>th</sup> December 2021. He therefore concurred with submissions by Mr. Ngatunga, the personal representative of the applicant.

I entirely agree with submissions made on behalf of the parties that the order of this court was not complied with. The purported copy of the

Ruling attached to the Notice of application cannot be relied upon. The reason is clear because it is not supported by proceedings in the CMA record. The parties themselves were unclear as to how it was obtained and found in the hands of the applicant. parties were supposed to go back to CMA as they were directed by the court and not to find the purported ruling through their own means. Parties should always comply with court orders. Since there is no evidence in the CMA record showing that parties went back to CMA in compliance with order of the Court, I will not act on the purported ruling that purports to show that names were corrected in the presence of the arbitrator. The said ruling that though signed, it is a mere piece of paper that its source is unknown. For the foregoing, I direct the parties to go back to CMA for correction of the name of the respondent appearing in the award. Upon going back to CMA, the parties should address the arbitrator and the latter record their submissions and composing a ruling thereof.

Dated in Dar es Salaam on this 14<sup>th</sup> March 2023.



B. E. K. Mganga  
**JUDGE**

Ruling delivered on this 14<sup>th</sup> March 2023 in chambers in the presence of Edward Ngatunga, Personal Representative for the Applicant but in the absence of the Respondent.



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

B. E. K. Mganga  
**JUDGE**

Labour Court TZ