

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

**MISCELLANEOUS LABOUR APPLICATION NO. 114 OF 2021**

**BETWEEN**

**KIOO LIMITED.....APPLICANT**

**VERSUS**

**DAUDI MOHAMED ZONGA .....APPLICANT**

**RULING**

**19<sup>th</sup> May 2022 & 19<sup>th</sup> May 2022**

**K. T. R. Mteule, J.**

This Ruling concerns Preliminary Objection raised by Mr. Hemedi Omary challenging the timeliness of this application. The said application was filed on 16/04/2021. It is seeking for an interpretation of the decision of CMA which was issued on 23/12/20219 and served to the applicant on 24/12/2019. According to Mr. Hemedi filing the said application on 16/04/2021 without a leave of court or extension of time contravenes **Section 90 of the Employment and Labour Relations Act, Cap. 366 of 2019 R.E.**, which requires such an application to be filed within 14 days from the date of issuance of the decision.

On the other hand, Mr. Mathias Kabengwe, Advocate for the applicant submitted that their application was filed within time as it emanates from the decision of Hon. Tengwa, DR. who allowed such application within 14 days. In his opinion since the decision of Hon. Tengwa was issued on 31/03/2020, filing his application on 16/04/2021 was well within the 14 days allowed.

Having gone through the submissions, I have noted that the issue on dispute is at what time should the counting begin or should the counting of time begins on the date of service of CMA award to the applicant or on the date when Hon. Tengwa, DR. allowed parties to seek interpretation of the CMA award. An answer to this question need to be guided by the contents and the subject matter of the application. The application is seeking for an interpretation of the decision of the CMA in Labour Dispute No. CMA/DSM/TEM/34/2018/126/18 by Balenga, Arbitrator. The interpretation of this matter is the main subject of the application. Therefore counting must begin from the date when this award was served to the applicant which is 24/12/2019. Filing of the matter on 16/04/2021 is apparent to be out of 14 days provided by the law.

The counsel for the applicant has assumed Hon. Tengwa's decision to be a leave to file it on the date it was filed. As rightly submitted by Mr. Hemedi, Hon. Tengwa did not grant any extension of time but only allowed the applicant to pursue the matter before the court to seek interpretation of the CMA award. He did not exempt any legal compliance in the filing of the application. The issues of compliance, in my view, remained with the applicants.

From the foregoing, I hold that the application is time barred. Consequently the application is dismissed for having been filed out of time without a leave of the court.

Dated at Dar es Salaam this 19<sup>th</sup> day of May, 2022.



**KATARINA REVOCATI MTEULE**

**JUDGE**

**19/05/2022**