

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

MISC. LABOUR APPLICATION NO. 310 OF 2021

BETWEEN

TUICO ON BEHALF OF 280 OTHERS APPLICANTS

VERSUS

LEONARD MUSUSA (RECEIVER MANAGER) 1ST RESPONDENT

K.J. MOTORS LIMITED 2ND RESPONDENT

RULING

S.M. MAGHIMBI, J:

Previously, the applicant had lodged a Revision Application No. 909/2019 wishing to challenge the decision of the Commission for Mediation and Arbitration for Morogoro ("the CMA") in Labour Dispute No. KZ/U.10/MG.100/07. On the 30th July, 2020, this Court (Hon. Aboud, J) struck out the application with a leave to refile before 30th July, 2020. The applicant lodged another Revision application No. 302/2020 which was again struck out on the 18th August, 2021 before Honourable Rwizile, Judge. Having been out of time to lodge yet another Revision Application, the applicant has lodged this application under the provisions of Rules 55(1)(2), 56(1), 24(1)(2)(a)-(f)&(3)(a)-(d) and Rule 28(1)(a)-(e) of the

Labour Court Rules [G.N. No. 106 of 2007] ("LCR") read together with Rule 34(1) of the Employment and Labour Relations (general) G.N. No. 47/2017. They are seeking for extension of time within which to file the intended revision against the dispute above mentioned. In the alternative, the Applicant is also moving the court to make a finding that there exists good causes for granting orders being sought herein.

The application was supported by an affidavit of Mr. Marcelino John Mihonjo, one of the applicants, deponed on the 19th August, 2021. The 1st respondent opposed the application through a counter affidavit of one Sinare Zaharan, learned advocate, deponed on the 28th September, 2021. The second respondent did not file any notice of opposition but I have noted that he is under receivership. The application was disposed by way of written submissions. Mr. Gwamaka Mwaikugile, learned advocate, represented the applicants while Mr. Zaharani Sinare represented the respondents.

Having considered the submissions of both parties, I have noted that Mr. Sinare's main point of opposing the grant of the application is what he termed as negligence on the part of the applicants. He drew the attention of this court to the fact that the former applications of revision were struck

out for being defective, something which can never be a good ground for court to grant the prayers sought in the applicant's chamber summons. Indeed as pointed out by Mr. Sinare, the applicants shown extent of negligence and lack of seriousness in lodging proper application, something which resulted in the two applications being struck out. However, I have posed to ask myself if the negligence could warrant a sufficient ground for the court to deny the applicants extension of time. This took me back to the records of the application.

Starting with the Revision No. 909/2019, it was struck for being in contravention of Rule 24(3) of the Rules. On the other hand, the Revision No. 302/2020 was struck out for having referred to an award of the CMA alleged to have been made in Mwanza while the impugned award was from Dar-es-salaam Registry. The two reasons differ in context therefore it cannot be said that it was repeating the same mistake. This however, does not exonerate the applicants from being negligent as they should have been more careful the second time.

The above notwithstanding, I have considered the other reasons for granting an order for extension of time, it is trite law that while considering the grounds for extending time, it is empathy and not apathy on the part

of the applicant that is to be considered. In this case, the applicant has been actively in the court corridors pursuing their case, therefore they deserve the courts discretion to extend time for them to have their dispute given another look by a higher court.

Following the reasons above, I find it just that this application is granted. Time is extended for the applicant to lodge an application for revision against the award of the CMA in Labour Dispute No. KZ/U.10/MG.100/07 dated 30th July, 2020. The intended application shall be lodged in this court within twenty one (21) days from the date of this ruling.

Dated at Dar-es-salaam this 11th day of April, 2022.




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S.M. MAGHIMBI
JUDGE