

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

**REVISION NO. 193 OF 2021**

**BETWEEN**

**HAJRA H. HAJI ..... APPLICANT**

**VERSUS**

**VALPAT LTD. .... RESPONDENT**

**JUDGMENT**

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

The applicant herein was aggrieved with the award of the Commission for Mediation and Arbitration for Ilala ("CMA") in Labour Dispute No. CMA/DSM/ILA/868/435/20 ("The Dispute") which was decided in favor of the respondent. At the CMA, the applicant had lodged a dispute claiming unfair termination by the respondent who was her employer. The CMA struck out the dispute having observed that the applicant had previously lodged another dispute which was again struck out for having been filed without filing the subsequent CMA Form No. 2. In the subsequent dispute which is a subject of this revision application, the CMA found that the dispute was filed out of time hence had the matter struck

out so that the applicant could lodge a proper dispute with an application for condonation of time. The applicant was aggrieved by the decision of CMA and has lodged this application under the provisions of Rule 24(1),(2)(a)(b)(c)(d)(e)&(f),(3)(a)(b)(c)&(d), 28(1)(a)(b)(c)(d)(e) of the Labour Court Rules G.N. No. 106 of 2007 ("the Rules"), Section 91(1 )(a), 91(2)(a)(b)&(c) and Section 94(1)(a)&(b)(i) of the Employment and Labour Relations Act No.6 of 2004. She has moved this court for the following orders:

1. This Honourable court to call for the records of the proceedings and Ruling from the Commission for Mediation and Arbitration at Dar es Salaam in Labour Dispute No. CMA/DSM/ILA/868/435/20 delivered on 21<sup>st</sup> April, 2021 by Hon. Msina, H. H. Arbitrator to revise and set aside the same.
2. This Honourable Court be pleased to make any other orders as it may deem fit.

The Chamber Summons was supported by the affidavit of the applicant dated 17<sup>th</sup> May, 2021. In the said affidavit, the applicant raised the following grounds:

- a) That the arbitrator erred in law and facts to rule that the Referral before the Commission was filed out of time.
- b) The Honorable Arbitrator's decision is not supported by the evidence on records.

The application was disposed by way of written submissions. Mr. Walter Shayo, learned advocate, represented the applicant while Mr. Auni Chilamula learned advocate, represented the respondent.

Having gone through the grounds of appeal, and the parties' submissions therein, I have noted a crucial issue that was brought to the attention of this court by Mr. Auni Chilamula. He has brought to the attention of this court that the revision application was brought against an interlocutory order of the CMA which struck out the application. He argued that under Rule 50 of the Rules, a person cannot seek revision against an interlocutory order which did not dispose the matter to a finality. He supported his argument by citing the case of **Geita Gold Mining Ltd. Vs. Lucas Ntobi Labor Revision No. 72/2019**, High Court Mwanza which held that one cannot seek revision from an interlocutory order. He further argued that the applicant had an opportunity to file her dispute in

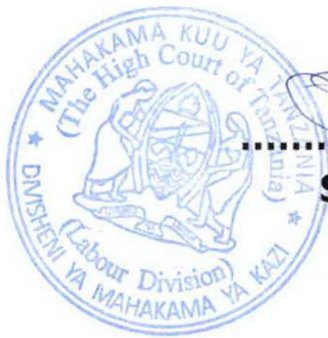
accordance to the law if she opts to do so since the order sought to be revised does not constitute a final award of the CMA.

In reply (in his rejoinder submissions), Mr. Shayo submitted that an interlocutory order can be a subject of revision if it has the effect of finalizing the matter. He argued that in the matter at hand, the order of the CMA finalized the matter.

I really should not be detained much by this revision. As correctly argued by Mr. Anulile, the decision of the CMA did not finally determine the dispute lodged by the applicant. The Commission accorded a room for the applicant to file a proper application asking for condonation of time because the dispute was already out of time. The ruling of the CMA could not be more clear than that, so if anyone is misleading the court as argued by Mr. Shayo then it is him who is misleading not only this court, but also wasting the time of his client because from April, 2021 when the ruling of the CMA was delivered to now, had they followed the order of the CMA, the main dispute might have even been determined. Instead he has brought his client through unnecessary litigations which are time consuming.

Owing to the fact that the order of the CMA did not finally determine the dispute, but gave room for the applicant to file a proper application, the current application is in contravention of Rule 50 of the Rules which prohibits applications from decisions which did not finally determine the dispute. Consequently, this application is hereby dismissed.

Dated at Dar es Salaam this 09<sup>th</sup> day of May, 2022.



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