

**IN THE HIGH COURT OF TANZANIA**

**LABOUR DIVISION**

**AT DAR ES SALAAM**

**MISCELLANEOUS LABOUR APPLICATION NO. 199 OF 2021**

*(From the decision of the Commission for Mediation and Arbitration of Dar es Salaam at Kinondoni dated 19<sup>th</sup> day of August 2019 in Labour Dispute No. CMA/DSM/KIN/R.148/17/1040)  
(Hon. Alfred Massay; Arbitrator)*

**MANAGING DIRECTOR, FALCON**

**ANIMAL FEEDS LIMITED.....APPLICANT**

**VERSUS**

**MUSSA ABDALLAH.....1<sup>ST</sup> RESPONDENT**

**HASHIM SAID NAI.....2<sup>ND</sup> RESPONDENT**

**RULING**

**15<sup>th</sup> June 2022 & 29<sup>th</sup> June 2022**

**K. T. R. MTEULE, J.**

In this application, the Managing Director, Falcon Animal Feeds Limited is seeking for an extension of time to file a revision application to challenge an award issued in Labour Dispute **No. CMA/DSM/KIN/R.148/17/1040** in the Commission for Mediation and Arbitration in Dar es Salaam at Kinondoni (CMA).

The matter in the CMA was decided in favour of the Respondents where the Applicant was ordered to pay the applicants terminal benefits. Being aggrieved by the decision, the Applicant lodged an application for revision which was registered as **Revision No. 726 of 2019**. This application was struck out on 7/6/2021 for being

supported by a defective affidavit. By this time, the applicant desired to lodge another revision application, but she was barred by time hence this application to seek extension of such time.

In the affidavit supporting the application, the deponent one Amon Rwiza who is the Applicant's advocate stated that the previous application spent one year and 9 months in this court, the lateness was not on the Applicant's fault but on court processes and that the revision has better chances of success.

The application was argued by a way of written submissions where the Applicant's submissions were drawn and filed by Amon Rwiza. The Applicant was represented by Mr. Hemed Omar, the Personal Representative. The hearing proceeded ex parte due to the Applicant's failure to timely file the response to the application.

In his submissions, Mr. Rwiza addressed two issues one being whether the Applicant has managed to account for each day of delay and secondly, whether the applicant has a chance of success.

Starting with the first issue, Mr. Rwiza is of the view that since the award was issued on 19<sup>th</sup> August 2019 and the previous revision (**Revision No. 726 of 2019**) lodged on 5<sup>th</sup> September 2019, this

was within 6 weeks stipulated under Section 91 (1) (a) of the Employment and Labour Relations Act, Cap 366 hence no time was wasted during this time. He further submitted that from 7<sup>th</sup> June 2021 when **Revision No. 726 of 2019** was struck out to 11<sup>th</sup> June 2021 when the instant application was filed, the applicant spent this time to collect the ruling of the court, preparation of this application, filing it electronically and official admission of the hard copies. These processes consumed less than 5 days and the Applicant considered it as a proper account of the time of delay.

Having considered this account of time I am satisfied that there was no negligence on the part of the applicant. I could not see inordinate delay and in all the time the applicant has been in court. This kind of delay amounts to a technical delay which is excusable in deciding matters of extension of time. (See **Fortunatus Masha Vs. William Shija and Another [1997] TLR 154; Bank M T. Ltd. vs. Enock Mwakyusa (Civil Application No. 520 of 2017) [2018] TZCA 291; Salvand K.A. Rwegasira v. China Henan International Group Co. Ltd., Civil Reference No. 18 of 2006, CAT at Dar es Salaam (Unreported), Yara Tanzania Limited v. DB Sharpriya and Co. Limited, Civil Application No. 498 of 2016, CAT at Dar**

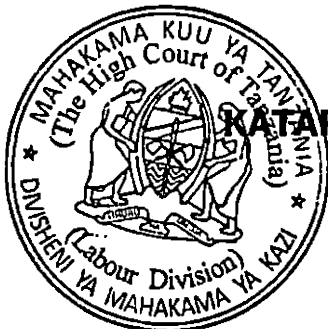
**es Salaam (unreported), Zahara Kitindi and another v. Juma Swalehe and 9 others, Civil Application No. 4 of 2005 (unreported) and Bharya Engineering and Contracting Co. Ltd. v. Hamoud Ahmad @ Nassor, Civil Application No. 342/01 of 2017, CAT, at Tabora (unreported)).**

Numerously in the above cited cases, the Court of appeal has made it that technical delay is excusable in awarding time to take court of action. From what is submitted by the Applicant, I see no idle time where the applicant was without a court process. This alone is sufficient to grant the sought extension of time to file the revision application and I see no need to find out whether there are chances of success or not.

From the foregoing, I allow the application and extend 7 days from the date of this decision for the Applicant to file the intended revision application. No order as to costs.

It is so ordered.

Dated at Dar es Salaam this 29<sup>th</sup> day of June, 2022.



**KATARINA REVOCATI MTEULE**  
**JUDGE**

**29/06/2022**