

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

MISCELLANEOUS LABOUR APPLICATION NO. 466 OF 2021

*(From the decision of this Court in Miscellaneous Application No. 744 of 2019
dated 26/02/2021, Muruke, J.)*

BETWEEN

SAID JUMA MTIKA.....APPLICANT

VERSUS

HOME AFRICAN INVESTMENT CORPORATION.....RESPONDENT

RULING

K. T. R. MTEULE, J.

06th July 2022 & 20th July 2022

The applicant herein is praying for an extension of time to file Revision Application against the decision of the Commission for Mediation and Arbitration (CMA) in Trade Dispute No. CMA/DSM/KIN/R.164/18/01 of Dar es Salaam delivered on 1st October 2019.

According to what I gather from the contents of the affidavit supporting this application, the above trade dispute was decided by the CMA in favour of the Respondent. Being dissatisfied with the decision, the Applicant desired to file an application for revision. By that time, he was time barred. Consequently, he applied for extension

of time to file the desired revision vide Miscellaneous Application No. 744 of 2021, Muruke, J.). On 26/02/2021 Hon. Muruke, J. allowed the application and granted extension of time to file the revision within 30 days from the date of the decision. That on 19th March 2021, according to the affidavit, the applicant filed the said revision application, but he could not get the copies from the court despite of regular follow-ups he made to the registry until 18/06/2021 when he received the copies from the registry officers who told him that the said application was filed out of time hence could not be admitted. In the affidavit, the applicant denied having filed the revision out of time. In his view, he had 8 days remaining before the expiry of the extended time.

The Respondent was served, but he did not appear hence the application was heard ex parte. In the submission, the applicant reiterated what was explained in the affidavit and added that there are great chances of success in the envisaged revision.

I have considered the application and the applicant's arguments. Extension of time is a discretionary power of the court which should be exercised judiciously. In this application, the applicant stated on oath that he filed an application timely, but the registry did not

register it but returned it to him after an exorbitant lapse of time. Since this sworn statement is not disputed, then I see no reason not to trust the Applicant's oath. In my view, and the applicant being a lay person, bringing the application in registry caused a reasonable belief that he has done his part and it was upon the registry to make sure that it admits the application or returns it to the applicant promptly. This can constitute reasonable cause of delay.

I therefore hold that the applicant has demonstrated sufficient reason for the delay in filing the revision application within the time he was allowed to do so by this court, but was obstructed by the registry failure to respond to it timely.

From the foregoing, I grant the application and allow extension of time to file the revision application. The said application must be filed within fourteen (14) days from today. It is so ordered.

Dated at Dar es Salaam this 20th day of July, 2022.



KATARINA REVOCATI MTEULE

JUDGE

20/07/2022

