

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

MISCELLANEOUS APPLICATION NO. 293 OF 2022

NOVATI BENEDICTO RUPIA..... APPLICANT

VERSUS

TANZANIA ZAMBIA RAILWAYS AUTHORITY..... RESPONDENT

RULING

14th September 2022

Rwizile, J

I have considered the application which is for interpretation of the judgment of this court dated 20th May 2022 where it was directed that the applicant should be paid, salaries due and other entitlements until 2nd September 2019.

The Deputy Register under section 38 of Civil Procedure Code, as a matter of law, an executing officer has jurisdiction and capacity to interpret and compare notes in case of the dispute of salary payable. The Deputy Registrar in execution No. 635 of 2019 dated 06th July 2022, decided this matter to be brought here for interpretation, the similar decision dated 17th

February 2021 did not to call information from the parties to enable an execution to proceed.

But all in all, the duty of the executing court in my view is to determine all question relating to interpretation of the judgment and execute it as it is. Therefore, the dispute on the salary to be paid is a matter that can be settled during the execution. It is in no way gerrymandering into the decision of the court.

In this case, the application has been heard exparte, the respondent has only filed a counter affidavit and did not procure any information to prove, that the applicant was paid the exact salary payable as at 2nd September, 2019. The applicant has said, payment of his salary is based on CBA and salary structure that came into operation on 1st July 2019 which pegged his salary at the rate of 741,200.00 per month. That being the case, and in absence of evidence to the contrary which is the duty of the employer to prove so.

I order and direct that the entitlements of the applicant stated in the judgment should be calculated based on salary of 741,200.00.



A.K. Rwizile

JUDGE

14.09.2022

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