

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

MISCELLANEOUS APPLICATION NO. 250 OF 2022

DONATIAN DAMIANI SENTOZ & 2 OTHERS APPLICANTS

VERSUS

NATIONAL FOOD RESERVE AGENCY (NFRA) & ANOTHER ... RESPONDENTS

RULING

*Date of last Order: 30/08/2022
Date of Ruling: 16/09/2022*

B. E. K. Mganga, J.

Applicants have filed this application imploring the court to extend time within which to file an application for revision so that the court can revise the CMA ruling dated 8th September 2019 dismissing their application for condonation.

The application was supported by the affidavit of Donatian Damian Sento. On the other hand, in resisting the application, respondents filed the Counter affidavit of Ms. Lightness Msuya, learned State Attorney.

At the hearing of the application, applicants were unrepresented whereas the respondent was represented by Ms. Lightness Msuya, learned State Attorney.

Submitting in support of the application, Mr. Donatian Daniel Santoz, the 1st applicant argued that they are praying for extension of time within which to file revision application against the CMA Ruling issued on 08th October 2019 at CMA Temeke. He further submitted that, initially they filed revision application No. 685 of 2020 which was struck out for want of leave to file a representative suit. He went on that they thereafter filed an application for representative suit that was granted by this court on 19th August 2021. He added that by the time leave was granted, they found that they were out of time hence this application.

On the other hand, Mr. Yusuph Musa Msangi, the 2nd applicant, and Mr. Hussein Athuman Gao, the 3rd applicant, concurred with the submission made by the 1st applicant.

In opposing the application, Ms. Msuya, learned State Attorney submitted that, there is no good grounds for extension of time. Learned State Attorney submitted that this application was filed on 26th June 2022 and that the only reasons advanced is that applicants filed an

application which was struck out and that they had no legal knowledge. She submitted further that, for the court to extended time, applicants must account for each day of delay; the delay should not be inordinate; applicant should not be negligent etc. she went on that applicants have failed to meet these conditions. To strengthen her submission, Ms. Msuya referred the court to the case of ***Lyamuya Construction Company Ltd vs. Board of Registered Trustee of Young Women's Christian Association of Tanzania***, Civil Application No. 2 of 2010 CAT (unreported).

Ms. Msuya contended further that, in terms of Section 91(1)(a) of Employment and Labour Relations Act, [Cap. 366, R.E. 2019], applicants were supposed to file an application for revision within 42 days. She argued that from 19th August 2021, the date leave was granted to the date of filing this application on 29th June 2022 is 10 months. She submitted further that in their affidavit, applicants have stated that they filed Revision No. 354 of 2021 but the same was struck out on 20th April 2022. Learned State Attorney submitted that from 20th April 2022 to 29th June 2022 is 66 days which have not been accounted for. She insisted that applicants were supposed to account for each day of the delay as it was held in the case of ***Zawadi Msemakweli vs. NMB PLC***, Civil

Application No. 221/18/2018 CAT (unreported). She further cited the case of *Ngao Godwin Losero vs. Julius Mwarabu*, Civil Application No. 10 of 2015, CAT (unreported) to the position that ignorance of the law is not a ground for extension of time. Ms. Msuya added that, even technical delay cannot help the applicants because they have not accounted for the delay from 20th April 2022 to 29th June 2022. She cited the case of *Elias Kahimba Tibendalana vs. Inspector General of Police & Attorney General*, Civil Application No. 388/01 of 2020 CAT (unreported) where the Court of appeal held that applicant was supposed to account for the delay after the last past decision.

Having cautiously considered submissions made by both parties, the affidavit for and against the application and relevant laws, I am called upon to determine; Whether the applicants have a good cause to be granted extension of time.

Rule 56(1) of the Labour Court Rules, GN. No. 106 of 2007 is clear that for the court to exercise its discretionary power of extending time, applicant must show sufficient reasons for the delay. In the application at hand, the reason for the delay advanced by the applicants is that on 19th August 2021 through Miscellaneous application No.581 of 2020 they

were granted leave to file a representative suit. That without realizing that they were out of time, they filed revision application No.354 of 2022 which was struck out on 20th April 2022 giving a room for them to file an application for extension of time. In other words, applicant was pleading that there was technical delay, which is excusable good ground for extension of time. However, as submitted by Ms. Msuya, the record shows that the ruling of the latest application was issued on 20th April 2022 and this application was filed on 29th June 2022. I carefully examined court record and find that the latest ruling and order were issued on 09th May 2022. Nevertheless, in the affidavit in support of the application, applicants have not shown what transpired from 9th May 2022 to the date of filing this application, which is about 55 days.

It is a settled principal of law that in an application for extension of time, applicant must account for each day of the delay. There is a litany of cases to that position including the case of **Sebastian Ndaula vs. Grace Rwamafa (Legal Personal Representative of Joshwa Rwamafa)**, Civil Application No. 4 of 2014 CAT (unreported), [Elias Kahimba Tibendalana vs. Inspector General of Police & Attorney General](#), (supra) and those cited by learned State Attorney. In the

application at hand, applicants have failed to account for each day of the delay.

For the foregone, I find that applicants have failed to show that there were good grounds for the delay and that they have failed to account for each day of the delay. I therefore dismiss this application for want of merit.

Dated in Dar es Salaam on this 16th September 2022.



B. E. K. Mganga

JUDGE

Ruling delivered on this 16th September 2022 in chambers in the presence of Donatian Daniel Sentoz, applicant and Lightness Msuya, State Attorney for the respondents.



B. E. K. Mganga

JUDGE