

IN THE HIGH COURT OF TANZANIA
LABOUR DIVISION
AT DAR ES SALAAM
MISCELLANEOUS APPLICATION NO. 277 OF 2022

ROBERT JOSEPH & ANOTHER APPLICANTS

VERSUS

TUSIIME HOLDINGS (T) LIMITED RESPONDENT

RULING

Date of last Order: 12/09/2022
Date of Ruling: 23/09/2022

B. E. K. Mganga, J.

On 14th July 2022 applicants filed this application praying for this court to enlarge within which to file an application for revision of Labour against an award issued on 25th February 2021 by Msina H.H, Arbitrator, in labour dispute No. CMA/DSM/ ILA/623/2020/315. The application was supported by the affidavit of Benard Seleman Maguha, applicants' advocate. In opposing the application, respondent filed a counter affidavit sworn by James Albert Katagira, his Principal Officer.

When the matter was scheduled for hearing, applicants were represented by Bernard Maguha, learned Advocate whereas the respondent was represented by Lwijiso Ndelwa, learned Advocate.

Submitting in support of the application, Mr. Maguha argued that the award was issued on 25th February 2021 and was served to the applicants on the same day. He submitted that applicant filed this application on 14th July 2022 after Revision application No. 422 of 2021 was struck out on 03rd June 2022 by this Court (Mteule, J) for being incompetent. Counsel for the applicants added that, at the time Revision No. 422 of 2021 was struck out, time to file revision was already lapsed hence this application. He concluded that it was an omission that applicants did not file the notice of intention to file revision and prayed that the application be granted.

In rebuttal, Mr. Ndelwa submitted that the affidavit in support of the application did not disclose sufficient reason for the delay. He submitted further that applicants initially filed Revision application No. 156 of 2021 that was struck out for being supported by a defective affidavit and that they were granted leave to file a new application hence Revision No. 422 of 2021 that was struck out for want of notice of

intention to seek revision. He added that the first revision was filed in time without notice of intention to seek revision and no issue was raised. Counsel for the respondent submitted further that applicants have failed to account for the delay from 03rd June 2022 to 14th July 2022 when they filed this application and prayed that the application be dismissed.

In rejoinder Mr. Maguha submitted that, application No. 156 of 2021 and 422 of 2021 were struck out for different reasons. He argued that applicants have accounted for the delay and prayed that the application be granted.

Having considered submissions of the parties, the only issue to be determined by this court is whether applicants have adduced sufficient reasons for extension of time to be granted or not.

In order an application for extension of time like the one at hand to be granted, applicant must show that the delay was due to good cause as it is provided under Rule 56(1) of the Labour Court Rules, GN. No. 106 of 2007. I have read the affidavit in support of the application and find that the reason advanced by the applicants is technical delay because Revision Application No. 156 of 2021 was struck out for being supported by a defective affidavit and that Revision Application No.422

of 2021 that was struck out on 3rd June 2022 for want of notice of intention to file revision. I have noted that there is no dispute that this application was filed on 11th July 2022 through e-filing system. Technical delay is one of the grounds for extension of time. But technical delay alone may not suffice to grant extension of time if it is found that applicant did not comply with other conditions. In the application at hand, the latest application filed by the applicants was struck out on 3rd June 2022, but applicants filed this application on 11th July 2022 being 37 days after the order striking out their application. In the affidavit in support of this application, applicants did not account for each day of the delay for the said 37 days. It seems that applicants thought that once there is technical delay they can come to the court when they wish, which is why, they stayed for 37 days and filed this application without accounting for that delay. There is a plethora of cases laws that in an application for extension of time, applicant must account for each day of the delay. Some cases to that position are the case of *Said Nassor Zahor and Others vs. Nassor Zahor Abdallah El Nabahany and Another*, Civil Application No. 278/15 of 2016, CAT, (unreported), *Finca T. Limited & Another vs Boniface Mwalukisa*, Civil Application No. 589 of 2018) [2019] TZCA 56, and Bushiri **Hassan**

vs. Latifa Lukio Mashayo, Civil Application No. 3 of 2007, CAT (unreported). In **Mashayo's case** (supra), the Court of Appeal held inter-alia that: -

"...the delay of even a single day, has to be accounted for otherwise there would be no proof of having rules prescribing periods within which certain steps have to be taken."

Since applicants have failed to account for 37 days of delay, I hereby dismiss this application.

Dated in Dar es Salaam on this 23rd September 2022.



B. E. K. Mganga
JUDGE

Ruling delivered on this 23rd September 2022 in chambers in the presence of Benard Maguha and Beatrice Kalonga, Advocates for the applicants and Lwijiso Ndelwa, Advocate for the respondent.



B. E. K. Mganga
JUDGE