

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

REVISION APPLICATION NO. 110 OF 2022

*(Arising from the decision of the Commission for Mediation and Arbitration of Dar es Salaam
at Kinondoni in Labour Dispute No. CMA/DSM/TEM/448/19/06/2020 by
(Hon M. Batenga: Arbitrator)*

TANZANIA ZAMBIA RAILWAY AUTHORITY APPLICANT

VERSUS

NASSER MILULU AND 6 OTHERSRESPONDENTS

JUDGEMENT

K. T. R. MTEULE, J.

11TH OCTOBER 2022 & 11TH OCTOBER 2022

This Revision application emanates from the decision of the Commission for Mediation and Arbitration of Dar es Salaam at Temeke (CMA) in **Labour Dispute No. CMA/DSM/TEM/448/19/06/2020**. The prayers contained in the Chamber summons are seeking for this Court to be pleased to revise the proceedings in the aforesaid labour dispute and quash the decision therefrom. Several grounds were advanced by the applicant including the issue of the jurisdiction of the CMA.

When the matter came for hearing, parties proposed for the issue of jurisdiction to be addressed first before proceeding with the other grounds of revision.

Ms. Beatrice Mutembei who appeared for the applicant submitted that the arbitrator had no jurisdiction to entertain the complaint because the applicant is a public authority and therefore the respondent was a public servant. She added that according to Section 32 A of the Public Service Act, the complainant in the CMA was supposed to have exhausted the remedies provided under Section 32 A of the Public Service Act which requires the complainant to lodge the complaint in the Public Service Commission. She cited the Court of Appeal decision in the case of **Tanzania Ports Corporation versus Dominic Kalangi, Civil Appeal No. 12 of 2022** which confirmed this position. She thus prayed for this Court to set aside the award of the arbitrator for want of jurisdiction.

The counsel for the Respondents Mr. Noel Nchimbi conceded to the submissions and admitted that in the strength of the new development in the case of Dominic Kalangi, the CMA had no jurisdiction in the matter.

Since the applicant's counsel is conceding to the 1st ground of Revision that the CMA did not have jurisdiction to entertain the impugned Labour Dispute, I hereby enter judgment and allow the revision application and set aside the award issued in Labour Dispute No. CMA/DSM/TEM/448/19/06/2020 from the Commission for Mediation and Arbitration of Dar es Salaam, Temeke. I make an order that shall the applicants still be interested to pursue their claims, they should do so vide the appropriate forum in accordance with section 32 A of the Public Service Act. It is so ordered.

Dated at Dar es Salaam this 11th day of October 2022.



KATARINA REVOCATI MTEULE

JUDGE

11/10/2022