

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

**LABOUR REVIEW NO. 07 OF 2022**

**DORICE KALAMBO ..... APPLICANT**

**VERSUS**

**LAKE OIL LIMITED..... RESPONDENT**

**RULING**

*Date of last Order: 04/10/2022*

*Date of Ruling: 10/10/2022*

**B. E. K. Mganga, J**

On 26<sup>th</sup> August 2022, Dorice Kalambo, the applicant filed both a notice of Review and memorandum of review beseeching the court to review its decision of dismissing Revision application No.423 of 2021 for being time barred issued on 18<sup>th</sup> May 2022. In the Memorandum of review, application raised five grounds namely: -

- i. That, the applicant is dissatisfied and intends to seek a review to a labour court against a whole or part of the said decision.*
- ii. That, the Revision dismissed was Revision of ruling not an award because the Commission did not issue any outcome of the Arbitration.*
- iii. That, for the interest of justice the general law of limitation had to be used and not Section 91(1)(a), (b) of the Employment and Labour Relations Act, [Cap 366 RE. 2019] on revision of the award.*
- iv. That, the applicant is craving for such a review so as to her expected right before your Honorable Court.*

*v. That, the applicant is prospectively aiming at success in her main case that is why she applied for revision of the Commission's ruling.*

When the matter was scheduled for orders on 4<sup>th</sup> October 2022, I asked Mr. Mecky Humbo, applicant's Personal Representative to submit on jurisdiction issue and competence of this application.

Responding on the issues raised by the court, Mr. Humbo submitted that the order that is the subject of the review was issued on 18<sup>th</sup> May 2022, but applicant filed the notice of review on 09<sup>th</sup> August 2022. He added that, Rule 27(1) of the Labour Court Rules, GN. No. 106 of 2007 provides that the notice of review must be filed within fifteen (15) days from the date the decision was made. He therefore conceded that the notice was filed out of time hence this application is liable to be dismissed.

I have considered submissions of Mr. Humbo, the personal representative of the applicant and agree with him that the application is time barred. Rule 28(1) of the Labour Court Rules, GN. No. 106 of 2007 clearly provides that:-

*"Any review shall be instituted by filling a written notice of review to the Registrar **within fifteen days from the date the decision was delivered**". (Emphasis is mine)*

I have read the order dismissing Revision No. 423 of 2021 that is the subject of this application and find that on 18<sup>th</sup> May 2022, Mr. Mecky

Humbo, appeared before the court and conceded that the said application was filed out of time. In fact, in revision application No. 423 of 2021, Mr. Humbo was recorded submitting: -

*"CMA Ruling was served to the applicant on 03<sup>rd</sup> August 2021. This application was filed on 27<sup>th</sup> October 2021. The affidavit was sworn on 1<sup>st</sup> October 2021. I therefore concede that the application is out of time."*

The order dismissing the said Revision was issued on 18<sup>th</sup> May 2022 in presence of Mr. Humbo. From that date, applicant was aware of the order. As pointed out hereinabove, applicant filed the Notice of review on 09<sup>th</sup> August 2022 that is to say, eighty-three (83) days from the date the dismissal order was issued. Rule 28(1) of GN. 106 of 2007(supra) is clear that applicant was supposed to file the Notice of Review within fifteen days from the date the decision was delivered. In short, this application was filed while out of time for sixty-eight (68) days.

It is my view that this application was filed in abuse of court process. I am of that considered opinion because as quoted hereinabove, Mr. Humbo representing the applicant conceded that Revision application No. 423 of 2021 was out time and he is the same person who has advised the applicant and appeared in person in this application beseeching the court to review its order allegedly that revision application No. 423 of 2021 was not time barred. It is clear that, from 3<sup>rd</sup> August 2021, the date applicant was served with CMA ruling to

27<sup>th</sup> October 2021, the date applicant filed Revision application No.423 of 2021 it is eighty five (85) days. Applicant was supposed to file revision application No. 423 of 2021 within forty-two (42) days from the date she was served with the CMA ruling on 3<sup>rd</sup> August 2021. Therefore, applicant filed revision application No. 423 of 2021 while out of time for forty-three (43) days. I therefore warn both applicant and Mr. Mecky Humbo, the personal representative of the applicant that they should stop forthwith to file bogus applications before this court in abuse of the court process.

For the foregoing, I hereby dismiss this application for being time barred.

Dated in Dar es Salaam on this 10<sup>th</sup> October 2022.



B. E. K. Mganga  
**JUDGE**

Ruling delivered on this 10<sup>th</sup> October 2022 in chambers in the presence of Mecky Humbo, the Personal representative of the Applicant but in absence of the respondent.



B. E. K. Mganga  
**JUDGE**