

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

REVISION APPLICATION NO. 232 OF 2022

(Arising from an Award issued on 16/10/ 2020 by Hon.Chacha, L.C - Arbitrator, in Labour dispute No. CMA/DSM/ILA/263/19/174 at Ilala)

SHABANI KISOWILE APPLICANT

VERSUS

SYMPHONY DISTRIBUTORS LTD..... RESPONDENT

RULING

Date of Last Order: 10/10/2022

Date of Ruling: 25/10/2022

B. E. K. Mganga, J.

Applicant was an employee of the respondent. It happened that their relationship did not go well, as a result, respondent terminated employment of the applicant. Being unhappy with termination of his employment, applicant filed the dispute before the Commission for Mediation and Arbitration complaining that his employment was unfairly terminated. Having heard evidence of the parties, on 16th October 2020, Hon. Lucia Chrisantus Chacha, Arbitrator, issued an award that

termination of employment of the applicant was both substantively and procedurally fair.

Aggrieved by the award and being out time, applicant filed Miscellaneous application No. No.28 of 2022 seeking extension of time within which he can file an application for revision. On 13th June 2022 this court (Hon. Rwizile, J) granted the applicant extension of time and ordered applicant to file his revision application within fifteen (15) days from the date of the order. Applicant filed this application through e-filing on 22nd July 2022 and submitted hard copies on 25th July 202.

When the matter was scheduled for orders on 05th September 2022, I noted that there is a jurisdictional issue. I therefore asked the parties to address the court on the competency of this application. Parties prayed, and, with consent, the matter was disposed by way of written submissions.

In his written submissions, applicant enjoyed the service of the Legal Aid Committee of the University of Dar es Salaam while respondent enjoyed the service of Gilbert Mushi, Advocate.

It was submitted on behalf of the applicant that on 13th June 2022, this court (Hon. Rwizile, J) in its ruling in Miscellaneous application No.

28 of 2022 ordered applicant to file application for revision within fifteen (15) days from the date of the said ruling. It was submitted further that, applicant filed the application for revision on 27th June 2022, but the application was rejected as a result, applicant resubmitted it after correcting errors that were noted.

On the other hand, Mr. Mushi, learned Advocate for the respondent, did not submit on competency of the application at hand, rather, he dwelt on matters that were supposed to be submitted before the court at the time of hearing an application for extension of time.

As pointed hereinabove, order of the court was that applicant should file his application for revision within fifteen (15) days from the date of the Ruling that is to say; from 13th June 2022. But applicant filed this application online on 22nd July 2022 and submitted hard copies on 25th July 2022. Calculating from 13th June 2022, fifteen (15) days that the Court granted applicant to file his application for revision expired on 28th June 2022.

It was submitted on behalf of the applicant that he filed an application on 27th June 2022, but it was rejected and that he was required to resubmit after correcting the errors that were noted. It is my

view that, the application that applicant filed on 27th June 2022 and found to have errors cannot in law be regarded that he complied with the order of the court on that date. The application he filed on that date was incompetent hence it was good as if no application was filed on that date. Again, no proof was provided by the applicant that he filed the said application on 27th June 2022 and found to have errors. It is my opinion further that, applicant did not comply with the order of the court in filing this application. It was held by the Court of Appeal in the case of that:-

"Court orders should be respected and complied with. The court should not condone such failures. To do so is to set a bad precedent and invite chaos. This should not be allowed to occur. Always courts should exercise firm control over proceedings"[Emphasis is mine]

From the foregoing, I confidently hold that applicant filed this application in disobedience of this Court's order and being out of time he was granted. In short, the application is time barred. Since I have found that the application was time barred, the only remedy available is to dismiss it as it was held by the Court of Appeal in the case of [Barclays Bank Tanzania Limited vs. Phylisiah Hussein Mcheni](#), Civil Appeal

No. 19 of 2016 [2021] TZCA 202. That said and done, I hereby dismiss this application for bring time barred.

Dated in Dar es Salaam on this 25th October 2022.



B. E. K. Mganga
JUDGE

Ruling delivered on this 25th October 2022 in chambers in the presence of Shabani Kisowile, Applicant and Gilbert Mushi, Advocate for the respondent.



B. E. K. Mganga
JUDGE