

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

MISCELLANEOUS APPLICATION NO. 02 OF 2023

SALEHE HASSAN MJINJA APPLICANT

VERSUS

VOCATIONAL EDUCATION AND

TRAINING AUTHORITY (VETA) RESPONDENT

RULING

Date of last Order: 27/02/2023
Date of Ruling: 10/3/2023

B. E. K. Mganga, J.

On 31st October 2022 this court issued a ruling dismissing Miscellaneous Application No. 302 of 2022 wherein Salehe Hassan Mjinja, applicant, was applying for extension of time within which to file an application for the court to revise CMA Ruling that dismissed Labour Complaint No. CMA/DSM/TEM/74/2010 that he filed against the Vocational Education and Training Authority(VETA), the respondent. On 9th November 2022, applicant wrote a letter to the Registrar titled "RE: REQUEST FOR CORRECTION OF DEFFECTIVES IN RULING AND DRAWN ORDER AND THE LEGALITY OF THE SEAL AND SIGN ON THE RULING IN MISCELLANEOUS

LABOUR APPLICATION NO. 302 OF 2022 BETWEEN SALEHE MJINJA
VERSUS VOCATIONAL EDUCATION AND TRAINING AUTHORITY (VETA)".

In the said letter, applicant prayed correction be done in the drawn order.

In his own words, applicant stated:-

*"...The Appellant being dissatisfied with the above decision is requesting for correction in the Drawn Order in the first prayed Order, the sentence Labour Dispute No. CMA/DSM/TEM/436/2020 does not exist be corrected to Labour Dispute No. CMA/DSM/TEM/74/2020 does not exist whereas paragraph 1 of page 1 in the Ruling sentence "Aggrieved with **the** termination of his employment, applicant filed Labour complaint No. CMA/DSM/TEM/74/2010 before the Commission for Mediation and Arbitration henceforth CMA at Temeke, but it was dismissed on 8th July 2020 be corrected to Aggrieved with termination of his employment, applicant filed Labour Dispute No. CMA/DSM/TEM/74/2010 before the Commission for Mediation and Arbitration henceforth CMA at Temeke, but it was dismissed on 8th July 2010 and the sign (sic) is not original where as (sic) seal of the Court used not (sic) and slightly smaller than that of (sic) the Drawn Order. The corresponding copies are hereby attached for justification.*

Yours sincerely

Sgd

SALEHE HASSAN MJINJA"

On 2nd December 2022, applicant wrote another letter this time addressed to the Hon. Judge in-charge stating as hereunder:-

"...

**RE: REQUEST FOR ORIGINAL COPY OF THE RULING, CORRECTED
RULING AND DRAWN ORDER IN THE MISCELLANEOUS**

**LABOUR APPLICATION NO. 302 OF 2022 BETWEEN SALEHE
HASSAN MJINJA VERSUS VOCATIONAL EDUCATION AND
TRAINING AUTHORITY (VETA):**

(Made under Section 96 of Civil Procedure Code Cap. 33 R.E 2019)

The (sic) reference is made to the above mentioned subject matter. Also refer to my letter dated 9th November 2022, under the heading " Request for correction of defectives in Ruling and Drawn Order and the Legality of the seal and sign(sic) on the Ruling in Miscellaneous Labour Application No. 302 of 2022 between Salehe Hassan Mjinja versus (sic) Vocational Education and Training Authority (VETA)(a copy is attached for easy of reference). Further that the Registrar supplied the appellant with a photocopy of the defective Ruling without the rejoinder and with defective Drawn Order and that the seal of the Court on the Ruling is slight smaller than that on the Drawn Order(the corresponding (sic) copies are attached for easy of reference)

I'm the Appellant in the above mentioned subject matter which came for judgment on 31st October 2022 before Hon. B.E.K. Mganga, J.

That the Hon. Registrar has failed to supply the original copy of the Ruling; corrected Ruling and Drawn Order.

That the Appellant being dissatisfied with the decision is requesting your Honourable Court to supply the original copy of the Ruling; corrected Ruling and Drawn Order.

Your corporation(sic) is highly appreciated.

Yours sincerely

Sgd

SALEHE HASSAN MJINJA"

Based on the two above quoted letters, this court opened this application for review *suo motto*. On the date this application was scheduled for hearing, Mr. Salehe Hassan Mjinja, the applicant, appeared

in person while Mathias Kulwa, State Attorney, appeared for and on behalf of the respondent.

It was submitted by Mr. Mjinja that based on his letter dated 2nd December 2022, there is an error on the date of delivery of the CMA award. He submitted that instead of 8th July 2010, in the ruling it is written 8th July 2020. He submitted further that, the Court seal and signature of the Judge appears to be different from the one in the Drawn Order. Upon being shown the signature of the Judge and Court seal all being electronically signed and stamped, and upon his observation of the ruling in question, he conceded that both the signature and the Court seal are the same. He conceded further that the signature and the Court seal on the Drawn Order are the same.

Mr. Mjinja also submitted that another complaint he has raised is that the impugned ruling did not include his rejoinder submissions. During hearing, he conceded that failure to include rejoinder submissions is not a ground for review, rather, it is a ground for appeal.

On his part, Mr. Kulwa, learned State Attorney for the respondent, submitted that there are two typing errors in the impugned ruling. He went on that, at the first page, instead of 8th July 2020 it should read 8th July

2010. He added that, the second typing error is at the 4th page where it is written Mr. Mathis but the correct name is Mr. Mathias.

Submitting in relation to the complaint relating to the signature and Court seal, learned State Attorney submitted that the signature appearing on both the impugned Ruling and the Drawn order are the same and were signed by the same judge and that the Court seal on both the Ruling and the Drawn Order is the same.

On failure of the judge to consider rejoinder submissions, learned State Attorney submitted that, that is an issue to be raised during appeal and not at this stage. He added that the Court cannot rewrite the ruling at this stage. He concluded by praying the court to correct the aforementioned typing errors.

In rejoinder, Mr. Mjinja simply concurred with submissions made by the learned counsel for the respondent.

I should, from the outset say that any human being with blood and flesh, here and there, may, in the discharge of duties, commit errors, some being unintentionally especially due to slip of pen or typing. I may add that, whatever decision a person makes, including but not limited to judgments and rulings, is prone to criticism whether constructive or

destructive. In short, I am alive that there is no judgment or ruling that is free from criticism but the most important is positive criticism. I have carefully examined the impugned Ruling and Drawn Order and considered submissions made by the parties and wish, to thank them for the pointed typing errors.

Before I proceed to consider submissions by the parties, wish to put it right that there is no judgment relating to miscellaneous application No. Miscellaneous Application No. 302 of 2022 rather, it was a ruling contrary to what was written by the applicant in the above quoted letter. Again, there was no appellant rather, applicant.

That said and done, I will therefore, in this ruling, consider first typing errors pointed out by the parties in the impugned ruling. In his letter dated 9th November 2022, applicant is requesting the court to delete article "the" appearing between the words "Aggrieved with" and "termination", allegedly appearing in the 5th line from the top in page 1 of the Ruling. I have passionately read a copy of the said Ruling attached to this application and a similar ruling in the case of *Salehe Hassan Mjinja vs. Vocational Education Training Authority (VETA)* (Misc. Application 302 of 2022)

[2022] TZHCLD 964 that was uploaded in Tanzlii on 31st October 2022 and find that the alleged typing error does not exist.

It was submitted by Mr. Mjinja that the date of delivery of the CMA Ruling was on 8th July 2010 and not 8th July 2020 appearing in the impugned Ruling of the court. I have examined the Notice of Application in Miscellaneous Application No. 302 of 2022 and find that applicant indicated that the application was against the CMA Ruling issued on 8th July 2010 and not 8th July 2020. I therefore correct that typing error.

Based on applicant's letter, I further correct by deleting the word "complaint" appearing between "Labour" and "No. CMA/DSM/TEM/74/2010" appearing in the 6th line of the 1st paragraph of the impugned Ruling and substitute it with the word "dispute".

It was submitted by Mr. Kulwa, State Attorney for the respondent that at page 4 of the impugned Ruling the correct name is Mr. Mathias instead of Mr. Mathis. I have examined the names of the parties who appeared before the court as reflected in paragraph 2 of page 2 of the impugned Ruling and find that the correct name is Mr. Mathias and not Mr. Mathis. I therefore hereby rectify that error.

Now, turning to typing errors on the Drawn Order. In his letter dated 9th November 2022, applicant pointed that in the first prayed order, the sentence "Labour Dispute No. CMA/DSM/TEM/436/2020 does not exist" be corrected to "Labour Dispute No. CMA/DSM/TEM/74/2020 does not exist". I have carefully examined the prayers in the Notice of Application and find that applicant stated "But the LABOUR DISPUTE No. CMA/DSM/TEM/74/2020 does not exist hence valid observations. I therefore correct that error in the Drawn Order.

Apart from the aforementioned typing errors, in his letters, applicant questioned the authenticity of the signature and Court seal in the impugned Ruling. But during hearing, upon being shown the signature of the Judge and Court seal all being electronically signed and stamped, and upon his observation of the ruling in question, conceded that both the signature and the Court seal are authentic. Therefore, this complaint cannot detain me.

In his letters, applicant complained that the impugned ruling does not include his rejoinder submissions. But it was correctly submitted by counsel for the respondent, and in my view, correctly conceded by the applicant that, that issue can only be dealt with by the appellate court during appeal

and not in the application for review. I should point out that, this court cannot at this time, rewrite the ruling to include rejoinder submissions or any matter if at all, were not included. In my view, rewriting a new ruling to incorporate, if any, matter allegedly raised in rejoinder but not included in the ruling, would amount to amending the Ruling. It is my firm view that, that invitation cannot be accepted because my hands are tied up. By parity of reason, I will not reproduce a new Ruling or Drawn Order to incorporate the corrected typing errors, rather, this ruling will serve as correction of typing errors in the impugned Ruling and the Drawn Order. In my view, that will reduce possibilities of having two sets of the Ruling and the Drawn Order. It is so ordered.

Dated in Dar es Salaam on this 10th March 2023.



B. E. K. Mganga
JUDGE

Ruling delivered on this 10th March 2023 in chambers in the presence of Salehe Hassan Mjinja, the Applicant but in absence of the Respondent.



B. E. K. Mganga
JUDGE