

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

LABOUR REVISION NO. 85 OF 2023

BETWEEN

ACCESS BANK TANZANIA LIMITED APPLICANT

VERSUS

DIXON BOHELA RESPONDENT

COURT RULING

Date of last Order: 07/06/2023

Date of Ruling: 07/06/2023

MLYAMBINA, J.

This is an application for revision of the decision of CMA in *Labour Dispute No. CMA/DSM/KIN/420/19/192* by Hon. William R. Arbitrator, dated 6th March, 2023. It has been brought by way of Chamber summons supported with an affidavit of Humphrey Mwasamboma, notice of application and notice of representation.

In response, the Respondent apart from filing notice of representation, notice of opposition and Counter affidavit, filed a notice of Preliminary Objection on four points:

1. That, the application is incompetent for failure to file a mandatory notice of intention to seek revision (CMA F10) contrary to *Regulation 34(1) of the Employment Labour Relations (General) Regulations G.N. No. 47 of 2017*.
2. That, the notice of application is defective for being referred to a wrong provision of Labour Dispute Number.
3. The notice of application is defective for being referred to a wrong provision of the law and non-existing law.
4. The notice of representation is defective for being referred to non-existing law.

Whereof, the Respondent prayed for dismissal of the application.

On 7th June, 2023 when the application was called for hearing of the Preliminary objections, learned Counsel Humphrey Mwasamboma for the Applicant, conceded to the 1st Preliminary point of objection. He however, brainstormed that CMA F. 10 was meant to be applied by CMA and not the Labour Court. It is used for notifying the other party.

I do agree with Counsel Humprey on the object of CMA Form No. 10. However, since this is application for revision of the CMA records, this Court cannot be precluded from the application of CMA Form No. 10. The reading of *Regulation 34(1) of G.N. No. 47 of 2017* given a meaning that it is mandatory to file the Notice for Revision. As such, non can shield on the overriding objective doctrine by omitting the mandatory procedure stipulated

by the law. This was the position in the case of **Martin D. Kumaliya and 117 Others v. Iron and Steel Ltd.**, Civil Application No. 70/18 of 2018 Court of Appeal of Tanzania at Dar es Salaam (unreported).

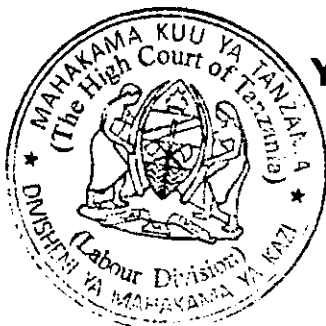
Indeed, as observed by this Court in the case of **Antony John Kazembe v. Inter Testing Servicea (EA) (PTY) Ltd**, Revision Application No. 391 of 2021, High Court of Tanzania Labour Division at Dar es Salaam, the notice to seek revision is like a notice of appeal in both Civil and Criminal matters, in which case, its absence makes the appeal incompetent liable to be struck out.

In the premises, the 1st point of legal objection is marked conceded. Consequently, the application is hereby struck out for being incompetent. No order as to costs.

Y.J. MLYAMBINA
JUDGE
07/06/2023

COURT:

Ruling delivered and dated 7th day of June, 2023 in the presence of learned Counsel Humprey Mwasamboma for the Applicant and learned Counsel, Dismas Raphael for the Respondent.



Y.J. MLYAMBINA
JUDGE
07/06/2023