

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

**MISCELLANEOUS LABOUR APPLICATION NO. 160 OF 2023**

**BETWEEN**

**SYLVESTER SAMSON MBOJE ..... APPLICANT**

**VERSUS**

**CRDB BANK PLC ..... RESPONDENT**

**RULING**

**Date of last Order:** *17/7/2023*

**Date of Ruling:** *21/07/2023*

**MLYAMBINA, J.**

By way of Chamber summons made under *Rules 24(1), 24(2)(a),(b),(c), (d), (e) and (f), 24(3) (a), (b), (c) and (d), 25(1), Rule 26(1), 55(1) and (2) and Rule 56(1), (2) and (3) of the Labour Court Rules, G.N. No. 106 of 2007* and the affidavit of Sylvester Samson Mboje, the Applicant is seeking for extension of time within which the Applicant can file Notice of Review against the Ruling of this Court dated 22<sup>nd</sup> March, 2023 in *Misc. Application No. 75 of 2023* delivered by Hon. E.M. Kassian, Deputy Registrar.

It is in record under paragraphs 18 and 19 of the supporting affidavit that the Applicant had preferred *Labour Review No. 7 of 2023*. However, the

said application was struck out on 2<sup>nd</sup> June, 2023 after the Court raised *suo motto* a concern that it was not properly filed.

Thereafter, on 7<sup>th</sup> June, 2023 this application was filed. Paragraph 17 of the supporting affidavit points out five points of illegalities to be determined in the intended application of review. One of such grounds is; *whether the Deputy Registrar exercised his jurisdiction by admitting and entertaining an application for stay of execution while there is no application for Revision pending in the Court.* The other point is; *whether the Deputy Registrar failed to determine that Misc. Application No. 75 of 2023 was Res judicata to Misc. Application No. 500 of 2022.*

Counsel Roman Masumbuko has called upon the Court to grant this application as the Applicant has accounted for the delay, there is no laxity and there points of illegalities to be determined on review.

The Respondent in reply contested the application. The opposition is evident through the Counter affidavit of Pascal Mihayo, Head of legal Section of the Respondent and reply submission of Counsel Alex Mianga. The later added that apart form accounting for each day of delay, the Applicant failed pinpoint the apparent error on the face of the record.

After consideration of the entire record, I find the Court's discretion must be exercised with a bird eye view of affording parties with the right to

be heard on the alleged illegalities. It is evident that under paragraph 17 of the affidavit, the Applicant has raised points of illegalities. Whether those points are correct or not needs determination by this Court on application for review.

Going through all the alleged five points of illegalities, I find they do not need to be discovered by long drawn argument or process as it was held in the case of **Lyamuya Construction Company Limited v. Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 Court of Appeal of Tanzania at Dar es Salaam (unreported).

Indeed, the Applicant did not sleep in pursuing his right. He managed to account each day of delay as it was held in the case of **Said Nassor Zahor & Others v. Nassor Zahor Abdallah El Nabahany and Another**, Civil Application No. 278/15 of 2016, Court of Appeal of Tanzania (unreported). Soon after the application was struck out on 2<sup>nd</sup> June, 2023, which was Friday, the Applicant lodged this application on 7<sup>th</sup> June, 2023 (Wednesday of the following week). It means the Applicant used the date of 5<sup>th</sup> and 6<sup>th</sup> June (Monday and Tuesday), 2023 to prepare this application. It follows, therefore, that by all yardstick, there was no negligence or laxity on the part of the Applicant and his Advocate.

In the premises, the application is granted with no costs. 14 days are given to the Applicant to file the intended application.



**Y.J. MLYAMBINA**

**JUDGE**

**21/07/2023**

Ruling delivered and dated 21<sup>st</sup> day of July, 2023 in the presence of Counsel Roman Masumbuko for the Applicant and Alex Mianga for the Respondent.



**Y.J. MLYAMBINA**

**JUDGE**

**21/07/2023**