

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

LABOUR REVIEW NO. 9 OF 2023

BETWEEN

CATS TANZANIA LIMITED APPLICANT

AND

SAVIO FERNANDES RESPONDENT

RULING

Date of last Order: 16/8/2023

Date of Ruling: 11/9/2023

MLYAMBINA, J.

This is a ruling of a Preliminary issue concerning limitation. It is on the issue of law as to the applicability of *Rule 26 and 27(1) of the Labour Court Rules, G.N. No. 106 of 2007*.

The background facts which are not disputed are that; the Applicant was aggrieved by the decision of the Deputy Registrar of Labour Court dated 14th March, 2023. Hence this application was filed on 20th April, 2023. It is about 36 days from the date the impugned decision was delivered to the date of lodging this application.

It is the Respondent's main submission that the application is barred because *Rule 27(1) of the Labour Court Rules* requires any review be preferred within 15 days. *Rule 27(1) (supra)* provides:

Any review shall be instituted by filing a written notice of review to the Registrar within fifteen days from the date the decision to be reviewed was delivered.

The Respondent, therefore, prayed be dismissed in terms of the provisions of *Rule 55(1) of the Labour Court Rules (supra)* read together with *Section 3(1) of the Law of Limitations Act Cap 89 Revised Edition of 2019*. He also cited the case of **Soza Plastic Industries v. Scolastica Chawala**, Labour Revision No. 73 of 2012 (unreported) which was cited with approval in the case of **Deogratias Peter Ngowi and Reginal Air Company Limited**, Civil case No. 1 of 2022 where it was held.

The remedy for a time barred application filed without leave is dismissal.

In response, Matojo Cossatta brought a retany of submission, mostly relying on technical escape of the real legal principle.

According to Mr. Matojo, this application brought under the substantive provisions of *Rule 26 of the Labour Court Rules* which do not prescribe time limit within which to lodge application for review.

Without taking this ruling long, I must mention here that an application for review of the decision of the Deputy Registrar must be made under *Rule 27 of the Labour Court Rules*.

As observed in the case of **Sylvester Mboje v. CRDB Bank PLC**, Labour Review No. 07 of 2023 High Court Labour Division at Dar es Salaam, it was a slip of the pen to *mention Rule 26 of the Labour Court Rules (supra)* in the case of **Yakobo Masanja v. MIC Tanzania Ltd.**, Labour Revision No. 385 of 2022 High Court Labour Division.

Even if this application was filed before the decision of the case of **Sylvester Mboje** (supra), the provision of the law cannot be altered contrary to its ordinary meaning.

Further, I agree with Mr. Matojo that the main purpose of the doctrine of precedent is to promote and facilitate the Court to arrive at fair and just judicial decision in dispensation of justice through predictability, consistency, certainty, uniformity and stability case law. Indeed, lack of such elements may cause citizens lose faith and trust in judiciary and in the justice administration machinery.

However, as observed in the case of **Sylvester Mboje** (supra), in the case of **Yakobo Masanja** (supra), the issue was whether the High Court has jurisdiction to entertain revision proceedings against the decision of the Deputy Registrar. It was not on whether the Court was properly moved to revoke its review jurisdiction.

Accordingly subject to the consideration of some issues on merits in *Labour Revision Application No. 78 of 2023*, I find that the application for review of the decision of the Deputy Registrar of the Labour Court is subject to primary limitation of fifteen (15) days from the date the decision to be reviewed was delivered. Henceforth, the application is hereby dismissed for being time barred.


Y.J. MLYAMBINA
JUDGE
11/09/2023

Ruling delivered and dated 11th day of September, 2023 in the presence of Mr. Matojo Cosatta, Personal Representative of the Applicant and Counsel Jonathan Lulinga for the Respondent.




Y.J. MLYAMBINA
JUDGE
11/09/2023