

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

REVISION APPLICATION NO. 242 OF 2023

*(Arising from the Ruling delivered on 21/8/2023 by Hon. Mbunda, P.J, Arbitrator, in Labour dispute
No. CMA/DSM/KIN/291/2023 at Kinondoni)*

BAHATI MPEMBA SALUMU1st APPLICANT
JACKSON P. SENDWA..... 2ND APPLICANT
JAMES R. MWABHONGOLO.....3RD APPLICANT

VERSUS

NGUVU MOJA SECURITY SERVICES LIMITED..... RESPONDENT

RULING

Date of last order & Ruling: 16/2/2024

B.E.K. Mganga, J.

Bahati Mpemba Salum, Jackson P. Sendwa and James R. Mwabhongolo, the abovementioned 1st, 2nd and 3rd Applicants respectively, filed Labour dispute No. CMA/DSM/KIN/291/2023 before the Commission for Mediation and Arbitration(CMA) at Kinondoni. In the said dispute at CMA, applicants filed also the application for condonation as they delayed to file their dispute against the respondent. At CMA, applicants alleged that, respondent breached their contracts. On 21st August 2023 Hon. Mbunda, P.J, Arbitrator, delivered a Ruling that dismissed the application for condonation for want of merit. Aggrieved

with the said Ruling, on 9th October 2023, applicants filed this application seeking the court to revise the said Ruling.

When this application was called on for hearing today, before the parties have argued the grounds raised by the applicants, I asked them to address the court whether this application was filed within time or not.

Responding to the issue raised by the court, Mr. Jackson P. Sendwa, the 2nd applicant who appeared on behalf of the applicants conceded that, the application is time barred because they were served with the award on 21st August 2023 but they filed this application on 9th October 2023 without first filing an application for extension of time.

On the other hand, Mr. Pius Musiba, advocate for the respondent submitted that, Section 91(1)(a) of the Employment and Labour Relations Act[Cap. 366 R.E. 2019] requires an application for revision be filed within 42 days from the date the award was issued. He submitted further that, Applicants were served with the award on 21st August 2023 but they filed this application on the 49th day while out of time and without application for extension of time. Learned counsel for the respondent prayed the application be dismissed for being time barred. In support of his prayer to dismiss this application, he cited the case of

Barclays Bank v. Phylisiah Hussein Mcheni, Civil Appeal No. 19 of 2016, CAT(Unreported) and ***Heron M. Nyachiya v. Tanzania Union of Workers and Commercial Workers***, Civil Appeal No. 79 of 2001, CAT(unreported).

It is not disputed by the parties that, applicants filed this application out of the 42 days provided for under Section 91(1)(a) of Cap. 366 R.E. 2019(supra). It was correctly submitted by counsel for the respondent, in the strength of the position of the law, including the case of ***Barclays Bank Tanzania Limited vs Phylisiah Hussein Mcheni*** (Civil Appeal 19 of 2016) [2021] TZCA 202 (17 May 2021) and ***Nyachiya vs Tanzania Union of Industrial & Commercial Workers*** (Civil Appeal 79 of 2001) [2005] TZCA 66 (19 October 2005) that, a time barred case is liable to be dismissed. I therefore, dismiss this application for being time barred.

Dated at Dar es Salaam on this 16th February 2024.



B. E. K. Mganga
JUDGE

Judgment delivered on 16th February 2024 in chambers in the presence of Jackson P. Sendwa, the 2nd Applicant and Pius Musiba, Advocate, for the Respondent.



A handwritten signature in black ink, appearing to be "B. E. K. Mganga".

B. E. K. Mganga
JUDGE

Labour Court-12.