

IN THE HIGH COURT OF TANZANIA
LABOUR DIVISION
AT DAR ES SALAAM
REVISION APPLICATION NO.28606 OF 2023

MSENGA RAMADHANI KABUNGA..... APPLICANT
VERSUS
QATAR AIRWAYS..... RESPONDENT

RULING

Date of last Order: 20/02/2024
Date of Ruling: 23/02/2024

B.E.K. Mganga, J.

Applicant was an employee of the respondent. It happened that the respondent terminated his employment. Applicant was not happy as a result, he filed Labour dispute No. CMA/DSM/ILA/492/2022 before the Commission for Mediation and Arbitration(CMA) at Ilala complaining that he was unfairly terminated. In the Referral Form(CMA F1) applicant indicated that he was praying to be reinstated without loss of remuneration. On 8th November 2023, Hon. Lucia Chrisantus Chacha, Arbitrator, issued an award in favour of the respondent that respondent had valid reason for termination and followed procedures hence termination was fair both substantively and procedurally. Applicant was

unhappy with the CMA award as a result, on 29th December 2023, he filed this revision application seeking the court to revise and set aside the said CMA award.

Respondent felt that the CMA award was fair hence she filed the Notice of Opposition and the Counter Affidavit to oppose this application. In addition, respondent filed the notice of preliminary objection that, this application is incompetent for want of Notice to seek Revision.

When the application was called on for hearing of the preliminary objection, Mr. John James, Advocate appeared and argued the preliminary objection for and on behalf of the Respondent while Ms. Suzan Mwansele , advocate appeared and argued for and on behalf of the applicant.

Arguing in support of the preliminary objection, Mr.James submitted that, applicant filed this application without prior filing at CMA the notice to seek revision (CMA F10) contrary to Regulation 34(1) of the Employment and Labour Relations (General) Regulations, GN. No. 47 of 2017. Counsel for the respondent submitted further that, applicant was supposed to file the said CMA F10 at CMA within 42 days from the date the award was issued. To support his position, learned counsel for

the respondent cited the case of ***Anthony Massoy v. China Dasheng Bank Ltd***, Revision No. 51 of 2023, HC (unreported). He concluded that, this application is incompetent and prayed the court to strike it out.

On her side, Ms. Mwansele, learned counsel for the applicant, initially submitted that, Regulation 34(1) of GN. No. 47 of 2017(supra) does not mandatorily require a notice to seek revision to be filed. But upon reflection, conceded that applicant was supposed to file at CMA the Notice to Seek Revision (CMA F10) but did not, and that, due to that failure, this application is incompetent hence liable to be struck out.

It is undisputed by the parties that applicant did not file at CMA the Notice to Seek Revision (CMA F10) and that, that has made this application to be incompetent liable to be struck out. I agree with submissions by both counsel because, that is the position as it was held by this case in a number of case including the case of ***Anthony Massoy vs China Dasheng Bank Limited*** (Revision No. 51 of 2023) [2023] TZHCLD 1313 (8 June 2023), ***Anthony John Kazembe vs Inter Testing Services (EA) Pty Ltd*** (Revs Appl No. 391 of 2021) [2022] TZHCLD 45 (25 February 2022), ***Arafat Benjamin Mbilikila vs NMB Bank Plc*** (Revision No. 438 of 2020) [2021] TZHCLD 411 (13

September 2021) to mention but a few. I therefore find that this application is incompetent and struck it out.

Dated in Dar es Salaam on this 23rd February 2024.



B. E. K. Mganga
JUDGE

Ruling delivered on this 23rd February 2024 in chambers in the presence of Suzan Mwansele, Advocate for the Applicant and Chali Juma, Advocate for the Respondent.



B. E. K. Mganga
JUDGE