

IN THE HIGH COURT OF TANZANIA  
( DAR ES SALAAM DISTRICT REGISTRY )

AT DAR ES SALAAM  
MISC. CIV. CASE. NO. 93/95

OTTU (ON BEHALF OF J. KIMARO  
& 163 OTHERS ..... APPLICANTS  
VERSUS  
TANZANIA HOUSING BANK ..... RESPONDENT

R U L I N G .

MSUMI, J.

The matter started as employment case filed in the Industrial Court of Tanzania by the applicants. In that case applicants were challenging the decision of their employee, the respondent, of retrenching them. The case was dismissed. In the present proceedings the applicants are asking for an extension of time to appeal to this court against the said - decision of the Industrial Court of Tanzania. The respondent which is represented by Mr Kalolo, advocate is contesting the application.

Apart from arguing that applicants have not adduced sufficient reasons explaining the delay to file the appeal within the prescribed statutory period, the learned counsel for the respondent raised two legal issues against the application. First he contended that the affidavit of Victor Alfred Mlanzi purporting to support the application is incurably defective for not having verification clause. And secondly since an appeal to this court against the judgment of the Industrial Court is only confined to allegation related to lack of jurisdiction, applicants should have attached to the chamber summons copy of the memorandum of intended appeal so that the court could know whether or not the applicants were challenging the jurisdiction of the trial court.

Starting with the first issue it is quite clear that the said affidavit does not contain verification. Taking into account the nature of the matter deponed, the deponent cannot claim that the same were from his own knowledge. They must be based on information hence the necessity to reveal the source of the said information. For example the deponent claims that later on after the judgment was delivered he came to learn that one Job Mwambuma who had been prosecuting the case on their behalf had died and that the matter had been assigned to one Jonathan before the applicants decided to engage a private advocate. It is further deponed that the applicant's former advocate one Mhina went Abroad for studies. All these assertions must be based on information whose source ought to have been revealed.

The second issue is equally formidable. In considering this application, it is relevant for this court to satisfy itself that the intended appeal is based on the allegation of lack of jurisdiction as the law provides.

The only way the court could be able to satisfy itself on this question is by going through the memorandum of the intended appeal. The availability of the said copy of memorandum of intended appeal is even more necessary when taking into account that neither the affidavit nor the oral submission of the counsel for the applicants challenge the jurisdiction of the Industrial Court.

From the above observations this court is of the respectful opinion that the application is not legally tenable. It is accordingly dismissed with costs.

  
H.A. MSUMI

JUDGE.

15/5/97.

For the Applicant : Mkumbi

For the Respondent : Kalolo.