

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
AT ARUSHA
REVIVISION APPLICATION NO. 75 OF 2020**

(Original CMA/ARS/KRT/264/20)

PANTALEO L. CHUWA APPLICANT

Versus

NGILA ESTATE LTD. RESPONDENT

JUDGMENT

21/06/2021 & 26/07/2021

GWAE, J

Before me is an application for revision brought under section 91 (1) (a), 91 (2) (b) 94 (1) (i) of the Employment and Labour Relation Act No.6 of 2004, Rule 24 (1), (2), (a), (b), (c), (d), (e) and (f) and 24 (3) (a) (b) (c) and (d) Rule 28 (1) (a), (b), (c), (d) and (e) of the Labour Court Rules GN. No. 106 of 2007.

The applicant, an employee is praying for the following orders;

1. That, this court be pleased to call for and examine the record of the proceeding of the Commission for Mediation and Arbitration of Arusha in Dispute No. CMA/ARS/KRT/264/2020

2. That, this court to issue an order reviewing and setting aside the decision of the Commission and allow this application so that and the dispute can be determined on merit
3. Any other order as the court may deem fit and just to grant

The applicant, Pantaleo L. Chuwa supported his application by swearing an affidavit giving statement of the dispute and as to why this application should be granted. In essence, the applicant avers that, the Commission (CMA) was not legally justified to dismiss his application for condonation since his lateness was by reasons out of his control namely; sufferance for Covid-19 which affected not only him but also his entire family leading to the quarantine and that the application has overwhelming chances of success due to the reasons, **firstly**, that, he is entitled to one salary for March 2020, **secondly**, that, the respondent, employer was illegally reducing his salary as contribution to the Social Security Fund and **thirdly**, that, the applicant was entitled to repatriation allowance since he was recruited in Dar es salaam while he was terminated in Arusha.

Equally, the respondent, opposed the applicant's application by filing the counter affidavit sworn by her manager one Fredrick Kamau. The respondent vehemently disputed the applicant's application by stating that the reasons given are not convincing. Therefore, he sought the CMA's award to be upheld.

On the date fixed for hearing of this application, the applicant and respondent's advocate one Anold Wilson appeared and obtained leave to dispose of this application by way of written submission.

In his submission supporting the application, the applicant reiterated what is contained in his affidavit whereas the respondent seriously argued that the applicant slept over his right and that he had failed to substantiate the fact that he suffered from COVID-19 as he never attached any medical documents. In support of her argument, the learned counsel for the respondent cited a case of **Quality Group Limited vs. TBA**, Civil Application No. 102 of 2015 (Unreported-CAT) where it was sated that;

"It would make big difference if the application for an injunction would have been annexed so as to support her version and the court to satisfy itself that such application was made. In absence off that, it cannot be said there was such application

In his rejoinder, the applicant stated that he exercised great diligence as the delay was due to the act of the Almighty God adding that it was not possible to have been given medical chit since even medical practitioners were scared of the Covid-19.

Having carefully considered the application, the CMA's decision and the submissions by the parties. It is undoubtedly clear in my view that the

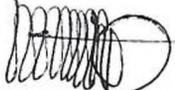
"We need not belabor, the fact that it is now settled law that in application for extension of time to do an act required by law, all that is expected of the applicant is to show that he was prevented by sufficient or reasonable or good cause and that **the delay was not caused or contributed by dilatory conduct or lack of diligence on his party**". (Emphases is mine)

Given the peculiar circumstances of this case, I have no hesitation to hold that, the applicants' delay to file his dispute within prescribed time was not contributed by his negligence. Moreover, I have also considered the decree of prejudice to the respondent if this application is granted as well as decree of prospects especially if the applicant was recruited in Dar-es-salaam.

Consequently, the applicant's application is granted. The CMA's ruling is revised and set aside. The applicant is given **fifteen (15)** days, from the date when he is served with a copy of this order, within which to file his referral form afresh and not the former one which was wrongly and prematurely filed on the 10th June 2010. No order as to costs is made as this matter is a labour dispute

It is so ordered.




M. R. GWAE
JUDGE
26/07/2021