

**IN THE HIGH COURT OF TANZANIA
LABOUR DIVISION**

AT DAR ES SALAAM

MISC.LAB.APPLICATION NO. 38 OF 2009

BETWEEN

MKURUGENZI JANDU PLUMBER DODOMA - APPLICANT

AND

STELLAH MASSAWE - RESPONDENT

19/03/2010 & 01/04/2010

SC. MOSHI. J:

RULING

The applicant, Mkurugenzi Jandu Plumbers Ltd was the employer of the respondent one Stella Massawe. However, the chamber summons and affidavit are wrongly titled showing that the applicant is Stella Massawe. Stella Massawe was the applicant in the arbitration proceedings before the C.M.A (Commission for Mediation and Arbitration). The respondent was awarded T.shs. 1,191,000/= being terminal benefits through an arbitration award dated 3/7/2009.

Before us, is an application for extension of time to file the application for Revision out of time; the applicant intends to lodge an applications for a revision of the said award which was procured on 3/7/2009. As the Court stamp shows, the present application was lodged in Court on 2nd October, 2009.

Both parties filed affidavits/counter affidavits to support their case; They were

each afforded a right to submit orally as well.

The main, and only ground for the application as raised by the applicant was that the director who was responsible to handle this case was sick and had to travel to India for Medical treatment. Various documents were tendered to show that he had travelled to India, where he had undergone some Medical treatment.

The respondent stated that sickness of the director couldn't be a good ground for the company not to apply in time. She adduced evidence to show that the director referred to, Mr. ManMohan Nitu was the Officer whom she handed the award on 6/7/2009. That, Mr. Nitu signed on the document attached to her counter affidavit and marked as "SI". That the employer promised to pay her the awarded money within the ordered 14 days. However, they didn't honour their word that's when she applied for execution. That the applicant brought the application after she had lodged an application for execution. That even if the indicated director fell sick her employer is a company with three directors.

I have considered both sides submissions. Rules 26(1) of the Labour Court Rules under which the application is brought provides for rules for application for review of awards and S.91 of the Employment and Labour Relations Act, Act No. 6/2004 provides for Revision of arbitration awards. Therefore they are not relevant to the present application.

The relevant provision of Law which gives powers to the Labour Court to extend time limits and condonation is Rule 56 of the Labour Court Rules, G.N. No. 106/2007. However the Court can extend time under R.56(I) only if the party shows good cause.

Now, has the applicant showed good cause? The award was procured on 3/7/2009. The director, Nitu was served with it on 6/7/2009. He had been in the Country up to 29/7/2009, when he left for India.

It is my view that having received the award on 6/7/2009 he had ample time to oversee that the matter was dealt according to the law.

All in all, I find no good reason has been advanced by the applicant.

The application is dismissed for lack of merits.

R/A Explained.

S.C. MOSHI

Judge

19/03/2010

Date: 1/4/2010

Coram: Hon. S.C. Moshi, J.

Applicant: Absent.

For ":

Respondent: Stella Masawe - Present For":

CC: J. Kalolo

Court:

Delivered on this 1st Day of April, 2010, in presence of the Respondent and in absence of the Applicant who was Dully notified.

COPIES TO:

STELLA T. MASSAWE,
PAR ES SALAAM.

DIRECTOR,

JANDU PLUMBERS, LTD.
PAR ES SALAAM.