

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT MOROGORO

REVISION NO. 62 OF 2019

BETWEEN

ST PETER'S JUNIOR SEMINARY.....APPLICANT

VERSUS

TAYLOR DAUDI MAGUNDU.....1ST RESPONDENT

TUPINDA LEO JOSEPH.....2ND RESPONDENT

RULING

Date of Last Order: 07/12/2020

Date of Ruling: 07/12/2020

Z.G. Muruke, J.

The two respondent in Toyalor Daudi Magundu and Tupinda Leo Joseph were employee of applicant under fixed term contract. Upon refusal by applicant to renew contract, they filed dispute at CMA, claiming to be unfairly terminated. CMA decided in their favour. Same dissatisfied applicant thus filed present revision. On the date set for hearing, applicant was represented by Asifiwe Aginanuswe, while respondent had the service of Hamisi Salum, Personal representative of their own choice from (TASIWU)

On the date set for hearing, and before commencement of the same, applicant counsel by way of preliminary remarks, submitted that, respondent sued wrong party at the CMA. They sued St. Peter's Junior

Seminary instead of the Board of Governors of St. Peter's Junior Seminary, Morogoro, in terms of their contract of their employment dated 11th January, 2016. St Peter's Junior Seminary as it appears in the CMA proceedings and the Award is not legal entity, he thus requested CMA proceedings and award to be quashed, citing recent decision at Kigoma High Court in the case of **Kanisa la Anglikana Ujiji Vs. Abel s/o Samson Heguye** Labour Revision number 5 of 2019 b Honourable I.C. Mugeta, J.

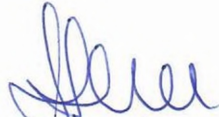
Respondent representative did not object the anormally raised, he agreed quashing of proceedings and court consider other remedy to the two respondent. Applicant being legal (artificial) person, in terms of societies Act, Cap 337, RE 2002, it is body that has been registered as trustee to be sued in compliance of Section 12(1) of the said Act. Not only the law so requires, but even the contract signed between the applicant and respondent, referred applicant as Board of Governors of St Peter's Junior Seminary, Morogoro at St. Peter's Junior Seminary, as correctly submitted by applicant counsel and conceded by respondent representative. Applicant having sued wrong party, CMA proceeding and award are all nullity. Court cannot leave nullity to flourish in court records. Same is quashed and award is set aside. Present revision having emanated from nullity proceedings, is incompetent, thus struck out.


Z.G.Muruke

JUDGE

07/12/2020

Ruling delivered in the presence of Asifiwe Alinanuswe, Advocate for applicant, Hamisi Salum, Secretary (TASIWU) Morogoro for respondent and in the presence of the two respondents.



Z.G. Muruke

JUDGE

07/12/2020

Labour Court TZ.