

**IN THE HIGH COURT OF TANZANIA**

**MWANZA DISTRICT REGISTRY**

**AT MWANZA**

**LABOUR APPLICATION NO. 26 OF 2021**

*(Arising from Labour Dispute No. CMA/MZ/NYAM/29/2020 at Mwanza)*

**JUMA SAID JUMA.....APPLICANT**

**versus**

**THE BOARD OF TRUSTEES OF  
TANZANIA NATIONAL PARK }**

**..... RESPONDENT**

**RULING**

30<sup>th</sup> August & 15<sup>th</sup> September, 2021

**RUMANYIKA, J**

When, by way of audio teleconference the application for extension of time within which, with respect to an award of the CMA dated 15/2/2021 Juma Said Juma (the applicant) to apply for revision was called on for hearing on 30/08/2021, I had to hear the parties on a preliminary point of objection (the p.o) formally raised on 29/02/2021 and now taken by Mr. G. Dalali learned counsel for The Board of Trustees of Tanzania National Park (the respondent). Mr. Akram Adam learned counsel appeared for the applicant. I heard them through mobile numbers 0754 996 916 and 0652 420 543 respectively.



The grounds of the p.o essentially read thus;

- (1) That very briefly the application was incompetent for being supported by an incurably defective affidavit.
- (2) That the applicant sought for revision of a non-existent labour dispute (No. CMA/MZ/NYAM/29/2020/34/2020) and no copy of the award was appended.

Mr. Dalali learned counsel submitted that non-attachment to the application a copy of the award being referred to and now sought to be revised it contravened the rule in the case of **Coco Lodge Holding Ltd & Another v. Minister of Natural Resources and Tourism & 3 others**, Misc. Cause No. 7 of 2019 HC at DSM Main Registry (Felesh, JK) that actually application was liable to be struck out.

**Second**, that contrary to the applicant's averment and contents of Paragraph 6 of the supporting affidavit, upon previous application No. 19 of 2021 being struck out by this court for some reasons on 23/06/2021 and alleged the applicant refilled it same date, actually it was refilled on 25/06/2021 what a felicity. That the applicant actually intended to avoid liability of accounting for each day of the delay (case of **Bushiri Hassan v. Latifa Lukio Mashayo**, Civil Application No.3 of 2007 (CA) unreported)



much as under Rule 33(1) of the Labour Institutions Mediation and Arbitration Guidelines GN No. 67 of 2007 only the CMA was mandated to rectify the clerical errors in this case Labor Dispute No. CMA/MZA/NYAM/29/ 2020 which never ever existed.

In reply, Mr. Akram Adam learned counsel submitted that the p.o was misconceived because copy of the impugned award was actually appended and the court records would tell clearly (Annexure NL I).

That following the court's decision, the issue of misstating the dates of refilling the application wasn't consequential and, on that one the court may wish to take a judicial notice. That even if the respective paragraphs were expunged it would bring no harm (the case of **Filipo Maluli (Administaror of the estate of the late Bandichuma C. Maluli v. Maiko Mbugi (The Admin. of the estate of the late Fundikasi Mbugi)**, Misc. Land Application No. 24 of 2020 Hc at Iringa (unreported).

That with regard to the issue of the applicant having had cited and in terms of registration number he referred to a non – existing labour dispute, that one was worth the name not a p.o that if anything, this court may direct the CMA to rectify the records. That is all.



The central issue is whether the application is incurably defective and liable to be struck out.

At least correctly so in my view the parties are agreed that due to incompetency and counsel's concession, the applicant's first attempt ie. Labor Revision No. 19 of 2021 was struck out on 23/06/2021. The applicant may have had comeback the same day or on 22/06/2021 as alleged in paragraph 6 of the supporting affidavit or, according to records dated and verified on 23/06/2021 or presentenced for filing and recorded by the registry officer as filed on 25/06/2021. Be as it may the present application was filed two days after the order striking out the previous application and, however slight the delay might be, the applicant did not account for each day of the delay. The application therefore it lacks merits and it is liable to be dismissed (see the case of **Bushiri Hassan** (supra)).

Moreover, for reasons known to the applicant a copy of the decision striking out the said previous application was not appended it being accidentally or by design, this court was not availed opportunity to assess the extent of the delay much as, as said it could be only two days or less yes, but an unexplained delay suffice the two points to dispose of the application.





As for the misstated and non-existent registration number of the original labour dispute No. CMA/MZA/NYAM/29/2020/34/2020, correctly in my view Mr. Akram Adam learned counsel he cut the long story short. Only the CMA was to blame not the parties they may wish to go back asking the CMA to rectify the records.

In the upshot, the p.o is sustained. The devoid of merits application is dismissed. It is so ordered.

Right of revision explained.

  
**S.M. RUMANYIKA**

**JUDGE**

**11/09/2021**

The ruling delivered under my hand and seal of the court in chambers this 15/09/2021 in the absence of the parties.



  
**S.M. RUMANYIKA**

**JUDGE**

**15/09/2021**

