

**IN THE HIGH COURT OF TANZANIA**

**(LABOUR DIVISION)**

**AT DODOMA**

**LABOUR REVISION NO. 15 OF 2019**

*(Arising from Labour Dispute No. **CMA/SGD/72/2017** in the Commission for Mediation and Arbitration Singida)*

**BODI YA WADHAMINI WA KANISA**

**ANGLIKANA TANZANIA ..... APPLICANT**

**VERSUS**

**THERESIA MICHAEL ..... RESPONDENT**

**RULING**

*20<sup>th</sup> July, 2020 & 8<sup>th</sup> February, 2021*

**SIYANI, J:**

A complaint filed on 12<sup>th</sup> December 2017, at the Commission for Mediation and Arbitration Singida (CMA), reveals that Theresia Michael, (the respondent herein) was employed by Kanisa la Anglikana Tanzania as a Project Director on 2<sup>nd</sup> June, 2016 and she went on to serve in such post for barely a year till 12<sup>th</sup> October 2017 when was terminated. On 23<sup>rd</sup> January, 2018, the respondent moved the CMA to amend the application by correcting

the name of the applicant herein to be Bodi ya Wadhamini ya Kanisa la Anglikana Tanzania (the applicant).

At the same time and having been served with the notice of the application, the applicant acting under the services of counsel, John Stanley Chigongo, raised a notice of preliminary objection that the application was bad in law for contravening Regulation 24 (1) (2) of the Labour Institutions (Mediation and Arbitration) Rules 2007 GN No. 67 of 2007 and Regulation 34 (1) of the Employment and Labour Relations (General) Regulations, 2017 GN. No 47 of 2017. Upon hearing the parties, the CMA dismissed the preliminary objection and allowed the respondent to correct the applicant's names.

On 16<sup>th</sup> June 2018, the applicant filed another notice of preliminary objection on two limbs that the respondent's representative (the applicant at the CMA) had no locus standi and that her opening statement was bad in law for bearing a name of person not party to the suit. Once again, the CMA dismissed the two points of objection and ordered the application to be heard on merits. Dissatisfied with that ruling, the applicant has moved this court under sections 91 (1) (a) (2), 94 (1) (b) (i) of the Employment and Labour

Relations Act No. 6 of 2004, section 56 (c) of the Labour Institutions Act No. 7 of 2004 and Rules 24 (1) (2) (3), 28 (1) and 46 (1) (2) (3) of the Labour Court Rules, 2007 GN No. 106 of 2007, to revise and nullify the entire CMA's proceedings in labour Dispute No. CMA/SGD/72/2017 and order the same be tried afresh before another competent arbitrator.

Hearing of the application was done by way of filling of written submissions. While as noted the applicant's, written submissions were filed by counsel John Stanley Chigongo, those of the respondent were filed by Ms Victoria Revocati, the learned counsel. As prior indicated and without reproducing the contents of what was submitted by the learned counsels, it suffices here to note that the instant revision is sought against the CMA's ruling which dismissed the applicant's points of preliminary objection. While the gist of counsel Chigongo's arguments is that if the said ruling is left undisturbed, the ultimately award by the CMA, will be rendered nugatory and so inexecutable, Ms Revocati, was firm that such an order was not revisable for having no finality effects.

In my considered opinion, what has been raised by Ms Revocati above, ought to have been raised as a preliminary point of objection. The practice, has always been that a notice of preliminary objection, is raised at the earliest stage so as not to take the other party by surprise when a preliminary objection is raised at the stage of hearing. That notwithstanding, the question whether or not the instant application is prematurely preferred, is a point of law. It touches the jurisdiction of this court on what can be revised. A settled principal of law is that a question of jurisdiction can be raised at any stage of the trial. With that in mind, and since the parties had a chance to air their views on the issue raised through their written submissions, I will therefore entertain the question raised.

As correctly argued by Ms Revocati, it is the law that revision can only be resorted to, where the order complained of, has the effect of determining the matter in dispute to its finality. In the matter which is subject of the instant application, the CMA through its ruling dated 3<sup>rd</sup> September, 2018 found nothing wrong with the legal status of the respondent's representative. It also found that the discrepancy as to the applicant's names was a reparable error and directed the parties to comply with its previous

order dated 14<sup>th</sup> April, 2018 which allowed the respondent to amend the same. The matter was therefore ordered to proceed on merits.

Having considered the learned counsel's arguments and record, I am in agreement with Ms Revocati that this matter was pre maturely preferred. The orders issued by the commission on 3<sup>rd</sup> September, 2018 did not dispose the matter to its finality, neither did the same affect any of the part's rights. As such the point raised by Ms Revocati suffices to dispose the application which is now dismissed for being pre maturely preferred. Considering that this is a labour matter, I order each party to bear its own costs. It is so ordered.

**DATED at DODOMA this 8<sup>th</sup> February, 2021**



**M.M. SIYANI**  
**JUDGE**