

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[IN THE DISTRICT REGISTRY OF ARUSHA]

AT ARUSHA

MISC. APPLICATION NO. 6 OF 2021

*(C/F MISC. APPLICATION NO. 46 OF 2018 LABOUR DISPUTE NO CMA/ARS/MED/319/2015, REVISION
NO. 60 OF 2017)*

TECLA JOSEPH MKWIZU.....APPLICANT

Versus

MOUNT MERU FLOWERS LTD.....RESPONDENT

RULING

10th March & 8th April, 2022

MZUNA, J.:

This application by the applicant Tecla Joseph Mkwizu is for extension of time to file the revision which was struck out by this court on ground of being incompetently filed. The application proceeded ex parte as the respondent Mount Meru Flowers LTD never showed up. It is noteworthy that there had been numerous applications filed by the applicant which have met snagging blocks.

A brief historical background is that the applicant was an employee of the respondent since 06th November 2011 before being terminated in January 2014. Her complaint before the Commission for Mediation and



Arbitration (CMA) in Arusha was unsuccessful as it was dismissed on the ground of late referral of the dispute.

On 23rd March, 2016 the applicant filed Revision No. 21 of 2016 in this Court but it was strike out for being incompetent and improperly filed before the Court. The applicant was given four-days leave to rectify the errors. The ruling and drawn order was delivered on 12th May, 2017. The applicant did not sleep over her rights and therefore she filed another application before this court which was struck out on 3rd December, 2020 for the same reason of being incompetently filed and wrongly moving the Court. Therefore, this is a second attempt to lodge the matter for enlargement of time to file revision.

In this application, Mr. Herode Bilyamutwe Personal Representative, appeared on behalf of the applicant.

The main issue for determination *is whether the applicant has shown good and sufficient cause to warrant enlargement of time to file application for revision?*

Mr. Herode's main argument which features both in the affidavit sworn by the applicant Tecla Joseph Mkwizu and the submission, is that the applicant failed to meet the order of re-lodging the revision as per the order of the Court due to economic hardship.

Rule 56(1) of the Labour Court Rules G.N. No. 106 of 2007 to which this application relates, provides that :-

"The court may extend or abridge any period prescribed by these rules on application and on good cause shown..."

The question which follows is, does the reason of "economic hardship" constitute good cause for this court to extend time? What amounts to good cause "encompass all reasons or causes which are outside the applicant's power to control or influence resulting in delay in taking any necessary step" as it was so held in the case of **Yusufu Same and Another v. Hadija Yusufu**, Civil Appeal No. 1 of 2002 CAT at Dar es Salaam (unreported) at page 9.

In the said case of **Yusufu Same & Another Vs. Hadija Yusufu**, (**supra**) the Court stated further that: -

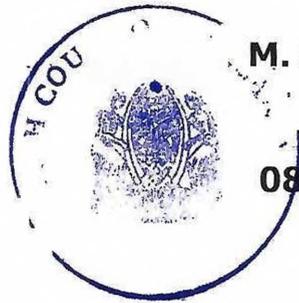
"We are aware that financial constraint is not a sufficient ground for extension of time. See, Zabitis Kawuka Vs Abdul Karim, (EACA) Civil Appeal No. 18 of 1937. "

That being the case, it is now a settled principle of law in our legal jurisdiction that economic hardship had never been a good cause for extension of time. Similarly, the argument that the applicant stands a good chance of success simply because the CMA ruling was delivered beyond the

prescribed period of 30 days, as submitted by Mr. Bilyamtwe, without demonstrating good cause for the delay, cannot move this court to extend time. The court dealing with this application cannot dig into the merits of the application or appeal. Such ground I dare say does not fall into illegality as a ground for extension of time in view of the decision in the case of **Lyamuya Construction Company LTD versus Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No.2 of 2010 (unreported).

In the event therefore the applicant has failed to show good cause for this application to be allowed. Application stands dismissed with no order as to costs.

Order accordingly.




M. G. MZUNA,
JUDGE.
08/04/2022