

IN THE HIGH COURT OF TANZANIA

LABOUR DIVISION

AT DAR ES SALAAM

REVISION NO. 877 OF 2019

MKOMBOZI COMMERCIAL BANK PLC.....APPLICANT

VERSUS

HUMPHREY SINGOGO.....RESPONDENT

RULING

Date of last Order: 09/06/2021

Date of Ruling: 13/08/2021

Z.G.Muruke, J.

Humphrey Singogo was employed by the applicant on 2009 as an accountant. He was stationed at St. Joseph Branch, Dar es Salaam. He was later appointed by the General Manager Mwanza Branch on 9th August, 2012. In the course of his duty, he was accused of contravening working regulations. He did not verify loan applications from Sahara Media Group employee's. He was charged and found guilty at the disciplinary hearing, thus terminated on 20th May, 2017. Being dissatisfied, he filed dispute at CMA Dar es Salaam Ilala Office.

After hearing both parties, commission decided in favour of respondent, on account of failure to follow procedure on termination, applicant was ordered to pay respondent 16 months' salary as compensation.

The Bank felt aggrieved, thus filed present revision, challenging arbitrator's award. After conclusion of pleadings, hearing was by way of

written submission. In the cause of composing judgment, I realized that, cause of action arose in Mwanza as respondent was working as Branch Manager. It is therefore an issue of Territorial jurisdiction that court has to satisfy before proceeding with other step.

Before proceeding with any dispute, the commission is duty bound to determine its competence on the issue of territorial or geographical powers. It is the position of the law that, labour dispute must be referred to the area where the dispute arose. It is irregular exercise of the jurisdiction to proceed mediating the dispute to the area where the dispute did not arise. The proceedings conducted without consideration of geographical jurisdiction will be declared nullity by the higher court. The position was insisted in the case of **Christian Michael Vs. Ujenzi Secondary School**, Labour Revision number 178 of 2013 (unreported) where the court cited with approval section 15 of Labour Institution Act, No. 7 of 2004 and Rule 22 of GN 64 of 2007, in which it was held that, CMA Temeke District had no jurisdiction to entertain the matter whose cause of action arose at Mkuranga District.

The case at hand, dispute arose at Mwanza region, while dispute was instituted at Dar es Salaam CMA, Ilala District. There is no any application filed to the commission for any exemption, to that effect. Thus, hearing of the dispute by CMA Ilala District Office is without jurisdiction. Jurisdiction is important aspect, it gives the power for court, or and tribunal to determine dispute. Records does not show whether permission was sought and granted to file dispute at CMA Ilala Office instead of Mwanza.

Therefore, what transpired at CMA Ilala between the parties herein, are all null and void.

This court cannot leave nullity to flourish in the courts records. In the up short, proceedings, judgment and Decree emanating in the dispute with reference number CMA/DSM/ILA/R.644/57/751, are quashed and set aside. Respondent, to institute his dispute within 60 days from the date served with copy of ruling in a competent CMA office having territorial jurisdiction to entertain the dispute. Ordered accordingly.




Z.G. Muruke
JUDGE
13/08/2021