

TANZANIA / JUDGMENT

CONSOLIDATED REV NO 24119 AND 24269 OF 2024 ST

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA LABOUR DIVISION AT PAR-ES-SALAAM CONSOLIDATED LABOUR REVISION NO. 24119 & 24269 OF 2024 CASE REFERENCES NO. 202409261000024119 AND NO. 202409291000024269 BETWEEN ST. JOSEPH UNIVERSITY OF TANZANIA.....APPLICANT/RESPONDENT VERSUS PROFESSOR FELICIAN TUNGARAZA..... RESPONDENT/APPLICANT

JUDGEMENT

Date of last Order: 12/ 02/2025 Date of Judgement: 27/ 03/2025 MLYAMBINA, J. This is a consolidated decision of Revision Application No. 24119 & 24269 of 2024. Revision application No. 24119 of 2024 was filed by ST. JOSEPH UNIVERSITY OF TANZANIA who will be referred as the Applicant in this decision. Whereas, Revision No. 24269 of 2024 was filed by PROFESSOR FELICIAN TUNGARAZA who will be referred as the Respondent for the purpose of this decision. Both parties are aggrieved by the decision of the Commission for Mediation and Arbitration (herein CMA) on the grounds which will be apparent herein. The facts giving rise to this application can be briefly stated as follows; the Respondent was employed by the Applicant on a fixed contractual term of four (4) years commencing from the 9th day of March 2020 to the 8th day of March 2024, in the capacity of Deputy Vice Chancellor. That, on or about the 1st day of August 2020, he was additionally appointed as Acting Vice Chancellor and continued to serve in both capacities until the 31st day of March 2021. According to the terms of the employment contract, he was receiving a gross monthly salary of Tanzanian Shillings (TZS) 6,873,860. It is alleged that; in February 2021, the working environment became intolerable due to the Applicant's serious and gross breaches of the employment contract, which ultimately forced the Respondent to resign for the reasons to be adduced herein. After resignation, the Respondent referred the matter to the CMA claiming for constructive termination. Having considered the evidence of both parties the CMA found that constructive termination was not proved in this case hence, the Respondent's claim was dismissed. In addition to that, the CMA found that the Respondent was entitled to 20% salary for acting position as Acting Vice Chancellor. Thus, Applicant was ordered to pay him the total of TZS 7,254,800/=. Such decision aggrieved both parties, they filed revision on various grounds. In Revision No. 24119 of 2024 the ground for Revision was as follows: That, the Honourable Arbitrator grossly erred in law and facts by ruling

that Respondent was entitled to 20% of his salary for acting position of Vice Chancellor despite ample evidence on record that the Respondent was paid the said acting allowance. Revision No. 24269 of 2024 called for determination of the following

issues:

- i. Whether the Arbitrator erred in both fact and law by failing to properly evaluate and consider the evidence presented by the Applicant, resulting in an erroneous conclusion that there was no constructive termination. ii. Whether the Arbitrator misapplied the law by holding that a 25% salary reduction without involving the employee did not amount to constructive termination. iii. Whether the Arbitrator erred in fact and law by holding that the existence of labour insecurities, which adversely affected the employee's position, did not constitute constructive termination. iv. Whether the Arbitrator wrongly ruled in favour of the Respondent, despite clear contradictions in the witness testimony concerning the advance salary cut of 25%.
- v. Whether the Arbitrator erred in law and fact by holding that the 25% unilateral deduction of the Complainants' salary without his consent did not constitute a breach of contract. The applications were argued by way of written submissions. Before the Court, the Applicant was represented by Mr. Jerome Joseph Msemwa, learned Counsel. Mr. Mussa S. Muhoja, learned Counsel appeared for the Respondent. Counsel Msemwa submitted that the Respondent was employed on 13th March, 2020 as Deputy Vice Chancellor Academics and among benefits which he was offered was Responsibility allowance which was 15% of his salary, amounting to TZS. 777,3000/=. That, the Letter Offer was followed by contract of employment for the Deputy Vice Chancellor (Academic, Research and Public Engagement of the Applicant, the contract which was to end March, 2024). The Respondent was later on 30th July 2020 appointed as Acting Vice Chancellor and his appointment came into effect on 1st August 2020. It was further submitted that the Respondent continued to be paid the 15% responsibility allowance even after he was appointed as acting Vice Chancellor. That, there is nowhere on record which shows 15% acting allowance was removed. Counsel Msemwa admitted that it is correct that after his appointment as Vice Chancellor, the Respondent was entitled to be paid 20% as acting allowance. Which means, the Applicant was required to pay the Respondent an additional 5% to constitute 20% as stipulated in the Human Resources Policy. It was his strong submission that the outstanding acting allowance was only 5% and not 20% as awarded by the Arbitrator. Counsel Msemwa continued to submit that the Applicant paid the said 5% additional acting allowance to the Respondent as per the evidence available on record. That according to annexure R14 annexed with a letter dated 5/4/2021 or Terminal dues to the Respondent, item 6 shows payment of 5% as Ag VC responsibility allowance from August 2020 to February 2021. Also, bank statement annexed speaks for itself. He therefore urged the Court to quash the payment of 20% as acting allowance. In response, Counsel Muhoja submitted that an employee appointed to act in a superior capacity is entitled to an additional 20% of their basic salary as provided under clauses 2.12.1, 2.12.2 and clause 4.6.3 of the Applicant's Human Resource Policy (2017). He

submitted that no clause within the said policy authorizes the prorating or offsetting of this allowance against any pre-existing benefits derived from the employee's substantive role. That, the acting allowance constitutes an independent entitlement arising from the assumption of a superior position, and it is neither conditional upon nor reducible by allowances associated with the substantive position previously held by the employee. He therefore supported the Arbitrator's findings on the Award of acting allowance. Counsel Muhoja further submitted that the assertion that Respondent was only entitled to an additional 5% acting allowance, on the premise that the remaining 15% was "covered" by his prior responsibility allowance as Deputy Vice Chancellor (Academics), is entirely unfounded and legally untenable. He submitted that the Human Resource (HR) policy unequivocally specifies the entitlement to a 20% allowance for acting in a superior position, and it does not permit any deduction or diminution of this sum based on prior entitlements linked to the employee's substantive role. He was of the view that to adopt the Applicant's misconceived and ill intent interpretation would be to sanction an unlawful diminution of the Respondent's entitlement, in direct contravention of the plain terms of the policy. The Arbitrator's interpretation of the HR policy was entirely consistent with these principles, and the Award ensures compliance with the Applicant's contractual and statutory obligations. I have duly considered the parties' submissions. The issue to be determined is; whether the Arbitrator properly Awarded the Respondent acting allowance of 20%. As gathered from the records, it is undisputed fact that the Respondent was appointed in the position of Acting Vice Chancellor with a letter dated 30/07/2020, exhibit F3. The Respondent's appointment commenced from 01/08/2020. At clause 4.6.3 of the Human Resource Policy, exhibit F4 provides as follows: When an acting appointment is authorized, the acting allowance payable shall be twenty percentage (20%) of the salary payable to the academic qualification of such position to be acted. The acting appointee shall be given all privileges attached to the post during the time of his acting where the post is vacant. The acting period should not exceed six months, at the end of which the Council shall make decision and notify the concerned officer in writing. The minimum period at which acting allowance may be paid shall 14 consecutive days. The above quoted clause is unambiguous. When an acting appointment is authorized, the acting allowance of 20% of the employee's salary shall be payable to an employee acting in a specified position. Clause 4.6.3 further provides for postcarrying acting allowance, the first one being Vice Chancellor. With such a provision, it is apparent the Respondent was entitled to the allowance in question. It was the Applicant's strong submission that since the Respondent was continued to be paid responsibility allowance of 15%, he was not entitled to be paid the whole 20% of the acting allowance as awarded by the Arbitrator. In response to such argument, I join hands with Counsel Muhoja that such argument is unfounded. As per exhibit F3, responsibility allowance is unrelated to acting allowance. Payment of responsibility allowance is recognized under clause 4.6.7 of the exhibit F3. One of the position entitled for such benefit is Vice Chancellor, the position assigned to the Respondent. Clause 4.6.3 (supra) as quoted hereinabove further provides that the acting employee shall be given all privileges attached to the post. Responsibility allowance being one of them. Under such circumstance,

responsibility allowance was a distinct privilege from acting allowance. In the premises, I join hands with the Arbitrator's findings that since there is no proof in record proving that the Respondent was paid his acting allowance, then the Award thereto was correct. Turning to Revision Application No. 24269 of 2024, the Respondent jointly submitted on legal issues number 1, 2, 4 and 5. However, both grounds will be jointly determined. Counsel Muhoja submitted that the Arbitrator's findings in the present case are fundamentally flawed, both in the application of legal principles and in the analysis of the evidence presented. The Arbitrator erred in finding that the Respondent, being the Deputy Vice Chancellor (DVC), and Acting Vice Chancellor was in a position to challenge or reject the directive to cut salaries by 25%. He stated that this finding is not supported by the evidence on record, nor does it reflect the practical realities of the hierarchical structure within the Applicant's institution. Counsel Muhoja elaborated that the President of St. Joseph University in Tanzania (a Private University) is not subordinate to the Deputy Vice Chancellor or Acting Vice Chancellor. The University President's directive to cut salaries, therefore, was not subject to the DVC's approval or veto. Evidence clearly demonstrated that the salary reduction decision was a unilateral directive issued by the President outside the proper channels of management consultation. The meeting convened thereafter was not to deliberate on the salary reduction but merely to inform employees of the decision. Testimonies from PW1 and PW2 corroborated this, stating unequivocally that employees were informed during the meeting that anyone unwilling to accept the 25% salary cut should resign immediately. It was further submitted that, the Arbitrator failed to appreciate that the Respondent, as part of the university's management, was obligated to call for and attend the meeting as instructed by the President, regardless of his personal agreement or disagreement with them. The Respondent's role in calling and attending the meeting did not amount to endorsement or acquiescence but was merely a professional obligation arising from his position; the fact the Arbitrator failed to appreciate. He continued to submit that the Arbitrator further failed to properly evaluate the financial justification for the salary reduction. The Respondent's claim that the salary reduction was necessitated by financial constraints due to the COVID-19 pandemic was unsupported by any credible evidence. No financial records, audited accounts, or other documentations were submitted to substantiate this claim. On the contrary, evidence on record, including testimonies by the Respondent who was in charge of the daily activities of the University including financial matters, demonstrated that the University's financial position was stable and increased during the period. He further established that the University had, in fact, experienced an increase in student enrolment during the pandemic period, as well as the establishment of new academic programs (as there was no lock down). These developments indicated an improvement, rather than a deterioration, in the Applicant's financial health. Counsel Muhoja was of the view that the Arbitrator made improper inference regarding the Respondent's attendance at the meeting. The Arbitrator's conclusion that the Respondent's presence at the meeting signified his agreement with the salary reduction decision is fundamentally flawed. Evidence unequivocally demonstrated that the meeting's purpose was not deliberative but rather informative. Employees were not afforded an opportunity to

challenge or negotiate the decision but were simply instructed to accept it or resign. The Respondent's professional obligations as a senior member of management required his presence at such meetings, irrespective of his personal stance. Moreover, evidence on record confirmed that the Respondent voiced his objections to the salary reduction directly to the President, as it would have been inappropriate and unprofessional for him to challenge the decision publicly in the presence of other employees. Such a confrontation could have been construed as insubordination given the Respondent's position as acting Vice Chancellor. He added that the Arbitrator failed to give due consideration to the Respondent's claim for non-payment of the additional 20% acting allowance for his role as Acting Vice Chancellor over a six-month period. The Respondent's evidence, including a formal demand letter admitted as Exhibit F6, was unchallenged. Despite the Respondent's repeated demands, the Applicant failed to provide any response or justification for the non-payment of this entitlement. The allowance, being a contractual obligation, formed an integral part of the Respondent's remuneration package. The Applicant's refusal to pay the allowance, coupled with its failure to address the Respondent's grievances, constituted a clear breach of the employment contract. The Arbitrator's failure to analyze this aspect 11 of the evidence demonstrates a lack of proper consideration of the Respondent's claims. It was argued that salary as a Fundamental Term of the Employment Contract is required to be treated with due respect as per the contractual agreement. It is trite law that salary constitutes a fundamental term of an employment contract. The unilateral reduction of the Respondent's salary by 25%, without consultation or consent, amounted to a serious breach of the employment contract. The Respondent's reliance on his full salary to meet his personal and family obligations was disrupted, subjecting him to financial hardship and creating an intolerable working environment. The Arbitrator erred in failing to recognize that the Applicant's actions left the Respondent with no reasonable alternative but to resign. The Respondent's decision to leave his employment was not a voluntary act but was compelled by the Applicant's breach of contract and failure to remedy the intolerable conditions it created. The unilateral deduction of 25% of the Respondent's salary without prior consultation or consent violated the Respondent's contractual and statutory rights, breaching Article 23(1) of the Tanzanian Constitution, CAP 2 a (right to fair remuneration), Section 14(1)(a) and (b) of the Employment and Labour Relations Act, Cap. 366 R.E. 2019 (ELRA), which 12 guarantees fair remuneration and the sanctity of contractual terms. It is undisputed that the Applicant neither sought the Respondent's consent nor engaged any trade union in consultations, a glaring contravention of Section 76(1) and (2) of the ELRA (supra), which underscores the role of trade unions in salary adjustments affecting employees. Moreover, the Applicant's failure to pay the Respondent an additional acting allowance of 20%, as required under its Human Resource Policy, for the period the Respondent served as Acting Vice Chancellor exacerbated the breach. Exhibit F6 admitted during the CMA proceedings underscores the Respondent's persistent demands for payment, which were ignored. This prolonged denial amounted to a fundamental breach of the employment contract under Section 15(l)(h) of the ELRA (supra). It was further submitted that the cumulative effect of these breaches created intolerable working

conditions, forcing the Applicant to resign. The doctrine of constructive termination, codified under Section 36(a)(ii) of the ELRA (supra) and elaborated in Rule 7(1) and (2) of the Code of Good Practice, G.N. No. 42 of 2007 (herein GN. No. 42 of 2007), provides that any unilateral act by an employer that fundamentally alters the terms of employment or creates intolerable conditions for the employee constitutes constructive termination. In support of the 13 argument, he referred the Court to the landmark decision in *Kobil Tanzania Ltd v. Fabrice Ezaovi*, Civil Appeal No. 134 of 2017 [2021] TZCA 485 (16 September 2021). It was submitted that in that decision, the High Court meticulously articulated a comprehensive legal framework for determining whether constructive dismissal has occurred by looking on the following questions:

- a. Did the employee intend to bring the employment relationship to an end?
- b. Had the working relationship become so unbearable, objectively speaking, that the employee could not fulfill his obligations to work?
- c. Did the employer create an intolerable situation?
- d. Was the intolerable situation likely to continue for a period that justified termination of the relationship by the employee?
- e. Was the termination of the employment contract the only reasonable option open to the employee? It was strongly submitted that all the issues were affirmed in the case at hand. It was further advanced that the Respondent submitted substantive and compelling evidence demonstrating the Applicant's systematic suppression of trade union activities and the creation of a climate of labour insecurity within the institution. Regrettably, the Arbitrator's failure to accord this evidence the weight it deserved amounted to a misapprehension of the law and facts, warranting the intervention of this Court. The Arbitrators' analysis that the Respondent being the senior management officer is excluded from enjoying the fruit of the trade union is misconceived despite the facts that the law excludes senior management officers to be members of trade unions but not to enjoy the fruits of Trade Unions. In the upshot, he urged the Court to grant the application. In response, Counsel Msemwa supported the Arbitrator's findings that there was no constructive termination done against the Respondent as the conditions for constructive terminations were not met under the provisions of Rule 7 (1) of the GN No. 42 of 2007. He submitted that the Respondent is the one who breached the contract by giving seven days' notice instead of three months' days stipulated in the contract of employment. He said, PW1 admitted having been involved in conducting the meetings of all employees under the president's instructions concerning reduction of 25% gross salary. He added that even PW2 testified that PW1 was involved in the consultation meetings on behalf of the Management. Thus, Respondent's appearance in the meeting made the CMA to believe that he appeared as a member from Management. It was his strong submission that salary reduction was not unilateral directive as submitted by the Respondent. That, consultative meetings were held and salary cut off was paid back after Covid-19 stabilization of the situation. He added that the Respondent was also paid back his

25% salary cut off during financial crisis as evidenced through bank siip, Exhibit ST-2. Counsel Msemwa submitted that the Respondent resigned on his own volition. He added that, the Applicant disputes the Respondents resignation was brought by surprise while he was still undergoing leave. Counsel Msemwa further submitted that the Respondent was appointed as acting Vice Chancellor from 1st August 2020, (exhibit F-1) and ended on 24th March, 2021 (Exhibit F-7) when he resigned. However, since his appointment on 1st August 2020, the Respondent requested to be paid his acting allowance on 1st March 2021, as per exhibit F-6, seven months after his appointment. He supported the Arbitrator's view that the Respondent could have exhausted internal mechanism for his payment immediately after his appointment. He maintained that the circumstances established in the case of Kobil Tanzania (supra) were not proved in the case at hand. Counsel Msemwa maintained that nonpayment, if any, of 20% cannot be a ground of constructive termination as rightly decided by the 16 Arbitrator. On the other hand, the Applicant submitted that the Respondent was paid his 20% additional payment as shown in the record and evidence. Regarding the reduction of 25% from the salary, it was submitted that the matter has been fully discussed above and the Arbitrator rightly held that it did not constitute constructive termination. Counsel Msemwa supported his submission with reference to the case of Victoria Jonathan v. State Oil Tanzania and Elise Gruner, Revision No. 401/2010 Hon. Mruke Z. G held that: The Court is of the view that the Applicant has failed to prove that her resignation was not voluntary. She just resigned on her own whims, there was no constructive termination. Conclusively Counsel Msemwa maintained that the Respondent resigned on his own will and that there was no constructive termination as alleged. He therefore urged the Court to dismiss the Respondent's application. I appreciate the comprehensive submissions of both Counsel regarding the issue of constructive termination which will be considered in the decision. As per Rule 7(1) of the GN. No. 42 of 2007, constructive termination, occurs when an employee resigns due to an employer's actions or failure to act, making the work environment untenable or intolerable. There are many grounds which may result to constructive termination, such as breach of contract, failure to provide a safe environment which include failure to protect an employee from sexual harassment or abuse. In a legal context, employees claiming constructive termination need to prove the breach or unfair treatment. This is also the Court's position in the case of Yaaqub Ismail Enzron v. Mbaraka Bawaziri Filling Station, Revision No. 33 of 2018 where it was held: In proving constructive termination, the resigned employee has to prove that termination was the only option available and no other alternative. Similarly, in the case at hand, I subscribe to the above position. The employee has to prove that he/she exhausted all available means but termination is the only convenient option. The records are loud, the resignation in the case at hand as stated in the resignation letter, exhibit F7 was influenced by the following reasons:

- i. Pay cut of 25% of the gross salary without the Respondent's consent and without an equivalent reduction of working hours, days, duties and responsibilities. ii. Appointing the Respondent as Acting Vice Chancellor without effecting the 20% additional pay of his gross

salary as per SJUIT HR policy and Public Standing Orders. iii. Labour insecurity. Absence of two governance structures as SJUIT mainly academic staff Assembly and Workers Union which could have protected the elementary interest of SJUIT employees. To start with the first reason, the Respondent strongly submitted that he was not consulted on the salary cut of. The record reveals that, the Respondent was the one asked to convene a meeting between the management and the employees. Acting under such instruction, the first meeting was held on 23/12/2020. It was a meeting with Collage of Engineering (SJCET), Collage of Education and the Diploma Collage (MIITM). The Respondent also attended such meeting. One of the agenda discussed therein was informing the employees about the loss incurred by the institute and discussing the way forward. The institute informed the employees that one of the proposed solutions was to deduct 25% of salary to the employees whose salary were above 700,000 the Respondent being one of them. The employees raised their concerns and they were assured that the money cut down will be returned back when the situation stabilizes. Thereafter, the second meeting was held on 19/01/2021 with staff of SJUIT Mbezi Campus. In that meeting, the Respondent was the one who opened the same and invited the President to proceed with a meeting. The fact which proves that the Respondent attended as part of the management. In the said meeting, again, the President informed the employees that the management did a lot of groundwork and came up with a decision of deducting the 25% salary to every employee with above gross salary of TZS 700,000 the Respondent being one of them. In the said meeting the employees were also informed of the option of voluntary resignation in case they are not agreeing of their salary being deducted. They were also informed that the management will prepare an addendum of the existing contract to have it signed by the employees. When they were afforded chance to ask questions some of the employees objected all option of deduction of their salary and resignation. They further advised the management to proceed with retrenchment exercise. However, the management responded that reduction of salary was the best alternative to protect their employment opportunities. From the above extract of the consultation minutes, it is my view that the reflection of acceptance of an individual employee deduction depended much on the signing of the addendum contract. As for the 20 Respondent herein, he did not sign the addendum contract. Thus, he did not accept alteration of the terms of the contract. As per Section 15 of the ELRA (supra), when an employment commences the employer shall supply the employee with the particulars stipulated therein. One of it being the remuneration, the method of its calculation and details of any benefits or payment in kind. Section 15(4) of the ELRA (supra) further provides that; in case of any changes to the terms of contract including the remuneration, the employer shall in consultation with the employee revise the term to reflect the change and notify the employee in writing. My general understanding of the relevant provision is that there must be offer and acceptance. The employee has the right to refuse to accept the new terms and continue working under the original terms. Thus, any alteration has to be done by mutual agreement by both parties. The employee must consent to the offer made by the employer acknowledge and accept it. In this case, there was no acceptance at all. In the case of *Hotel Sultan Palace Zanzibar v. Daniel Leizer and Another*, Civil Application No. 104 of 2004 (Unreported) where it was held

that: It is elementary that the employer and employee have to be guided by agreed terms governing employment. Otherwise, it would be a chaotic state of affair if employees or employers were left to freely do as they like regarding the employment in issue. I therefore join hands with Counsel Muhoja that being part of the management, the Respondent was not in the position to object the offer in front of all employees. After all, the minutes does not indicate if all employees on their individual capacity were asked if they accepted or not. As stated herein above, acceptance was subject to the signing of the addendum contract. Any employee objected to sign it means he did not accept the offer. He was therefore not supposed to be forced to resign. Withholding an employee's salary without his consent is further prohibited under Section 28 of the ELRA (supra) which provides as follows: 28.-(1) An employer shall not make any deduction from an employee's remuneration unless—

- (a) the deduction is required or permitted under a written law, collective agreement, wage determination, Court order or arbitration Award; or The above quoted provision provides for circumstances under which the employer may withhold an employee's remuneration. One of it being a condition of collective agreement which obvious must be between the employer and the employee in question. The allegation that the Respondent had an option to resign if he did not accept deduction, in my view, it created the intolerable condition for him. This is also the Court's position in the case of Peter Rwegasira v. Northern Engineering 22 Works Ltd, Revision Application No. 403 of 2022 at page 13 it was held that: Withholding someone's payment which is important for his survival create intolerable condition of work. I subscribe to the above findings. As much as the Applicant was undergoing loss, he was not in the position to force employees to resign from employment. As the employer he had a chance to do retrenchment exercise which is legally permitted and was advised by some of the employees. In the circumstances of this case, it is my findings that the Respondent was forced to resign without his consent. Regarding the second reason on the payment of 20% salary additional for the appointment of Acting Vice Chancellor, the issue is well discussed in the first ground. The Respondent was entitled for the same and he was not paid. I don't agree with the Arbitrator's position that by virtue of his position, the Respondent was in the position to claim for the same. Since the Respondent's appointment, the Applicant knew the benefits accompanied with that position. He therefore ought to have paid him the same. Moreover, before his resignation on 01/03/2021, the Respondent wrote a letter to the Applicant (exhibit F6), requesting for the payment of acting pay and no response was given. In my view, if an employee raises a legitimate grievance, and the employer fails to take appropriate action to resolve the issue, the employee may claim constructive termination. In constructive termination, the employee must show that the resignation was a result of the employer's behaviour or failure to address certain issues. In this case, the Respondent's concern was not addressed at all. He therefore, had no any other option than to resign. As to the third reason, I join hands with the Arbitrator's finding that the Respondent being a senior employee was not supposed to be a member of the trade union. On the allegation of staff academic assembly, there is no proof in record that he advised the Applicant and he rejected to act upon. Thus, such ground is not sufficed to warrant resignation. However,

since the other two reasons were proved, the constructive termination was therefore proved in this case. In the premises, since the Respondent was employed under fixed term contract, he is entitled to the compensation of the remaining period of the contract. The Respondent's contract commenced on 16/03/2020. Therefore, the period of four years ought to have expired on 15/03/2024. The Respondent resigned from employment effective from 31/03/2021. He therefore remained with 26 months in his employment contract. At the time of resignation, the Respondent's salary together with his remuneration was TZS 6,873,860/= x 26 months equals to 24 178,720,360/=. The Respondent is also entitled to severance allowance amounting to 1,395,153.84- and one-month salary in lieu of notice of termination as per Section 44 of the ELRA (supra). In the result, I find Revision application No. 24119 of 2024 has no merit and is dismissed accordingly. The CMA's Award of acting allowance is upheld. On the other hand, Revision No. 24269 of 2024 is found to have merit. The circumstances of the case prove existence of constructive termination. The Applicant is therefore ordered to pay the Respondent the total of TZS 192,552,313.84 subject to tax deduction. It is so ordered. Y J. MLYAMBINA JUDGE 27/03/2025 Judgement pronounced and dated 27th March, 2025 in the virtual presence of Counsel Salha Mlilima for the Applicant/ Respondent and the Respondent/Applicant in person. Right of Appeal explained.

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