

TANZANIA / JUDGMENT

kings agro limited vs paul kadala john

2023 tzhcld 1511 7 december 2023

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7 December 2023

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA LABOUR DIVISION AT PAR ES
SALAAM REVISION APPLICATION NO. 265 OF 2023 BETWEEN KINGS AGRO LIM
ITED..... APPLICANT AND PAUL KADALA
JOHN RESPONDENT

RULING

Date of last Order: 07/12/2023 Date of Ruling: 07/12/2023 MLYAMBINA, J. By way of chamber summons made under Section 91(l)(a) and (2)(b)(c) and Section 94(l)(b)(i) of the Employment and Labour Relations Act [Cap 366 Revised Edition 201% Rule 24(1'),(2)(a), (b),(c), (d), (e) (f) and 3(a)f(b)/(c)/(d), and Rule 28(l)(c)(d) and (e) of the Labour Court Rules, 2007 G.N. No. 106 of 2007; seeking for orders: That, this Court be pleased to revise and set aside the Award of the Commission for Mediation and Arbitration at Dar es Salaam in the Labour Dispute No. CMA/DSM/ILA/659/20/343 delivered on 8th September, 2023 by Hon. Nyagaya P. with regard to the decision on the Notice of Termination of Employment given to the Respondent by the Applicant. There is no dispute that the impugned Award was delivered on 8th September, 2023. Indeed, there is no dispute that the instant application was lodged online on 22nd October, 2023. The Respondent has, in reply, raised a legal objection that the present application for revision is hopelessly time barred. Both parties agree that in terms of Section 91(l)(a) of the Employment and Labour Relations Act (supra), the Revision must be filed within 42 days from the date of decision. The dispute is on the date the Applicant was availed with the copy of Award. The Respondent contend that they were availed with the copy of Award on Monday 11th September, 2023. The Applicant on the other side contend that both parties were availed with the copy of Award on Friday 8th September, 2023. I have dutifully gone through the CMA's file and noted that the copy of Award for the Applicant was collected by Joseph Antony Mnyogwa, Legal Officer on 8th September, 2023. In the light of the afore facts and the decision of this Court in the case of Richard Marwa v. EL-Hillal Minerals Ltd, Revision No. 6 of 2014 at Shinyanga (unreported), p. 7, the Applicant should had filed an application of extension of time prior filing an application for revision in order to file his revision out of time. In the upshot, the preliminary objection is sustained. Consequently, in terms of Section 3(1) of the Law of Limitation Act [Cap 89 R.E. 2019], the application is dismissed with no costs for being filed out to time. It is COURT: Ruling delivered and dated 7th December,

2023 in the presence of Counsel Erick Mkandala for the Applicant and Sadoki George for the Respondent. Y. J. MLYAMBINA JUDGE 07/ 12/2023

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/kings-agro-limited-v-paul-kadala-john-revision-tanzlii-2023

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