

TANZANIA / JUDGMENT

REV NO 6457 OF 2024

MICHAEL BONIVENTURE SUZO VRS GALCO LIMITED

COURT
TANZLIIDECIDED
1 January 2024

Source: media.tanzlii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA LABOUR DIVISION AT DAR ES
SALAAM REVISION APPLICATION NO. 6457 OF 2024 CASE REFERENCE NO. 202403251000006457
BETWEEN MICHAEL BONIVENTURE SUZO..... APPLICANT VERSUS
GALCO LIMITED..... RESPONDENT

RULING

Date of last Order: 23/ 04/2024 Date of Ruling: 30/ 05/2024 MLYAMBINA, J. Initially, the Applicant filed an application for condonation before the Commission for Mediation and Arbitration (herein CMA) at Dar es Salaam-Temeke. The application was filed on 22nd September 2023 and registered as Labour Dispute No. CMA/DSM/TMK/208/2023. After considering the parties arguments, on 14th February 2024 the CMA dismissed the application for the Applicant's failure to adduce good cause for the delay. Aggrieved with the CMA's decision, the Applicant filed the present application for revision calling for determination of the following issues:

- i. Whether or not the commission was properly moved to hold that the Applicant failed to properly move the CMA to grant the relief sought despite her observation that she considered the view that the Applicant explained the reasons for the delay. ii. Whether or not the CMA was properly moved to hold that the Applicant failed to provide sufficient reasons for delay. iii. Whether or not the ruling was legally justifiable. The application was argued by way of written submissions. In prosecuting the present application, the Applicant was represented by Mr. Rahimu Mwaya, learned Counsel and Mr. Ibrahim Shineni learned Counsel appeared for the Respondent. I have duly considered the rival submissions of the parties. I find the Court is called upon to determine only one issue; whether the Applicant accounted for the delay. The reason for the delay to refer the matter timely was deposed at paragraph XV of the Applicant's affidavit filed at the CMA where he stated as follows: That delay in referring the dispute to the CMA within time was beyond my control as I was very sick, at the same time I was frustrated upon being arrested, re-arrested and prosecuted in a criminal case before the Resident Court of Dar es Salaam at Kisutu. It was Mr. Mwaya's submission that the Applicant has been undergoing tuberculosis clinic with proof from the

hospital. He argued that sickness is a good ground for the grant of extension of time. In support of his submission, he cited the case of Murtaza MohamediRaza Virani & Mrs. Rubab Mohamed Raza Virani v. Mehboob Hassanali Vers, Indian Court of Appeal Case No. 281 of

2002. He therefore, urged the Court to revise and set aside the CMA's decision. In response to the application, Mr. Shineni submitted that the dispute at the trial CMA was for Interpretation of the employment contract of which it should have been instituted within sixty days (60) as per Rule 10(2) of the Labour Institutions (Mediation and Arbitration) Rules, GN 64/2007 (herein GN 64/2007). He argued that the law is very clear that the Mediator would condone the failure to comply with the time frame upon the Applicant successfully accounting for each and every day of his delay which was not the case during the trial. It was his strong argument that the Applicant did not account for the delay. In the upshot, he urged the Court to dismiss the application. I have given due consideration to the submissions of both sides. The record shows that the Applicant was terminated from employment on 11/11/2022. Unlike Mr. Shineni's submission, the referral form (CMA FI) indicates that the nature of dispute was about termination of employment. Therefore, the dispute had to be referred to the CMA within thirty days from the date of termination pursuant to Rule 10(1) of GN 64/2007. The record further shows that the matter was referred at the CMA on 22/09/2023. By simple calculation, the Applicant delayed to file the application for almost ten months. As deponed herein, the reasons for the delay were sickness and frustrations which was occasioned by being arrested twice. To begin with the first ground of sickness, indeed, the law is settled that once sickness is established and proved as to justify the delay, it constitutes sufficient cause for extension of time. This is the Court position in the case of Tiluhuma Pima v. Malogoi Muhoyi, Civil Application No. 413/08 of 2022, Court of Appeal of Tanzania at Mwanza Sub Registry. Sickness as a ground for extension of time was also accepted in the case of Murtaza MohamediRaza Virani (supra) cited by the Applicant. To prove the allegation of sickness, the Applicant attached sick sheets and medical reports. To begin with sick leave (annexture MBS2), it is dated 28/01/2022. The Applicant also attached request and report form for biological specimen for TB and Leprosy as well as patient's identity card both dated 02/09/2022 (annexture MBS4 and MBS6 respectively). The record shows that the Applicant was terminated from 05/02/2022 and the termination letter was served to him on 11/11/2022. Therefore, it is crystal clear all exhibits tendered were obtained by the Applicant before termination. Hence, the allegation of sickness would have stand if the exhibit tendered were between the period when the Applicant was terminated to the date he referred his complaint at the CMA. Turning to the ground of frustration that resulted from being arrested, the Applicant deponed at paragraph VI of the affidavit filed at the CMA as follows: That, from the beginning of the case, I could not meet bail conditions. Consequently, I was detained at Keko Remand Prison until 13th August 2022 when I was released on bail. From above quoted averment, it is crystal clear that the Applicant was released on bail from 13/08/2022 before he was even served with the termination letter. He was served with the termination letter while out of bail. In the event, the Applicant failed to account his allegation. In

therefore find the Applicant at hand failed to account for his delay. The Applicant ought to have stated justifiable reasons which prevented him to refer the complaint to the CMA on time from the date he was served with the termination letter to the date of referring the complaint to the CMA on 22/09/2023. In absence of any justifiable reasons on record, I find the present application lacks merit. In the end result, I join hands with the Arbitrator's findings. Consequently, the application at hand is dismissed for lack of merits. It is so ordered. JUDGE 30/05/2024 Ruling delivered and dated 30th May, 2024 in the presence of the Applicant and his Counsel Rahimu Mwaya as well as Counsel Ibrahimu Shineni for the Respondent. Right of appeal explained.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://media.tanzlii.org/media/judgment/312462/source_file/REV_NO_6457_OF_2024__MICHAEL_BONIVENTURE_SUZO_VRS_GALCO_LIMITED.pdf

CASE PAGE <https://chat.esheria.ai/case-law/tanzania/michael-boniventure-suzo-v-galco-limited-Extensionoftime-tanzlii-2024--6a3ea52d3b1caa9129826a58>

Prepared on 14 October 2026 · Esheria