

TANZANIA / JUDGMENT

# sophia ally vs faiz abri 2022

## tzhcld 603 25 april 2022

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25 April 2022

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA LABOUR DIVISION AT PAR ES  
SALAAM REVISION NO. 149 OF 2021 BETWEEN SOPHIA

ALLY.....APPLICANT VERSUS FAIZ

ABRI.....RESPONDENT

### JUDGEMENT

S. M. MAGHIMBI, J. The application arose out of the following context; the applicant was employed by the respondent as a house maid from the year 2008. On 30/09/2020 the applicant retired from employment following an old age. After retirement, the applicant filed a dispute No. CMA/DSM/ILA/739/20 at the Commission for Mediation and Arbitration for Ilala ('CMA') claiming for severance allowances. The matter proceeded ex-parte after the respondent failed to enter appearance. After considering the applicant's evidence, the Mediator awarded the applicant a total of Tshs. 215,384 as ten years severance pay. Aggrieved by the calculation done by the Mediator, the applicant filed the present application. i Before this court the application also proceeded ex-parte. The applicant appeared in person, unrepresented. Arguing in support of the application the applicant briefly submitted that she is not satisfied with the amount of gratuity paid to her as calculated by the CMA. She stated that she is underpaid and urged the court to do proper calculations and award her proper payment. After considering the applicant's submission, court records as well as relevant labour laws I find the issue before me is whether the applicant was properly paid at the CMA. Severance pay is paid pursuant to Section 42 of the Employment and Labour Relations Act, Cap. 366 RE 2019 ('ELRA'). Its calculation is paid in accordance with section 42 (1) of ELRA. The relevant provision provides as follows: - 'Section 42 (1) for the purposes of this section, "severance pay" means an amount at least equal to 7 days' basic wage for each completed year of continuous service with that employer up to a maximum often years.' In the application at hand, the applicant started to work for the respondent in 2008 and his employment was terminated on 2020, which makes a total of 12 years. The Arbitrator awarded the applicant severance pay for 10 years. The calculation for several pay is done by 2 taking the applicant's wage per day which is by taking the monthly salary and divide it by twenty-six days as working days. Then salary per day is multiplied by seven days pursuant to the provision quoted above. Then the total amount obtained per year is multiplied by the number of years the

employee worked, however, the number of years to be multiplied to should not exceed ten years even if the employee has worked for more than ten years. In the application at hand, since the applicant worked for 12 years, her calculations was only done for ten years as provided by the law. Therefore, the calculation was properly done by the Arbitrator by complying with the above calculations. In the result, having found that the Arbitrator properly awarded the applicant, I find no justifiable reason to fault the Arbitrator's findings. The present application has no merit and it is hereby dismissed. The CMA's award is hereby upheld. Dated at Dar es Salaam this 25th day of April, 2022. 3

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