

**THE REPUBLIC OF U GANDA**  
**IN THE INDUSTRIAL COURT OF UGANDA**  
**MISCELLANEOUS APPLICATION NO. 26 OF 2017**

**PETER WASSWA KITYABA.....APPLICANT**

**VERSUS**

**AFRICAN FIELD EPIDEMIOLOGY NETWORK  
(AFENET).....RESPONDENT**

**RULING**

This application is by Notice of Motion under section 98 and 99 of the Civil Procedure Act. It was brought for purposes of correcting what counsel for the applicant called mathematical mistakes or errors arising from any accidental slip or omission in the Judgement or award of this court delivered on 3/2/2017. The application also seeks for costs of the same.

The application was supported by an affidavit sworn by the applicant to the effect that there were clerical or mathematical errors which required correction by this Court and the errors were itemized under paragraphs (a)-(g) of the affidavit.

Mr. J. Mudde appeared for the applicant while Mr. Sebugenyi and Mr. Muwawu appeared for the respondent. In his submission Mr. Mudde impressed upon Court the fact that the mentioned errors were clerical errors which when corrected would not change the intention of this Court as expounded in the Award delivered on 3/2/2017. He relied on the authority of **FANG MIN VS DR. KAIJUKA MUTABAZI SUPREME COURT APPLICATION 06/2009**

Mr. Sebugenyi for the respondent argued strongly that this Court having delivered its Award ought to let the process of appeal take its course as original as it was delivered so as to allow the respondent exercise fully its right of appeal against all errors of fact and of law including those pointed out by the applicant

He argued that this Court ought to apply its own rules provided for in the Labour Disputes(arbitration and settlement) Industrial civil procedure rules instead of applying rules for the Court of Appeal and Supreme Court cited by counsel for the applicant. He was of the contention that the corrections ought to be made after the appeal since the applicant filed the application after the respondent had filed an appeal.

We have noted that there was no affidavit in reply in opposition to the affidavit of the applicant. This means that although we appreciate the arguments of counsel for the respondent, the said arguments are like a human body without a spinal code since they have no basis.

The submission of the applicant that the errors were clerical and that their correction would not change the meaning of the Award was based on the affidavit sworn by the applicant. Nothing in the submission of counsel for the respondent watered down this submission. Instead the respondent argued generally about the right of the respondent to appeal against the decision of this Court. We expected counsel to show Court by affidavit or otherwise how correction of the errors would by any stretch of imagination change the Award. We expected the respondent to react to each of the itemized clerical errors pointed out in the affidavit of the applicant. We do not accept the contention of counsel for the respondent that this Court should not rely on the Civil Procedure Act simply because it has its own rules of procedure. As we have held before (and we expect every advocate to appreciate) where there is a lacuna in the rules of this Court the Court is at liberty to apply the civil procedure rules or in accordance with section 40 of the Labour Disputes (Arbitration and Settlement) Act the court may regulate its own procedure. This being the case we do not see any harm in adopting section 99 of the Civil Procedure Act so as to enable the Court correct clerical errors that may arise in an Award.

It is our considered opinion that the respondent having failed to rebut the submission of the applicant that there were clerical errors capable of being corrected by this Court without altering the decision of Court, We hold that in accordance with the authority of FANG MIN VS DR. KAIJUKA(supra) the application is granted and as a consequence the following corrections in the said Award are hereby made:

- a) The name of the claimant at page 1 in the Award is hereby corrected to read "**WASSWA**"
- b) On page 6 of the Award paragraph 4 first line is corrected to read "**COUNSEL FOR CLAIMANT**"
- c) on page 14 of the Award item(6) the figure in the second last sentence is corrected to read "5 1/2 " years
- d) on page 14 of the Award item (7) second line the figure is corrected to read "**24% per annum**"
- e) on page 14 item 7(2) the figure is corrected to read "**14,068USD**"
- f) (F) On page 15 item 7 the figure is corrected to read "**24% per annum**"
- g) (G) On page 15 item 8 the words "Aug 2015" are corrected to read "**Aug 2017**".

We are in agreement with counsel for the respondent that this application does not call for an order for costs being an application to correct clerical errors to which none of the parties contributed.

**SIGNED BY**

1. HON. CHIEF JUDGE ASAPH RUHINDA NTENGYE .....



2. HON. LADY JUSTICE TUMUSIIME MUGISHA LINDA .....

**PANELISTS**

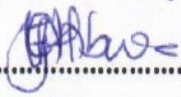
3. Mr. EBYAU FIDEL.....



4. Mr. HABIYALEMYE DOMINIC.....



5. Ms. HARRIET MUGAMBWA .....



**DATED: 10<sup>TH</sup> MARCH 2017**