

**THE REPUBLIC OF UGANDA**

**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**

**LABOUR DISPUTE MISC APPLN NO 050 OF 2022**

**(ARISING FROM LABOUR DISPUTE REFERENCE NO. 024 OF 2019**

5 **ARISING FROM MUKONO LABOUR COMPLAINT No. 41 OF 2018)**

**GIDEON AMBASISA**

**..... APPLICANT**

**VERSUS**

**ROOFINGS ROLLING MILLS LIMITED**

**.....RESPONDENT**

**BEFORE:**

101. **THE HON. JUDGE, LINDA LILLIAN TUMUSHIME MUGISHA**

**PANELISTS**

**1. MS. HARRIET MUGAMBWA NGANZI**

**2. MR. EBYAU FIDEL**

**3. MR.FX MUBUKE**

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**RULING**

**BACKGROUND**

This application was brought by Chamber Summons under Order 10 rules 18 and 24 of the Civil Procedure Rules S.I 71 – 1)

For orders that: -

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- a) That the Respondent produce the minutes of the disciplinary hearing held on 30 January 2018 by the Respondent in relation to the Applicant; and
- b) The Costs of this Application be provided for.

The Respondent's did not file an Affidavit of reply despite being served with the Application on the 1/06/2022

25 **The Applicants case:**

The grounds of this Application are stated in the affidavit in support deposed Gideon Ambasisa are summarised as follows;

1. That he filed Labour Dispute Claim No. 024 of 2019 against the Respondent.
- 30 2. That the Respondent filed her reply to the Memorandum of claim on 29/03/2019 and paragraph 7(i) refers to the minutes of the disciplinary committee meeting but the same were not attached as evidence.
3. That on 16/03/2022, his Lawyers Messers Emurwon & Partners Advocates wrote to the Respondent requesting to produce a copy of the said minutes  
35 as evidenced in Annexure "A".
4. That to date the Respondent has not complied with the request yet the inspection of the minutes is necessary for disposing fairly of the suit.

**REPRESENTATION**

The Applicant was represented by Mr. Brain Emurwon of M/s Emurwon &  
40 Partners Advocates Kampala and the Respondents were represented, by M/s Lukwago & Co. Advocates but were not present in court despite being served on 1/06/2022.

**SUBMISSIONS**

Only Counsel for the Applicant filed written submissions for which we are  
45 grateful.

**DECISION OF COURT**

We have considered the application, the law applicable and the Affidavit in support and the submissions of Counsel.

Order 10 rule 15 of the Civil Procedure Rules provides as follows:

50        *12. Inspection of documents referred to in pleadings or affidavits*

*(1) Any party to a suit may without filing any affidavit, apply to court for an order directing any other party to suit to make discovery on oath of documents, which are or have been in his or her possession or power, relating to any matter in question in the suit.*

55        *(2) on hearing of the application the Court may either refuse or adjourn the hearing, if satisfied that the discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit, except that discovery shall not be ordered when and so far as the court*  
60        *shall be of the opinion that it is not necessary either for disposing fairly of the suit or for saving costs.*

*Rule 14. The court may at anytime during the pendency of a suit order the production by any party to the suit, upon oath of such documents in his or her possession or power relating to any matter in question in the suits, as*  
65        *the court shall think right...*

*Rule 18 of the same order is to the effect that the applicant must show the following:*

- i.    *That the document being requested is in the possession of the Respondent,*
- 70    ii.   *The document is relevant to the issues being tried and*
- iii.   *The application should not be a fishing expedition.*

We associate ourselves with Musota J (as he then was) in **Patricia Mutesi Vs Attorney General** Misc Appln. No. 0912 of 2016 when he stated thus:

75        *"Discovery is a category of procedural devices employed by a party in a  
civil or criminal action prior to trial to require the adverse party to disclose  
information that is essential for the preparation of the requesting party's  
case and which the other party alone knows or possesses. It is a device  
used to narrow the issues in a law suit or to obtain evidence not readily  
accessible to the applicant for use at trial and or ascertain the existence of  
80        information that may be introduced as evidence at trial provided it is not  
protected by privilege.*

After carefully perusing the pleadings on the main claim LDR 024 of 2018, we  
established that as submitted by Counsel for the Applicant paragraph 4 of the  
Respondent's memorandum in reply, makes reference to minutes of a  
85        disciplinary hearing, which is proof that, the minutes are in its possession. We  
also established that the matter before this court in the said claim is a labour  
dispute contesting the dismissal of the Applicant, therefore the minutes of the  
disciplinary Hearing related to the dismissal are relevant to the complete and  
proper determination of the dispute. To that extent the Application satisfies the  
90        requirements under rule 18 of Order 10(supra).

We are therefore, inclined to agree with Counsel that, the Applicant he is entitled  
to have a copy of the minutes that led to his dismissal. Given that the Respondent  
did not adduce any any evidence to the contrary, having not filed an affidavit in  
rely, we find merit in the application. The Respondent is therefore ordered to avail  
95        the Applicant with a copy of the minutes of the disciplinary hearing which was  
the basis of his dismissal, within 14 days from this ruling.

No order as to Court. We so order

Delivered and signed by:

**1.THE HON. JUDGE, LINDA LILLIAN TUMUSHIME MUGISHA** 

100        **PANELISTS**

1.MS. HARRIET MUGAMBWA NGANZI

2.MR. FX MUBUKE

3.MR. FIDEL EBYAU

DATE: 12/07/2022

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