

THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
LABOUR DISPUTE: MISCELLANEOUS APPLICATION No.102 OF 2021
ARISING FROM LABOUR DISPUTE REFERENCE NO. 084/2020
NETIS (U) LTD**APPLICANT**
VERSUS
OJOM DINGA BOSCO**RESPONDENT**

BEFORE:

THE HON. JUDGE, LINDA LILLIAN TUMUSIIME MUGISHA

PANELISTS

- 1. MS. ROSE GIDONGO**
- 2. MS. ACIRO BEATRICE OKENY**
- 3. MR. RWOMUSHANA REUBEN JACK**

RULING

This application is brought under Rule 6 (1) and (2) of the Labour Disputes (Arbitration and Settlement) (Industrial Court) Procedure Rules 2012, Order 52 Rule (1) and (3) of the Civil Procedure Rules SI-71-1, seeking orders that:

(a) The Applicant be granted leave to file reply to the Memorandum of Claim out of Time.

(b) Costs of the Application be in the cause.

The Applicant's case:

The Applicant's case, as contained in the notice of motion and supporting Affidavit deponed by Nabasirye Dorothy, the Applicant's Human Resource Manager, is summarised as follows:

1. That the Applicant has a good defence to the Claim in Labour Dispute Reference N0 084/2020 and a copy is attached and marked as annexure "X".
2. That the delay to file a reply within the prescribed 7 days was caused by closure of their offices due to Covid 19 breakdown where a number of Staff were affected.
3. That the said closure caused lack of communication and thus failure to give instructions to their lawyers on time.
4. That leave should be granted to file a reply to the claim since the application has been brought without delay as they are only 12 days out of time and ought to be granted.
5. That it is in the interest of justice that this application is granted to allow the Court to hear both parties for determination of the dispute once and for all.

The Respondent's Case

The Respondent's case as set out in the Affidavit in reply deposed by Ojom Dinga Bosco, the Respondent, is summarized as follows:

- a) That as advised by her lawyers, the applicant did not file a reply to the Memorandum of Claim in Labour Dispute Reference No. 84 of 2020, yet it was served on her in time and an affidavit of service as proof of the service is attached marked as "A".
- b) That he has never been negligent and nor did he cause any loss to the Company and the Applicant has not attached any proof of the number of staff that were affected by Covid 19 and those who were not.
- d) That, contrary to Affidavit in support, the Applicant was served the Notice of Claim and Memorandum of Claim through their Lawyers M/s Tem Advocates who duly acknowledged the same and the Applicant was to file their response by 9th June 2021 and they only served his lawyers with the application on the 1st February 2022, more than 8 months later.

e) That the Application is devoid of any merit, ill-conceived and an abuse of Court Process, brought malafide and intended to delay and frustrate the Respondents rightful claim.

f) That in the alternative, if court is inclined to grant an application, Court should order payment of costs to the Respondent to the tune of Ugx. 10,000,000/=.

REPRESENTATION

The Applicant is represented by Nanteza Hasifa of M/s Tem Advocates and Solicitors, Kampala and the Respondent by Masajjage Stephen of M/s Omongole & Co. Advocates, Kampala.

SUBMISSIONS

We have carefully perused the Notice of Motion, the affidavits in support and in opposition and the submissions of Counsel for the Applicant, the Respondent having not filed any submissions and find as follows:

DECISION OF COURT

Rule 6 of the Labour Disputes (Arbitration & Settlement) (Industrial Court Procedure) Rules, 2012, dresses this Court with jurisdiction and discretion to extend time within which to file documents out of time. Rule 6 provides as follows:

“6. Extension of time

1) A party to a dispute who fails to file documents within the prescribed time, may apply to the court for extension of time.

2) The Court may determine the application as it deems fit...”

This court has adopted the Civil Procedure Act, the Civil Procedure Rules and Authorities of the Supreme Court on the Subject to emphasize the requirement for the Applicant to provide sufficient reasons, as grounds for consideration in an application for extension of time, within which to do certain things, outside the time prescribed by

a court or by statute.(See **Florence Nabatanzi vs Naome Binsobedde SCC Appln, No. 06/1987**).

Therefore, an applicant seeking leave to extend time, within which to file any documents/pleadings outside the prescribed time, must furnish court with good and sufficient cause/reasons to warrant the grant of such extension.

It was the Applicant's submission that, although she received to the Notice and Memorandum of claim in time, she did not file a reply to it, because of the outbreak of the Covid 19 pandemic which affected some staff and which led to the closure of their Office. It is clear as contended by the Respondent, that, not all staff were affected by the Pandemic and closure of the Office and she did not state which of the staff was affected and who was not, for this court to be able to determine whether this was sufficient reason for the delay.

In the circumstances we are not satisfied that, the outbreak of the Covid 19 pandemic is sufficient reason for the Applicant's failure to take the necessary steps to file its reply within the prescribed time. However in the interest of the justice of this case and for completion, the Applicant is granted leave to file a reply within 14 days from this ruling, with costs to the Respondent.

Delivered and signed by:

THE HON. JUDGE, LINDA LILLIAN TUMUSHIME MUGISHA

PANELISTS

- 1. MS. ROSE GIDONGO**
- 2. MS. ACIRO BEATRICE OKENY**
- 3. MR. RWOMUSHANA REUBEN JACK**

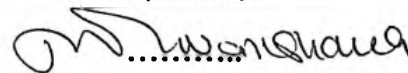
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