



THE UNITED REPUBLIC OF TANZANIA
OFFICE OF THE SOLICITOR GENERAL



**ALLY AHMED MWERANI v. NATIONAL MICROFINANCE
BANK (NMB PLC)**

COURT OF APPEAL OF TANZANIA

AT MWANZA

(MKUYE, J.A., GALEBA, J, A. AND AGATHO. J.A)

CIVIL APPEAL NO. 933 OF 2025

(Appeal from the Judgment and Decree of the High Court of Tanzania at Mbeya) (Nongwa J.L)
dated the 5th day of March, 2025 in Labour Revision No. 22982 of 2024)

Labour Law – Proceedings before CMA – admissibility of evidence – whether the CMA is restricted to evidence presented during disciplinary hearings under Rule 13(5) of the Code of Good Practice.

This is an appeal against the judgement and decree of the High Court of Tanzania at Mbeya, in Labour Revision Application No. 22982 of 2024 involving unfair termination of the Appellant from employment by the Respondent on grounds of insubordination and gross misconduct. The Appellant was employed as a Zonal Systems Administrator. He was accused of Insubordination (sending disrespectful emails to the Management), and fraudulent conduct (false travel/per diem claims). Following investigation and disciplinary proceedings, he was dismissed for gross misconduct, and his internal appeal was rejected. He then filed a complaint at the CMA which was dismissed, filed revision application at the High Court and the same was dismissed thereby appealed to the Court of Appeal.

It's the Appellant argument that under his ground of appeal that the High Court erred in law in holding that the Commission for Mediation and Arbitration has power to receive new evidence and testimonies that were not tendered at the disciplinary hearing committee resulting the honourable Arbitrator to assume the powers of the Chairperson of the said committee that the



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CMA wrongly admitted new evidence not presented during the disciplinary hearing. Relied on Rule 13 (5) of the Code of Good Practice (G.N. No. 42 of 2007) argued CMA exceeded its mandate and acted like a disciplinary committee.

In response, the Respondent was of the view that CMA proceedings are Independent and fresh, therefore CMA is not restricted to evidence from disciplinary proceedings. Urged the Court to uphold the decisions of the lower fora.

Held

- (i) The court held that the disciplinary hearing is internal process by the employer governed by Rule 13 of the Code of Good Practice and the CMA proceedings as a quasi-judicial tribunal conducts a fresh hearing and that CMA is not an appellate body reviewing disciplinary hearing.
- (ii) Rule 13(5) applies only to disciplinary proceedings, not CMA
- (iii) CMA is not bound by evidence presented at disciplinary stage, it can admit new evidence since the same is fresh and independent under section 86 of the Employment and Labour Relations Act (ELRA)
- (iv) Evidence from disciplinary proceedings is used to show procedural compliance, but CMA may receive additional evidence

Appeal is dismissed.

Statutory provisions referred to

Employment and Labour Relations Act, Cap. 366 (R.E. 2023)

Employment and Labour Relations (Code of Good Practice) Rules, 2007 (G.N. No. 42)

Appellant in Person

Ms. Esther Shoo, learned counsel for the respondent