**THE REPUBLIC OF UGANDA**

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

**LABOUR DISPUTE REFERENCE NO. 187 OF 2019**

**[ARISING FROM KCCA/LC/047/2019]**

**BETWEEN**

**KATEYO ELIEZER MUJUGWA….………………………………………….……...………..…..CLAIMANT**

**VERSUS**

**MAKERERE UNIVERSITY ……...………………………………………………….………..RESPONDENT**

**BEFORE**

1. Hon. Head Judge Ruhinda Asaph Ntengye

**PANELISTS**

1. Mr. Bwire John Abraham
2. Ms. Julian Nyachwo
3. Mr. Patrick Katende

**RULING**

**Background**

The claimant filed a memorandum of claim in this court on 12/7/2019 claiming 226,884,010/= as retirement benefits. Subsequently, on 17/02/2020 the parties settled out of Court in the sum of 35,096,621/= although they disagreed on whether or not interest should be paid.

This ruling is therefore to decide whether or not interest is payable and if so at what rate and from which date?

**Decision**

On 11/05/2021 M/s. Nankya Sumaya appeared for the claimant while M/s. Natukunda Phiona appeared for the respondent.

Both counsel agreed on time lines to file submissions date and the timelines were as follows:

The claimant was to have filed by 16/08/2021 while the respondent was to have filed by 20/08/2021 a rejoinder by the claimant was to have been filed by 08/09/2021.

The quorum of the court was to sit on 10/9/2021 to discuss the submissions and reach a decision. The ruling was to be delivered on 17/09/2021.

Despite the above timelines proposed and agreed to by both counsel, nothing was on the record by 16/08/2021.

By 10th September in the morning hours when this court sat to discuss the submissions only claimant’s submissions were on file having been filed on 08/09/2021 3 weeks late. Understandably the respondent’s submissions were not on file. We did not take interest in looking at the claimant’s submissions because of the dilatory delay to file the same and subsequent absence of the respondent’s submissions on file.

The award of interest by the court is a discretionary matter. Interest can only be awarded if in the discretion of the court the successful party deserves it. This is the essence of **Section 20 of the Civil Procedure Act**. It is also the ruling of the court in **Uganda Revenue Authority Vs Stephen Mabosi SCCA 1/1996**.

It was upon the claimant to establish the need of this court to grant him interest.

The fact that he ignored the timelines agreed in court, in our view indicated that the award of interest was not as necessary as the monetary award already paid into his account. We felt uncomfortable discussing the claimant’s submissions in the absence of the respondent’s submissions having realized that the claimant filed on 8/09/2021 instead of 16/08/2021 and the discussion having taken place as per schedule on 10/9/2021.

Allowing discussions outside the timetables would have meant postponing judgement not at the instance of the court but at the instance of the unexplained delay of the claimant to file submissions. In our view this was not acceptable. Accordingly in the discretion of this court, we hold that in the absence of both submissions on the file as we discussed the matter, and given that the claimant had a burden to prove his entitlement to interest, No interest accrues at all on the settled amount and already paid into the claimant’s accounts.

No order as to costs is made.

**Delivered & signed by:**

1. Hon. Head Judge Ruhinda Asaph Ntengye …………….

**PANELISTS**

1. Mr. Bwire John Abraham …………………….
2. Ms. Julian Nyachwo …………………….
3. Mr. Patrick Katende …………………….

Dated: 17/09/2021