

A1 Outdoor (T) Limited vs Geoffrey Shuma Civil Application No. 202605180000972 of 2026 [2026] TZCA 1100 (1 September 2026).

Key Note: An application for review must disclose a manifest error on the face of the record that is obvious, patent and self-evident; complaints inviting re-evaluation of evidence or amounting to an appeal in disguise do not qualify:

1.0: Brief Background of the matter

The applicant, A1 Outdoor (T) Limited, sought review of the decision of the Court of Appeal (Ndika, Muruke and Mgeyeka, JJ.A.) in Civil Appeal No. 549 of 2022. The application was brought under rule 66(1)(a) of the Tanzania Court of Appeal Rules, 2009 and was supported by the affidavit of Erick Shao, the applicant's General Manager. The respondent did not file a counter-affidavit but resisted the application through oral submissions.

The underlying dispute arose from the termination of the respondent's employment. The respondent had been engaged by the applicant on a three-year fixed-term contract as Finance Manager. On 31st May 2020 the applicant terminated the contract on the ground of operational requirements. The respondent challenged the termination at the Commission for Mediation and Arbitration (CMA) as both substantively and procedurally unfair. The CMA awarded only leave allowances and dismissed the remaining claims.

On revision, the High Court held that the applicant had failed to prove valid operational requirements, financial crisis or genuine restructuring, and had not complied with section 38 of the Employment and Labour Relations Act [Cap. 366 R.E. 2023] (consultation, disclosure and selection criteria). The High Court revised the CMA award and ordered the applicant to pay the respondent TZS 136,319,230.77 as remuneration for the unexpired term of the contract. The Court of Appeal dismissed the applicant's subsequent appeal. The present application sought to review that appellate decision on five grounds.

1.1. Arguments of the Applicant's Counsel

Counsel for the applicant advanced three principal complaints of manifest error on the face of the record:

1. The Court failed to determine the legal effect of the respondent's acceptance and receipt of retrenchment benefits, and whether such acceptance gave rise to estoppel against challenging the process.
2. The Court overlooked or misappreciated the cumulative evidential significance of Exhibit P2 (the post-meeting email of 27th April 2020) and the surrounding documentary material demonstrating notice, disclosure and consultation.

3. The Court erroneously equated the statutory duty to consult under section 39 of the ELRA (read with rule 23 of the Code of Good Practice Rules) with a requirement to obtain the employee's agreement.

A further complaint was that the applicant had been denied the right to be heard on the legal consequences of the respondent's silence after the email, contrary to Article 13(6) of the Constitution. Counsel prayed that the application be allowed, the High Court judgment set aside and the CMA award restored, with no order as to costs.

1.2. Arguments of the Respondent's Counsel

Counsel for the respondent submitted that the application was incompetent. The grounds of review were not elaborated in the notice of motion, nor were they supported by corresponding averments in the supporting affidavit. Paragraph 6 of the affidavit merely stated dissatisfaction with the outcome and did not identify any manifest error with particularity. The complaints concerning consultation, Exhibit P2 and acceptance of benefits did not fall within rule 66(1)(a). The right-to-be-heard ground was equally misconceived because it had not been pleaded in the affidavit and the parties had been fully heard. The application was therefore frivolous and vexatious.

1.3. The Court's Position

The Court (Mgeyeka, J.A., with Ndika and Ngwembe, JJ.A. concurring) restated the narrow scope of review jurisdiction under rule 66(1) of CAR to the effect that review is an exception to the finality of the Court's decisions and is confined to the grounds expressly enumerated in the rule. A "manifest error on the face of the record" must be an obvious and patent mistake, not one that can only be established by a long-drawn process of reasoning or on points about which two opinions are possible.

The supporting affidavit was found deficient. It did not particularise any manifest error. The elaborate complaints advanced in written submissions could not cure the absence of proper pleading in the notice of motion and affidavit. In any event, the complaints invited the Court to re-assess evidence, revisit conclusions already reached, and effectively sit on appeal over its own decision — a course prohibited by authority (*Ex F. 5842 D/C Maduhu v. Director of Public Prosecutions* [2020] TZCA 322; *Lakhamshi Brothers Ltd v. R. Raja & Sons* [1966] EA 313).

The Court therefore held that no case for review had been made out. The application was dismissed.

2.0: Principles established

The judgment establishes the following key legal principles:

- (a) Review under rule 66(1)(a) of the Court of Appeal Rules is available only where the decision is based on a manifest error on the face of the record resulting in a miscarriage of justice. Such an error must be obvious, patent and self-evident; it cannot be one that requires elaborate reasoning, re-assessment of evidence or reconsideration of matters already decided.
- (b) Grounds of review must be clearly particularised in the notice of motion and supported by corresponding averments in the supporting affidavit. Submissions from the Bar cannot supply the missing particulars.
- (c) Review jurisdiction cannot be employed as a vehicle for a second appeal or to invite the Court to sit in judgment over its own earlier decision.
- (d) The distinction between statutory consultation and contractual agreement under the Employment and Labour Relations Act does not, without more, constitute a manifest error on the face of the record where the Court has already evaluated the evidence of engagement between the parties.

3.0. Conclusion and our observation

The decision reaffirms the strict and exceptional nature of the Court of Appeal's review jurisdiction. Parties dissatisfied with an appellate outcome cannot, under the guise of "manifest error," seek a re-hearing or re-evaluation of evidence. Proper pleading of the alleged error in both the notice of motion and the supporting affidavit remains indispensable. The ruling is a useful reminder that finality of litigation at the apex court is the rule, and review is a carefully circumscribed exception.

Disclaimer! *This brief is intended for general informational purposes only and does not constitute legal advice from Nexlaw Advocates. Nexlaw Advocates shall not be held liable for any injury or loss resulting from reliance on this brief.*

For matters related to this brief or any other legal concerns, please contact our office for advice tailored to your specific situation.

- [Download PDF](#)
- [Download the Decision](#)