

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

FACULTY OF COMMERCE

DEPARTMENT OF BUSINESS MANAGEMENT

FINAL EXAMINATION APRIL 2014

LABOUR LAW CBU 2207

TIME: 3 HOURS

INSTRUCTIONS TO CANDIDATES

Answer any **FOUR** questions.

INFORMATION TO CANDIDATES

- (i) All questions carry **25** marks each
- (ii) Questions may be answered in any order.
- (iii) As much as possible, use relevant examples.
- (iv) This paper contains **seven** questions.

QUESTION 1

Penias Muguri V Midlands Dry Cleaners

The facts of this matter are allegedly that Mr. Muguri was causing his employer some problems arising out of what the employer said was bad attitude towards his work.

On 19 August 1995 Muguri did not report for duty. His father who works for the same employer was asked about his son whereabouts but he indicated that he did not know. On 21 October 1996 Muguri reported for work and alleged that he had gone for a funeral. The employer did not believe him since the father had not indicated that there had been a funeral.

The employer resolved to give Muguri a second written warning. Initially Muguri accepted but later refused to sign the letter. The employer then told him to sign the

letter or to resign. He opted to resign. The following day he took his terminal benefits and signed the letter of resignation.

Muguri denies ever resigning or signing the resignation letter. He produced a bank book that was signed by him as proof that the signatures were different. He alleged that there was bad blood between the employer and himself as he usually refused to accept the employer's paw paws .

Required:-

With reference to relevant Labour Legislation, discuss how the Labour Court is likely to rule on this matter. **[25 marks]**

Source: Labour Court Judgment No. LRT/MD/16/2000

QUESTION 2

Sophie Bent V Tobacco Processors

This is an application for an urgent hearing.

In support of her application the applicant relied on the fact she is the sole bread winner for her children and she has been out of employment for a long time.

The applicant's submission amounts to a complaint about financial hardships. Financial hardships not being peculiar to the applicant the Labour Court is not persuaded that it is a valid ground for allowing the applicant to have her case heard before earlier cases.

It was further submitted on her behalf that remittal of the matter might be one of the remedies which is available to her .Mere remittal may not impinge on the right of those who appealed first to the Labour Court to have their cases heard first by the Labour Court.

Her problem is however, that when she approached the Labour Court she was seeking reinstatement .Although she alleges procedural irregularities these are denied by the other party. Resolving that dispute alone will take a long time if not a full hearing thereby prejudicing other litigants who approached the Labour Court before her.

Required:-

With reference to relevant Labour Legislation discuss how the Labour Court is likely rule on this matter. **[25 marks]**

Source: Labour Court Judgment No. LRT/H/57/2000

QUESTION 3

N. Mzizi V NRZ

On 27 January 1997 the respondent's General Manager dismissed in the appellant's appeal against dismissal in terms of its registered code of conduct. Aggrieved by that determination the appellant appealed to the labour officer who declined jurisdiction pointing out that the matter was determined in terms of a registered code of conduct.

The appellant appealed to the Senior Labour Officer who in turn dismissed the appeal and upheld the labour's decision on the 16th February 1998.

The appellant now agrees that the two labour officers correctly declined jurisdiction .That being the case the appellant was obliged to appeal to the Labour Court within the prescribe 14 days period from the 27th January 1997 being the date the General Manager made his determination.

Required:

With reference to relevant Labour Legislation illustrate how the Labour Court is likely to rule on this case. **(25 marks)**

Source: Labour Court Judgment No. LRT/MT/34/2002

QUESTION 4

Ilford Services (Pvt) V Tax Kondo

The background of this case is that Kondo obtained a default judgment against the employer Ilford Services from a labour relations officer in the sum of \$1144,572 on the 15 May 2002. Kondo subsequently registered the determination for enforcement. Warrant of execution was duly issued.

In response the Ilford services complied with the order and wrote to the Messenger of the Court on the 16 August 2002 in the following vain

“Dear Sir

Re: Tax Kondo case No. 29245/02

Attached is a cheque No. 001178 for \$ 1 186,206 in settlement for case No 29245/02 between Tax Kondo and Ilford Services.

The company having complied and settled the matter by paying the amount it was ordered to pay is desperately trying to resuscitate the case.

Required:

With reference to relevant Labour Legislation, argue how the Labour Court is going to finalise this matter. **[25 marks]**

Source: Labour Court Judgment No. LRT/H/307/02

QUESTION 5

Fungai Chirenje V National Railways of Zimbabwe (NRZ)

The respondent (NRZ) as a parastatal which sponsors a football club, Railstars. The respondent offered the applicant (Chirenje) a fixed term contract of employment.

The contract was renewed on a number of occasions. The applicant applied to be made a permanent employee but was not successful.

Eventually his fixed term contract of employment was not renewed. He approached the Labour officer seeking to be made a permanent employee. He succeeded before the Labour Officer. However the decision was then over turned by the Senior Labour Officer.

Chirenje then appealed to the Labour Court, against the decision of the Senior Labour Officer.

Required:

With reference to relevant Labour Legislation, indicate how the Labour Court is likely to give its verdict on this matter. **[25 marks]**

Source: Labour Court Judgment No: LRT/MT/2/2001

QUESTION 6

David Chemhere V SEDCO

This is an application for condonation of the late noting of an appeal.

The applicant delayed in noting his appeal to the Labour Court by about 10 months .The reason for the length delay is that his then lawyers decided to take the matter on review to the High Court before approaching the Labour Court .

When the High Court eventually made its determination the applicant's lawyer had left the employment of his legal firm. Further delays were caused in trying to locate relevant document in the lawyer's absence.

The above facts are not in dispute and it therefore means that a delay of 10 months was not willful or deliberate .The delay was to a large extent due to appellant actively pursuing a legal remedy in a competent Court of competent jurisdiction. The High Court determined that the applicant's remedy lay in the Labour Court.

Turning to the applicant's case the facts are that he was found guilty of misconduct and punished with demotion by the disciplinary committee. He appealed to the board Directors. The Appeal Board after hearing the appeal, they substituted the penalty of demotion with dismissal although the issue of dismissal had not been placed before the Board by any of the parties.

Required:-

With reference to relevant Labour Legislation, discuss how the Labour Court is likely make its verdict on this matter. **[25 marks]**

Source: Labour Court Judgment No LRT/H/58/2000

QUESTION 7

R. Magabela V Zesa

On the 28th November 1995 the respondent charged the appellant Magabela in terms of its code of conduct alleging that he had stolen its property.

A properly constituted Disciplinary Committee deliberated over the issue and found Magabela not guilty of the alleged act of misconduct.

Following the appellant's acquittal by the Disciplinary Committee, he was subsequently convicted in the magistrate's court of the same offence. He was fined \$800 or in default of payment 80 days imprisonment with Labour.

Relying on the conviction in the magistrate's Court the respondent ZESA sought to dismiss the appellant for the same offence for which he had been acquitted by its Disciplinary Committee. Magabela appealed to the Labour Court for reinstatement.

Source: Labour Court Judgment No: LRT/11/50/2000

Required

With reference to relevant Labour Legislation, show how the Labour Court is likely to judge on this matter. **[25 marks]**

END OF EXAMINATION PAPER