

**UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW**

BACHELOR OF LAWS EXAMINATION, YEAR - IV (Online) - 2021

LABOUR LAW

(Three Hours)

Total Number of Questions: **06**

Answer **THREE (03)** questions and **no more**.
(Candidates will be penalised for illegible handwriting.)

01. Answer **both** (A) and (B).

(A) The 'Rawanaella Tea Estate Company' (RTEC) hires workers from Quick Service to work in its Tea Factory. The workers are required to report to work from Monday to Saturday. Transport is provided by Quick Service from their office to the Tea Factory. All workers are required to sign the attendance register in the office of the Quick Service before leaving for the Factory. Quick Service allocates the work to the workers and determines the wages of the workers according to their work in the Factory. The workers are being paid twice a month by Quick Service. Quick Service exercises disciplinary control over the workers. The workers wish to complain to the Commissioner for non-contribution for Employees' Provident Fund and Employees' Trust Fund. They wish to know whether RTEC or Quick Service is their employer.

Advise the workers.

(50% of the total marks)

(B) 'BEST PRODUCTS' is a famous apparel exporting Company. The Company engages employees under different types of employment contracts. The Human Resource Manager of the Company reached the age of retirement. Thereafter, the Company employed him

under a three year contract. The Company recruited an Accountant as a permanent employee and informed him that he would be confirmed in his employment if he provides satisfactory services for one year. Some workers in the packing section were tested positive for coronavirus, and they were quarantined. Management obtained the services of five employees whenever their services were needed in the packing section. Their payments were made daily.

Assume that you are working as a legal officer in the Company. You have been requested to explain the types of employment contracts in the Company and the legal aspects relating to termination of the employment contracts to the Board of Management of the Company.

Explain citing legal authorities.

(50% of the total marks)

02. Zigma (Pvt) Ltd is an apparel export Company. The Company employs 60 workers, including Waruna, Sahan and Wimal. Due to the economic recession and the downfall in the international market, the Company decided to cut down the number of workers. The employment of 20 workmen, including Waruna, was terminated upon a settlement by conciliation entered before the Commissioner under the Industrial Dispute Act. Nevertheless, Waruna filed an application in a Labour Tribunal claiming that his services had been terminated in an unjust and inequitable manner.

The sole Trade Union in Zigma (Pvt) Ltd has a membership of more than 80% of the workers in the Company. Before the said settlement by conciliation was entered, the trade union invited the management of the Company for collective bargaining. But, the management of the Company declined to accept the request and stated that the management had not recognised the trade union.

Sahan did not accept the settlement by conciliation as the compensation agreed by the Company is inadequate. The Company terminated his services, alleging that the refusal to

accept the settlement was disobedience. Sahan filed an application in a Labour Tribunal for relief against the termination of his services. While the application was pending before the Labour Tribunal, the Minister referred the disputes between Sahan and the Company for settlement by arbitration.

Wimal had a dispute with the Company relating to the non-payment of an allowance. The Minister referred the dispute to an Arbitrator. Later, the Minister revoked the dispute from the Arbitrator and referred the dispute to another Arbitrator. During the inquiry, the Arbitrator stated that he is fettered by the terms of the contract of employment between the parties.

Discuss the legal implications in the above scenario in the light of relevant statutory provisions and decided cases.

03. Mahen is a fifty-eight year old software developer who was employed by ABC Software Company. He had been working in the Company for thirty years. He had received a formal warning for an unproductive performance about a year ago. On 20th August 2021 night, when he was at home after work, he received a racist chain e-mail on his personal e-mail that ended with the words, “If you break the chain, you will have bad luck for the rest of your life.” He forwarded the e-mail to the personal e-mail address of Suren, a forty year old co-worker of his workplace. ABC Software Company recruited Suren on 04th September 2014. On 21st August 2021, at around 9.30 a.m., Suren passed the e-mail on. It was mistakenly forwarded to the e-mail address of Senarath, one of the best clients of the ABC Software Company. Mahen and Suren had involved with Senarath in a software development project.

When the management of the Company was informed about this by Senarath, the Company carried out an internal investigation. On 22nd August 2021, the Company concluded that the conduct of Mahen and Suren constituted a breach of the Company’s professional standard policy. On 23rd August 2021, the Company informed them that their services were terminated with immediate effect for the misconduct. The Company further informed them that it has decided to deduct Rs.150,000/= from their gratuity for the loss caused to the

Company by tarnishing the name of the Company. Mahen and Suren allege that the Company had terminated their services without conducting a proper domestic inquiry. They further state that the Company does not have a professional standard policy.

They wish to file an application in a Labour Tribunal for relief against termination of their services and to challenge the deduction from their gratuity.

Advise them in the light of relevant statutory provisions and decided cases.

04. Answer **both** (A) and (B).

(A) Discuss whether the Payment of Gratuity Act balances the interests of employers and workmen and provides satisfactory social security to the workmen. Substantiate your answer, citing relevant statutory provisions and decided cases.

(40% of the total marks)

(B) Discuss, in the light of emerging issues in employment triggered by the COVID 19 pandemic, whether the Termination of Employment of Workmen (Special Provisions) Act balances the interests of employers and workmen. Substantiate your answer citing relevant statutory provisions and decided cases.

(60% of the total marks)

05. Answer **both** (A) and (B).

(A) Freedom of association only protecting the joining together of persons for shared interests would be superficial if the pursuit of very activities for which the association was formed is not guaranteed.

Do you agree with this statement? Critically evaluate the above statement in the light of ILO (International Labour Organisation) Conventions relating to trade unionism and the legal regime governing trade unionism in Sri Lanka.

(50% of the total marks)

(B) As a relative rather than absolute right, the right to engage in strike action must be exercised with due regard for employers' rights and public rights.

Analyse the above statement in the light of relevant statutory provisions and case law authorities.

(50% of the total marks)

06. Rock Lanka Ltd is a Steel Company. The Company exports steel products to various countries. The Company employs forty male workers and ten female workers in its Factory. Out of the forty male workers, two male workers are at the age of 15 years, and two other male workers who cut the steel bars are at the age of 17 years. The ten female workers and five male workers perform the same work. But, the payments to the female workers are less than the payments to the male workers who perform the same work. The contract of employment of all workers has a clause stating "You will not be permitted to leave from the Company within the period of five years from recruitment as the Company has provided training to you". Recently, the Company has obtained a declaration from all workers as "I will not form or join any trade union during the existence of my contract of employment with the Company"

A foreign Company that imports the products from Rock Lanka Ltd is concerned about the labour practices in Rock Lanka Ltd. The foreign Company requests you to prepare a report explaining the violation of the Core Labour Standards of the ILO (International Labour Organization) and the violation of the Sri Lankan Labour Standards by the labour practices in Rock Lanka Ltd.

Write the report.

(Each question will be marked out of 100)
