

UNIVERSITY OF COLOMBO, SRI LANKA
FACULTY OF LAW

BACHELOR OF LAWS EXAMINATION (ONLINE), YEAR - IV 2022

LABOUR LAW

(Three Hours)

Total Number of Questions: **06**

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

01. Developments in international labour norms and standards and legislative interventions have replaced the traditional common law contract of employment, with just and equitable employment contracts, and therefore the Labour Tribunals, in the exercise of their 'just and equitable' jurisdiction disregard the terms and conditions of employment contracts.

Do you agree with this statement? Critically evaluate the above statement with relevant legal authorities.

02. Discuss the legal implications of each scenario given below in light of the relevant statutory provisions and decided cases.

(A) Johnny and Depp are two probationary employees employed by the Ceylon Trading (Pvt) Ltd. Before the completion of the probationary period, the company terminated the services of Johnny stating that he was not rendering a satisfactory service to the company. However, Johnny argues that the company does not have the authority to terminate his services before the expiration of his probationary period. The company also terminates the services of Depp, after the lapse of his probationary period, without stating any reasons. Depp argues that he is entitled to know the reasons for his termination.

(25% of the total Marks)

(B) Marvel entered into a contract of training with the Zera Company (Pvt) Ltd. During his training period he forwarded an application to the Labour Tribunal, regarding a dispute that arose with the company in terms of his employment conditions. However, the company contended, that he is not entitled to seek any remedies or reliefs under the Industrial Dispute Act No 43 of 1950 as the company has not entered into a contract of service with him.

(25% of the total Marks)

(C) Tera (Pvt) Ltd. employed Jackson as a casual employee of the company. The company required him to work all seven days from 8.00 a.m. to 5.00 p.m. Jackson has been in employment for over two years, without a break in his services. His salary is paid on a monthly basis, at the end of each month. Jackson argues that he should be considered as a permanent employee of the company and not as a casual worker as stipulated in the contract of employment.

(25% of the total Marks)

(D) Wilson was employed by Westa (Pvt) Ltd to its packaging unit to engage in packaging services for a period of three months, until its permanent employee returned from vacation. At the end of the third month, the company asked Wilson not to report to work and settled all his wages. However, Wilson argues, that he was not given prior notification of the termination of his services and thereby the termination of his services is unjustifiable.

(25% of the total Marks)

03. Jude and Colin are two employees of PTD (Pvt) Ltd, a company incorporated to render finance services. Jude had served in the company for more than 10 years and six months. Before his termination, he was promoted as the Chief Finance Executive of the company considering his past performance and good record. Jude had also won several awards and had been nominated as the best employee of the company for three consecutive years. On 20.04.2022 Jude lost one million rupees from the company's fund, which was under his custody. As a result, the company terminated the services of Jude stating, that he had acted negligently and the company has lost the trust and confidence it had on Jude. Later it was found that the money was stolen by another employee of the company. Jude has filed an application before the Labour Tribunal and contends that the company has acted arbitrarily in terminating his services, without holding a domestic inquiry. He further claims reinstatement of his services with back wages as relief.

Meanwhile the company has sent a formal notification of vacation of post to its other employee, Colin. Colin, who was recruited as a permanent employee of the company failed to report to work for more than six months, without a reasonable excuse or approval from the company. The company sent three notifications and in its final notification instructed him to report to work on 30.04.2022 or it will consider that he has vacated his post. Despite the fact that the final reminder was sent, Colin failed to report to work on the day stipulated by the company. After two months from the date of the final reminder, Colin sends a notice to the company stating, that he had not vacated his post and that he had valid reasons for not reporting to work. He also mentions, that he intends to file an application in the Labour Tribunal for wrongful termination of his services.

The company wishes to seek your advice on the above. Advise the company in light of the relevant legal authorities.

04. ABC Company is engaged in an import business in Colombo. They mainly import dairy products from New Zealand and Australia. Currently, the company is struggling to clear their shipments due to the economic crisis in the country, and has been forced to suspend their deliveries to local buyers. Therefore, the workers in the packing and delivery section have not been paid their salaries for two months. The company decided to reduce the number of workers, either by termination or lay off until the country's economy gets back to normal. There are 75 workers in the company. The management decided to retain 20 workers, employed in the Accounts and Human Resources Department. The Company wishes to permanently terminate the service agreements of 40 workers and temporally terminate the services of 15 workers in the packing and delivery section.

Assume that you are the Legal Advisor of the company and are required to advise the management on its rights and the applicability of statutory provisions and decided cases.

05. ASIA FABRICS is a well-known apparel company situated in Katunayaka. The workers' union of the ASIA FABRICS carried out a strike against their employer due to lack of facilities in the working place. Most of the workers participated in the strike, which lasted three days. Most of the workers started to wear black head bands during working hours. The owner of the company criticized the actions of the workers and the services of 15 workers who led the strike, were terminated. The owner is of the opinion, that workers have no right to wear black head bands without permission. He further

holds, that the trade union does not have any recognition in law due to non-registration and the formation of the trade union was also done without satisfying the minimum requirements. However, the president and secretary of the trade union rejects the owner's contentions and is prepared to submit documents showing proof of registration.

Discuss the above with reference to registration of trade unions and rights of its members

06. Answer **either (A) OR (B)** only.

A. "As one of the specialised agencies of the United Nations, established in the aftermath of World War I, the International Labour Organisation (ILO) has remained true to its mandate, to promote peace and social justice; by setting universal standards and fundamental principles, and by promoting decent work, through tripartism and social dialogue."

Do you agree? Critically evaluate the above statement with reference to the impact of the Core ILO Conventions in recognising and improving labour rights in the Member States.

B. Despite impressive social indicators and welfare-oriented labour legislation, women constitute a meagre percentage of the workforce in Sri Lanka. Numerous studies and reports have identified, amongst many others, violence and harassment, particularly violence and harassment in the workplace as a factor affecting women's participation in the workforce.

You have been appointed as a consultant by the Ministry of Labour and the State Ministry of Women and Child Affairs, to review the ILO Convention on Violence and Harassment, 2019 (No. 190) and its complementary Recommendation No. 206 and recommend reforms to the legal framework in Sri Lanka, to promote women's access to the workplace.

Support your answer with relevant legal authorities.

(Each question will be marked out of 100)
