

UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

DEGREE OF MASTER OF LAWS IN PRIVATE AND COMPARATIVE LAW- 2023/24

SEMESTER I END EXAMINATION

Human Resource Management Law - TLLM11311

(Three Hours)

Total number of questions: 04

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

1. Critically assess with reference to statutory provisions and decided cases whether the Superior Courts in Sri Lanka have developed satisfactory guiding principles with regard to disciplinary terminations and reliefs for unjust terminations.

(20 Marks)

2. Maxwell Electricals (Pvt) Ltd commenced its business in January 2021 and employs forty employees since the commencement of its business. The Management of the Company had made the following decisions on 18 December 2023:

(a) Issue No: 01

Maxwell Electricals (Pvt) Ltd finds that seven employees are redundant in the workplace as the business of the Company has been affected by competition in the business. The Company offered a compensation package to the seven employees for termination of their employment. But, the employees did not agree with the quantum of the compensation, and demanded to enhance the quantum of compensation.

Decision: The Company has decided to transfer the seven employees to another Company without obtaining their consent for the transfer.

Discuss the validity of the decision made by the Company.

(07 Marks)

(b) Issue No: 02

About seventy percent of the employees in the Company have formed a trade union and become members of the trade union to demand fair terms and conditions for their employment.

Decision: The Company has decided to terminate the employment of the probationary employees who have joined the trade union and to take civil action against the office – bearers of the trade union if the trade union embarks on a strike action.

Discuss the validity of the decision made by the Company.

(06 Marks)

(c) Issue No: 03

Maxwell Electricals (Pvt) Ltd provides home delivery services of its electrical items in and around Colombo. The Company engages three persons to deliver the electrical items since the commencement of its business. The Company provides uniforms to the delivery persons to wear during their working hours. They use the vehicles provided by the Company to deliver the electrical items. The agreement between the Company and the delivery persons has a clause which states: "On the days you cannot provide your services to the Company, you could send a suitable substitute to deliver the electrical items." The Company pays only a commission calculated on the basis of the deliveries during the month. The Agreement between the Company and the delivery persons provides for termination of the Agreement for violation of the conditions of the Agreement. The Agreement does not deal with misconduct or disciplinary action against the delivery persons. The delivery persons have demanded that the Company make payment to the Employees' Provident Fund and Employees' Trust Fund.

Decision: The Company has decided not to make payment to the Employees' Provident Fund and Employees' Trust Fund as the delivery persons are not employees of the Company.

Discuss the validity of the decision made by the Company with regard to the nature of the contract between the Company and the delivery persons.

(07 Marks)

(Total 20 Marks)

3. You have been requested to present a research article entitled "An Assessment of Legal Responses Available to Sexual Harassment at Workplaces in Sri Lanka in the light of International Conventions" in an International Research Conference organized by Faculty of Law, University of Colombo.

Explain the key points that you would include in your research article.

(20 Marks)

4. Justinian Law Associates (JLA) requests you to write a legal opinion as to the following:

- (a) An employee in a Company had an industrial dispute with regard to termination of her employment. Later, the employee entered into a settlement by conciliation before the Commissioner of Labour in terms of the provisions of the Industrial Disputes Act. According to the settlement, the employee had accepted the compensation offered by the Company and gave her consent for the termination. Thereafter, the employee had filed an application in a Labour Tribunal for relief with regard to the termination.

(07 Marks)

- (b) An Arbitrator conducted an inquiry with regard to an industrial dispute between a Company and an employee. The dispute was relating to a clause in

the letter of employment of the employee. During the inquiry, the employee argued that the clause was unreasonable, and the Arbitrator was not bound by the clause in making his award. However, the Arbitrator had not accepted the argument of the employee and stated in his award that the Industrial Disputes Act does not empower him to disregard the clause in the letter of employment as the letter of appointment has been signed by the Company and the employee.

(06 Marks)

- (c) Sunil worked in a Factory owned by Wuhan – Lanka (Pvt) Ltd. The employee died in an accident while traveling for work to the factory on his motor-bike. The Company had refused to pay compensation to his dependents. The Company argues that it is not liable to pay compensation as the accident was not arising out and in the course of employment, and that the negligence of the employee had resulted in the accident.

(07 Marks)

Write your legal opinion for the above scenarios.

(Total 20 Marks)
