

**UNIVERSITY OF COLOMBO, SRI LANKA**

**FACULTY OF LAW**

**MASTER OF LAWS DEGREE PROGRAMME 2022/24**

**REPEAT EXAMINATION– TRIMESTER I, II, III & IV**

**Employment Law – LLM 2234**

(Three Hours)

Total number of questions: 04

Answer any **Three** questions.

(Candidates will be penalized for illegible handwriting.)

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**Question 01**

Critically assess with reference to statutory provisions and decided cases whether the Superior Courts in Sri Lanka have developed satisfactory guiding principles relating to industrial arbitration.

**(100 Marks)**

**Question 02**

Athani Lanka (Pvt) Ltd commenced its business in January 2000 and employs 150 workers since the commencement of its business. The Management of the Company has made the following decisions on 10 July 2024 with regard to the following labour issues:

**(a) Issue No: 01**

The Company recruited Silva as its Human Resource Manager on 01 May 2000. Silva reached his age of retirement on 01 May 2018 after completion of eighteen years of service. The Company paid his gratuity when he reached the age of retirement, and he accepted the gratuity. Thereafter, the Company had employed Silva with effect from 02 May 2018 under fixed term contracts renewed once in three years until 02 July 2024. Silva requested the Company to calculate his gratuity for the period from 2000 – 2024 on the basis of his last

month salary in July 2024, and deduct the amount of gratuity paid in 2018 at the time of retirement, and pay the balance.

**Decision:** The Company has decided not to consider the request made by Silva, and to calculate his gratuity separately for the period of his employment after retirement in 2018.

Discuss the validity of the decision made by the Company.

(25 Marks)

**(b) Issue No: 02**

Nirmala worked in the Company as the Secretary to a Senior Manager since January 2020. She failed to report to work for ten days without informing the Company. The Company sent an email on 08 July 2024 requesting her to report to work immediately. She reported to work on 09 July 2024 with a medical certificate covering the period of her absence. However, the Company has issued letter of vacation of post when she came to work on 09 July 2024. Nirmala requested the Company to reconsider its decision and to withdraw the letter of vacation of post.

**Decision:** The Company has decided not to reconsider its decision as to her vacation of post.

Discuss the validity of the decision made by the Company.

(25 Marks)

**(c) Issue No: 03**

Kumar worked as a machine operator in the Factory of the Company, and died in an accident as he negligently operated a machine. It has been established that at the time of the accident Kumar was under the influence of drugs. Kumar's wife and the children demanded compensation under the Workmen's Compensation Ordinance.

**Decision:** The Company has decided not to pay compensation as Kumar was under the influence of drugs at the time of the accident.

Discuss the validity of the decision made by the Company.

(25 Marks)

**(d) Issue No: 04**

Ravi works in the Company as a junior executive since January 2022. The Company is not satisfied with his performance, and intends to terminate his services for inefficiency and incompetence.

**Decision:** The Company has decided to pay one month salary and terminate his services as provided in his letter of appointment. The Company has made the decision with the opinion that the provisions of the Termination of Employment of Workmen (Special Provisions) Act do not apply to the termination.

Discuss the validity of the decision made by the Company.

(25 Marks)

**(Total 100 Marks)**

**Question 03**

Assess, in the light of statutory provisions and decided cases, whether the Sri Lankan legal regime relating to right to strike and limitations to right to strike satisfactorily balances the interests of employers, workers and the state.

**(Marks 100)**

**Question 04**

Select **any four** labour statutes which in your opinion require amendments, and recommend **an amendment** to each statute. Your recommendations should be supported by critical analysis of relevant statutory provisions, decided cases and international instruments (if any).

Recommendation to each statute carries equal marks.

**(4x25=100 Marks)**

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