



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 309

COURSE TITLE : LABOUR LAW

DURATION : 3 Hours

LEVEL :  
DATE 17 FEB 2022

DATE :

INSTRUCTIONS TO CANDIDATES:

1. This exam is out of 100.
2. Answer **any two** questions from Section A and **any two** questions from Section B.
3. Credit shall be given for referring to case law, statutes or any other authorities wherever applicable
4. Notes, handouts and textbooks **are not** allowed into the examination.
5. Cellphones **are not** allowed into the examination room.
6. Begin each answer to a full question on a fresh page.

## SECTION A

### QUESTION 1

Masunga Enterprises (employer) and its employees were engaged in a salary dispute. The employer was reluctant to increase the employee's wages but it did not disclose its financial position. It argued that it did not make profits in the financial year ending on December 2020. It further argued that it had been using profits from another sister company to pay salaries. The dispute was referred to the conciliator who ordered the employer to increase salaries based on the fact that it was adequately funded by its sister company. The employer was not satisfied by the decision.

#### Required

With reference to relevant authorities, discuss the remedies if any, that are available to the employer. [25 marks]

### QUESTION 2

Jabulani was employed by Matare (Pvt) Ltd as its Chief Executive Officer between the period 2012 and 2017. He was employed on a fixed term contract which was renewed in 2015. On 10 December 2016, the employer wrote to Jabulani placing him on leave with full pay until further notice. The employer indicated that this was done in order to carry out an internal audit. The initial decision was rescinded and substituted with leave without pay pending determination of the allegations against him. The disciplinary action that ensued resulted in the dismissal of Jabulani in terms of National Employment Code. A determination that Jabulani was guilty of misconduct was made by the Disciplinary Committee and it was communicated to the Human Resources Manager before a penalty had been imposed. It is the Human Resources Manager who imposed the penalty of dismissal.

#### Required

Discuss the legality of Jabulani's dismissal and the procedure he should follow if he intends to pursue the matter further. [25 marks]

### QUESTION 3

Makomba Workers' Union made an application for registration as a trade union in October 2021. Its application is still pending. It had started the process of recruiting members from various farms in Bindura area. It has been pushing for wage increases in the farming sector but the employer has resisted such moves. On the 14<sup>th</sup> of November 2021, it served the employer with a notice of intention to strike by its members. The employer ignored the notice resulting in a strike by the farm employees who fell under it. Meanwhile, Makomba Workers' Union is still pushing for its registration as a trade union.

**Required**

With reference to relevant authorities, discuss the validity of Makomba Workers' Union's actions and the legal consequences that are likely to flow from it. [25 marks]

**SECTION B**

**QUESTION 4**

'The constitutional protection of the employee's right to be paid a fair and reasonable wage is one of the greatest achievements in the labour market.'

Discuss

[25 marks]

**QUESTION 5**

To what extent does Zimbabwean law uphold the fundamental aspect of voluntariness in collective bargaining?

[25 marks]

**QUESTION 6**

Assess the importance of the employee's duty of subordination in the employer-employee relationship.

[25 marks]

**END OF PAPER**