



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER

COURSE CODE : LLB 309
COURSE TITLE : LABOUR LAW
DURATION : 3 Hours
DATE :

04 OCT 2022

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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

Zvidzai was employed by Marara Stores. In July 2022, her contract of employment was terminated. Zvidzai disputed the lawfulness of the termination. The matter was referred for conciliation. The conciliator decided in favour of Zvidzai and ordered her reinstatement. Marara Stores appealed to the Labour Court. At the time of lodging the appeal it also applied to the Labour Court for an order suspending the conciliator's ruling pending the hearing of the appeal. Zvidzai decided to accept damages in lieu of reinstatement and requested the conciliator to quantify them. Marara Stores did not oppose the registration of the award at the High Court as it believed that it was not necessary since it had already applied to the Labour Court for the suspension of the award. The Labour Court granted Marara Stores a stay of execution of the ruling. The High Court then registered the conciliator's ruling ten days later. Zvidzai then sought execution of the civil judgment of the High Court. Marara Stores then appealed to the Supreme Court on all the above issues.

Required

Discuss how the Supreme Court is likely to deal with above situation.

[25 marks]

Question 2

Jacob was employed by Simukai Bank as a bank teller. On the 15th October 2021, he was presented with \$50.00 for exchange with 300 rands. Jacob then signed the payment slip to show that he had given the customer his change. The customer forgot to collect the change and went away. The customer then came back a month later to claim his change. A Closed Circuit Television footage confirmed the allegation that the customer had not been given his change. Jacob was charged and dismissed. He appealed to the Grievance and Disciplinary Committee which reached a deadlock and referred the matter to the National Employment Council.

Required

- a) Discuss the composition and powers of the National Employment Council to resolve the above disputes. (10)
- b) Discuss the procedure which any aggrieved party may follow after the decision by the National Employment Council. (15)

[25 marks]

Question 3

Sarudzai was employed by Mhizha (Pvt) Ltd as a clerk. She resigned from her position in December 2021. After her resignation, she approached the arbitrator arguing that her resignation was as a result of constructive dismissal. The arbitrator did not give a judgment in Sarudzai's favour and she decided to appeal to the Labour Court citing the following reasons;

- a) The arbitrator erred at law by holding that the Appellant was not constructively dismissed whilst there was overwhelming evidence to that effect.

- b) The arbitrator erred in holding that the Appellant voluntarily resigned whilst she resigned because of the intolerable working conditions.
- c) The arbitrator erred at law by failing to consider that the Appellant was entitled to leave days in her first three months of employment.
- d) The arbitrator erred at law by failing to award a housing allowance although it was not part of the contract.

Required

Advise Sarudzai on her prospects of success on each of the raised grounds of appeal.

[25 marks]

SECTION B

Question 4

'Without the concept of unfair labour practices, workers' rights would be in jeopardy'.
Discuss. [25 marks]

Question 5

Discuss the role of the duty of good faith in an employment relationship. [25 marks]

Question 6

Discuss the procedures which regulate the registration and enforcement of collective bargaining agreements.

[25 marks]

****END OF PAPER****