



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE AND ECONOMICS

DEPARTMENT OF LAW

EXAMINATION PAPER

MODULE CODE : LLB323
MODULE TITLE : LABOUR AND EMPLOYMENT LAW
DURATION : 3 HOURS
LEVEL : 3.2
DATE : NOVEMBER 2024 11 FEB 2025

INSTRUCTIONS TO CANDIDATES:

1. Answer three (3) questions, one question from each section.
2. Section A is compulsory.
3. Number of marks for part questions are shown in brackets.
4. Start each question on a new page.
5. This paper consists of four (4) pages.
6. Answer sheets are provided

SECTION A



QUESTION 1

Write a critical analysis of the Supreme Court judgement in Nyamande and Another v Zuva Petroleum (Pvt) Ltd SC 43/15 on the aspect of an employer's common law right to terminate a contract.

[20Marks]

SECTION B

QUESTION 2

Discuss the composition, jurisdiction and powers of the Labour court and propose possible reforms for it to effectively fulfil its mandate.

[25Marks]

QUESTION 3

The amendments to the Labour Act, Chapter 28:01 have been hailed as the most progressive reforms of Zimbabwean labour law consistent with international labour standards in relation to protection of employees from unfair dismissal and unfair discrimination."

Discuss

[25Marks]

SECTION C

QUESTION 4

On 3 November 2023, Lindiwe, a receptionist of twenty years' experience at Sun and Sands Sports (Pvt) Ltd who was eight months pregnant developed severe complications. Lindiwe's salary was ZIG 50 000 per month. She requested for permission to go and see her doctor but this was denied by the supervisor on the grounds that there was too much work at the company and that in any case Lindiwe was a "lazy slacker just using the pregnancy as an excuse to avoid work". Lindiwe proceeded to see a doctor and returned to work after six days bringing with her a medical leave of absence from the doctor. She was suspended from work without salary and benefits on charges of unlawful absence and insubordination. The hearing was conducted on 15 February 2024. At the hearing Lindiwe's lawyer is denied the right to appear on the grounds that the employment code does not provide for this. Lindiwe's supervisor also sits in the presiding panel. The hearing was concluded on the 16th of May 2024 and Lindiwe was found guilty as charged and dismissed. Lindiwe is a first offender and is the sole breadwinner of a family of five. She appeals against the dismissal to the Labour Court alleging unfair dismissal.

Lindiwe asks for your advice in the above matter, in particular in relation to:



a) The legal issues arising from the above dispute and her chances of success on appeal.

(10)

b) If successful, the remedies available to her, in particular whether she can insist on order for back-pay and reinstatement.

(5)

c) Assuming that the Labour Court made an order for damages in lieu of reinstatement, and the employer offered Lindiwe payment in ZIG calculated using the salary scales of the date of suspension, can Lindiwe challenge such payment and insist on payment of the damages in US dollars?

(10)

[25 marks]

QUESTION 5

Omega and seven of her colleagues are employed as sales representatives at Lobello (Pvt) Ltd, a bakery situated in Mazoe. On the 5th of November 2023, the employer, through its sales manager Mr Dawie wrote to Omega and her colleagues as follows:

“Re: Notice of Intention to Retrench

Following on the restructuring of the company to meet challenges of competing in the market place, I regret to inform you that all your posts have become redundant with effect from 5 November 2023. The company is not in a position to offer you alternative employment and the Human Resources department will be contacting you during the week ending 12 November 2023 to negotiate your package”.

The following day, Omega and her colleagues confronted Mr Dawie who advised them that the matter had been referred to the Works council for adjudication on the retrenchment package. The referral was done on the 7th of November 2023. On the 6th of January 2024, the Works Council held a meeting which was attended by the concerned employees and a representative of the employer and submissions were made by parties. No minutes were kept and the meeting was adjourned to the 1st of March 2024. In the interim the parties met on their own and tried to reach a settlement on the retrenchment package but failed.

On the 1st of March 2024, the Works Council held another meeting with the parties but again the parties could not reach a settlement. Thereafter on the 3rd of May 2024, the Works Council wrote directly to the Minister of labour recommending that Omega and her colleagues be retrenched on the basis of a certain severance package. On the 15th of August 2024, the Minister approved the retrenchment but made some alterations to the severance package in favour of the employees. Omega and her



colleagues are aggrieved by the result and intend to challenge the retrenchment package to be paid. With the support of relevant labour legislation and case law authorities advise the employees on the following;

a) Whether the retrenchment was fair and in accordance with the law.

(10)

b) The possible avenues the employees may follow to challenge the retrenchment and the appropriate remedies in the event that they are successful.

(15)

[25marks]

END.