



ZIMBABWE

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FACULTY OF LAW

EXAMINATION PAPER

COURSE CODES : LLB 309 & CHR 207
COURSE TITLE : Labour and Employment Law
DURATION : 3 Hours
LEVEL : 3.2
DATE :

INSTRUCTIONS TO CANDIDATES:

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

SECTION A

QUESTION 1

Mr Makoni was employed by ABC Bank as an administrative clerk and he was also the chairperson of the workers' committee. The bank's management and the workers' committee were in a dispute over salary increments of the employees for some time. In October 2020, the dispute was referred to a conciliator who issued a certificate of no settlement after the parties had failed to agree. Thereafter, Mr Makoni sent emails to his co-employees showing the new salary increments which had been awarded to the managerial employees. He was charged for misconduct. At the hearing, Mr Moyo argued he had sent out the emails in pursuit of his right to represent workers although it was a breach of the companies' internal policies.

Required

With reference to relevant authorities, advise ABC Bank on the next course of action that it should take and the prospects of success in the chosen course of action. [25 marks]

QUESTION 2

Muchaneta and Hazvinei were employed by Budiro Mine until February 2021. During the period extending from 16 to 20 January 2021, the two joined others in a collective job action. The strike was over unpaid salaries. Attempts by the management to stop the strike failed leading to the issuance of a disposal order by the Labour Court which declared the strike illegal and ordered the employees to return to work. Muchaneta and Hazvinei were charged for engaging in an illegal strike action, failing to obey a lawful order and inciting the other employees to strike. They were dismissed and they appealed to the Labour Court where they challenged the penalty of dismissal as being excessive since they had pleaded guilty. They also contended that they had been unfairly singled out from many other employees although it was clear that they were ringleaders. You have been approached by Muchaneta and Hazvinei to give legal advice on the applicable legal principles in their appeal.

Required

Advise Muchaneta and Hazvinei on the legal position that is clearly justified by relevant and clear authorities. [25 marks]

QUESTION 3

Moses was employed by Kubatana Industries as a marketer. In December 2020, he was arrested by the police on allegations that he had acquired his qualifications fraudulently. This followed a raid by the police at Moses' house where a forged certificate which belonged to him was seized. Kubatana Industries conducted its internal investigations to ensure that it had employed an employee with the requisite qualifications. Its human resources department retrieved a copy of the certificate which Moses had used to apply for the job. The copy was referred to the relevant examinations body and it was not located in the examinations body's database. He was subsequently charged with submitting a fraudulent certificate and he was dismissed. He was charged in terms of Labour (National Employment Code of Conduct) Regulations (SI 15 of 2006). He wants to understand if the dismissal was procedural.

Required

With reference to Labour (National Employment Code of Conduct) Regulations (SI 15 of 2006) and relevant case law, advise Moses on the correct procedure for conducting a lawful disciplinary hearing.

[25 marks]

SECTION B

QUESTION 4

'One of the fundamental principles governing the employment relationship involves the distinction between a dispute of right and a dispute of interest'.

Discuss.

[25 marks]

QUESTION 5

Discuss the ways by which the on-going coronavirus pandemic may lead to unfair labour practices by the employer at the workplace.

[25 marks]

QUESTION 6

To what extent does the constitutional protection of the right to strike improve the position of the employees.

[25 marks]

[END OF EXAMINATION -100 MARKS]