



KENYATTA UNIVERSITY
UNIVERSITY EXAMINATIONS 2019/2020

SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPL 400: LABOUR LAW

DATE: WEDNESDAY, 4TH NOVEMBER 2020

TIME: 12.00 P.M. - 2.00 P.M.

INSTRUCTIONS:

1. All questions are compulsory.
 2. Support your answer with illustrations from relevant case laws, statutory provisions and any other applicable references wherever necessary.
 3. Write neatly and legibly.
 4. Your answer script must bear your student's registration number.
 5. Do not scribble or draft answers on the inner or outer cover pages of your answer booklet.
 6. Do not write anything except your registration number on this question paper.
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1. Mwasia Parcels Corporation Limited (MPC), a State corporation began experiencing serious financial losses in January 2019. Concerned with the status of the corporation, the Ministry in charge of State Corporations ordered a forensic audit of the corporation's operations. Sima and Mkuti Auditors Limited (SMA) was appointed to undertake the exercise. SMA identified the major source of the financial hemorrhage as a product of MPC christened as 'Chapa kwa Mkono' an Electronic Funds Transfer (EFT) product meant to facilitate instant transfer of money nationally and internationally. Without carrying out due diligence, MPC contracted Pata Potea Co. Ltd., (PPCL) to not only control Chapa kwa Mkono but also handle the international transactions. In its final report, SMA pointed out that PPCL carried out its operations ignoring international best practices which led to the loss of Ksh.100 million. MPC Board of Management then took a decision to suspend Mr. Kafupi Kanono,

the General Manager in charge of finance. He was first sent on compulsory leave on 2nd May 2019 and then called back in August 2019 to explain himself but, he was sent home basically for what the Board considered negligence of duty and mismanagement. Mr. Kafupi was initially appointed to the post on 2nd October, 2018 for a two year term, and reported for work on 12th November, 2018. His two line appointment letter read:

This contract of employment is entered into between Mwasia Parcels Corporation Limited and Mr. Kafupi. You are supposed to start work immediately.

By the time Mr. Kafupi reported to work, Chapa kwa Mkono contract had been in existence for about two years, and in actual operation for seven months. Upon joining MPC, Mr. Kafupi, raised issues of the system integrity and controls with PPCL managers and, amongst other things, embarked on pursuing payments due from PPCL where he managed to recover KSh.23 million between March 2019 and April 2019. Besides, Mr. Kafupi stopped PPCL from handling international transactions.

Taking into account the above scenario:

- a) analyse the contents of the appointment letter Mr. Kafupi received and whether it meets the requirements of a properly drafted letter as per the labour laws in Kenya. (10 marks)
 - b) elucidate on the rights of Mr. Kafupi? (5 Marks)
 - c) You have been appointed by Mr. Kafupi as his advocate, outline four key reliefs you may seek against MPC. (5 Marks)
 - d) You have been appointed by MPC as its advocate, prepare your defence based on the reliefs sought by Mr. Kafupi above. Support your answer with illustrations from relevant case laws and statutory provisions. (10 Marks)
2. The distinction between the terms 'contract of service' and 'contract for service' has in numerous occasions been subjected to Court interpretation in Kenya and beyond. Discuss the tests that the Courts have formulated to bring out the clear distinction. (20 marks)
3. Discuss the efficacy of registration, recognition and dissolution of trade unions. (20 marks)