

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER, JULY 2016

TITLE OF PAPER : LABOUR LAW

COURSE NUMBER : L 304

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS:

- 1. ANSWER ANY FOUR QUESTIONS.**
- 2. ALL QUESTIONS CARRY EQUAL MARKS.**

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

Question one

Benele Lulane has a Bachelor of Commerce degree from the University of Swaziland. He heard of a new Company, Intsaba Investments (Pty) Ltd. After submitting his application, Mr Lulane was called for an interview and was offered the position of Chief Financial Controller.

Three years later, a new CEO joined the company. At a meeting with staff, he stated that it was intention to improve the operations of the company and make it more profitable.

About two months later, Mr Lulane received a letter informing him that in line with the new direction the company was taking, the company had determined it best to offer him a position more in line with his qualifications and that the company intended to advertise the position of Chief Financial Controller and the minimum qualification would be a Masters in Accounting.

Mr. Lulane was offered the newly created position of Finance officer, reporting to the Chief Financial Controller. His salary and benefits were adjusted to those of the position he now occupied.

Mr. Lulane has approached you for advice on the position of the law and any remedy he might have.

(25 Marks)

Question two

Discuss, referring to relevant authorities :

(a) the sources of labour law (10 Marks)

(b) the effect of the Constitution on labour law (15 Marks)

(25 Marks)

Question three

There are certain cases where it becomes difficult to differentiate between an employee and an independent contractor or agent.

Discuss, with reference to relevant authorities :

- (a) why it might be important to make this distinction
- (b) the various test devised by the courts to assist in making the distinction.

(25 Marks)

Question four

SBPWU is a newly established trade union in the Books and Publishing industry. The reason why the employees decided to form the union was because their working conditions were extremely bad and they had not succeeded in getting management to address any of their issues. Having registered and obtained recognition by the company they proceeded to seek an audience with the company to try and address their grievances. Despite several meetings, they have not been able to get any concessions from the management and they now want to engage in a strike action.

Advise them

- (a) on the procedure to be followed
- (b) on the importance of following such procedures.

(25 Marks)

Question five

Courts have not always been willing to grant the remedy of specific performance of employment contracts.

Discuss fully, making reference to relevant legal provisions and decided cases.

(25 Marks)