

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME
LEVEL 5-LLU5709 /LWU3311 ADMINISTRATIVE LAW
FINAL EXAMINATION -2022/2023
DURATION - THREE (03) HOURS



Date: 20th March 2024

Time: 09.30 a.m.-12.30 p.m.

Total number of questions **Eight (08)**.

Answer **Five (05)** questions only.

Illegible handwriting will be penalized.

1. The Welfare Benefit Board (WBB) is a statutory body established under Selaniya Welfare Act of 2022. It has the power to approve welfare benefits for selected persons who are eligible to receive welfare benefit payments under the Act. Section 5 of the Act states that any person whose monthly income is below Rs.25,000 /= will be eligible to receive welfare benefits under the Act. The Act further states that the WBB shall forward all the received applications to the selection committee established under the Act to inquire about all particulars relating to the income, assets, and liabilities of such applicants. As per section 7 of the Act the WBB is empowered to grant approval only after obtaining the report from the selection committee. Furthermore, section 8 of the Act states that the selection shall be made in accordance with the prescribed selection criteria and the observations of the selection committee. This section also states that the decision of the WBB shall be final and conclusive.

Namali, a mother of four who recently resigned from her job, forwarded an application to the WBB to obtain welfare benefits. Namali later found the following;

- a) The WBB rejected her application without obtaining the report from the selection committee.
- b) Her application was rejected as she has failed to include the reasons for her job resignation, which is not required in the prescribed selection criteria.
- c) The WBB approved the application of Bandula, who is the owner of a grocery shop in the town, without obtaining a report from the committee.

Namali seeks your advice as to whether she has any grounds to challenge the decision of the board. Advice Namali.

Support your answer with relevant Administrative Law principles and case law authorities.

(20 Marks)

2. John is a member of the Parliament of Siyana, representing the Liberal Independent Party (LIP). Recently, during a party meeting, the leader of the LIP accused John of engaging in some activities contrary to the party constitution. The working committee of the party decided to hold an inquiry on January 12, 2024, and sent the charge sheet a day before the inquiry. The charge sheet stated that he had met then President Marshal and assured him of winning the forthcoming presidential election, when in fact the LIP had nominated its leader, Rameen as a candidate for the presidential election. John requested the following from the inquiry committee.

- a) to postpone the inquiry, stating that he did not have sufficient time to prepare for his case.
- b) to obtain legal representation and
- c) to cross examine the witnesses.

However, the committee was not willing to entertain any of the above requests. Without John's appearance before the working committee, he was expelled from the membership of the party.

The media spokesman of the LIP stated the immediate reason for John's expulsion was that he had told the International Broadcasting Corporation (IBC) most of the members of the LIP are connected to drug trafficking related cases. John alleged that he was not informed about any complaint regarding his IBC press conference.

John seeks your advice as to whether the working committee of the party has conducted the inquiry in accordance with the principles of Administrative Law.

Advice John.

(20 Marks)

3. The Environmental Protection Authority (EPA) is tasked with enforcing environmental regulations and ensuring compliance with pollution control measures. However, a chemical manufacturing factory located in the main city of the county has been consistently violating emission standards and polluting the surrounding environment and causing harm to the public. Residents of the area alleged that the drinking water has been contaminated as the factory is discharging oil and hazardous substances directly into the nearby river, and the burning of fossil fuels releases harmful gases into the air. "Team Green," an environmental advocacy group, and a group of residents repeatedly requested from the EPA to enforce environmental regulations strictly and take necessary actions against the factory. Despite the number of requests, EPA has not taken any action against the factory. Team Green and a group of residents have decided to initiate legal proceedings against the EPA.

(a) Team Green has inquired from you whether they can initiate any legal proceedings against the EPA. Advise them.

(05 Marks)

(b) Analyze the factors that the court would consider in this case to grant a remedy for the affected parties. Support your answer with case law authorities. **(15 Marks)**

4. (a) According to Section 10 of the Naida Aviation Authority (NAA) Act, the age of retirement for an air hostess is fixed at 35 years. Section 11 of the Act states that, in the opinion of the managing director, the same could be extended to 40 years, subjected to the medical fitness of the applicant. The regulation further states that the managing director is empowered to grant an extension only after obtaining a medical report from the medical board established under the NAA Act. The Act further states that the decision of the managing director shall be final and conclusive and shall not be called into question in any court of law.

Sonali, a 35-year-old air hostess, forwarded an application to obtain a service extension. However, the managing director rejected her application without obtaining a medical report from the medical board. He did not give any reasons for his decision.

Sonali consulted you as to whether she could challenge the decision of the managing director in a court of law. Assume that the provisions of Naida Interpretation Act are identical to the Interpretation (Amendment) Act No 18 of 1972 of Sri Lanka.

Advice Sonali.

(12 Marks)

(b) Discuss the methods adopted by the Parliament to restrict the judicial review of administrative actions. **(08 Marks)**

5. "All statutory powers have legal limits; "the real question is whether the discretion is wide or narrow, and where the legal line is to be drawn," and it is the judiciary that is entrusted with the responsibility of determining those questions. When it comes to powers and discretions conferred by the Constitution, it is the special responsibility of the Judiciary to uphold the Constitution by preventing excess or abuse by the Legislature or the Executive. Any exception to these principles must be clearly and expressly stated."

Premachandra vs. Major Montague Jayawickrema and another, 1994 (2) Sri L. R. 90.

Critically discuss the above statement in light of judicial control of discretionary power.

Your answer should be supported with relevant case law.

(20 Marks)

6. (a) Zimland Tea Board is a statutory body established under the Zimland Tea Estate Act 1990. The Act grants powers, inter alia, to regulate matters related to small-scale tea producers. As per section 8 of the Act, in the exercise of its powers relating to financial matters, levying charges and imposing fines, the board shall be subjected to specific directions of the minister in charge of the subject. Section 10 of the Act further states that any party who is dissatisfied with the decisions of the board may appeal to the Appeal Board within a period of one month of the decision of the tea board. The chairman of the Tea board has issued the following directives with effect from 1st January 2024.

(i) A 50% increase in the penalty for not packing tea in accordance with the standard specified by the Zimland Tea Board.

(ii) Any complaint should be made within fourteen days from the date of the decision of the Tea Board.

Herbal Tea, which is a limited liability company that has been engaged in exporting tea to various countries for about 50 years, wishes to challenge the validity of the directives of the Tea board.

Advise the company.

Your answer should be supported with relevant Administrative Law principles and decided cases. **(10 Marks)**

(b) Discuss the advantages and disadvantages of delegated legislation and evaluate its effectiveness in ensuring effective administration. **(10 Marks)**

7. "The technical limitations that have grown up around the prerogative remedies of mandamus, certiorari, and prohibition constitute a grave stumbling-block for an intending plaintiff desirous of seeking redress against the administration. They can, we believe, be largely avoided by a mere ready use of the action for a declaratory judgment."

G.J Borrie Advantages of Declaratory Judgement in Administrative Law

In light of the above statement critically evaluate the advantages of the declaratory orders as against the prerogative writs. **(20 Marks)**

8. Write short notes on any **two (02)** of the following.

(a) Rule against bias

(b) Discretionary nature of Writs

(c) Constitutional foundation of the judicial power

(10x2=20 Marks)