

ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය

මානව ශාස්ත්‍ර හා සමාජ විද්‍යා පීඨය

නීති අධ්‍යයන දෙපාර්තමේන්තුව

නීතිවේදී උපාධි පාඨමාලාව - VI වන මට්ටම

අවසාන පරීක්ෂණය 2022/2023

කම්කරු නීතිය LLU 6715/LWU 4323

කාලය : පැය තුන (03) යි



දිනය: 2024.03.22

වේලාව : පෙ.ව 9.30 -ප.ව 12.30

මුළු ප්‍රශ්න ගණන - අටයි (08)

ප්‍රශ්න පහකට (05) පමණක් පිළිතුරු සපයන්න.

අපැහැදිලි අත් අකුරු සඳහා ලකුණු අඩුකරනු ලැබේ.

1. “සේවයෝජක-සේවක සබඳතාවයේ ඇති අසමාන බල තුලනය හේතුවෙන්, බොහෝ විට අවාසි සහගත තත්ත්වයකට පත්වන්නේ සේවකයා ය, සේවයෝජකයෝ ගිවිසුම් හරහා සේවකයාගේ තත්ත්වය ස්ථායීතාව ගිවිසුම්කරුවන් ලෙස විස්තර කිරීම තුළින්, තම තනතුර හරහා දැරීමට බැඳී සිටින සියලු වගකීමවලින් නිදහස් වීමට උත්සාහ කරති.”

සේවා ගිවිසුමක් (contract of service) සේවය සඳහා වන ගිවිසුමකින් (contract for service) වෙන්කොට දක්වන පරීක්ෂණයන් පිළිබඳව විශේෂ අවධානයක් යොමු කරමින් ඉහත ප්‍රකාශය අගයන්න.

ඔබේ පිළිතුර අදාළ පරීක්ෂණ සහ විනිශ්චිත නඩුකිරණ ඇසුරෙන් සනාථ කළ යුතුය.

(ලකුණු 20)

2. (අ) Tech Solution Pvt. Ltd විසින් දුලානිව මාස හයක පරිවාස කාලයකට යටත්ව කනිෂ්ඨ මෘදුකාංග ඉංජිනේරුවරියක් ලෙස බඳවා ගන්නා ලදී. ඇයගේ වැඩ පිළිබඳව උසස් නිලධාරීන් සැහීමකට පත්ව සිටියහ. පත්වීමෙන් මාස තුනකට පසුව Tech Solution Pvt. Ltd හි කළමනාකාරිත්වය විසින් කිසිදු හේතුවක් නොදන්වා දුලානිව සේවයෙන් පහකරන ලදී. මෙම සේවයෙන් පහකිරීමට එරෙහිව සහනයක් ලබාගැනීමට දුලානි අපේක්ෂා කරයි. දුලානිට උපදෙස් දෙන්න.

(ලකුණු 10)

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME – LEVEL VI
FINAL EXAMINATION 2022/2023
LABOUR LAW –LLU6715/LWU4323
DURATION – 03 HOURS



Date: 2024.03.22

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

Total number of questions – 08

Answer FIVE (5) questions only.

Candidates will be penalized for illegible handwriting.

1. “Due to the unequal balance of power in the employer-employee relationship, it is often the employee who is placed at a disadvantageous position, the employers attempting to absolve themselves of all responsibilities they are obliged to bear in that position, through contracts describing the position of employees as independent contractors.”

Comment on the above statement with special reference to the tests that differentiate a contract of service from a contract for service. Your answer should be supported with relevant tests and decided cases.

(20 Marks)

2.

- (a) Tech Solution Pvt. Ltd recruited Dulani as a junior software engineer subject to a six-month probationary period. Her superiors were satisfied with her work. Three months after the appointment, the management of the Tech Solution Pvt. Ltd has terminated the services of Dulani without informing any reason. Dulani wishes to seek relief against the termination of her services.

Advise Dulani.

(10 Marks)

(ආ) සන් ෂයින් බීච් හෝටලයේ (Sunshine Beach Hotel) සේවකයින් දොළොස් දෙනෙක් සේවය කරති. සංචාරකයින්ගේ වැඩිවන ඉල්ලුම සපුරාලීම සඳහා හෝටලය, නුවන්ව සංචාරක මාර්ගෝපදේශකයෙකු වශයෙන් සේවයේ යොදවයි. නුවන් අවුරුදු පහක් අඛණ්ඩව හෝටලය සමග වැඩකර ඇත්තේය. ඔහු සතියකට දින 5-6 හෝටලයේ වැඩ කරනු ලබයි. ඔහු සතියේ වැඩ කරන දින ගණන අනුව සෑම සතියකම අවසානයේ ඔහුට වැටුප් ගෙවනු ලැබේ. හෝටලයෙන් නුවන්හට පත්වීම් ලිපියක් නිකුත් කර නැත. මෑතකදී හෝටලයේ මානව සම්පත් කළමනාකරු සඳහන් කළේ නුවන් අතීයම් සේවකයෙකු ලෙස සේවය කරන බවයි. නුවන්, තමන් රැකියාව සිදු කරනුයේ අතීයම් සේවකයෙකු වශයෙන් ද, එසේත් නොමැතිනම් ස්ථිර සේවකයෙකු වශයෙන්ද යන්න දැනගැනීමට අපේක්ෂා කරයි. නුවන්ට උපදෙස් දෙන්න.

(ලකුණු 10)

3. “යුක්ති සහගතභාවය සහ සාධාරණත්වය (just and equitable) යන වාක්‍ය බණ්ඩය නිශ්චිත නිර්වචනයකට යටත් වී නොමැති අතර අභියාචනාධිකරණ විසින් විවිධ අර්ථකථනවලට ලක්කර ඇත”

ඉහත ප්‍රකාශය සමඟ ඔබ එකඟ වන්නේද?

කාර්මික ආරවුල් පනතේ අදාළ විධිවිධාන සහ නඩු තීන්දු නීතියට විශේෂ අවධානයක් යොමු කරමින් ඔබගේ පිළිතුරට හේතු දක්වන්න.

(ලකුණු 20)

4. Brightside Electronics Pvt.Ltd විසින්, 2010 වසරේදී දී සිය ව්‍යාපාරය ආරම්භ කළ දා සිට සේවකයන් හතළිහක් සේවයේ යොදවයි. ගිණන් පසුගිය වසර අටක සිට Brightside Electronics Pvt. Ltd හි විකුණුම් කළමනාකරුවෙකු ලෙස සේවය කරයි. මෑතකදී Brightside Electronics සමාගම ආර්ථික අර්බුදය සහ වෙළඳපල තත්ත්වයන් වෙනස් වීම හේතුවෙන් සැලකිය යුතු ප්‍රතිව්‍යුහගත කිරීමක් නිවේදනය කළේය. මෙම ප්‍රතිව්‍යුහගතකරණයේ කොටසක් ලෙස සමාගමේ කළමනාකාරිත්වය විසින් පසුගිය වසරවල ඔහුගේ කාර්ය සාධනය සහ දායකත්වය ද නොසලකා ගිණන් ද ඇතුළු සේවකයින්ගෙන් කොටසක් අතිරික්ත සේවකයින් ලෙස ඉවත් කිරීමට තීරණය කර ඇත. මෙම පුවත ඇසීමෙන් කම්පනයට පත් වූ ගිණන්, මෙම සේවය අවසන් කිරීමට එරෙහිව ඇති ව්‍යවස්ථාපිත ආරක්ෂාව සහ ඔහුට ලබා ගත හැකි ප්‍රතිකර්ම පිළිබඳව ඔබෙන් නීති උපදෙස් පතයි. ගිණන්ට උපදෙස් දෙන්න.

(ලකුණු 20)

5. Global Manufacturing Company හි සේවකයින් දිගු සේවා කාලය, ප්‍රමාණවත් ආරක්ෂක පියවරයන් නොතිබීම සහ ප්‍රමාණවත් වැටුප් නොලැබීම ඇතුළු ඔවුන්ගේ සේවා කොන්දේසි පිළිබඳව අතෘප්තිමත්ව ඇත., මෙම අයුක්තිසහගතභාවයන්ට ප්‍රතිචාර වශයෙන් සියලුම සේවකයින් සාමූහිකව තම අයිතිවාසිකම් ඉල්ලා සිටීම සඳහා Global Workers Union (GWU) නමින් වෘත්තීය සමිතියක් පිහිටුවීමට තීරණය කළහ.

සමාගමේ කළමනාකාරිත්වය GWU හි ඉල්ලීම් පිළිගැනීම ප්‍රතික්ෂේප කළ අතර වෘත්තීය සමිතිය සමඟ සාකච්ඡා කිරීම ද ප්‍රතික්ෂේප කළේය. එමෙන්ම කළමනාකාරිත්වය විසින් නිවේදනය කර

(b) Sun Shine Beach Hotel employs twelve workers. The Hotel employs Nuwan as a tour guide to meet the increased demand of tourists. Nuwan has been working with the hotel continuously for five years. He works in the Hotel 5-6 days a week. He is paid at the end of every week on the basis of the number of days he works during the week. The Hotel has not issued any letter of appointment. Recently, the Human Resource Manager of the Hotel mentioned that Nuwan works as a casual worker. Nuwan wishes to know whether he works as a casual worker or a permanent worker in the Hotel.

Advise Nuwan.

(10 Marks)

3. “The phrase ‘just and equitable’ has not lent itself to precise definition and has been subject to numerous interpretations by the Appellate Courts.”

Do you agree with the above statement?

Give reasons for your answer with special reference to relevant provisions of the Industrial Disputes Act and decided cases.

(20 Marks)

4. Brightside Electronics Pvt.Ltd employs forty employees since the commencement of its business in 2010. Gihan has been working as a sales manager at Brightside Electronics Pvt.Ltd for the past eight years. Recently the Company announced a significant restructuring due to economic crisis and changes in market conditions. As a part of this restructuring, the Company has decided to retrench some employees, including Gihan, without considering his performance and contribution to the business. Gihan had a shock to hear this news and he seeks your legal advice regarding statutory protection against termination of his employment and the remedies available to him.

Advise Gihan.

(20 Marks)

සිව්වේ සිය වාර්ෂික ප්‍රසාද දීමනාව ලබාදෙන්නේ වෘත්තීය සමිති සාමාජිකත්වයෙන් ඉවත් වූ සේවකයන්ට පමණක් බවයි. කළමනාකාරිත්වයේ තීරණයට තම අප්‍රසාදය දැක්වීම සඳහා, GWU විසින් වැඩවර්ජන ක්‍රියාමාර්ගයක් පැවැත්වීමට තීරණය කරන ලදී. වැඩ වර්ජන කිරීමේ අයිතිය කිසිදු කම්කරු ව්‍යවස්ථාවකින් පිළිගෙන නැති නිසා වැඩ වර්ජනය සඳහා සහභාගී වන සේවකයින්ට සිව්ල් සහ අපරාධමය නෛතික ක්‍රියාමාර්ග වලට මුහුණ දීමට සිදුවිය හැකි බවට කළමනාකාරිත්වය දැනුම් දුන්නේ.

වැඩවර්ජනය අතරතුර, GWU හි සාමාජිකයින් සමාගම් පරිශ්‍රයේ උද්ඝෝෂණයක සංවිධානය කර, දොරවල් සහ ගේට්ටු අවහිර කරමින්, සමාගමේ අධ්‍යක්ෂවරුන්ට පරිශ්‍රයට ඇතුළු වීම වළක්වන ලදී. මේ තත්වය උද්ඝෝෂකකරුවන් සහ ආරක්ෂක නිලධාරීන් අතර ගැටුමක් ඇති වීමට හේතු වූ අතර එහි ප්‍රතිඵලයක් ලෙස ආරක්ෂක නිලධාරීන් දෙදෙනෙකු තුවාල ලැබීය. මෙම සිදුවීමෙන් පසුව, සමාගමේ කළමනාකාරිත්වය විසින් වෘත්තීය සමිතිය මෙම ගැටුමට වගකිව යුතු බව දක්වන GWU හි සභාපති, ලේකම් සහ සියලුම නිලධාරී මණ්ඩලය සේවයෙන් පහ කරන ලදී.

ඉහත සිදුවීමෙහි නීතිමය ගැටලු හඳුනාගෙන අදාළ ව්‍යවස්ථාපිත ප්‍රතිපාදන සහ නඩු තීන්දු නීතිය ඇසුරින් අදාළ පාර්ශ්වයන්ට උපදෙස් ලබා දෙන්න.

(ලකුණු 20)

6. “ගෝලීයකරණය, තාක්ෂණික දියුණුව සහ සමාජ-ආර්ථික වෙනස්කම්වල ප්‍රතිඵලයක් ලෙස කාන්තා සේවිකාවන් මුහුණ දෙන කම්කරු ගැටලු සහ අභියෝග, ශ්‍රී ලංකාවේ පවතින නෛතික ව්‍යුහය තුළින් ප්‍රමාණවත් ලෙස ආමන්ත්‍රනය නොකෙරේ. එය විධිමත් හා අවිධිමත් යන දෙඅංශයේම රැකියා වල නියුතු කාන්තා සේවිකාවන්ට බලපායි.”

ශ්‍රී ලංකාවේ ආණ්ඩුක්‍රම ව්‍යවස්ථාමය සහ ව්‍යවස්ථාපිත විධිවිධාන ඇසුරින් ඉහත ප්‍රකාශය අගයන්න.

(ලකුණු 20)

7. මිනාරා යනු ඉන්දියන් සාගරයේ පිහිටි දූපත් රාජ්‍යයකි. මිනාරාහි කම්කරු අමාත්‍යවරයා රැකියා නියුක්තියේ සමාජ ආරක්ෂණය (Social Security) හා සම්බන්ධව පවතින කම්කරු ව්‍යවස්ථාවන්හි ප්‍රමාණවත් බාවය තක්සේරු කිරීමට අදහස් කරයි. මෙම කම්කරු ව්‍යවස්ථාවන් ඇගයීම සඳහා අමාත්‍යවරයා විසින් කමිටුවක් පත් කර ඇත. ඔබ එම කමිටුවේ සාමාජිකයෙක් යැයි සිතන්න. පාරිතෝෂික ගෙවීමේ පනත පදනම් කරගෙන වාර්තාවක් සකස් කරන ලෙස කමිටුව ඔබෙන් ඉල්ලා සිටී. පනතේ කැපී පෙනෙන ලක්ෂණ, එහි අරමුණු සාක්ෂාත් කර ගැනීම සඳහා පනතේ විධිවිධානවල අදාළත්වය සහ නීති ප්‍රතිසංස්කරණ සඳහා වන නිර්දේශ වාර්තාවට ඇතුළත් කිරීම ඔබගෙන් අපේක්ෂා කරයි.

මිනාරාහි නීති පද්ධතිය ලංකාවේ නීති පද්ධතියට සමානයයි සලකන්න.

වාර්තාව සකස් කරන්න.

(ලකුණු 20)

5. The employees of Global Manufacturing Company are dissatisfied with their working conditions, including long working hours, inadequate safety measures, and insufficient wages. In response to these grievances, all the workers have formed a trade union, known as the Global Workers Union (GWU) to demand their rights collectively.

The management of the company refused to accept the demands of the GWU and declined to bargain with the union. The management announced that the annual bonus will be given only to the workers who withdraw their membership from the trade union. In order to show their displeasure to the management's decision, the GWU decided to hold a strike action. The management informed that the workers who participate in the strike action will have to face civil and criminal legal actions as right to strike is not recognized by any labour statute.

During the strike, members of the GWU organized a picket in the company premises, blocking the doors and gates, preventing the Company Directors from entering the premises. This led to a confrontation between picketers and security officers and as a result, two security officers sustained injuries. Following this incident, the Company terminated the services of the President, Secretary, and all office bearers of the GWU as the trade union was responsible for the confrontation.

Identify the legal issues in the above situation and advise the relevant parties with reference to relevant statutory provisions and case law.

(20 Marks)

6. "The existing legal regime of Sri Lanka does not adequately address the labour issues and challenges faced by women workers as a result of globalization, technological advancement and socio-economic changes. It affects the women workers in both formal and informal sector employments"

Assess the above statement in the light of Constitutional and statutory provisions in Sri Lanka.

(20 marks)

8. පහත මාතෘකාවලට අදාළ නීතිමය කරුණු පැහැදිලි කරන්න:

- (i) සාමූහික ගිවිසුම.(Collective agreement)
- (ii) ශ්‍රී ලංකාවේ ළමුන් රැකියාවල යෙදවීමට සම්බන්ධ නීතිය.

(ලකුණු 10x2= 20)

සියළුම හිමිකම් ඇවිරිණි

7. Minara is an island state in the Indian Ocean. Minister of Labour in Minara intends to assess the adequacy of existing labour statutes relating to social security in employment. The Minister has appointed a committee to evaluate the labour statutes. Assume that you are a member of the Committee. The Committee has requested you to prepare a report based on the Payment of Gratuity Act. You are expected to include the salient features of the Act, the relevance of the provisions of the Act to achieve its objectives, and recommendations for law reform in the report.

The legal system of Minara is similar to the legal system of Sri Lanka.

Write the report.

(20 Marks)

8. Explain the legal aspects relating to the following:

- (i) Collective agreement
- (ii) Law relating to employment of children in Sri Lanka

(10x2= 20 Marks)

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இலங்கை திறந்த பல்கலைக்கழகம்

மானுடவியல் மற்றும் சமூக விஞ்ஞானங்கள் பீடம்

சட்டக் கற்கைகள் திணைக்களம்

இளங்கலை சட்டமாணி பட்டப்படிப்பு திட்டம்- மட்டம் VI

இறுதிப் பரீட்சை – 2022/2023

LLU6715/LWU4323 –தொழிற் சட்டம்

காலம் - மூன்று(03) மணித்தியாலங்கள்

திகதி: 22.03.2024

நேரம்: மு.ப.9.30 – பி.ப 12.30



255

மொத்த வினாக்களின் எண்ணிக்கை 08

ஐந்து(05) வினாக்களுக்கு மாத்திரம் விடையளிக்குக.

தெளிவற்ற கையெழுத்துக்கு பரீட்சாத்திகளுக்கு புள்ளிகள் குறைக்கப்படும்.

01. “தொழில் தருனர்- வேலையாள உறவின் சமமற்ற அதிகாரச் சமநிலை காரணமாக, பெரும்பாலும் வேலையாள ஒரு பாதகமான நிலையில் வைக்கப்படுகிறார், சுயாதீன ஒப்பந்தக்காரர்கள் என ஊழியர்களின் நிலையை விவரிக்கும் ஒப்பந்தங்களின் ஊடாக, தொழில் தருனர்கள்கள் அந்தப் பதவியில் தாங்கள் சுமக்கும் கடப்பாடுகளின் அனைத்துப் பொறுப்புக்களிலிருந்தும் தங்களை விடுவிக்க முயற்சிக்கின்றனர்.”

ஒரு சேவைக்கான ஒப்பந்தத்திலிருந்து, ஒரு சேவை ஒப்பந்தத்தை வேறுபடுத்தும் பரீட்சைகளுக்கு விசேட கவனம் செலுத்தி மேற்கரப்பட்ட கூற்றின் மீது கருத்துரைக்குக. உமது விடையானது, இயைபான பரீட்சைகள் மற்றும் தீர்க்கப்பட்ட வழக்குகளினால் ஆதாரப்படுத்தப்பட வேண்டும்

(20 புள்ளிகள்)

02. (அ)Tech Solution Pvt Ltd ஆனது துலானியை கனிஷ்ட மென்பொருள் பொறியியலாளராக, ஆறு மாத தகுதிகாண் காலத்திற்கென வேலைக்கு அமர்த்தியது. அவளது மேலதிகாரிகள் அவளது வேலையில் திருப்பதியடைந்தனர். நியமனம் மேற்கொள்ளப்பட்டு மூன்று மாதங்களிற்குப் பிறகு, Tech Solution Pvt Ltd இன் முகாமைத்துவமானது எந்தவித காரணத்தையும் தெரிவிக்காது துலானியின் சேவைகளை நிறுத்தியது. துலானி, அவளது சேவைகளினை முடிவுறுத்தியமைக்கு எதிராக நிவாரணம் பெற விரும்புகின்றாள். துலானிக்கு ஆலோசனை வழங்குக.

(10 புள்ளிகள்)

(ஆ). சன் ஷைன் பீட்ச் உணவகத்தில் பன்னிரெண்டு தொழிலாளர்கள் பணிபுரிகின்றனர். உணவகமானது சுற்றுலாப் பயணிகளின் அதிகரித்த கேள்வியைப் பூர்த்தி செய்வதற்காக நுவாணை சுற்றுலா வழிகாட்டியாக பணியமர்த்தியது. நுவான்

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME – LEVEL VI
FINAL EXAMINATION 2022/2023
LABOUR LAW – LLU6715/LWU4323
DURATION – 03 HOURS



Date: 2024.03.22

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

Total number of questions – 08

Answer FIVE (5) questions only.

Candidates will be penalized for illegible handwriting.

1. “Due to the unequal balance of power in the employer-employee relationship, it is often the employee who is placed at a disadvantageous position, the employers attempting to absolve themselves of all responsibilities they are obliged to bear in that position, through contracts describing the position of employees as independent contractors.”

Comment on the above statement with special reference to the tests that differentiate a contract of service from a contract for service. Your answer should be supported with relevant tests and decided cases.

(20 Marks)

2.

- (a) Tech Solution Pvt. Ltd recruited Dulani as a junior software engineer subject to a six-month probationary period. Her superiors were satisfied with her work. Three months after the appointment, the management of the Tech Solution Pvt. Ltd has terminated the services of Dulani without informing any reason. Dulani wishes to seek relief against the termination of her services.

Advise Dulani.

(10 Marks)

தொடர்ந்து 5 வருடங்களாக விடுதியில் வேலை செய்து வருகின்றார். அவர் விடுதியில் ஒரு வாரத்தில் 5-6 நாட்கள் வேலை செய்கின்றார். ஒவ்வொரு வார முடிவிலும் அவர் வேலை செய்யும் நாட்களின் எண்ணிக்கை அடிப்படையில் அவருக்கு ஊதியம் வழங்கப்பட்டது. உணவகமானது, எந்தவித நியமனக் கடிதத்தையும் அவருக்கு வழங்கியிருக்கவில்லை. சமீபத்தில், உணவகத்தின் மனிதவள முகாமையாளர் நுவான் சமயாசமய வேலையாளாக வேலை செய்கின்றார் எனக் குறிப்பிட்டார். நுவான் உணவகத்தின் சமயாசமய வேலையாளராகவா அல்லது நிரந்தர வேலையாளராகவா பணி புரிகின்றார் என்பதை அறிய விரும்புகின்றார்.

நுவானுக்கு ஆலோசனை வழங்குக.

(10 புள்ளிகள்)

03. “நியாயமானதும் மற்றும் ஒப்புரவானதும்” என்ற சொற்றொடர் துல்லியான வரைவிலக்கணத்தை தன்னகத்தே கொண்டிருக்கவில்லை அத்துடன் மேன்முறையீட்டு நீதிமன்றங்களால் பல பொருள்கோடல்களுக்கு உட்பட்டுள்ளது”

நீர் மேற்கரப்பட்ட கூற்றுடன் உடன்படுகின்றீரா? தொழிற் பிணக்குகள் சட்டத்தின் பொருத்தமான ஏற்பாடுகள் மற்றும் தீர்க்கப்பட்ட வழக்குகளின் விஷேடக் குறிப்புடன் உமது விடைக்கான காரணங்களைத் தருக.

(20 புள்ளிகள்)

04. Brightside Electronics Pvt Ltd ஆனது 2010 இல் அதன் வியாபாரத்தை தொடங்கியதில் இருந்து நாற்பது வேலையாட்களை பணிக்கு அமர்த்தியுள்ளது. கிஹான் கடந்த எட்டு வருடங்களாக Brightside Electronics Pvt Ltd இல் ஒரு விற்பனை முகாமையாளராக வேலை செய்கின்றார். சமீபத்தில் நிறுவனமானது பொருளாதார நெருக்கடி மற்றும் சந்தை நிலைமைகளின் மாற்றங்கள் காரணமாக ஒரு குறிப்பிடத்தக்க மறுசீரமைப்பினை அறிவித்தது. இந்த மறுசீரமைப்பின் ஒரு பகுதியாக, நிறுவனமானது கிஹானுடைய செயல்திறன் மற்றும் வியாபாரத்தில் அவரது பங்களிப்பினை கவனத்திற் கொள்ளாது, கிஹான் உள்ளடங்கலாக சில வேலையாட்களை ஆட்குறைப்பு செய்வதற்குத் தீர்மானித்தது. இந்தச் செய்தியைக் கேட்டு கிஹான் அதிர்ச்சியடைத்ததுடன் அவனது வேலை முடிவுறுத்தலுக்கு எதிரான நியதிச்சட்ட பாதுகாப்பு மற்றும் அவனுக்கு கிடைக்கப் பெறக் கூடிய நிவாரணங்கள் தொடர்பாக உமது சட்ட ஆலோசனையை நாடுகின்றான்.

கிஹானுக்கு ஆலோசனை வழங்குக.

(20 புள்ளிகள்)

05. Global Manufacturing நிறுவனத்தின் ஊழியர்கள் நீண்ட வேலை மணித்தியாலங்கள், போதுமற்ற பாதுகாப்பு நடவடிக்கைகள் மற்றும் சம்பளங்கள் போதாமை உள்ளடங்கலாக அவர்களது வேலை நிபந்தனைகள் தொடர்பில் அதிருப்தியடைந்திருந்தனர். இத்தகைய குறைகளுக்கு பதிலளிக்கும் வகையில்,

(b) Sun Shine Beach Hotel employs twelve workers. The Hotel employs Nuwan as a tour guide to meet the increased demand of tourists. Nuwan has been working with the hotel continuously for five years. He works in the Hotel 5-6 days a week. He is paid at the end of every week on the basis of the number of days he works during the week. The Hotel has not issued any letter of appointment. Recently, the Human Resource Manager of the Hotel mentioned that Nuwan works as a casual worker. Nuwan wishes to know whether he works as a casual worker or a permanent worker in the Hotel.

Advise Nuwan.

(10 Marks)

3. “The phrase ‘just and equitable’ has not lent itself to precise definition and has been subject to numerous interpretations by the Appellate Courts.”

Do you agree with the above statement?

Give reasons for your answer with special reference to relevant provisions of the Industrial Disputes Act and decided cases.

(20 Marks)

4. Brightside Electronics Pvt.Ltd employs forty employees since the commencement of its business in 2010. Gihan has been working as a sales manager at Brightside Electronics Pvt.Ltd for the past eight years. Recently the Company announced a significant restructuring due to economic crisis and changes in market conditions. As a part of this restructuring, the Company has decided to retrench some employees, including Gihan, without considering his performance and contribution to the business. Gihan had a shock to hear this news and he seeks your legal advice regarding statutory protection against termination of his employment and the remedies available to him.

Advise Gihan.

(20 Marks)

அனைத்து தொழிலாளர்களும் தங்களது உரிமைகளை கூட்டாக கோருவதற்கு Global Workers Union (GWU) என அறியப்படும் ஒரு தொழிற் சங்கத்தினை உருவாக்கினர்.

கம்பனியின் முகாமைத்துவமானது GWU இன் கோரிக்கைகளை ஏற்க மறுத்ததுடன், சங்கத்துடன் பேரம் பேசுவதற்கும் மறுத்தது. முகாமைத்துவமானது தொழிற் சங்கத்திலிருந்து அவர்களது உறுப்புரிமையை மீளப்பெறும் தொழிலாளர்களுக்கு மட்டுமே வருடாந்த ஊக்குவிப்புக் கொடுப்பனவு வழங்கப்படும் என அறிவித்தது. முகாமைத்துவத்தின் தீர்மானத்திற்கு தங்களது அதிருப்தியை காட்டும் முகமாக, GMU ஆனது ஒரு வேலை நிறுத்த நடவடிக்கையை நடத்தத் தீர்மானித்தது. முகாமைத்துவமானது, வேலை நிறுத்தம் செய்வதற்கான உரிமை எந்தவொரு தொழில் நியதிச்சட்டத்தினாலும் அங்கீகரிக்கப்படவில்லை எனவே, வேலை நிறுத்தப் போராட்டத்தில் பங்கெடுக்கும் தொழிலாளர்கள் குடியியல் மற்றும் குற்றவியல் சட்ட நடவடிக்கைகளுக்கு முகங்கொடுக்க வேண்டியிருக்கும் என்றும் தெரிவித்தது.

வேலைநிறுத்தப் போராட்டத்தின் போது, GWU இன் உறுப்பினர்கள் கம்பனி வளாகத்தில் ஒரு மறியல் போராட்டத்தை (picket) ஏற்பாடு செய்தனர், கதவுகள் மற்றும் வாயில்களை அடைத்து, கம்பனியின் இயக்குனர்கள் வளாகத்தில் நுழைவதிலிருந்தும் தடுத்தனர். இது மறியற்கார்களுக்கும், பாதுகாப்பு ஊழியர்களுக்குமிடையிலான ஒரு மோதலுக்கு இட்டுச் சென்றதுடன், இதன் விளைவாக, இரண்டு பாதுகாப்பு அதிகாரிகள் காயம் அடைந்தனர். இந்தச் சம்பவத்தைத் தொடர்ந்து, கம்பனியானது தொழிற் சங்கமே மோதலுக்கு பொறுப்புடையது என்ற அடிப்படையில், GWU இன் தலைவர், செயலாளர் மற்றும் அனைத்து அலுவலக பொறுப்பாளர்களையும் சேவையிலிருந்து நிறுத்தியது.

மேற்காரப்பட்ட சம்பவத்தின் சட்ட பிரச்சினைகளை இனங்கண்டு இயைபான நியதிச்சட்ட ஏற்பாடுகள் மற்றும் தீர்ப்புச் சட்டக் குறிப்புடன் தொடர்புபட்ட திறத்தவர்களுக்கு ஆலோசனை வழங்குக.

(20 புள்ளிகள்)

06. “இலங்கையின் தற்போதைய சட்ட வரம்பானது உலகமயமாக்கல், தொழிநுட்ப முன்னேற்றம் மற்றும் சமூகப் பொருளாதார மாற்றங்கள் ஆகியவற்றின் விளைவாக பெண் தொழிலாளர்களால் முகங்கொடுக்கப்படும் தொழிற் பிரச்சினைகள் மற்றும் சவால்களை போதுமானளவில் நிவர்த்திக்கவில்லை. இது முறைசார் மற்றும் முறைசாரா துறை வேலைவாய்ப்புக்கள் ஆகிய இரண்டிலும் பணிபுரியும் பெண் ஊழியர்களைப் பாதிக்கின்றது.”

இலங்கையின் அரசியலமைப்பு மற்றும் நியதிச் சட்ட ஏற்பாடுகள் ஆகியவற்றின் பின்னணியில் மேற்காரப்பட்ட கூற்றை மதிப்பிடுக.

(20 புள்ளிகள்)

07. மினாராவானது இந்தியப் சமுத்திரத்தில் உள்ள ஓர் தீவு ஆகும். மினாராவின் தொழில் அமைச்சர் வேலை வாய்ப்பில் சமூகப் பாதுகாப்பு தொடர்பான தற்போதைய தொழில்

5. The employees of Global Manufacturing Company are dissatisfied with their working conditions, including long working hours, inadequate safety measures, and insufficient wages. In response to these grievances, all the workers have formed a trade union, known as the Global Workers Union (GWU) to demand their rights collectively.

The management of the company refused to accept the demands of the GWU and declined to bargain with the union. The management announced that the annual bonus will be given only to the workers who withdraw their membership from the trade union. In order to show their displeasure to the management's decision, the GWU decided to hold a strike action. The management informed that the workers who participate in the strike action will have to face civil and criminal legal actions as right to strike is not recognized by any labour statute.

During the strike, members of the GWU organized a picket in the company premises, blocking the doors and gates, preventing the Company Directors from entering the premises. This led to a confrontation between picketers and security officers and as a result, two security officers sustained injuries. Following this incident, the Company terminated the services of the President, Secretary, and all office bearers of the GWU as the trade union was responsible for the confrontation.

Identify the legal issues in the above situation and advise the relevant parties with reference to relevant statutory provisions and case law.

(20 Marks)

6. "The existing legal regime of Sri Lanka does not adequately address the labour issues and challenges faced by women workers as a result of globalization, technological advancement and socio-economic changes. It affects the women workers in both formal and informal sector employments"

Assess the above statement in the light of Constitutional and statutory provisions in Sri Lanka.

(20 marks)

நியதிச் சட்டங்களின் போதிய தன்மையினை மதிப்பிட கருதுகின்றார். அமைச்சர் தொழில் நியதிச் சட்டங்களை மதிப்பிடுவதற்கு ஒரு குழுவினை நியமித்தார். நீர் குழுவின் ஒரு உறுப்பினர் எனக் கருதுக. குழுவானது பணிக்கொடை சட்டக் கொடுப்பனவினை அடிப்படையாகக் கொண்டு அறிக்கை ஒன்றினைத் தயாரிப்பதற்கு உம்மை வேண்டியுள்ளது. நீர் உமது அறிக்கையில் சட்டத்தின் முக்கிய அம்சங்கள், அதன் நோக்கங்களை எய்துவதற்கு சட்டப் ஏற்பாடுகளின் பொருத்தப்பாடு மற்றும் சட்ட சீர்திருத்தத்திற்கான பரிந்துரைகள் என்பவற்றை உள்ளடக்குமாறு எதிர்பார்க்கப்படுகின்றீர்.

மினாராவின் சட்ட முறைமையானது இலங்கையின் சட்ட முறைமையினை ஒத்தது. அறிக்கையினை வரைக.

(20 புள்ளிகள்)

08. பின்வருவன தொடர்பான சட்ட அம்சங்களினை விளக்குக.

(அ). கூட்டு உடன்படிக்கை

(ஆ). இலங்கையில் சிறுவர்களை வேலைக்கு அமர்த்துவது தொடர்பான சட்டம்

(10x 2 = 20 புள்ளிகள்)

-பதிப்புரிமை பெற்றது-

7. Minara is an island state in the Indian Ocean. Minister of Labour in Minara intends to assess the adequacy of existing labour statutes relating to social security in employment. The Minister has appointed a committee to evaluate the labour statutes. Assume that you are a member of the Committee. The Committee has requested you to prepare a report based on the Payment of Gratuity Act. You are expected to include the salient features of the Act, the relevance of the provisions of the Act to achieve its objectives, and recommendations for law reform in the report.

The legal system of Minara is similar to the legal system of Sri Lanka.

Write the report.

(20 Marks)

8. Explain the legal aspects relating to the following:

- (i) Collective agreement
- (ii) Law relating to employment of children in Sri Lanka

(10x2= 20 Marks)

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