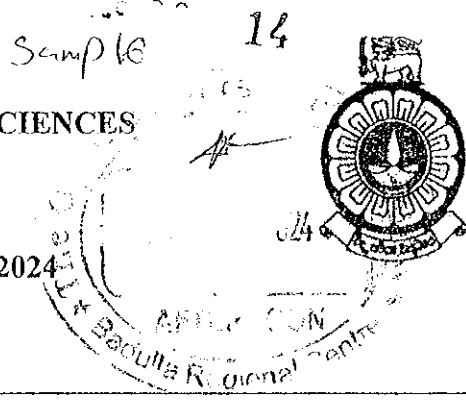


THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL.B DEGREE PROGRAMME – LEVEL VI
CONTINUOUS ASSESSMENT TEST 1 - 2023/2024
LABOUR LAW – LLU6715/LWU4323
DURATION – 01 HOURS



Date: 08.11.2024

Time: 3.30pm -4.30pm

Total number of questions – 02

Answer ONE (01) question only.

Candidates will be penalized for illegible handwriting.

1. Rajith works as a research officer at the regional office of a well-known agro-chemical company in Sri Lanka. His responsibilities include conducting field visits three days a week, to meet farmers and promote the company's products. During these field visits, Rajith must wear a company-branded t-shirt but does not require to sign an attendance register. He uses his own motorbike for travel. Additionally, Rajith regularly communicates with local chemical sales agents and updates the head office on his progress. For the remaining two days of the week, Rajith reports to the regional office in Polonnaruwa to provide updates on his fieldwork and promotional activities. His salary is paid by the head office in Colombo, and he also earns a commission on the chemicals he sells to farmers.

Recently, the company terminated Rajith's services. When Rajith requested compensation for his termination, the company refused, stating that he was not an employee but rather an independent contractor.

Discuss whether Rajith's employment relationship with the company constitutes a contract of service or a contract for service.

Your answer should be based on relevant legal authorities.

(20 Marks)

2. "Our Courts have laid down the principle that relief would be granted to probationer in respect of the termination of his services only if the employer had acted *mala fide*. Thus, the ground of termination will be examined solely for the limited purpose of ascertaining whether the element of *mala fide* exists."

S. Egalahewa, A General Guide to Sri Lanka Labour Law, 2018 at p.96

Does the above statement accurately reflect the current legal position of probationary employment in Sri Lanka? Give reasons to your answer with relevant legal authorities.

(20 Marks)