

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
POST GRADUATE DIPLOMA IN LAW (CONCILIATION AND
ARBITRATION)
LAW7014: LABOUR ARBITRATION THEORY
FINAL EXAMINATION

JUNE 2023

MARKS 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer ANY **FOUR (4)** Questions

QUESTION 1

It has been argued that conciliation and arbitration processes are not supposed to be a repeat of the workplace disciplinary hearing. However, it seems there is no other way of resolving the dispute except by going through the whole process again. This seems to render the workplace disciplinary codes and processes useless.

- a) Which types of disputes can be resolved by arbitration? **10 Mark**

- b) Explain the difference between resolving a dispute of right and a dispute of interest by arbitration. **10 Marks**

- c) Has the law made provisions for subpoena of witnesses? If not how can the evidence that was presented in the disciplinary be gathered if the witnesses are not interested anymore to give evidence in the DDPR?

5 Marks

[25 MARKS]

QUESTION 2

Critically discuss the functions of Arbitration.

[25 MARKS]

QUESTION 3

Discuss the requirements for a fair arbitration.

[25 MARKS]

QUESTION 4

- a) Discuss the key features of an arbitration award. **15 Marks**
- b) What are the significant features of the Public Service dispute resolution system in Lesotho? **10 Marks**

[25 MARKS]

QUESTION 5

The employees of Maburu Supermarket were informed that due to COVID-19 lockdowns, the company had lost a lot of profits and they were therefore retrenched. The process that was followed was to pick those that were referred to as “troublesome” and lazy. The employer also informed them that he would retain the services of all the expatriates working in the supermarket as he felt it is easier to work with them as they speak the same language with him.

Four of the dismissed employees have referred a dispute to the DDPR. They are alleging that the employer discriminated them and he did not follow the correct procedure of retrenchments.

- a) Discuss the process of terminating an employment contract on the grounds of operational requirements. **15 Marks**
- b) Discuss the process that would be used to resolve the dispute. **10 Marks**

[25 MARKS]

QUESTION 6

Explain the six stages of the arbitration process.

[25 MARKS]