



(University of Choice)

**MASINDEMULIROUNIVERSITY OF
SCIENCE AND TECHNOLOGY
(MMUST)**

**UNIVERSITY SPECIAL/SUPPLEMENTARY EXAMINATIONS
2021/2022 ACADEMIC YEAR**

**THIRD YEAR SECOND SEMESTER EXAMINATIONS
FOR THE DEGREE
BACHELOR OF COMMERCE**

COURSE CODE: BCB 337

COURSE TITLE: LABOUR LAW

DATE: THURSDAY, 4TH AUGUST 2022 TIME: 8:00 – 10:00AM

INSTRUCTIONS TO CANDIDATES

Question ONE (1) is compulsory
Answer Question ONE and any other TWO questions
TIME: 2 Hours

MMUST observes ZERO tolerance to examination cheating

This Paper Consists of 2 Printed Pages. Please Turn Over.

QUESTION ONE(40 marks)

Read the text below and answer the questions that follow:

NAIVASHA FLOWER FIRM COUNT LOSSES AS WORKERS STRIKE OVER PAY

By Anthony Gitonga

NAIVASHA, KENYA: Operations in two flower farms in Naivasha have been paralysed for the last three days after over 2,000 workers went on strike protesting low wages and poor working conditions. The management of Gorge farm and Delmare Pivot, which are owned by Veg Pro Kenya Limited, are counting losses running into millions of shillings following the industrial unrest.

The workers from Gorge farm engaged police in running battles along Moi South Lake road on Monday morning before marching to the Labour offices in Naivasha seeking an audience with the government officers. According to the Kenya Export Floriculture, Horticulture and Allied Workers Union (KEFHA), the farm had failed to honour a Collective Bargaining Agreement (CBA) that sought to improve terms and conditions of the workers. The union Industrial relations officer Issa Wafula said workers in the vegetable section were earning Sh4, 500 per month compared to Sh7,800 for those in the flower department. "The workers are further subjected to other hidden deductions and at times they go home with less than Sh1, 000 at the end of the month," he said.

The union national organising Secretary James Okeyo said that they had tried to engage the farm on several occasions over the workers grievances but to no avail.

Addressing striking workers, Naivasha assistant sub-county commissioner Sylvia Ocholla said that all parties had been summoned for a meeting on Wednesday to resolve the issue. "We shall meet the farm management, workers representative and labour officers so that we can get a solution to this strike which has affected tens of workers," she said.

Efforts to get a comment from the farm management were fruitless as they were locked in a crisis meeting.

Source: *Standard Newspaper, June 10th 2019*

Required:

The Management of the affected flower farms is seeking a way of resolving the impasse. They have sought your advice as an expert in labour law.

- a. One of the complaints of the workers is that there are hidden deductions resulting in workers earning Ksh.1000 per month. Advise the management on other legal provisions regarding protecting wages that they should be keen on to avoid industrial action in future. (10 marks)
- b. The workers engaged police in running battles with the police saying that their strike was unlawful. Educate the management on the conditions to be met by a trade union for a strike to be lawful (10 Marks)
- c. It has been rumoured that the flower farm management is contemplating terminating the employment contracts of the trade union leaders for **gross misconduct** for calling for the

strike but is unsure if its action will be lawful. Advise the management on instances when such termination is allowed (10 marks)

QUESTION TWO

- a. 'Students undertaking Human Resource Management study labour law to make them conversant with legal requirements so that they can treat employees equitably. These laws emanate from different sources. Discuss (10 marks).
- b. Discuss the various forms of employment contracts legally allowed in Kenya (10 marks)

QUESTION THREE

The Kenya Hotel Workers Union has been at loggerheads with the Hotel owners concerning the registration of their recently concluded Collective Bargaining Agreement. They have moved to the Employment and Labour Relations Court (ELRC) to have it registered.

- a) Explain some of the issues that are addressed in the collective bargaining agreements (10 marks)
- b) Discuss some of the issues that will be considered by the Registrar of the ELR court before deciding whether to register the CBA. regarding their Collective agreement. (10 marks)

QUESTION FOUR

- a. 'Human Resource Managers are to ensure the Occupational Safety and Health Act,2007 is adhered to in a workplace. Discuss the provisions of this Act that relate to employee obligations regarding safety at work (10 marks)
- b. Critically analyse legal circumstances under which summary dismissal of employee may be allowed(10 marks)

QUESTION FIVE

- a. Critically examine circumstances when discrimination in employment may be considered unlawful(10 marks)
- b. There are various issues that are meant to be contained in an employment contract as per the Employment Act for such a contract to be legal. Discuss(10 marks)

END

