



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW, DEPARTMENT OF COMMERCIAL LAW
Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja
2020_1 EXAMINATION

COURSE CODE: CLL 232

COURSE TITLE LABOUR LAW – II

CREDIT UNITS: 4

INSTRUCTIONS: (a) Indicate your Matriculation Number clearly
(b) Attempt Question one (1) and any other three (3) questions
(c) Question one (1) is compulsory and carries 25 marks; while the other questions carry 15 marks each.
(d) Using appropriate statutory and judicial authorities, present all your points in a straightforward, coherent and orderly manner.

TIME 3 Hours

ALLOWED:

Question 1

- (a) Comrade Gentless is the chairman of the Association of Railway Workers of Nigeria, a trade union the membership consisted of workers in the country's beleaguered railway industry. Apart from the external challenges of funding and decrepit and outmoded infrastructure, internal wrangling has not allowed the workers to forge a common front to confront the government and press for improved conditions of their employment. Just recently, the Comrade chairman suspended and ultimately expelled Chief Simmonds. His grouse was that Chief Simmonds, his childhood friend, failed to honour his birthday bash at Dubai International Hotel in the United Arab Emirates. Chief Simmonds protested his expulsion as being against the spirit and letter of the Union's rule book which vested the NEC of the Union with the power to expulse a member. Please advise Chief. (10 marks)
- (b) The principle of esprit de corps appears to be embedded within the hierarchical organisation of trade unions. This may have informed the express provision normally found in trade union rules that prohibit or limit the right of a member to sue the union in order to ventilate the grievance of the union member. Nevertheless, it may be argued that the principle that in every general rule is found an exception operates here. Do you think derogation from this hallowed rule is permitted? (10 marks)
- (c) In *UBN LTd v Edet* (1993) 4 NWLR (Pt 287) 288 the Court held that it is not for an individual employee to ground a course of action on term contained in a collective agreement between his employer and his trade union. Disturbed by this reality, the executives of National Association of Banks, Insurance and Associated Employees of Nigeria consulted you for advice on how to successfully incorporate the terms recently concluded with the employers and reduced into a collective agreement. (5 marks)

Question 2

Read and attempt the following questions. Please be precise and clear in your answers.

- (a) Do you think or believe that the defect in section 20(3) Trade Disputes Act was cured by the relevant section of the National Industrial Court Act concerning appeals? (3 marks)
- (b) The 1999 Constitution (as amended) made provisions on the National Industrial Court. Compare the provision of the Constitution on appeals from the decision the Court and the provision of the National Industrial Court Act on the same subject. (8 marks)
- (c) Do you think the provision limiting or restricting the right of parties to appeal against the decision of the Court can *stand if tested in the courts*? (4 marks)

Question 3

- (a) Extrapolate Foss v Harbottle (1845) 2 Hare 461 to the province of Labour Law. (10 marks)
- (b) An agreement as to compensation would be negated in the case of an illiterate workman save certain conditions are present. Name the conditions. (5 marks)

Question 4

- (a) The legislative regime of the Industrial Training Fund is one that is complete in all its image. To this extent, it bears benefits and burdens, both of which are vigorously enforced by the Fund.
 - i) What are the bases for imposition of penalty under the Industrial Training Fund Act? (2 marks)
 - ii) What is the regime of penalty under the Industrial Training Fund Act? (5 marks)
 - iii) If action is commenced for a recovery under the ITF Act, what are the heads of claim? (3 marks)
- (b) What is the crux or philosophy behind the enactment of section 254D of the Constitution of the Federal Republic of Nigeria 1999 (as amended) relating to the powers of the National Industrial Court? (5 marks)

Question 5

Write short notes on the following:

- (a) The operational structure of the National Industrial Court (7 marks)
- (b) The procedure for undergoing the Student Industrial Work Experience Scheme (8 marks)

Question 6

- (a) The rule of vicarious liability can be a double-edged sword. It has helped to restrain persons in situations where they would have loved to disown liability; while it has likewise exculpated others in situations where, for no fault of theirs, they found themselves potentially exposed to liability which their present station in life cannot muster. Discuss the operation of the principle of law in relation to an employer as against the independent contractor engaged by the former (10 marks)
- (b) Discuss the extent of application of the tort defence of *volenti non fit injuria* in Labour Law. (5 marks)