



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

**2021\_2 EXAMINATION**

**COURSE CODE:** CLL231

**COURSE TITLE** LABOUR LAW – I

**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 ALLOWED:** 2.5 Hours

**QUESTION 1**

The employment relationship has always a beginning. Its end is not sure. However, this cannot be as straightforward as the parties would wish to determine or express from the beginning of the relationship. No matter how it begins or ends, we are reminded that “to understand the scope of labour law, one has to look at the likely and probable legal consequences which may follow it” where a party thereof elects to go against the understandings which bind the parties to the relationship. This means the law is not silent.

- (a) Differentiate between “termination” and “dismissal”. (4 marks)
- (b) Usually notice is served to terminate an employment contract or payment is made in lieu. How is payment in lieu calculated according to the Labour Act? (4 marks)
- (c) List the four indicia by which the test of control is reckoned in a contract of service. (8 marks)
- (d) Using judicial authorities, state the position of the law respecting the employer’s right of dismissal in cases of employee disobedience. (5 marks)
- (e) List three likely ways by which contracts of employment can be created by the parties (4 marks)

**QUESTION 2**

It is common to hear or read that an appellate court will not interfere or meddle in a matter in such a way that it will throw up an impression that the winning or successful litigant is being deprived unduly of the fruits of the judgment which he had obtained at the lower court. (*Utilgas v Pan African Bank* (1974) 10 SC 105). The thinking can be extended to employment relations, to the extent that the servant must not in any way be deprived of the fruits of his labour in respect of the days he had worked.

- (a) What is the position of the Labour Act in relation to the mode of payment of wages? (6 marks)
- (b) The case of *Jirgbagh v UBN Plc* (2000) FWLR (Pt 26) 1790, discussed the exceptions to the general rule that an employer can summarily and justifiably dismiss an employee without following any procedure. Outline and discuss the exceptions? (9 marks)

**QUESTION 3**

An employment relationship can be brought to an end by either at any time and the party may not adduce any reason. This is founded on the wisdom that “a willing employee cannot be forced on or enforced upon, an unwilling employer.” International best practices in labour relations frown at this attitude and encourage that termination must be coupled with cause. Bearing this in mind, discuss the following legal situations:

- (a) The term “restitutio in integrum” in the context of labour law. (5 marks)
- (b) The cases in which a termination can amount to wrongful dismissal (6 marks)
- (c) Four instances the court may grant the order of specific performance of an employment contract. (4 marks)

#### QUESTION 4

Miss Jennifer just secured employment with Crisp Innovations Limited, an IT and Business Systems company. She needed to settle down and so made frantic efforts to raise money to secure a decent accommodation and to buy some wears. Sadly, her best efforts did not pay off as many of her acquaintances complained of lull in business due to the Chinese coronavirus pandemic. As a last resort, she approached her boss for an advance of six months' salaries. She entered into an agreement which stated that she would repay the entire advance within two months at 2% interest per annum. Advise her on the following legal questions:

- (a) Her boss, Chief SoroSoke, told her to meet him at Shoprite at the end of every month to collect her salary and that he would use the opportunity to do some shopping for her. (4 marks)
- (b) What would you advise her in relation to the six months' salary advance and the time within which she is expected to repay the advance? (8 marks)
- (c) Is it legally sustainable for the employer to her to pay 2% interest on the salary advance?

#### QUESTION 5

- (a) Arc. Sharubutu works with Green Projects Consortium, a firm of architects and project managers. Only two months ago, he applied and was given one month's salary, which he is supposed to repay within five months. While on the way to the office, he received the sad news of the passing away of his great grandfather. To help towards the plan for a mega ceremony has applied for one month's salary advance. Meanwhile he has two months' installment to pay on the previous salary advance. If you are his employer, what would be your action on the application? (10 marks)
- (b) What are the exceptions to the requirement of medical examination of a worker? (5 marks)

#### QUESTION 6

- (a) Write a short note on "prerogative remedies" (10 marks)
- (b) Based on the characterisation of master-servant relationship in the case of *Nigeria Airways v Gbajumo* (1992) 5 NWLR 2164, what conclusion can you draw from it as far as the "basic distinctive features of an employment contract" are concerned? (5 marks)