

UNIVERSITY OF FORTHARE  
NELSON R. MANDELA SCHOOL OF LAW  
EAST LONDON  
COLLECTIVE LABOUR LAW AND EMPLOYMENT EQUITY  
LEL 321 E

SUPPLEMENTARY EXAMINATIONS

January/February 2020

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Time: 3hrs

Subject: Collective Labour Law and Employment Equity

Marks: 100

This paper consists of 2 pages including the cover page

Internal Examiners

External Examiner

Mr N Ndlovu

Adv Vuyo Booysen

Instructions

- This paper consists of 4 questions
- Answer all questions
- It is in your best interest to write neatly

1) a) Briefly explain how the LRA protects the rights of employees, trade unions and employer's organisations (15)

b) Give an exposition on the nature of the following dispute resolution processes: (10)

Conciliation

Arbitration

Con arb

Adjudication by the Labour court

2) Discuss the legal ramifications of protected and unprotected strikes respectively in terms of sections 67 and 68 of the Labour Relations Act. (25).

3) Give a broad outline of the structures created by the Act for collective bargaining, worker participation and resolution of disputes. (25).

4) In comparison with other job applicants Mandla is clearly the best qualified and experienced candidate for the job. However, he is not appointed because of his HIV status as he was HIV positive. Furthermore Mandla is on good diet and thus has surprisingly gained massive weight and has obesity. The recruitment officer informs him that the company does not have a place first for a 200 kg HIV positive freak. Can Mandla challenge his non appointment on the basis of unfair discrimination against obese people? If so, how will a claim of unfair discrimination based on obesity rather than on race or gender influence legal proceedings? Assume Mandla was only HIV positive and having normal weight, will a claim for unfair discrimination based on his status succeed? Assume further that that Mandla applied for a position as a flight attendant with SA Express. He was not appointed because the employer argued that it was an inherent requirement of the job that flight attendants are small and thin in order to fit into the small cabin of the aero planes. Will Mandla succeed in his claim of unfair discrimination? (25)