



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF _____ APRIL/MAY _____ 2000

CODE AND NAME OF COURSE: LA27A - ADMINISTRATIVE LAW

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE** questions

Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise

1. Judicial review is completely out of hand. It provides an excuse for judges to scrutinise the decisions of bodies, whether *de jure* or *de facto*, and to interfere with the machinery of government and administration, under the umbrella of protecting the citizen.

Discuss.

2. Workers at the Agricultural Development Company (ADC), a statutory company established in the state of Greenland, a Commonwealth Caribbean territory, mount a day's protest in the compound of the company's headquarters. During the protest, Sam obstructs the Managing Director of ADC from entering his office. He is charged administratively with misconduct. He is made to appear before a panel to try the charge. Sam is allowed to appear in person at the hearing, but is refused legal representation on the ground that the hearing must be dealt with swiftly. Sam is permitted to call one witness in his defence, but two of his witnesses are refused the opportunity to appear. He is also denied the right to cross-examine two witnesses who give evidence against him. The chairman of the panel gives Sam a summary of a copy of additional allegations made against him but refuses to allow him to see the full statement. That statement, in fact, contains allegations which are more serious than the one with which he is originally charged. Sam is surprised by the content of the allegations which appear to be more extensive than those appearing in the statement of charges given to him prior to the hearing. The Managing Director is allowed to remain present with the panel during its deliberations. There is no evidence that the Managing Director takes part in the deliberations of the panel except that he keeps staring at the chairman of the panel. A decision is taken to dismiss Sam from his employment on the grounds that the charges are proven.

Advise Sam as to any redress which he may have.

PLEASE TURN OVER

3. There is no reason in logic or in principle why legitimate expectation should not protect substantive interests.

Discuss

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4. The Liquor Licensing Board (LLB) of Wonderland decides to reject the application of Tom for a liquor licence. In so doing, the Board is influenced by the following factors:

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- (a) Tom's conviction on five previous occasions for offences in connection with the previous liquor licence held by him;
 - (b) the location of Tom's liquor house in a remote area of the parish of 'Nowhere';
 - (c) the desire of the LLB to punish Tom for continually being a vocal opponent of the Chairman of the LLB;
 - (d) the fact that the parish of 'Nowhere' already has a sufficient number of liquor houses;
 - (e) an instruction from the Minister of Trade directing the Board to refuse Tom a licence; and
 - (f) a determination on its part to raise revenue for the exchequer by imposing a tariff of \$500 on each application for a liquor licence submitted to the Board.

S. 4 of the Liquor Licence Act, 1999 provides that the LLB shall decide on liquor licence applications, as it deems fit.

Advise Sam who wishes to challenge the decision of the Board.

5. Hope's firearm licence is withdrawn by the Commissioner of Police (COP) of Blackacre, a Commonwealth Caribbean country, with legislation similar to that of Barbados. The COP is given very wide and extensive discretionary powers to withdraw, grant, and refuse firearms' licenses. Hope makes several attempts to find out the basis of the Commissioner's decision but is rebuffed on each occasion. The Commissioner says that he is under no legal duty to offer an explanation.

- Reason Act
- (a) Advise Hope who wishes to challenge the Commissioner's decision.
 - (b) Would your answer be different if these events occurred in a Commonwealth Caribbean State or jurisdiction outside of Barbados and St. Lucia?

PLEASE TURN OVER

6. Sello has been employed in the Civil Service for 20 years. In February this year, he was dismissed from the Public Service on a disciplinary charge upon the recommendation of the Public Service Commission. He was not granted a hearing before the Service Commission. He appealed to the Board of Appeal of the Service Commission but his appeal was dismissed.

Sello believes that he was wronged and now intends to take out a writ of summons to bring an action to address his wrong.

Meanwhile, Sello's friend, Mani, inspired by Sello's litigation, decides to sue the Water Authority for their decision to increase rates.

Advise Sello and Mani, focussing on the claims and remedies available to them.

END OF PAPER