



**NAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMERCE, HUMAN SCIENCES AND EDUCATION
DEPARTMENT OF GOVERNANCE**

QUALIFICATION: BACHELOR OF HUMAN RESOURCES MANAGEMENT	
QUALIFICATION CODE: 07BHRM	LEVEL: 7
COURSE CODE: IRL712S	COURSE NAME: INDUSTRIAL RELATIONS
SESSION: November 2022	PAPER: THEORY
DURATION: 3 HOURS	MARKS: 100

FIRST OPPORTUNITY EXAMINATION QUESTION PAPER	
EXAMINER(S)	Mr Elias Kandjinga
MODERATOR:	Dr F. Musukubili

INSTRUCTIONS
<ol style="list-style-type: none">1. Answer ALL the questions.2. You are expected to apply your subject knowledge to the questions.3. Write clearly and neatly.4. Number your answers clearly.

PERMISSIBLE MATERIALS

1. Pen
2. Ruler

THIS QUESTION PAPER CONSISTS OF 5 PAGES (including this front page)

Section A (Answer all the questions)

(38 marks)

Question 1

Read the following case study and answer all the following questions.

A LABOUR arbitrator's order's [reinstatement] for the dismissed CEO of the Namibia Students Financial Assistance Fund (NSFAF).

Judge Herman Oosthuizen upheld an appeal by the fund against labour arbitrator Memory Sinfwa's order for Nghiwete's reinstatement as NSFAF chief executive in a judgement delivered on Friday. However, Oosthuizen found that Nghiwete's dismissal as chief executive officer of the fund in February 2020, before the conclusion of a disciplinary hearing in which she was charged, was unfair and without a valid reason. Oosthuizen ordered that the fund must pay Nghiwete the monthly salary she would have received from the time of her dismissal until mid-July 2021, which was when Sinfwa's arbitration ruling was made.

Nghiwete was suspended on full pay in April 2018 and continued to receive a salary package of about N\$185 000 a month for nearly two years until she was dismissed. On Sinfwa's order for Nghiwete's reinstatement, Oosthuizen found that the employment relationship and trust between the fund and Nghiwete had broken down. He noted that Nghiwete had made it clear she did not trust the fund's board, while senior employees of the fund testified during the arbitration hearing that they had problems with Nghiwete's management style, did not trust her and that her reinstatement would not be in the best interest of the fund.

The employment relationship between the fund and Nghiwete has been non-existent since April 2018, when she was suspended as chief executive, Oosthuizen stated. He added that given the nature of the soured relationship between Nghiwete and the NSFAF, the arbitrator's order for her reinstatement was not reasonable. Following her suspension, Nghiwete was charged in a disciplinary hearing which, after several postponements, was scheduled to take place in early January 2020. She faced charges ranging from maladministration and conflict of interest to insubordination and financial mismanagement.

However, the hearing scheduled in January 2020 was postponed again after a psychologist booked Nghiwete off for three months in December 2019. After her disciplinary hearing did

not proceed, the NSFAP board decided in February 2020 to dismiss Nghiwete from her position as CEO. That decision of the board was wrong, Oosthuizen stated in his judgement. He said the basic requirement of fairness toward Nghiwete required that the fund should have informed the chairperson of the disciplinary hearing of its opposition to a further postponement of the hearing. It would then have been up to the chairperson to decide whether to postpone the hearing or to refuse a postponement, the judge remarked.

Nghiwete's dismissal "was invalid and unfair", Oosthuizen stated. "The procedure that followed was likewise unfair." He added: "The board of the fund was wrong to dismiss [Nghiwete] without due process." Senior counsel Andrew Corbett and Karin Klazen represented the fund in the appeal against Sinfwa's arbitration award. Nghiwete was represented by Sisa Namandje.

© The Namibian & NEP 19/09/2022

Questions

1. Having read the case study, coherently **summarise** the formation of this tri-partite employment relationship and **discuss** how each party played its role to influence the outcome of the labour dispute. **(20)**
2. Based on the case study, **explain** the apparent negotiation tactics that was used by the two parties to influence the outcome of the labour dispute **(6)**
3. The judge found that the employment relationship and trust between the fund and the former CEO had broken down because Nghiwete had made it clear she did not trust the fund's board of directors. **Analyse** this statement based on the human relations conflict deemed inherent in the labour relationship. **(5)**
4. **Do you regard** this labour dispute a dispute of right or dispute of interest? Justify your choice. **(7)**

Section B (Answer all the questions)

(62 marks)

Read the following case study and answer all the following questions.

NBC, Napwu show ends

Despite brushing off the notice that they have lost bargaining power three months ago, one of the country's biggest unions on Friday received the final nail in their NBC coffin.

A letter from Namibian Broadcasting Corporation (NBC) director general Stanley Similo informed Napwu secretary general Petrus Nevonga on 1 October 2021 that the Namibian Public Workers Union (Napwu) no longer holds "the 51% plus one majority required to remain the exclusive bargaining unit" at the NBC. The corporation initially issued Napwu a notice on 21 June 2021 that the union has until 30 September to "remedy the situation".

However, NBC in its latest letter said, "Your union membership as of 1 October is 247, translating to 45.4% of the total workforce of 522 employees". The termination action is based on the recognition agreement signed in 2011. The union has come under serious criticism during a month-long strike that left the broadcaster's workers in a worse state than before they downed tools after the management gave themselves performance bonuses in December 2020. The workers went on strike for better working conditions, equipment and for contract workers to receive permanent employment.

However, workers abandoned the strike after a month when NBC instituted the no work no pay principle. In June, Nevonga confidently said it is possible to rectify the situation. "These are issues that form part of our usual operations. We will have it rectified but I may not mention how we will do it," Nevonga said. In a letter dated 11 June, NBC rejected Napwu's request to deduct, on behalf of staff, an increase of a Nam-Mic staff loan from N\$15 000 to N\$50 000. Instead, Napwu had to see rival union PSUN offer soft loans to NBC workers who had to do with severely diminished salaries after the strike that started on 22 April and ended on 25 May. Attempts to obtain comment from Napwu proved futile.

Source, New Era, 2021

Questions

1. According to the case study, a letter from Namibian Broadcasting Corporation (NBC) director general Stanley Similo informed Napwu secretary general Petrus Nevonga on 1 October 2021 that the Namibian Public Workers Union (Napwu) union membership as of 1 October is 247, translating to 45.4% of the total workforce of 522 employees. The corporation initially issued Napwu a notice on 21 June 2021 that the union has until 30 September to “remedy the situation”. Having read the case study **discuss** the nature of the collective agreement, **how** it was formed at NBC and why it has ended. (15)
2. **Discuss** the similarity between NBC initial collective agreement and the pluralistic labour relationship perspective to which Namibia ascribed to. (15)
3. Having read the case study, **cite**, and **discuss** four appropriate sources of conflict. (8)
4. NAPWU had to see rival union PSUN offer soft loans to NBC workers who had to do with severely diminished salaries after the strike that started on 22 April and ended on 25 May. **Discuss** your understanding of this rivalry between the two unions. (8)
5. In the context of Maslow’s Hierarchy of Needs, **what** needs are NBC employees trying to achieve and why do you think so? (4)
6. In a short summary, how did Industrial Relations (IRL712S) as a course shape your understanding of employment relationship in the world of work? Do you foresee applying what you have learned thus far, how? *Here, you are required to express your understanding in your own words and not listing topics or themes appearing in your prescribed course materials. Also, please note that this question is twofold, the latter requiring you to relate theory to practice.* (12)

End of Paper!

Good luck!

~~Demetri~~ 18/10/22