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LAW7014 –B EMPLOYMENT LAW

Table of Contents

Question 1:	2
Protection over Wrongful Dismissal	2
Protection from Disability Discrimination.....	3
Unlawful Deduction of wages	4
Question 2:	7
1. Advising Anna	7
2. Advising Revolve Easy	8
3. Advising Blackdagger.....	8
References	Error! Bookmark not defined.

Question 1:

Protection over Wrongful Dismissal

The term wrongful dismissal usually refers to the termination of an employee from a company or organisation which is not supported by a contract of employment. The terms and conditions of employment of any employee by a company or establishment usually covers grounds for termination. These grounds come with a notice period or a time frame that allows the employee to prepare for leaving the company. Wrongful dismissal is therefore a breach of contract from the employer's side¹. Wrongful dismissal usually covers the termination or breach of contract by the employer without a prior notice pay or period.

An employee's rights in a company are protected by the terms of employment in the company along with Part 9, Sections 86-93 of the Employment Rights Act, 1996 (7). These sections not only cover the employee's rights regarding the employment but also cover the grounds that the employee can not be terminated without stating a reason. The employee also can refer to the entire Part 10 of the Employment Rights Act, 1996 (2) to execute the right to employment (2). This part assigns the employee to question the fairness in procedure the employer resorted to while terminating the employee. Section 98A of Part 10 of the Employment Rights Act, 1996 gives the employee reasons to question the procedural fairness involved in dismissing the employee.

The Employment Tribunal has imposed strict restrictions on the employers to abide by certain norms and ways through which contracts can be terminated by the employer. These norms are absolute in nature and give the employee specific rights to question the employer grounds of dismissal. In *Gwynedd council v. Barratt & another ewca civ 1322*, the Employment Tribunal upheld the claims made by the applicant or plaintiff regarding a wrongful dismissal by the employer (2). The facts were in favour of the teachers who were dismissed wrongfully on the grounds that the school they taught in was closing. This gave the teachers no context of termination. The Employment Tribunal respected the claims and addressed the defendant to issue clauses that respect the dismissal. Unfair dismissal therefore are instances when the employer has no reason to terminate or dismiss their employees. The reasons are not explained to the employees or no statutory guidelines were followed by the employer while dismissing the employee (2). Additionally an employer cannot terminate an existing employee if his dues and benefits were not met completely.

¹

Protection from Disability Discrimination

Disability Discrimination is a wrongful act of putting an employee at a disadvantage or segregating the employee from participation at a workplace because of a physical or mental disability. In the United Kingdom or UK such acts are considered a crime and put the offender under legal scrutiny. The defendant can seek remedy in such cases of Disability Discrimination under the Equality Rights Act, 2010 (). Discrimination on the grounds of inherent or accidental mental and physical disability that is under medical supervision is a crime in the UK. Disability Discrimination is often done directly and indirectly. Direct discrimination involves actual segregation of individuals by targeting them to do work that could be harmful to them or to willfully creating situations that do not permit their wellbeing. Indirect Discrimination is equally unlawful in nature and it generally includes creation of policies that are not inclusive of disability rights (). Additionally creating situations to harass or question the employees of their incapacities are also considered as a discriminatory act by the employer.

⁵ The Equality Act 2010 specifically defines Disability as a mental or physical impairment clinically identified and can be diagnosed. Therefore, the aspect of disability has to be proven medically either by terms minor or long term. ³ In *Mr Christian Mallon v Aecom Ltd: UKEAT/0175/20/LA (V)*, the judge opined that the company needed to make arrangements for their disabled employees, giving the basis to make policies by an employer that are inclusive (). The minor disability aspect deals with impairments that are short term and can be fixed under medical supervision. Long term on the other hand deals with impairments lasting for 12 months or more and is progressive in nature. The Act under the aforementioned conditions considers any discriminatory act, statements and policies unlawful.

Unlawful Deduction of wages

Employees have certain lawful rights which tends to protect them from unfair practices and to prevent employers from taking any kind of advantage of the employee. There are significant laws which every employee needs to know in order to prevent any kind of unfair activities affecting their health and mental well-being. Some of the basic rights that every employee needs to know are ⁴ the right to speak up, the right to quit, the right to be paid for the whole working hours and the right to undergo wrongful dismissal. The Employment Rights Act, 1966, protects employers from detriments (). Therefore, it tends to keep tej employee satisfied in their workplace and helps in preventing wrongful dismissals and unlawful deduction of wages. It can be determined that the majority of the UK firms such as; Zara are experiencing issues due to their lack of compliance with proper employment protection law (). Unlawful deduction in wages refers to the unpaid and underpaid wages to employees. Companies in terms of reducing their expenses and costs sometimes reduce the hourly wages and underpay their employees. Additionally, some of the employees in certain firms work tirelessly overtime but do not get any payment for their overtime duty.

Every employee has the right to be paid fairly and in case of underpayment ⁸ employees can sue the company. However, workplace discrimination and underpayment can have a major impact on employees' mental health and cause dissatisfaction with their daily work. Hence, it further reduces their determination to perform well and meeting deadlines. Employees with no motivation cannot perform well. It has been identified that employees need to be motivated in order to increase their productivity level which can help them to deliver expected outcomes (). Furthermore, motivated employees tend to become more engaged with the company's visions and mission and become more engaged with the work culture which helps companies to perceive success.

Recent studies have found that the key factor that accelerates determination of employees to become motivated in accomplishing tasks is money. Therefore, companies need to pay their employees adequately in order to increase their determination and to make loyal employees. It can be analysed that a company that unlawfully reduces wages and does not pay their employees fully tends to have frequent change in employees. It creates a major disruption in workflow and causes significant issues in achieving expected outcomes (). Therefore, in case of inability in providing overtime wages companies must not allow their employees to do any overtime. Unfair distribution of work and unfair judgements along with unfair distribution of wages can massively impact the mental health of the employees which can significantly affect employee's lifestyle. Companies need to ensure employees financial stability and need

to provide adequate benefits and sufficient wages as per their performance and work to make the employee satisfied with their work procedure and with the company.

Employees are being treated unlawfully at various companies. Some of the major issues that employees face in workplaces are discrimination, workplace politics, abuse, work abuse, unfair judgements, unfair payment, and unavailability of any health packages. These types of work environments tend to increase the stress level and which impacts in their health. Unhealthy employees turn to get inclined towards wrongful decisions which further impose harmful effects. Furthermore, in order to restrict these determinations the Employment Tribunal imposes strict restrictions which further protects employees from experiencing these factors (). Termination and wrongful dismissal of employees are also restricted according to this law. However, unlawful reduction in wages can vary in companies. Some of the companies tend to provide lower wages and wrongful and unlawful practices of companies regarding overtime majorly affects employees. Thus, it is majorly unfair to the employees and is restricted as per the employment protection law.

Employment protection law majorly helps employees to get their rights and speak against unlawful actions. Therefore, it helps in providing a voice to the employee's wrongful abuse of power and prevents companies from taking advantage of their full time employees. Companies are bound to provide employees extra wages as per their over time. Any kind of unlawful reduction in wages opens a place for their employees to sue the company (). Hence, awareness of the right of piercing rightful wages is necessary for employees to take stand against any kind of unlawful activities harming their peace of mind. Moreover, as the employment law tends to protect the rights of the employees, concerned authority also needs to increase and spread the awareness of the law stating basic rights of the employees. Therefore, it will help employees from being detrimental by unfair activities.

Companies need to enhance their efficiency level through imposing health medication packages, rewards, overtime wages and holidays. However, certain companies have made up their own certain guidelines for their employees to follow. In the case of any discriminatory practise or unlawful reduction in wages and abuse of powers, employees can sue the company for not maintaining the guidelines stated under Employment law. Terms and conditions stated under the law need to be maintained by each and every company in the UK. It can also be analysed that employees get a significant boost in case for rightful wages and continuous financial growth. Employers do not have any kind of right to reduce the wages or deduct money from the expected amount of the employee. Only in cases where it is lawfully right, then companies can deduct wages and impose any kind of reduction in money.

Employees are a major part of companies that play a major role in accelerating growth and in piercing success for organisations. Therefore, proper protection of the employee is important and as in the current scenario the global environment is rapidly developing and improving through bringing innovations. Therefore, employees are majorly important for companies to help companies to compete efficiently in the market which requires utmost utilisation of their performance. However, in return employers need to provide the adequate amount that will increase the motivation level of the employees to accept the overtime works (). It can also increase the performance level of the employees through providing rewards and providing a healthy work environment. Discrimination workplace has lower productivity and the employees are majorly not interested in going up to the mark. Therefore, maintaining employment law is also important for the UK firms to increase their efficiency level in adapting the adequate performance of their employees. Furthermore, employees need to become more motivated and determined to concentrate on delivering adequate performance. Employment law tends to protect employees from being affected in any kind of discriminatory actions affecting the performance of the employees (). Therefore, in the case of Genesis, work time regulation needs to be maintained by organisations. Thus, it can help employees to become more motivated and maintain disciplinary acts of the companies as well. The law tends to protect both parties, such as the company and the employee.

The law majorly protects employees from experiencing any kind of discriminatory behaviour from colleagues or from employers. However, employment law also helps employees to feel satisfied with their work which provides a significant boost to perform better and sustain in the particular environment. There are certain compulsory guidelines which need to be followed by employers. Such as; a limit of 48 hours work per week, 28 days payment despite holidays and week offs, 20 minutes rest and many more (). Other compulsory guidelines which companies need to follow in order to prevent the company from performing any kind of unlawful activity are; “eleven hours’ rest in any one twenty-four-hour period”. Therefore, in this case it can be determined that analysing the employment law and proper maintenance is necessary for the employers and the companies.

Companies and any organisation need to abide by all the guidelines of employment law in order to prevent the company from facing any kind of issues. Furthermore, another major guideline that companies need to follow is to provide free health checkups for their employees in order to keep their employees healthy and fit. However, in case of any major issues companies are required to provide adequate guidelines to their employees to support their employees. Moreover, it can be analysed that determining employees' proper health and

guidelines can help in enhancing the better employee engagement. For example in the case, the plaintiff has claimed before the court about unlawful reduction of wages which violates its right to employment (). Therefore, it can be determined that due to the unlawful reduction in wages, affected the company majorly and the employee sued the company due to the unfair reduction in wages. Hence, it can be determined that companies need to ensure its proper cooperation with the employment law. Therefore, it can be determined that employment law tends to provide significant support to the employees in order to address the unfairness and ethical behaviours and practices in workplaces. Employment law protects employees and provides significant rights to the employees which can help them to protect their dignity, financial stability and mental satisfaction.

Question 2:

1. Advising Anna

Hurt or Grievous injury generally refers to a serious wound caused to a person with an intention to cause harm by another. Under UK law the subject of Grievous Hurt or Injury is dealt ⁶ under Section 20 of the Offences Against the Person Act, 1961 (). Section 20 stresses on the malicious intention of the person who causes such harm to another. Anna suffered a grievous injury due to the negligence and break of concentration of her colleague Blackdagger at Revolve Easy. Anna works in a job where activities of dealing with sharp instruments like knives are being thrown at her, she owes that duty of care by the company. In that course of employment under Revolve Easy Anna was entitled to receive all her employment rights including protection against unfair conditions and grounds of abuse (). Work abuse in the UK covers more than coerced work pressure, it also deals with an employer's intent to impose unhealthy recommendations to suit work needs on their employees.

Anna suffered serious hurt and injuries, which gives her grounds to claim for remedies from her employer who is obligated to give her that right owing to duty of care. Negligence of duty of care is defined as the infringement and breach of policies an employer has to protect the employee's health and safety. The Negligence of Duty of care highlights that the employer has committed an act any other person cosnsciously would not do (). In *Donoghue v. Stevenson 1932 AC 562*, it was established that duty of care is a pivotal condition for any person, company, employer or organisation to maintain, breaching which will cause serious harm to the other party (). Anna can equally resort to her performer rights that guarantee Health and Safety at work. The aspect of her injury being life threatening gives Anna the imperative to seek compensation. Anna can refer to consult Part 5, Section 44 and Part 7,

Sections 69-70A of Employment Rights Act, 1966 (). Referring to the aforementioned sections Anna can highlight her coverage of health and safety issues and remuneration of damages that she can rightfully claim from her employer Revolve Easy.

2. Advising Revolve Easy

Employers in the UK have the duties towards their employees to safeguard their moral, fundamental and economic rights. In the context of the case Revolve Easy has the obligation to ensure both Blackdagger and Anna's safety. However the situation in context described an explosion incident that Revolve Easy is not a part of. The incident caused the entire funfair ground to shake thereby causing the shift in concentration of Blackdagger's performance. Revolve Easy can defend themselves against Anna's claims by stating that they were not the cause for such an explosion in the first place. The advent and evolution of organisations that cater to the employer rights in the UK has given Revolve Easy to approach the forum to state their side of the case (). Revolve Easy has the right to seek the Employment and Labour Laws and Regulations UK to show that although the incident has caused Anna hurt and injuries, it was not caused due to their act of negligence.

Revolve Easy also has grounds to prove that Anna worked full employment knowing the conditions and requirements of work, therefore she had an idea of the risks. Revolve Easy can also access their ground that they provided Anna a full disclosure of her work, paid her salaries and supported her with all their obligatory duties. This gives Revolve Easy to defend their position in a court of law to reduce the damages claimed by Anna. The explosion that shifted Blackdagger's concentration was not a result of Revolve Easy's negligence at funfair, therefore they are not directly the reason for the hurt caused to Anna. However, as an employer Revolve Easy is obligated to have a duty of care with their employees, which entitles them to support Anna. Hence dismissing Anna's claim entirely would not be a legal justification for the company.

3. Advising Blackdagger

Employees in the UK are protected both for physical and mental damages they suffer from working at an organisation. In the context of Blackdagger wrongly hurting Anna, who is a colleague of his at Revolve Easy lacked the malicious intent to cause hurt. This pragmatically shifts the blame from him, although given his profession he owes some duty of care as well. Blackdagger can seek compensation from Revolve Easy for the stress caused to him for managing the funfair where the explosion took place and he threw the knife by mistake. As an employer, Revolve can not unfairly dismiss Blackdagger's claim under Part 10, Section 100 of the Employment Rights Act 1996 (). This gives Black dagger to question the

negligence of Duty of Care owed to him by Revolve Easy. Blackdagger can also claim compensation under the Equality Act 2010, which covers him protection for the stress caused to him. The stress he suffered caused him to resign from Revolve Easy, justifying his claims of a mental health disability and stress (). Revolve Easy has the same employment oriented care and responsibility towards Blackdagger and Anna.

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