

**OLLSCOIL NA hEIREANN GAILLIMH
NATIONAL UNIVERSITY OF IRELAND, GALWAY**

FACULTY OF LAW

SEMESTER I EXAMINATIONS 2002-2003

**LL.B -ALL YEARS
ERASMUS/OCCASIONAL STUDENTS**

PUBLIC LAW I (LW115)

**Examiners
Dr. G. Hogan
Mr. T. O'Malley**

Time Allowed: **TWO AND A HALF HOURS.**

Answer **THREE** questions.

1. Answer (a) and (b)
 - (a) Describe, with reference to the relevant case law, the test of bias applied by the Irish courts.
 - (b) Give a critical account of the circumstances in which a judge should be prepared to disqualify himself or herself from hearing a case when requested to do so on the ground of possible bias.

2. Give a critical account, supported by relevant case law, of the circumstances in which the High Court will be prepared to grant a remedy by way of judicial review on the ground of (a) error of law, and (b) insufficiency of evidence.

3. John was employed for 20 years as a prison officer. Some weeks ago, a female colleague made a complaint of sexual harassment against him. The prison governor wrote to John informing him of the complaint and invited him to attend a meeting of a disciplinary committee the following week. He told John that he was entitled, if he so wished, to be accompanied to that meeting by an official of the prison officers' association, but by nobody else. John attended the meeting accompanied by an official whom he had never met before. At the meeting the Governor informed the Committee of the harassment complaint. In response, John denied that the alleged incidents had ever taken place. A few days later, John was informed by the prison governor that the complaint against him had been upheld and that he was therefore dismissed from his post with effect from the end of that week. He asked to be given written reasons for his dismissal but the governor refused to entertain that request. John has since discovered that after he left the disciplinary committee hearing, the prison governor had remained behind and furnished the committee with additional information that he had gathered from some of John's colleagues, and which included further allegations against him. John was not allowed to see this additional information nor, indeed, was he officially informed of its existence. John has now sought your advice on the possibility of challenging his dismissal by way of judicial review. Advise him of the grounds, if any, on which he might proceed with such a challenge.

PTO

Answer (a) and (b)

- (a) Describe the *Carltona* doctrine and the manner in which it has been received in Irish law.
- (b) The Compensation Tribunal for Traumatized Teachers was established by statute to provide compensation for teachers and former teachers who have suffered trauma as a result of difficult working conditions, which are defined to include having to deal with excessively demanding students. Already, 35,000 applications have been received. The Tribunal is chaired by Judge Dredd and has two other members. The relevant statute provides that, in addition to awarding compensation, the Tribunal may, in its discretion, award legal costs to applicants who were represented by a solicitor or barrister or both. Last week, the Tribunal made its first batch of awards. However, it announced that it would not, as a matter of policy, make an order for legal costs in any case, as teachers were generally well educated people who were able to present their own cases without the need for legal representation. Pat Murphy, one of the successful applicants, is quite annoyed by this ruling, as is the solicitor who represented him. Pat has sought your advice as whether there is any ground on which the Tribunal's ruling as to costs might be challenged before the courts. Advise him.

Garry, a student and captain of the university rugby club, was walking home from a pub in the early hours of the morning of 13 February 2002, accompanied by a female friend, Joanne, when they were viciously attacked by a group of youths who jumped out of a car which they were passing. Both Garry and Joanne sustained serious injuries. Both were detained in hospital for several days, both had to give up the part-time jobs which they held and both had to defer their university examinations for a year. Some weeks after the attack, Garry and Joanne made separate applications to the Criminal Injuries Compensation Tribunal in respect of their injuries and the other consequences of the assault. The tribunal, you may assume, is a non-statutory body established by the Government to make awards of compensation to victims of personal violence which has been inflicted in the kind of circumstances just described. A few weeks ago the Tribunal awarded €15,000 in compensation to Joanne, but informed Garry that he was not entitled to any compensation. When he sought a reason for this decision, he was told that it was not the Tribunal's practice to give reasons. He has now sought your advice as to whether there is any ground on which he might challenge this decision by way of judicial review. Advise him.

Give a critical account of the main elements of the doctrine of legitimate expectations. In light of recent judicial decisions, do you consider this doctrine to have a future in Irish law? Give reasons for your answer.

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