

Economic and Labour Laws

265

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 7

PART — A

(Answer Question No.1 which is compulsory
and any three of the rest from this part.)

1. With reference to the relevant legal enactments, write short notes on **any five** of the following :
 - (i) Deficiency in service
 - (ii) Hazardous substance
 - (iii) Predatory pricing
 - (iv) Functions of Central Pollution Control Board
 - (v) Term of patent
 - (vi) Salient features of the Legal Metrology Act, 2009
 - (vii) Current account transactions.

2. State, with reasons in brief, whether the following statements are true or false. Attempt **any five** :
 - (i) The Competition Act, 2002 prohibits dominance as well as abuse of dominant position.
 - (ii) The property confiscated for money laundering vests with the central government.
 - (iii) *Mens rea* is an ingredient of the offence punishable under the Essential Commodities Act, 1955.
 - (iv) Foreign direct investment is permitted in infrastructure companies in securities market (stock exchanges, depositories, and clearing corporations).
 - (v) The redressal forums constituted under the Consumer Protection Act, 1986 are quasi-judicial in nature and scope.
 - (vi) Registration of a trade mark under the Trade Marks Act, 1999 is a *prima facie* evidence of the validity of registration in all legal proceedings.

(3 marks each)

(3 marks each)

3. (a) Distinguish between *any two* of the following :
- (i) 'Political party' and 'an organisation of political nature'.
 - (ii) 'Seizure of an essential commodity' and 'confiscation of an essential commodity'.
 - (iii) 'Contract of service' and 'contract for service'.
 - (iv) 'Infringement of trade mark' and 'passing off'.
- (5 marks each)*
- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) The process of money laundering can be classified into _____, layering and integration.
 - (ii) The registration of trade mark requires to be renewed for successive periods of _____.
 - (iii) The compulsory licence in respect of a patent is granted after the expiration of _____ from the date of grant of a patent subject to certain conditions.
 - (iv) Foreign contribution means any donation, delivery or transfer made by _____.
 - (v) The total surface area of the package where the information is required to be given is called _____.
- (1 mark each)*
4. (a) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder, advise on the following :
- (i) Anand desires to donate US \$10,000 to Rotary International, an NGO in Chicago, USA.
 - (ii) Atul Ltd., an Indian company intends to export its software of the value of ₹15,000.
 - (iii) Suresh desires to pay US \$10,000 through international credit card being the remittance out of lottery earnings.
 - (iv) Super Green Tea Ltd. intends to send its tea bags of the value of ₹50,000 as gift to its foreign customers.
 - (v) Aadarsh Education Society, engaged in education sector, intends to make investment in the education sector in a joint venture in USA.
- (1 mark each)*

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(b) Ramesh took out four life insurance policies with double accident benefits, premium payable half-yearly. When the third premium fell due, the general agent of the Life Insurance Corporation (LIC) met Ramesh and took a bearer cheque towards the premium payable by him in respect of the policies. Although the cheque was encashed immediately, yet the payment of premium was not deposited with the LIC for another three months. In the meantime, Ramesh met with a fatal accident and died. Ramesh's wife filed claim for the payment of the sum assured. Will she succeed ? Give reasons.

(5 marks)

(c) Mention the powers of the central government to protect and improve the quality of environment under the Environment (Protection) Act, 1986.

(5 marks)

5. (a) Explain the powers of the Controller in respect of an application for a patent which has substantial risk of infringement.

(5 marks)

(b) Ajay Ltd. is engaged in the manufacture and sale of industrial alcohol. In the course of manufacture of industrial alcohol, the industrial unit discharged noxious and polluted trade effluents into a nearby river through a drain, which is a stream within the meaning of the Water (Prevention and Control of Pollution) Act, 1974. The company and the industrial unit, had applied for the grant of requisite consent to discharge the trade effluents into the stream but the consent was withheld as it did not make good the inadequacies and defects pointed out by the State Pollution Control Board.

Are the managing director and other members of the Board of directors liable to be proceeded against under the Water (Prevention and Control of Pollution) Act, 1974 in the absence of prosecution of the company owning the industrial unit ? Give reasons and refer to decided case law, if any.

(5 marks)

(c) Discuss the provisions of the Copyright Act, 1957 relating to infringement of a copyright.

(5 marks)

PART — B

(Answer ANY TWO questions from this part.)

6. Write notes on **any four** of the following :
- (i) The theory of notional extension of employment under the Workmen's Compensation Act, 1923.
 - (ii) Protection of gratuity under the Payment of Gratuity Act, 1972.
 - (iii) Employees' Pension Scheme under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
 - (iv) Purposes for which ESI fund may be expended under the Employees' State Insurance Act, 1948.
 - (v) Certification of standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (5 marks each)
7. (a) Distinguish between **any two** of the following :
- (i) 'Lay-off' and 'retrenchment' under the Industrial Disputes Act, 1947.
 - (ii) 'Principal employer' and 'immediate employer' under the Employees' State Insurance Act, 1948.
 - (iii) 'Minimum wages' and 'fixation of the minimum rates of wages' under the Minimum Wages Act, 1948.
- (5 marks each)
- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) As per the provisions of the Payment of Bonus Act, 1965, an employee is entitled to bonus provided he has worked for not less than _____ in that year.
 - (ii) The industrial dispute is a dispute relating to employment or non-employment or terms of employment or _____ of any person.

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- (iii) Adolescent means a person who has completed _____ of age but not completed his 18th year.
- (iv) The employer is liable to pay the amount of gratuity within _____ days from the date of its becoming payable to the employee.
- (v) A period of service shall be deemed to be continuous which has not been interrupted by a period of absence exceeding _____ days.

(1 mark each)

(c) Write the most appropriate answer from the given options in respect of the following :

- (i) Which of the following is not a type of 'bonus' under the Payment of Bonus Act, 1965 —
 - (a) Profit based bonus
 - (b) Customary bonus
 - (c) Attendance bonus
 - (d) Voluntary bonus.
- (ii) Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, what percentage of the basic wage, dearness allowance and retaining allowance of an employee is paid or contributed by the employer —
 - (a) 8%
 - (b) 10%
 - (c) 12%
 - (d) 13%.
- (iii) Which of the following injuries does not come under the term 'personal injury' under the Workmen's Compensation Act, 1923 —
 - (a) Nervous shock
 - (b) Mental strain
 - (c) Loss of money
 - (d) Breakdown.

- (iv) Which of the following is considered an 'industry' under the Industrial Disputes Act, 1947 —
- (a) Posts and Telegraph Department
 - (b) Central Institute of Fisheries
 - (c) Construction and maintenance of National and State highways.
 - (d) Dock Labour Board.
- (v) Under the Industrial Employment (Standing Orders) Act, 1946, which of the following documents must a 'standing order' be in conformity with —
- (a) Standard Standing Orders
 - (b) Model Standing Orders
 - (c) Uniform Standing Orders
 - (d) Formal Standing orders.

(1 mark each)

8. Attempt *any five* of the following stating relevant legal provisions and decided case law, if any :
- (i) A copy of the 'memorandum of settlement' was not dispatched by the Conciliation Officer to the appropriate government. Will the settlement be treated as invalid ?
 - (ii) A dispute arose about the payment of subsistence allowance to a suspended employee. He claimed the allowance as per the rates prescribed by the law of the particular State. The employer wanted to pay as per the rate specified in the Industrial Employment (Standing Orders) Act, 1946. Will the employee succeed ?
 - (iii) Naresh was working in Navodaya School continuously for 30 years. The school has been employing 30 teachers. On attaining the age of superannuation, he retired from service. The management declined to pay gratuity to Naresh. He preferred a claim for the payment of gratuity before the authority concerned under the Payment of Gratuity Act, 1972. Will he succeed ?
 - (iv) Hotel Harsha Ltd. has engaged an electrician to attend to electrical repairs required in the hotel. There is an agreement between the hotel and the electrician that he will be required to attend to repair work whenever required on call. The electrician is paid a consolidated sum of ₹10,000 per month for the services rendered by him. Can the electrician be called an employee of the hotel under the provisions of the Factories Act, 1948 ?

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- (v) Visual Electronics Ltd. sells household consumer durables such as TV, washing machines, electric stoves, *etc.*, of various manufacturers in its sales outlet. While delivering these items to the homes of the customers, it deposes its employees to install and explain the salient features of these items. It pays its employees an additional amount of defray for the actual travelling expenses. The Employees' State Insurance Corporation demanded contribution on this additional payment including travelling expenses under the head 'wages'. Is the demand of Employees' State Insurance Corporation justified ?
- (vi) Vaibhav Rice Mills is employing 15 persons in its factory for its regular operation. During inspection, the Provident Fund Inspector found that whenever the goods arrived and also whenever the goods were sent out of the factory premises, a few casual labourers were engaged for loading and unloading purposes. The Provident Fund Inspector demanded the employer to comply with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 on the ground that the total number of employees (including casual labourers) exceeded 20. Is the Provident Fund Inspector justified ?
- (vii) Azad Ltd. implemented a scheme of re-organisation of the business. It resulted in the surplus of 10 employees. The company dispensed with their services. The employees union challenged it that it was not a ground for the retrenchment of the employees. Will the union succeed ?

(4 marks each)

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