

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) Bid rigging
- (ii) Principal display panel
- (iii) Collective trade mark
- (iv) Relevant geographic market
- (v) Legal metrology
- (vi) Potential infringement of a patent
- (vii) Principles of sustainable living.

(3 marks each)

2. State, with reasons in brief, whether the following statements are true or false. Attempt **any five** :

- (i) Registration of an undertaking belonging to the First Schedule of the Industries (Development and Regulation) Act, 1951 is not necessary in certain cases.
- (ii) The provisions of the Competition Act, 2002 are not applicable to a government company.
- (iii) Money laundering can provide short-term benefits to the economy.
- (iv) Special Economic Zones are growth engines.
- (v) The limitation period for filing a complaint under the Consumer Protection Act, 1986 is two years from the date on which the cause of action arises without any exception.
- (vi) There is no difference between the preparation for committing an offence and an attempt to commit an offence under the Essential Commodities Act, 1955.

(3 marks each)

3. (a) Distinguish between *any two* of the following :

- (i) 'Wholesale package' and 'retail package'.
- (ii) 'Carry on business licence' and 'industrial licence'.
- (iii) 'Invention' and 'patentable invention'.
- (iv) 'Appellate tribunal' and 'court'.

(5 marks each)

(b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) An appeal against the order passed by the Consumer Disputes Redressal Forum has to be preferred within _____ days from the date of the order to the State Commission.
- (ii) Prior approval of RBI is required for the release of foreign exchange for meeting the expenses of medical treatment exceeding US \$ _____ or its equivalent.
- (iii) Any person aggrieved by an order of confiscation of an essential commodity may prefer an appeal to the _____ within one month from the date of passing of the order.
- (iv) Foreign direct investment (FDI) in trusts other than _____ is not permitted.
- (v) Prior approval of RBI is required for availing of foreign exchange facility exceeding _____ for persons going to USA for employment.

(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) Ram, a person resident in India, intends to invest ₹25,000 in foreign securities in a calendar year.
- (ii) Infotech Ltd., an Indian company owning a micro/small enterprise, intends to issue shares against foreign direct investment.

: 3 :

- (iii) Shyam, an Indian resident, wishes to acquire qualification shares for becoming a director of a company outside India and the consideration is US \$30,000.
- (iv) Naresh, an Indian citizen, enters into an agreement for the lease of machinery to a foreign party and intends to ship the machinery abroad.
- (v) Mohan, an Indian citizen resident outside India, intends to acquire immovable property in India.

(1 mark each)

- (b) Ram Dhenu Ltd. and Diamond Engineers entered into a contract for the supply of electrical equipments. The contract contained an arbitration clause to refer the disputes to an arbitral tribunal. Ram Dhenu Ltd. made a complaint to the Consumer Disputes Redressal Forum for 'deficiency in service'. The opposite party opposed the complaint in view of the arbitration clause contained in the contract. Will it succeed ? Give reasons.

(5 marks)

- (c) Mention the obligations of banking companies, financial institutions and intermediaries under the Prevention of Money Laundering Act, 2002.

(5 marks)

5. (a) Describe the powers of the National Green Tribunal constituted under the National Green Tribunal Act, 2010.

(5 marks)

- (b) An enterprise which is engaged in hazardous or inherently dangerous activity and an industry which poses a potential threat to the health and safety of the persons and of those residing in the surrounding areas owes an absolute and non-delegatable duty to the community. Comment.

(5 marks)

- (c) Briefly mention the provisions of the Noise Pollution (Regulation and Control) Rules, 2000 relating to control of noise pollution.

(5 marks)

PART—B

(Answer ANY TWO questions from this part.)

6. Write notes on *any four* of the following :

- (i) 'Forfeiture of gratuity' under the Payment of Gratuity Act, 1972.
- (ii) 'Employment injury' under the Employees' State Insurance Act, 1948.
- (iii) 'Manufacturing process' under the Factories Act, 1948.
- (iv) 'Partial disablement' under the Workmen's Compensation Act, 1923.
- (v) 'General prohibition of strikes and lock-outs' under the Industrial Disputes Act, 1947.
- (vi) 'Temporary application of model standing orders' under the Industrial Employment (Standing Orders) Act, 1946.

(5 marks each)

7. (a) Distinguish between *any two* of the following :

- (i) 'Arbitration' and 'conciliation' for the resolution of industrial disputes under the Industrial Disputes Act, 1947.
- (ii) 'Lay-off' and 'lock-out' under the Industrial Disputes Act, 1947.
- (iii) 'Principal employer' and 'contractor' under the Contract Labour (Regulation and Abolition) Act, 1970.
- (iv) 'Committee method' and 'notification method' for the fixation of minimum 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) The Payment of Bonus Act, 1965 is applicable to every factory and to every other establishment where _____ are employed on any day during an accounting year.
- (ii) All contributions paid under the Employees' State Insurance Act, 1948 and other moneys received on behalf of the ESI Corporation shall be paid into a fund called _____.

: 5 :

- (iii) The employer shall arrange to pay the amount of gratuity within _____ days from the date of its becoming payable to the person to whom it is payable.
- (iv) Under the Employees Deposit-Linked Insurance Scheme, employers are required to pay contributions for the insurance fund at the rate of _____ of the total emoluments.
- (v) The Contract Labour (Regulation and Abolition) Act, 1970 shall not apply to establishments in which work only of _____ is performed.

(1 mark each)

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

- (i) An employee is not entitled to bonus if —
 - (a) He has worked for less than 6 months
 - (b) He is guilty of any misconduct
 - (c) He is in managerial cadre
 - (d) He is a part-time permanent employee.
- (ii) The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is applicable to all factories and certain establishments employing —
 - (a) 20 or more persons
 - (b) 50 or more persons
 - (c) 10 or more persons
 - (d) Without any limit.
- (iii) Compensation under the Workmen's Compensation Act, 1923 becomes due —
 - (a) On the date of death/accident of the workman
 - (b) On the date of order of the Commissioner for workmen's compensation
 - (c) On the completion of one month from the date of accident
 - (d) On demand from the workman.
- (iv) The employment of contract labour can be prohibited —
 - (a) By an order of the labour court
 - (b) By notification of the Government
 - (c) When the number of workmen exceeds 50
 - (d) By the Central Advisory Board.

- (v) The interpretation of certified standing orders is within the jurisdiction of —
- (a) Labour court
 - (b) Certifying officer
 - (c) Workmen
 - (d) Employer and workmen.

(1 mark each)

8. Attempt *any five* of the following stating relevant legal provisions and decided case law, if any :

- (i) Raghu, on retirement, has withdrawn the entire amount of his accumulation in the provident fund. Later on, he was re-appointed for a fixed tenure. The provident fund inspector claimed contribution in respect of the salary paid to Raghu. Is the demand made by the inspector tenable in law ?
- (ii) XYZ Ltd., employing more than 50 workmen in its factory, failed to register itself and pay contributions under the Employees' State Insurance Act, 1948. The inspector of the ESI Corporation issued a notice to the company and directed it to register and pay contributions towards its employees. On failure to comply with the terms of notice, ESI Corporation determined the contributions payable by the company and demanded payment with interest and penalty. The company disputed its liability and asked the ESI Corporation to approach the ESI Court for adjudication of the claim. Is the company justified ?
- (iii) Sooraj Hospital has a laundry in its premises to ensure a high degree of hygiene standard for washing the linen used in the hospital. The employees of the hospital work in the laundry and the laundry cannot be separated from the hospital. The inspector of factories issued a notice to Sooraj Hospital to register it as a factory. Is he justified ?
- (iv) Harish, a mechanic, was alleged to have indulged in an act of misconduct. An inquiry was held into the charge against him as per the procedure laid down in the certified standing orders. The copy of the inquiry report was not furnished to him before imposing penalty on the ground that it was not provided under the certified standing orders. Is the plea of the management tenable in law ?

: 7 :

- (v) Lotus Info. Ltd. entered into a settlement with its workmen providing for payment of gratuity at the rate of one month's salary for every completed year of service. An employee retired on superannuation and claimed gratuity as per the settlement. The employer pleaded that he is under no obligation to pay gratuity more than the rate prescribed under the Payment of Gratuity Act, 1972. Is the employer's contention tenable in law ?
- (vi) A workman was dismissed from service on 15th February, 2009 after a departmental enquiry for an act of misconduct. No bonus was paid to him for the accounting year during which he was dismissed. Subsequently, he was reinstated by the court with full back wages. Will the workman be entitled to claim bonus alongwith full back wages ?
- (vii) Amar was the owner of a ginning factory. Certain persons were engaged in putting the ginned cotton into what was called *bojhas* and they were engaged for that work not by the owner but by the merchants who owned cotton. The owner had not entered their names in the attendance register of the factory. Are the persons employed by the merchants covered under the category of 'workers' under the provisions of the Factories Act, 1948 ?

(4 marks each)

—————0—————