

*Roll No.* .....

**OPEN BOOK EXAMINATION**

*Time allowed : 3 hours*

*Maximum marks : 100*

*Total number of questions : 6*

*Total number of printed pages : 4*

**NOTE :** *Answer ALL Questions.*

**1. Case Study :**

Twelve respondents instituted a civil suit before the Senior Sub-Judge against the employer's action of their termination and retrenchment from service. The reliefs they claimed in the suit consists in the :

- (a) Declaration to the effect that the orders of their termination or retrenchment from service were illegal, and
- (b) Entitlement against the retrenchment with back wages.

It was pleaded that the plaintiffs-respondents were skilled workers working in a hydel project in Alandpur in various capacities such as T. Mate, Mixer Operator, Beldar etc. for more than 5 years and therefore as per the standing orders and the rules, they were regular employees of the defendants. It was alleged that the defendant-appellants did not maintain any seniority list of the workers and different categories of services on the said project and they arbitrarily removed the plaintiffs-respondents from service by obtaining their signatures on papers under coercion and force and also forcing them to accept payments.

It was further alleged that the defendant-appellants while removing plaintiffs-respondents did not comply with seniority criteria. As a result, juniors were retained in service and seniors were retrenched. It was alleged that the action was discriminatory and contrary to law resulting in victimization. This claim of the plaintiffs-respondents was contested by the defendant-appellants on the grounds that common suit could not have been filed since the cause of action of each defendant was distinct and separate; the plaintiffs-respondents were appointed on purely temporary basis and after the completion of the project, their services were validly terminated. On the contrary, the plaintiffs-respondents claimed injunction and reinstatement.

On the diligent perusal of the above case, answer the following questions referring to legal provisions and decided case law, if any :

- (a) Whether the orders of termination by the way of retrenchment of the plaintiffs-respondents are illegal and ineffective ?
- (b) Do you agree that the suit is bad for misjoinder of parties ? State reasons.
- (c) Whether plaintiffs-respondents are entitled to declaration and injunction ?
- (d) The retrenchment should be *bona fide* and there should not be victimisation or unfair labour practice on the part of employer. Explain what acts of the employer would not constitute retrenchment under the Industrial Disputes Act, 1947.
- (e) In case retrenchment is proved to be illegal or *ultra vires*, explain reliefs available to the plaintiffs-respondents under the Industrial Disputes Act, 1947.

(8 marks each)

2. (a) Bhuvesh, working as supervisor in Shantala Silks applied for leave for 8 days from 2nd March to 9th March. He reported for duty on 28th March and produced a medical certificate issued by the Civil Surgeon to the effect that he had been suffering from typhoid from 10th March till 27th March. The Manager of the factory referred

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him for the medical examination but the medical officer could not confirm the illness. The management under the rules of the standing orders refused to allow Bhuvesh to report back to duty as absence for the work without leave amounted to discharge from service. However, Bhuvesh was granted sick leave benefit by the ESI Corporation from 10th March till 27th March. Whether the act of the management is valid ? State the relevant legal provisions.

(6 marks)

- (b) Hari and Vishnu, employees in Kashinath Stone Crushing Factory, were engaged in loading a consignment to a truck. While doing the work, Vishnu sustained injuries due to the negligence of Hari. Vishnu claimed compensation from the management of the factory but the factory management told Vishnu to institute a suit against Hari only for the grant of relief. Decide the validity of the stand taken by the management.

(6 marks)

3. (a) Protection of the well-being of workers is more important than mere payment of wages with a view to increasing productivity. Substantiate the statement referring to relevant provisions of the Factories Act, 1948.
- (b) Manoj & Co. Ltd. desired to start an Aluminium Electrical Fittings and Pipes factory in Vijayawada. They made an application to the appropriate authority with all necessary documents. Even after the expiry of 3 months, the appropriate authority did not intimate its order either sanctioning or declining the permission. Manoj & Co. Ltd. intend to pursue legal remedies. Will the action of the company be tenable or desirable ? Discuss with reference to legal provisions.

(6 marks each)

4. (a) 'Articles 23 and 24 of the Constitution of India are wide enough to encompass various aspects of rights of labourers'. Elaborate and refer to decided case law, if any.

(b) 'Discipline, far from being enforced by the management, must be voluntarily observed by the employees'. Elaborate.

*(6 marks each)*

5. (a) Tanuja Industries employed 200 workers in its establishment. Due to poor performance in one section of the establishment, workers employed therein were paid with reduced wages which were below the minimum wages. Whether the establishment is justified in its act ? Discuss referring to decided case law, if any.

(b) Ramesh, an employee with more than one year of continuous service in an establishment was terminated from the job owing to his insubordination. He assured that he will not repeat his misbehaviour but the employer did not reinstate him. Ramesh challenged the dismissal and after a prolonged litigation, he was reinstated. Decide the rights of Ramesh regarding payment of bonus during the period of dismissal under the Payment of Bonus Act, 1965.

*(6 marks each)*

6. Explain how the Labour Codes on wages, industrial relations, social security and welfare, and occupational safety, health and working conditions pave the way for labour empowerment in the country.

*(12 marks)*