

Roll No.

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 4

Total number of printed pages : 12

NOTE : Answer **ALL** Questions.

1. Case Study :

The Sivika Tech. Ltd. is an IT-enabled services company established in 2012 at Gurgaon. The company employed 550 workers, including 350 software developers and technical staff (monthly salaries ₹ 30,000–₹ 80,000), 150 administrative and support staff (monthly salaries ₹ 8,000–₹ 18,000), 50 managerial and supervisory personnel (monthly salaries ₹ 60,000– ₹ 1,50,000). Due to global economic recession, Covid-19 outbreak and loss of major client contracts, the company faces severe financial distress in January 2021. The Board of Directors decides to implement cost cutting measures including workforce reduction, salary restructuring, and operational downsizing. The management identifies 120 permanent employees for retrenchment (employed since 2013), including : 50 junior developers (average service : 3 years, average monthly salary : ₹ 35,000), 40 administrative staff (average service : 5 years, average monthly salary : ₹ 12,000), 30 senior developers (average service : 7 years, average monthly salary : ₹ 55,000) without stating the reason in the termination letter. The company issued termination letters on 1st October, 2022 effective immediately, offering 15 days' salary for every completed year of service, one month's salary as notice pay, no prior consultation with workers or trade union. Affected permanent employees approach the Regional Labour Commissioner alleging illegal retrenchment.

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During the retrenchment process, these 120 staff members went on strike immediately receiving the termination letter on 1st October, 2022 without informing to the management. These 120 staff members did not file their complaint to the Works Committee and the matter was also not referred to the Conciliation Officer. They directly filed the matter before the Industrial Tribunal on 1st January, 2023, the Industrial Tribunal passed an Award on 25th August 2025 without holding a proper enquiry. While passing an Award it was also found that the Labour Audit is pending since last two years, the Labour Inspector have not audited the company regarding various statutory compliances, the company license was also due for renewal and found irregularities in labour compliances.

But during the pendency of proceedings, the management changed some service conditions which were unconnected with the dispute, without serving the notice to the workers. The management made the changes in their standing orders too without informing to the workers, and to the appropriate authority. The management made the alteration in the payment of subsistence allowance, the change was that if any workmen is suspended by the employer where the investigation or inquiry and the matter is pending before the court only nominal charges i.e. only 30 percent, will be paid to the workmen during the pendency of the proceedings. When the workers got to know about the changes they threatened to the management and filed multiple cases against the management.

Answer the following questions (*a, b, c*), keeping in view the above scenario :

- (a) Sivika Tech. Ltd. recently retrenched a group of employees with immediate effect, failing to serve prior notice to the affected workers or to the appropriate government. Based on the Industrial Relations Code, 2020 :

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- (i) Determine whether this act of retrenchment by the company is legal or illegal, why ?
- (ii) Explain the statutory provisions and the conditions precedent that an employer must fulfil before executing a valid retrenchment.

(2+3=5 marks)

- (b) Do employees have an absolute legal right to go on strike ? The employees of Sivika Tech. Ltd. went on strike without serving the requisite notice to the management or the appropriate government. Will this act be considered legal or illegal under The Industrial Relations Code, 2020 ? Substantiate your answer with relevant legal provisions.

(5 marks)

- (c) Can management unilaterally modify standing orders without prior consultation with the workers ? Additionally, outline the statutory provisions for subsistence allowance, discuss under the Industrial Relations Code, 2020.

(5 marks)

- (d) ST Technologies Pvt. Ltd., a digital platform company running an online food delivery application across several metropolitan cities, engages a large number of delivery partners to deliver orders placed through its platform. The company maintains that these delivery partners function as independent contractors associated with the platform and therefore are not eligible to receive statutory social security benefits. A group of delivery workers disputes this position and contends that, considering the nature of their work and their dependence on the platform, they should be treated as eligible beneficiaries under the statutory framework governing gig and platform workers.

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Accordingly, they submit a representation before the competent authority seeking coverage under the relevant social security schemes established under the Code on Social Security, 2020. Examine the legal issues involved and determine whether such delivery personnel can claim social security protection under the Code on Social Security, 2020.

(5 marks)

- (e) RCD Chemicals Ltd., a factory engaged in the manufacture of industrial chemicals, employs a large number of workers in processes that involve handling and exposure to hazardous and toxic material. The workers are required to perform their duties in areas where harmful chemical vapour and substances are frequently present. However, the management allegedly fails to provide proper safety gear such as protective clothing, masks and gloves and also neglects to arrange regular medical examination and health monitoring for workers engaged in these dangerous operations. Over a period, several workers develop serious health complications attributed to prolonged exposure to toxic substances in the workplace. Alarmed by these incidents, the remaining workers submit a complaint to the competent labour authority alleging that the employer has violated statutory safety and health obligations prescribed under the Occupational Safety, Health and Working Conditions Code, 2020.

What are the legal issues involved in the above case ? Also determine the action that may be taken by the labour authorities under the relevant provisions of the Code.

(5 marks)

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2. Ivory Mica & Minerals Ltd. (IMM) is a mid-sized, publicly traded mining company that mostly works in the country's underdeveloped, mineral-rich eastern area. The company specializes in the extraction and processing of low-grade coal and mica, which are highly sought after by the worldwide electronics, energy, and cosmetics industries. IMM has a superb reputation in the stock market. Five years ago, IMM's management implemented an aggressive outsourcing strategy to reduce overhead expenses and increase operational efficiency. IMM reorganized its operations rather than hiring manpower directly. It delegated the actual extraction job to a network of outside labour contractors while keeping a small core staff of engineers and management. The unlicensed primary contractor, "Surya Extractor Contractor Ltd.", oversees the day-to-day mining operations and is compensated at a set fee for each ton of extracted mineral. Surya Extractor further subcontracts the work to unregistered local "gang leaders" (middlemen) in order to preserve their profit margin. These intermediaries hire labourers from underprivileged rural and tribal areas severely impacted by seasonal drought.

The middlemen encourage entire families to labour in the mines since they are paid piecemeal (depending on the weight of the harvested minerals). The working environment is appalling. Instead of being official contract labourers, the adult miners are categorized as "daily wage helpers". Mica mining frequently entails "rat-hole" mining, which entails excavating small, dangerous tunnels. The intermediaries highly value children's ability to crawl into these tight shafts because of their diminutive stature. Children under the age of 14 years make up about 30% of the informal workforce. They perform 10-hour shifts in dangerous, dusty surroundings, often even at night. During an unplanned site visit to one of the far-off mines, Stelva, the Manager of IMM, discovers children shifting mica and carrying big loads. He also disclosed the intricate network of subcontracts designed to shield IMM from labour law requirements. Through his interaction with the local workers, Stelva learns that they are trapped in a cycle of debt servitude to the

intermediaries. The manager, Stelva, claims that there isn't a single youngster or underpaid employee at the IMM. Our payroll compliance is 100%. In our agreement with the independent business company Surya Extractors, child labour is categorically forbidden. If their contractor and subcontractor violate the law, it is their responsibility of law enforcement.

Based on the above scenario, answer following questions (*a* and *b*) :

(*a*) What is the legal validity where an unlicensed contractor recruits labour and sub-contracts work to third parties, and what are the requirements for license acquisition by contractors and sub-contractors. Mention the penal provisions that attach to such violations under The Occupational Safety, Health & Working Conditions Code, 2020 ?

(5 marks)

(*b*) Explain the general prohibition of employing contract labour in certain establishments under Section 57 of The Occupational Safety, Health and Working Conditions Code, 2020. Who can exempt such prohibition under special circumstances ?

(5 marks)

(*c*) Aadish, a platform worker, has completed six years of continuous service with Swift Logistics (an aggregator). Is he legally entitled to claim gratuity from Swift Logistics ? Substantiate your reasoning with the appropriate provisions under the Code on Social Security, 2020.

(5 marks)

(*d*) A factory manager assigns a 17-year-old adolescent to work in a hazardous process without any safety gear. Is this legally permissible ? Outline the specific restrictions placed on an adolescent's daily working hours and night shifts under the Child and Adolescent Labour (Prohibition & Regulation) Act, 1986.

(5 marks)

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- (e) RR Electronics Ltd., a multinational manufacturing company, undertakes a restructuring of its employee remuneration system. Under the revised structure, the management substantially reduces the basic pay component while increasing several allowances such as travel allowance, special allowance, and performance incentives. Consequently, the basic wage constitutes only about 39% of the total remuneration received by employees. The workers contend that this restructuring has been intentionally designed to minimize the employer's statutory liabilities relating to bonus and other wage-linked benefits. They argue that such a wage structure is inconsistent with the definition and principles governing wages under the Code on Wages, 2019. Accordingly, the employees raise a dispute before the Labour authorities alleging manipulation of wage components by the employer. Identify the legal issues arising from this situation and determine the action that the Labour authorities may take under the Code on Wages, 2019.

(5 marks)

3. Capital Motors Ltd. is a sizable manufacturing facility in Lucknow that produces a lot of automobile parts like OEMs and others. The Mukesh Manpower Solutions' headed by Mukesh, a Jharkhand based unregistered labour contractor, hired approximate 100 unskilled workers mostly from Jharkhand's underprivileged communities with the promise of high-paying moulding and refined raw material work at the Capital Motors factory in Lucknow, 10 months ago. He promised them a daily salary of ₹ 600, free lodging, and a round-trip train ticket. After reaching Lucknow, the reality was starkly different. The workers were housed in makeshift, unventilated tin sheds lacking basic sanitation, clean drinking water, clean floor, etc. Their daily wage was reduced to ₹ 200 significantly lower than the local minimum wage

of ₹ 500 paid to native automobile companies in Lucknow. Furthermore, the contractor confiscated their Aadhaar cards and voter IDs for safekeeping and restricted them from leaving the worksite.

When the workers demanded their promised wages and the statutory inter-state allowances to send money back to their families, Capital Motors denied any responsibility, claiming the workers were not their direct employees but rather “independent sub-contractees” of Mukesh Manpower Solutions. Capital Motors Ltd. also claimed they had no legal obligation to register these workers since the contractor was unregistered.

An NGO, “Shramik Adhikar Seva,” discovered the workers’ living conditions and filed a Public Interest Litigation (PIL) under Article 32 of the Constitution of India directly before the Supreme Court, naming both Capital Motors Ltd. and the Contractor, as respondents.

Answer the following questions (*a*, *b*), keeping in view the above scenario :

(*a*) Does the lack of registration of labour contractor nullify the principal employer’s statutory duties towards inter-state migrant workers ? Enumerate the facilities that must be provided by the employer to the inter-state migrant workers under Section 60 & 61 of The Occupational Safety, Health and Working Conditions Code, 2020 ?

(5 marks)

(*b*) Does the confiscation of identity documents, restriction of movement, and payment of sub-minimum wages amount to ‘Forced Labour’ under Article 23 and a violation of the Right to Life with Dignity under Article 21 of the Indian Constitution. Substantiate your answer with landmark Supreme Court judgment.

(5 marks)

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- (c) In the 'absence of strict domestic compliance', can the Supreme Court directly read the provisions of ILO Conventions (specifically regarding forced labour and discrimination) into the fundamental rights of the workers ?

(5 marks)

- (d) Enumerate the various classes of employees and establishments to which the provisions of Chapter IV (Payment of Bonus) do not apply, as mandated by Section 41 of the Code on Wages, 2019.

(5 marks)

- (e) RST Constructions Ltd., a company engaged in executing a major infrastructure project, recruits a number of labourers from Madhya Pradesh to work at its construction site located in another state. These workers are employed for the duration of the project and perform various manual and technical tasks at the site. After the completion of the project, the employer allegedly fails to provide suitable accommodation and does not arrange for travel allowance or return journey expenses for the workers to go back to their native place in Odisha. The workers contend that such treatment amounts to a denial of statutory protections guaranteed to inter-state migrant workers. They therefore approach the labour authorities alleging that the employer has violated the provisions relating to welfare and protection of migrant labour under the Occupational Safety, Health and Working Conditions Code, 2020.

Examine the legal issues arising in this situation and determine the appropriate action that may be taken by the labour authorities under the Occupational Safety, Health and Working Conditions Code, 2020.

(5 Marks)

4. In the case concerning Manjeet Singh and Indraprastha Gas Limited in the Delhi High Court, the controversy emerged within Indraprastha Gas Limited, a public sector joint venture engaged in the distribution of natural gas. Complainant served as Senior Executive Secretary to the Vice President (HSE & JV). On 26 January 2016, following the Republic Day celebrations organized by the company, she visited her superior's office to attend to routine professional responsibilities. During this time, Mr. Singh, who occupied a senior managerial position, was also present. It was alleged that during the interaction he made remarks praising the attractiveness of foreign women while making disparaging comparisons with Indian women, comments that caused significant discomfort to the Complainant. The situation escalated when Mr. Singh insisted on capturing her photograph on his mobile phone despite her reluctance and, according to the allegations, attempted to embrace her without consent, an act she perceived as an intrusion upon her personal dignity and professional boundaries.

Initially, Complainant discussed the incident informally with certain colleagues and members of the Human Resources Department but refrained from immediately filing a formal grievance. However, the experience continued to cause emotional distress, prompting her upon encouragement from co-workers to submit a written complaint to the Managing Director of the company on 8 February 2016. Acting in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the organization constituted an Internal Complaints Committee (ICC) to examine the allegations. The Committee undertook a formal inquiry, recording the statements of the complainant, the accused officer, and certain individuals who were considered relevant witnesses in the matter.

Upon completion of its inquiry, the ICC concluded that although the conduct of Mr. Singh might not have been deliberately pre-planned, his behavior displayed a "flirtatious" character that exceeded the acceptable limits of workplace decorum. The Committee determined that the acts complained of constituted sexual harassment within the meaning of the POSH Act. Based on

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the findings of the ICC, the disciplinary authority imposed a major penalty by demoting Mr. Singh from the position of Vice President to that of Chief General Manager. His departmental appeal challenging the decision was subsequently rejected, thereby affirming the disciplinary sanction imposed by the employer.

Aggrieved by these outcomes, Mr. Singh approached the Delhi High Court, challenging both the procedural propriety of the ICC inquiry and the legality of the disciplinary measures. He argued that the inquiry process had violated the principles of natural justice because he was not permitted to cross-examine the complainant, and further contended that the allegations lacked independent corroborative evidence. The High Court scrutinized the procedural framework governing inquiries under the POSH Act and ultimately concluded that the proceedings were vitiated due to the denial of an opportunity to cross-examine the complainant. Such denial, the Court held, undermined the fairness of the inquiry and prevented effective testing of the allegations. Observing also the absence of sufficient corroborative material, the Court set aside the ICC report as well as the disciplinary and appellate orders arising from it, emphasizing that inquiries under the statute must strictly adhere to procedural fairness and safeguard the rights of all parties involved. Based on the facts of the case, answer the following (*a, b & c*) questions :

(a) Critically analyze the scope and limits of the powers of the Internal Complaints Committee (ICC) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in the context of the judicial review exercised by the Delhi High Court.

(5 Marks)

(b) Discuss the evidentiary standards applied by the Delhi High Court while reviewing the findings of the Internal Complaints Committee in the case cited above.

(5 marks)

- (c) What are the compliances to be made by the Employer under the Sexual Harassment of Women Act ? Also state the disclosure requirements under the Annual Report of Companies.

(5 marks)

- (d) Enumerate any 10 salient features of the Occupational, Safety, Health and Working Conditions Code, 2020.

(5 marks)

- (e) MN Ltd., a logistics company conducting delivery operations across multiple states, employs nearly 500 delivery personnel in its workforce. The Central Government has notified a floor wage of ₹ 450 per day applicable across the country. However, the State Government in which the company operates has fixed the minimum wage at ₹ 380 per day for the concerned category of employment. Relying upon the State notification, the management of MN Ltd. continues to pay its delivery workers ₹ 380 per day. The workers' union contends that such payment is inconsistent with the statutory framework governing wage regulation and therefore amounts to a violation of the Code on Wages, 2019. Consequently, the union lodges a complaint before the Labour Authority alleging non-compliance with the provisions of the Code.

Under these circumstances, discuss the legal issues involved and determine the action that the Labour Authority should initiate under the Code on Wages 2019.

(5 marks)