

Roll No.

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 11

NOTE : Answer **ALL** Questions.

1. Case Study :

Ludhiana Fashions Pvt. Ltd. was incorporated in the year 2000 as a Private Limited Company. On account of its increased turnover and expansion, it was converted into a Public Limited Company and now known as Ludhiana Fashions Ltd. (LFL).

Ludhiana Fashions Ltd. have 10 directors in its Board. Vanshika is the Managing Director of the Company.

The Company is engaged in the business of manufacturing garments for young boys and girls. The company not even manufacture and sale in the domestic market but also have B2B selling in the European market under the brand name of 'Aha Fashions'.

LFL have its factory in Phillaur, whereas the Registered office is in Ludhiana. The LFL's mission is to provide affordable garments with latest prevailing fashion trends and to promote the employment generation specifically for women. In order to fulfil its noble cause LFL has provided employment to the women and young girls who have been given the roles as managers, supervisors and workers as per the qualifications and experience of the candidate.

Thus, the LFL is promoting empowerment and financial stability among the women.

LFL has various divisions in its manufacturing plant which includes the cloth purchase division, cloth cutting division, garment stitching division, ironing division, packing division, storage and distribution division.

Sangmitra is the overall head of the factory. Her responsibility is to oversee the work flow of each of the division and to ensure smooth functioning of the same. Besides this, she also takes care of the leave management of the staff working in the various divisions, and making arrangement of the proper relieving staff. The work load in the factory increases as and when the festive season comes and demand of the LFL make garment increases. During the festive season usually, the workers are encouraged to give focus on the targeted production and not to take leave.

In garment cutting division, Radhika is the Division Head. Radhika's work in the LFL is to take care of overall responsibility of cutting the cloth to different size as per the requirement for its final stitching. When the Diwali time was approaching near, Radhika's father called her over phone and informed that her mother has slipped down from the stairs and has been hospitalised. Radhika's native place is near Jaipur and she thought of going Jaipur by air to save time, so that she gets more time to look after her mother. She forwarded her leave application to Sangmitra (who is overall head of factory divisions). Sangmitra declined the leave application of Radhika without knowing the reasons and shouted on her narrating how she dared to apply for the leave at this festive time, when the management is committed to fulfil the domestic as well as export demand of the garments. As cutting of the clothes is the first stage of tailoring and stitching and if this step is not taken care of in priority the rest of the process will not start functioning, so Sangmitra advised her to take leave only after the end of the festival season. Radhika again requested that it is really urgent on account of the hospitalisation of her mother, but Sangmitra without paying any attention to Radhika's request, abused her and passed on her unwelcomed personal remarks about her integrity and character and told that earlier also she had fabricated false stories for availing of leave.

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Aggrieved from this Radhika made a complaint of sexual harassment against Sangmitra before the Internal Committee formed by the LFL under the provision of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

The Inquiry Committee summoned both the parties and after a long deliberation recommended for suspension of Sangmitra. The management took cognizance of the report given by the Internal Committee and Sangmitra was suspended on 1st January, 2024. Before the suspension she was getting a monthly salary of ₹ 50,000 per month. After submission of the written apology and withholding one grade increment, Sangmitra was reinstated in the service with effect from 1st October, 2024.

The Board of the LFL recently approved the construction of its second factory premises in the industrial area of Ludhiana. The necessary machinery and electrical equipments were imported and installed in the new factory premises. The promoters of the Company want to start functioning of the new manufacturing plant with effect from the 15th August, 2025. Vanshika who is Managing Director of the Company nominated Ajay (who is Manager, stationed at Registered Office of the Company at Ludhiana) as the Occupier of the new factory premises.

Avantika joined the LFL as Supervisor of Packaging Division. She was to supervise the overall work of packaging of the garments. Very soon she realised that the employees are being exploited by the management and no one has courage to raise their issues. A few workers working in same Division decided to form a trade union. Meanwhile the management came to know that few workers are in the process of formation of Trade Union in this industry, so they called up a meeting of the employees and conveyed the message of the management. It was emphasized about the penal provisions and expulsions from the services if anybody is found involved in the formation or association with any Trade Union.

Ishika, is working in the Ludhiana Fashions Ltd. as Marketing & Recovery Officer (MRO) since 1st August, 2019. Ishika applied for maternity leave from 1st December, 2024 to 31st May, 2025. Her expected date of delivery as per doctor's report is 10th January, 2025. Ishika is already having 2 children.

The HR Deptt. of the Company declined the maternity leave application of Ishika informing her that the maternity leave benefits with wages cannot be granted to a woman who is already having 2 children. However, she can avail the leave without wages. Aggrieved from this, Ishika tendered her resignation to the Company on 10th March, 2025 and also demanded for payment of gratuity.

Based on the facts of the above, answer the following questions :

- (a) Whether Sangmitra is entitled for payment of any subsistence allowance during the period of her suspension as per the provisions of the Industrial Employment (Standing Orders) Act, 1946 ? If so, calculate how much amount she will be entitled to get ? (Assume One month = 30 days).

(8 marks)

- (b) Whether Radhika can make a complaint of sexual harassment against Sangmitra (who is also a feminine gender) ? Discuss the relevant provisions in light of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

(8 marks)

- (c) Whether Ajay can be designated as occupier of the factory in terms of the provisions of the Factories Act, 1948 ? Give your answer with the decided case laws.

(8 marks)

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- (d) Few employees of packaging department are in the process of formation of a Trade Union, however the management has discouraged the thought process. Whether management can prevent the formation and association of workers with any Trade Union? Also explain the process of registration of a Trade Union.

(8 marks)

- (e) Ishika's maternity leave application (with wages) was declined by the management quoting the reason that she already have 2 children and it is not permissible under the Maternity Benefit Act, 1961 . Aggrieved from this, Ishika tendered her resignation to the Company and demanded for payment of the wages during the maternity period and also demanded the payment of gratuity :

- (i) Whether Ishika is entitled to get the maternity leave benefit from 1st December, 2024 to 31st May, 2025 (assuming she has no children prior to this delivery) ?
- (ii) Whether Ishika is entitled to get the maternity leave benefit even when she has 2 children prior to the present expected delivery ?
- (iii) Whether Ishika is entitled to get the wages during her leave period i.e. from 1st December, 2024 to 10th March, 2025 ?
- (iv) Whether Ishika is entitled to get the payment of gratuity amount for the period she served in the Company ?

(2×4=8 marks)

2. (a) Progressive Cements Ltd. is a Government Company. The 100% share capital of the Company is owned by the President of India. The factory premises of the Company is situated 50 kms away from the Jaipur City Railway Station. To have easy transportation of the cement bags to various parts of the country, a dedicated rail line from the factory to the Jaipur Railway Station was laid down by the Company. For loading- unloading of the cement bags at Jaipur Railway Station, the factory labours were engaged. One day a labour Bhima Ram fell down while the train was moving. With the help of his colleagues, he was admitted to the nearby Government Hospital but was referred to another Government Hospital due to non availability of bed in the ICU and then again referred this case to another Government Hospital due to lack of availability of specialised Doctor. The situation worsened and ultimately the family members of Bhima Ram availed the services of a nearby Private Hospital where they incurred a sum of ₹ 3.50 lakh on his treatment. Aggrieved from the indifferent attitude of the Government Hospitals, Bhima Ram filed a writ petition in the Supreme Court.

Whether the non-availability of facilities for treatment of the serious injuries sustained by Bhima Ram in the various Government hospitals have resulted in denial of his fundamental right guaranteed under the Constitution ? Examine the case with decided case law.

(6 marks)

- (b) The International Labour Organisation (ILO) was established in the year 1919 on the firm belief that the universal and lasting peace can be established only if it is based upon social justice. Now more than 100 years have elapsed since the creation of the ILO and there are drastic changes in all around. Whether the objectives behind the creation of the ILO are still relevant in today's environment ? Explain.

(6 marks)

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3. (a) Which among the following cases will be treated as 'manufacturing process' as per the Factories Act, 1948. Your answer should be with the appropriate reasoning.

Case I : Sarita opened a start-up of cloud kitchen. The necessary electrical equipments like Refrigerator, Mixer, Oven etc. are available in the kitchen to prepare the food items. She takes order through Mobile App/Website, gets the food items cooked through Chef and delivers it through the delivery boys.

Case II : Rahul runs a motor garage, in which he provides servicing and repairing of all types of cars with the help of skilled and unskilled workers employed by him. The number of workers in the garage varies as per the work orders which usually remains between 8 to 10 but on very few occasions he had employed more than 20 workers.

Case III : Fine Law Publishing House is in the business of publishing of law books and periodicals for which it collects the manuscripts from the authors, compose the material and gets the printing of the books.

(2×3=6 marks)

- (b) Oscar Mines and Granites Ltd. (OMGL) is having mining license to extract marble and granite in the surrounding area of Kishangarh. In order to extract the raw stone beneath the earth, the OMGL availed the services of Kishan Lal a Licensed Contractor for supply of certain number of labours. For this purpose the OMGL got the registration under the Contract Labour (Regulation and Abolition) Act, 1970. After some time, Kishan Lal's license got expired and he eventually disappeared looking to the forthcoming demand from the labours for payment. The contract labours raised demand before the OMGL to keep them in the employment of the OMGL. Meanwhile the OMGL's registration also got expired for want of non-renewal.

Whether the contract labours supplied by Kishan Lal can become the employees of the OMGL, where the OMGL's registration has already been expired ?

(6 marks)

4. (a) Pioneer Mines and Minerals Ltd. (PMML) is the license holder of 30 mines in the State of Tamil Nadu which produces non-metallic minerals like gypsum, limestone, lignite, and rock phosphate. The PMML has leased out 5 mines to other operators on rent as royalty for 3 years' time period subject to its renewal from time to time.

Kushal, a labour, who was working in a mine (which was leased out to Arihant Marbles by the PMML), below the ground, was injured on account of malfunction of the lift, carrying him below the surface. Kushal's right hand palm was badly injured and the medical doctors had no other alternative except to cut down his right hand palm. It is to mention here that Kushal was the left hander and even after the cutting of his right hand palm, his working efficiency as labour was not affected. However, he claimed compensation from the PMML.

Who shall be considered as the owner of such mine, in which the Kushal was working ? Also state whether the injury to Kushal's right hand palm shall be treated as Serious Bodily injury as per the provisions of the Mines Act, 1952 ?

(6 marks)

- (b) Himadri Productions (HP) make TV Serials, based on the theme of domestic affairs, which are very much popular among the Indian families. Sudhanshu who is the Director in the HP got the approval from Pragati TV for broadcasting of 20 episodes of TV Serial titled as 'Aasmaan Aur Bhi Hai'. HP has already filmed its 5 episodes. from 6th episodes and onward the story revolves around a special child who is of the age of 8 years. Sudhanshu's friend's son is a special child named as Aakaar

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and he wants to introduce him in the world of TV & Film. However, Prashant, the Producer of the TV Serial, was in doubt whether taking work from Aakaar in the TV Serial would attract any non-compliance of the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 since Aakaar does not come within the definition of family and seek your professional expertise in this regard. Clarify the relevant provisions of the Act to Prashant.

(6 marks)

5. (a) Put the following scenarios, in the category of :

(i) Arising out of employment' and

(ii) Arising in the course of employment, along with its justification :

Case I : Someone placed a bomb in a workplace, which caused injury to Shalini, a worker.

Case II. Bhola, a construction worker fell down from a ladder while working on a building site.

Case III : Sulochana, a nurse contracted with a contagious disease from a patient.

Case IV : Saransh, a bank employee suffering from heart disease collapsed and died while working in the bank.

Case V: Hari, a railway employee, while travelling to a site to carry out repairs was injured in an accident.

Case VI : Manveer, a delivery driver met with an accident while making a delivery.

(1×6=6 marks)

- (b) Vijaykanth and Amar Jha were in the employment as driver in a university. The university later found that operating the bus services for the students has resulted in loss and decided to discontinue the facility. This has resulted in the termination of services of the drivers by way of retrenchment. These two drivers were served with a notice of retrenchment on payment of one month's salary in lieu of notice. The aggrieved drivers filed petitions before the Industrial Tribunal for claiming compensation.

The petitions by the respective drivers were contested by the Appellants — the University on the ground that the university was not the employer under section 2(g) of Industrial Disputes Act, 1947 and secondly on the ground that the work carried on by the university was not industry and so the petitions are liable to be rejected. The tribunal rejected the objections and directed the appellants (University) to pay the petitioners the retrenchment compensation.

In the light of the above mentioned facts, decide the following questions :

- (i) Whether the activities carried on by the University is of an Industry ? Explain.
(ii) The staff both teaching and administrative, whether they are workmen ? Explain.

(2×3=6 marks)

6. (a) Suman, an employee of Prajwal Textiles was dismissed by the employer for misconduct. Suman filed a petition in the Labour Court challenging the order of dismissal. The Labour Court found the dismissal order as invalid and ordered reinstatement. The employer filed appeal in the High Court which confirmed the order of the Labour Court. Unfortunately the employee died. His wife claimed the bonus as applicable for the deceased employee for all the years subsequent to his dismissal. Will she succeed ? Explain with relevant provisions.

(6 marks)

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- (b) Keerthan was employed by a publishing company as Marketing Executive. He was found guilty of fraud while in service and after the enquiry he was terminated from service. The company for which Keerthan served for 13 years refused to provide gratuity. Keerthan challenged the action of the company in the Court. Will he succeed ? State the grounds of denial of gratuity.

(6 marks)

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