

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) Conditions conducive to cartelisation
 - (ii) Resale price maintenance
 - (iii) Commercial purpose
 - (iv) Pre-packaged commodity
 - (v) Inventive step
 - (vi) Depository receipt
 - (vii) General principles applicable to working of patented invention.

(3 marks each)

2. State, with reasons in brief, whether the following statements are true or false. Attempt **any five** :
- (i) A person aggrieved by the order of seizure of an essential commodity under the Essential Commodities Act, 1955 can seek remedy in a civil court.
 - (ii) 'Electricity' is a hazardous substance under the Public Liability Insurance Act, 1991.
 - (iii) Every non-standard or unverified weight or measure used in the course of trade is liable to be forfeited.
 - (iv) Consumer disputes redressal forums constituted under the Consumer Protection Act, 1986 are to be construed as judicial authorities and proceedings before them can be taken to be the legal proceedings.
 - (v) Even sheer negligence on the part of legal advisors in properly drafting the complaint against a company can make it (the company) liable under the strict provisions of environmental laws.
 - (vi) The author of a literary work has no moral rights after the assignment of the copyright.

(3 marks each)

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

- (i) 'Pecuniary limits' and 'territorial limits' of consumer disputes redressal forums constituted under the Consumer Protection Act, 1986.
- (ii) 'Surrender of a patent' and 'revocation of a patent' under the Patents Act, 1970.
- (iii) 'Assignment of a trade mark' and 'transmission of a trade mark' under the Trade Marks Act, 1999.
- (iv) 'Preparation to commit an offence' and 'attempt to commit an offence' under the Essential Commodities Act, 1955.

(5 marks each)

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

- (i) _____ is the name by which the law relating to weights and measures is known in international parlance.
- (ii) Foreign direct investments can be made under two routes namely, automatic route and _____.
- (iii) The Public Liability Insurance Act, 1991 has been enacted for providing immediate relief to the persons affected by accidents occurring while handling any _____ and for other incidental and connected matters.
- (iv) The National Consumer Disputes Redressal Commission shall not admit a complaint unless it is filed within _____ from the date on which the cause of action has arisen.
- (v) Every offence punishable under the Prevention of Money Laundering Act, 2002 is a _____ offence.

(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) Rajiv, a person resident in India, wishes to acquire foreign securities as qualification shares issued by a company incorporated outside India for holding the position of a director in the company.

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- (ii) Shyam, a non-resident Indian working in the USA intends to sell his ancestral house in India to a person resident in India.
- (iii) Ashok, a person resident in India, has been offered bonus shares of the value of US \$20,000 by a company incorporated outside India.
- (iv) Indel Manufacturing Inc., a company incorporated outside India, engaged in software development, intends to open its branch in a special economic zone (SEZ) in India.
- (v) An Indian company intends to make direct investment in a joint venture outside India.

(1 mark each)

- (b) A school owned a swimming pool and offered swimming facilities to the public on payment of fees. The school conducted summer swimming training camps to train children in swimming and for this purpose had engaged a trainer/coach.

Mohan had enrolled his son for learning how to swim. One day while swimming, the child died due to drowning. The school authorities maintained that the trainer/coach was fully qualified for the job and challenged the complainant's claim for compensation in the consumer disputes redressal forum.

Should the school authorities be held liable to pay compensation for 'deficiency in service' ? Who is entitled to receive compensation ? Give reasons.

(5 marks)

- (c) "A reasonable opportunity is required to be provided to the person concerned before confiscation of his commodity or vehicle, *etc.*, under the Essential Commodities Act, 1955." Elaborate the statement in the light of relevant legal provisions and decided case law.

(5 marks)

5. (a) What are the heads under which compensation or relief for damages may be claimed under the National Green Tribunal Act, 2010.

(5 marks)

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- (b) Does a patent obtained in India give protection worldwide ? Is it possible to file an international application in India under the Patent Cooperation Treaty (PCT) ?

(5 marks)

- (c) Discuss the powers of the Central Government to prohibit receipt of foreign contribution under the Foreign Contribution (Regulation) Act, 1976.

(5 marks)

PART — B

(Answer ANY TWO questions from this part.)

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

- (i) Purposes for which Employees' State Insurance Fund may be expended under the Employees' State Insurance Act, 1948.
- (ii) Licensing of contractors under the Contract Labour (Regulation and Abolition) Act, 1970.
- (iii) Special provisions relating to hazardous processes under the Factories Act, 1948.
- (iv) Tests laid down by the Supreme Court in Bangalore Water Supply and Sewerage Board vs. A. Rajappa [AIR 1978 SC 548] to determine whether an activity is covered by the definition of 'industry' under the Industrial Disputes Act, 1947.
- (v) Object and scope of the Payment of Bonus Act, 1965.

(5 marks each)

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

- (i) 'Award' and 'settlement' under the Industrial Disputes Act, 1947.
- (ii) 'Partial forfeiture of gratuity' and 'full forfeiture of gratuity' under the Payment of Gratuity Act, 1972.
- (iii) 'Model standing orders' and 'certified standing orders' under the Industrial Employment (Standing Orders) Act, 1946.

(5 marks each)

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

- (i) The appropriate government may review minimum wages at such intervals, as it may think fit, not exceeding _____ and revise the minimum rate of wages, if necessary.
- (ii) The ceiling on the amount of gratuity has been enhanced to ` _____ by the Payment of Gratuity (Amendment) Act, 2010.
- (iii) The subject matter of an industrial dispute should relate to employment or non-employment or terms of employment or the conditions of _____ of any person.
- (iv) Standing orders shall come into operation on the expiry of _____ from the date on which the authenticated copies are sent to employer and workers' representatives.
- (v) There must be more than _____ workers in a factory for the mandatory appointment of a safety officer.

(1 mark each)

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

- (i) From the close of the accounting year, the bonus should be paid within –
 - (a) One month
 - (b) Two months
 - (c) Twelve months
 - (d) Eight months.
- (ii) The minimum number of employees required in an establishment for it to come under the purview of the Payment of Gratuity Act, 1972 is –
 - (a) 10
 - (b) 15
 - (c) 20
 - (d) 25.

- (iii) The authority which has been constituted by the Central Government to preside over the cases regarding determination of monies due from employers under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is –
- (a) Employees Provident Fund Appellate Tribunal
 - (b) Employees Provident Fund Consultancy Tribunal
 - (c) Employees Provident Fund Help Desk
 - (d) Employees Provident Fund Information Centre.
- (iv) The period within which an employer must make a deposit with the Commissioner, if he is liable to pay compensation under the Employees' Compensation Act, 1923 is –
- (a) Within 10 days of being served the notice
 - (b) Within 20 days of being served the notice
 - (c) Within 30 days of being served the notice
 - (d) Within 60 days of being served the notice.
- (v) The establishments which have been exempted from the purview of the Contract Labour (Regulation and Abolition) Act, 1970 are –
- (a) Establishments where manufacturing work is performed
 - (b) Establishments where metal work is performed
 - (c) Establishments where embroidery work is performed
 - (d) Establishments where work of intermittent nature is performed.

(1 mark each)

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

- (i) Suresh, a primary school teacher, was dismissed from service due to unauthorised absence for a week. Suresh intends to raise an industrial dispute with regard to his dismissal seeking reinstatement with consequential benefits. Will he succeed ? Give reasons in support of your answer.

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- (ii) A workman was charged with theft of an article from the factory. The management initiated disciplinary proceedings against him for an act subversive of discipline and simultaneously initiated criminal proceedings by lodging a complaint with the police. The workman pleaded for stay of disciplinary proceedings till the outcome of criminal proceedings. Is the plea of the workman tenable ? Discuss.
- (iii) Lecktronics Ltd. is an establishment covered under the Employees' State Insurance Act, 1948. The salesmen of the company were paid a commission @ 10% of the sales done by them every month. The ESI Inspector asked the employer to deposit contributions (the sum of money payable to the ESI Corporation by the principal employer in respect of an employee) in respect of the commission paid. Is he justified ? Give reasons.
- (iv) An industrial establishment engaged an employee to assist in one or the other operational work incidental to its main industrial operation. However, the employer denied such an employee the status of a workman on the ground that his work was not directly connected with the main operation of the industrial establishment. Can the management do so ? Give reasons in support of your answer.
- (v) The management of a tea garden terminated the services of a technician on the ground of incompetence. His cause was espoused by the workers' union which raised an industrial dispute. The management contended that the technician was not a member of the workers' union and that there could not be an industrial dispute in this case. Will the management succeed in its stand ? Discuss.
- (vi) A bank made certain appointments on regular basis. On scrutiny later on, the bank found that the appointment of an employee was irregular and contrary to its rules. His services were, therefore, terminated. The aggrieved employee approached the court against the termination by the bank. Will he succeed ? Give reasons.
- (vii) The management of an industrial establishment declared an unjustified lock-out due to the illegal and unjustified strike by a section of the workers. Later on when the strike was called off, the management did not pay wages for the lock-out period. Is the action of the management justified and legally tenable ? Give reasons.

(4 marks each)

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