

Roll No.

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 6

NOTE : Answer **ALL** Questions.

1. Read the case below and answer the questions at the end :

There arose a dispute between the management and two rival trade unions over the dismissal of some employees. Both the trade unions served notices for strike on the management on 21st July 2018, specifying their demands and their intention to go on strike from 10th August 2018. An attempt was made to conciliate between parties involved and conciliation proceedings lasted between 26th July 2018 to 8th August 2018. A failure report was sent to the Government by the Conciliation officer. A large number of workmen went on strike on 10th August, 2018. The management of the company alleged that they forcibly entered the company's premises and other places and obstructed the work of the loyal workers. The workmen turned violent and therefore the District Magistrate issued prohibitory orders on 10th August 2018. On the same day, the company declared a lock out.

Around a week later on 19th August 2018, the trade unions called off the strike, whereas company lifted the lock out on 27th August 2018. The company suspended those workmen whom it claimed to have obstructed the loyal ones and dismissed those who were convicted for violation of prohibitory orders.

The Industrial Tribunal held that the strike although illegal, was justified, and the company was not entitled to dismiss the workmen. The company was directed to reinstate the workers except those who have been convicted under Indian Penal Code. It was also directed to reinstate the workers dismissed originally due to which the dispute arose.

The company wants to appeal against this order by special leave to the Supreme Court.

Questions :

- (a) State the chances of the management in getting relief from Supreme Court, assuming that it is a case of a public utility service. Was the strike of the workers on 10th August 2018 consistent with the provisions ?
- (b) Explain the meaning of 'justified' and 'unjustified' strikes.
- (c) Are wages payable to the workers for the strike period ?
- (d) Are there general rules prescribed for the prohibition of strikes and lockouts in public utility and non-utility service ?
- (e) Explain the meaning of public utility services, also state that is it true that these services can be carried out only by government and public Companies ?

(8 marks each)

2. (a) What rights does a woman has upon her return to work from maternity leave ?
- (6 marks)*
- (b) GMC runs a public utility transport service in Lucknow managed by a committee known as Grand Electric Supply and Transport Committee (GEST). GEST owns a number of buses and corporation employs staff including bus drivers for conducting the said service. A bus driver has to drive a bus allotted to him from morning till evening with necessary intervals and for that purpose he has to reach the depot. concerned early in the morning and go back to his home after his work is finished and bus is lodged in the depot. GEST permits the staff to travel in a bus without payment

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of fares, in the morning while coming to duty and in the evening, while going home after the duty.

On November 25th, 2018, Mr. Arun finished his work for the day at about 8:30 p.m. At Alambagh bus depot, he boarded another bus in order to go to his residence at Gomti Nagar. The said bus collided with stationary lorry parked at an awkward angle near Charbagh. Because of collision, Arun was thrown out on the road and injured. He was sent to hospital for treatment where he expired on December 1st, 2018. His widow filed an application before Commissioner for workman's compensation, claiming compensation by reason of death of her husband in an accident which arose "out of and in course of his employment". State whether she will succeed ?

(6 marks)

3. (a) State the specific directions issued by Supreme Court to the State Government in case of *Bandhua Mukti Morcha Versus Union of India*.
- (b) Explain any *two* most important recent reforms/ammendments in labour laws.

(6 marks each)

4. (a) The employees of company Old Limited had been getting the maximum bonus of 20%. The company was amalgamated with certain other companies, on the stipulation that employees of amalgamating companies would become employees of the new company

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on terms not favourable to them and that a separate profit and loss account would be prepared for each of the amalgamating companies. The new company allowed the said employees only the minimum bonus 8.33% on the basis of consolidated profit and loss accounts and contended that section 3 was not applicable as there was no stipulation for preparing separate balance sheets for each amalgamating companies. State as to who will succeed, the employees of Old Limited or the management of the new company ?

(6 marks)

- (b) On every working day, when the workers canteen of the company is opened, there would be a big rush of employees for purchase of snacks and tea. Normally employees stand in queue for the purchase of various items from two different counters. The canteen remains open for half-an-hour and all employees who come there can conveniently purchase eatables, if they stand in queue. One day, Shubham came to canteen when in both counters people were standing in queue, and he tried to purchase the snacks through Sarvesh, a co-worker who was in queue. This was objected by Prashant who was standing just behind Servesh. Arguments started between Shubham and Prashant. They were both angry and in the process, Shubham slapped Prashant. The canteen supervisor intervened and separated them. Both of them were active members of two different rival unions. Analyse the point of issue in the case and state the main points of chargesheet to be issued to the employees concerned for this misconduct.

Also state any *six* matters to be provided in the standing orders under the Industrial Employment (Standing Orders) Act 1946.

(6 marks)

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5. (a) Mr. Bharat wants to set up an industrial establishment for collecting and manufacturing quarry products. He has been told that there is no significant difference between contract labour and employees. Is there any difference between two terms ? He also wants to know whether contract labour can be employed for any nature of work ? Will the contract employees automatically become the employees of the principal employer ?
- (b) Casual Company Limited was being headed and run by Mr. Questionable, its Chairman cum Managing Director (CMD) from his residence. He used to come to the office only in cases of emergency and if there was some important business requiring his physical presence, he was assisted by Miss Victim who was his personal secretary. The personal secretary wanted to complain about objectionable acts by her boss, but there was no internal complaints committee in the organisation. Also she was not comfortable in making the complaint directly due to mental stress. She was also advised that no action can be taken against her boss, as the wrongful act was done at the 'residence' of the boss and not at the workplace. Advise.

(6 marks each)

6. The certified standing orders of a company provided that the retirement age of the workman would be 58 years of age. The company enhanced the age to 60 years, as a temporary measure to retain the employees and to cut costs. However, the financial performance of the company still did not improve and few years later, the company withdrew the enhancement and restored the retirement age back to 58 years. The company contended that it was just a temporary measure and even if the benefit of enhancement of age of superannuation from 58 to 60 years has been extended in favour of the workmen, they have got no right to

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retain the same for the reason that Service Rules and Certified Standing Orders applicable to the workmen stipulates the age of 58 years and since the same has not been ammended in accordance with law, hence the provisions of Service Rules and Certified Standing Orders are binding upon the workmen.

The trade union wants to challenge this action of the company as bad in the eyes of law, as the employer was bound to give prior notice. Will the trade union succeed ?

(12 marks)

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