

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. A, a lawyer and B a company secretary by profession had established a firm and started giving consultancy to the various company/clients of Delhi/NCR region. In the short span of 5 years they had made good reputation and also started to appear NCLT and NCLAT. For the smooth discharges of functioning of the firm they employed a team of around 20 people which includes lawyers, Stenographer, accountants, computer operators, peon and driver for smooth discharge of function. One peon X apart from his normal function also used to work as domestic servant at the house of A. The brief function of the Stenographer is to prepare the petition and other correspondence of the firm. He also entrusted with the function of making the attendance record of other staff members and maintain the diary of the cases pending before the various court, he also used to work late hours apart from his normal duty hours. After two years, the services of peon X and stenographer was terminated. They raised an industrial dispute relating to their termination. Now in the lights of provisions of Industrial Disputes Act, 1947, answer the following questions :

- (a) Whether the Firm established by Mr. A and B is covered in the domain of Industry for extending the benefits of Industrial Disputes Act, 1947 ? How far the services of domestic servants are covered under the concept of Industry of the IDA 1947 ?

(8 marks)

: 2 :

- (b) What is the principle of “Triple Test” for the determination of Industry ?
(8 marks)
- (c) Is the term “workman” and “person employed for delivering goods or services” are the same terms under the Industrial Disputes Act, 1947 ?
(8 marks)
- (d) With the help of decided cases decide whether the following persons are workmen under Industrial Dispute Act, 1947 :
(i) A Temple Priest (ii) An engineer of XYZ Ltd. (iii) Head Constable of Delhi Police (iv) Development officer of LIC.
(8 marks)
- (e) With the help of decided case/reason, briefly enumerate whether the following activities can be treated as an industry :
(i) The ICSI, New Delhi, (ii) Central Jail (iii) A temple in which the activities of Dharma, Dhyan, Bhakti and Puja are carried out, (iv) A Registered Trade Union.
(8 marks)
2. (a) Mr. X was an employee of Naya International Co. with more than one-year continuous service. He was dismissed from services on account of insubordination. The Company refused to pay him bonus. Decide whether such person is entitled to any bonus ? Also critically examine the disqualifications for payment of bonus.
- (b) Write a critical analysis of significance of role of Company Secretary in case of Labour Audit.
(6 marks each)

: 3 :

3. (a) Is the Right to Lay off can be claimed as an inherent right of the employer ?
(b) Briefly discuss the hours of works, welfare measures and other conditions of Building Construction Workers.

(6 marks each)

4. (a) Discuss the constitutional validity of ‘‘Building and other Construction Workers (Regulation of Employment and Condition of Service) Act’ with the help of decided cases.
(b) There was dispute between the management of XYZ and Co. and its workers’ union, which was registered under the Trade Unions Act, 1926. The said dispute related to the introduction of productivity linked bonus scheme. The union decided to go on strike and served a notice on the management. The Union chalked out a detailed programme to make the strike success. It was decided not to resort to violence. As expected, the strike which commenced on the expiry of the notice was a great success. The management wants to initiate criminal proceeding against the office bearers of the trade union and also wants to file a civil suit against the union for the loss suffered due to strike action. Advise the management according to provisions of Trade Union Act, 1926, will it make any difference in your answer, if the workers had gone on strike to protest the new Industrial policy announced by the Government ?

(6 marks each)

5. (a) Highlight the importance of ‘‘Vishaka Judgement’’ in enactment of ‘‘The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013’’.
(b) Necessity of Consolidation of labour laws is the need of hour. Discuss in the context of the Code on Industrial Relations, 2020.

(6 marks each)

: 4 :

6. The legality or illegality of a strike has nothing to do with the liability for deduction of wages. Even if the strike is legal, it does not save the workers from losing the salary for the period of strike. Comment with the help of decided cases.

(12 marks)

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