

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. Case Study :

VBDL Ltd., (the Builder) is a company engaged in the business of construction of multi-storey flats in Mumbai. It started working on a project named as 'Sare Jahan Complex' in Panvel, Navi Mumbai.

At the site, the builder opened its office and employed two persons named as Sonali and Kamal, to book flats, receive money from the prospective buyers through cheques, and to do all other managerial, supervisory and administrative work. Besides Sonali and Kamal, one peon was also appointed for their office purposes.

While Sonali was taking care of the in-office work, whereas Kamal was overseeing the field duty, like inspection of the work done by the labours, purchase of building raw materials etc.

The builder engaged KCPL, a contractor company engaged in the construction work. The KCPL provided the labours at site, to do the civil work.

One day, an Inspector came to site for checking, whether adequate safety measures are being followed or not. During his inspection, he observed that some labours have defective vision and some labours are deaf too. He prepared a detailed report and summoned to the contractor to give explanation.

Amrish, who is a regular employee of KCPL was given the task of pulling the chain, operated through electricity, to lift the mixture of cement and concrete. One day, while he was doing this work, the chain broke and fell down on the land which caused a serious bodily injury to Amrish.

Sonali's father Hari Ram is having a small piece of land in a village near by Panvel. Hari Ram thought to construct a dwelling house for his family. So he contacted a person named Ashutosh, who takes contracts for small house projects (not the multi-storey project) costing around 15-20 lakh rupees. Ashutosh agreed to construct the house for Hari Ram for a total cost of 15 lakh rupees including the building material, labour cost, sanitary and electrical fittings and flooring.

Based on the above fact, answer the following questions :

- (a) Whether Sonali and Kamal can be treated as 'Building worker' ? (8 marks)
 - (b) Whether the construction work on the land owned by Hari Ram (Sonali's father), amounts to 'Building or other construction work'. Quote the relevant provisions of the law. (8 marks)
 - (c) What are the provisions under the law relating to employment of persons who are deaf and having defective vision ? (8 marks)
 - (d) In the above case whether Amrish, can be treated as a contract labour ? Quote the relevant provisions of the law. (8 marks)
 - (e) Amrish got serious bodily injury due to the accident happened at the site. Who shall be treated as employer in this case, the Builder or KCPL ? Also state whether the employer shall be liable to pay compensation ? (8 marks)
2. (a) A private TV channel recruited some female journalists to anchor their various programs, live shows and reality shows. The terms and conditions of the employment was that such female employees shall remain unmarried, maintain glammers look, slim and fit,

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till the age of retirement, which was kept as 35 years. However, at the discretion of the management, the employee's services could be terminated before the age of 35 years, if she could not maintain her look or gets married.

Purvi, one such employee, after two years of taking up the employment in that TV Channel, got married, but she kept this news, as secret and not informed her employer. After some time, when she got pregnant, the matter was revealed to the management. As a result, and as per the terms of the employment, she was expelled from the services.

In light of the above facts, comment, whether putting up of such stringent conditions of employment on the part of the employer was right ? Give your answer with any decided case law. (6 marks)

- (b) Armaan, was working with his employer at Dadar (Kabootarkhana) in Mumbai. After some time, he was laid off by his employer. Armaan was offered another job at Virar in Mumbai, which also belongs to the same employer but it is 14 km away from the current establishment. However, Armaan refused to accept the new assignment, complaining that Virar is far away from his residence at Panvel and claimed compensation for lay-off. Whether the claim of Armaan is tenable ? (6 marks)
3. (a) YSWM Ltd., is a company engaged in the business of manufacturing of polyester yarn. It has nearly 500 workers. There was a news in the TV/Newspaper that on 1st of June 2021, there will be Solar Eclipse. The workers were of traditional thoughts and strong belief that on the day of Solar Eclipse, no one should move to work place and remain in the home to escape the unwanted happenings on account of this Solar Eclipse. The representatives of the workers discussed the matter with Navneet, the Factory Manager, to declare a holiday on 1st June, 2021. But Navneet denied for declaration of holiday and said that, Solar Eclipses is nothing but a Solar Event and need not to be afraid. However, the workers were not convinced with

Navneet's plea and they all decided to remain on casual leave for one day on 1st June, 2021. Whether absence of all the workers on 1st June, 2021, amounts to 'Strike' ? (6 marks)

(b) "International Labour Organization (ILO) is a nodal agency coming under the ambit of United Nations (UN)". State in this context the aims and objectives of ILO. (6 marks)

4. (a) Sunidhi is Assistant General Manager, heading the Forex Division of Best Bank Ltd., at Bandra Kurla Complex, Mumbai. In this Forex Division of the Bank, under the official hierarchy of Sunidhi, 10 other employees are also working. Among them Aniruddha, is the Chief Manager. One fine evening, there was heavy rain in Mumbai so the Sunidhi's driver made a call to her and expressed his inability to come. When Sunidhi was talking to her driver, Aniruddha was sitting in her office chamber. Aniruddha offered Sunidhi to drop at her home in his car, which she accepted. After that day, Sunidhi took lift in Aniruddha's car intermittently, for quite some time, as and when her driver pretended due to some reasons. She thereafter changed the driver. One day, in the Lounge, Aniruddha was taking lunch with other office colleagues. Sunidhi was also seating opposite of Aniruddha, which he was not aware of it. Suddenly, Sunidhi heard some absurd words of comments about her, which Anirudhha was saying to his office colleagues. "Madam, is now a days showing her attitude. Earlier she liked my company, so she pretended that her driver is not coming, and many a times she had asked me for a lift, but now it seems that somebody else, is in her heart and I have been discarded." Sunidhi was shocked. She made a written complaint before the Internal Complaint Committee (ICC).
Based on the above facts, whether the Lounge (meant for lunch place for the staff) comes under the definition of workplace under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ? Substantiate your answer with the decided case law. (6 marks)

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- (b) In a matter, Agra Municipal Corporation (AMC) dismissed two of its employees, Mr. Kuldeep Singh, a Head clerk and Mr. Ramnath, a Sanitary Inspector on charges for negligence, insubordination and indiscipline. The Municipal Workers' Union, of which the dismissed employees were members, questioned the order of dismissal and the matter was referred to the Industrial Tribunal. In defence, the AMC argued that its status is of local self-government, thus it does not come within the meaning of industry and the dispute was not an industrial dispute.

Whether AMC is an Industry ? Whether this dispute shall be termed as an Industrial Dispute ? (6 marks)

5. (a) Renuka, received an appointment letter on 25th February, 2022 from Global Bank Ltd., HR Division, Fort Mumbai. The appointment was for the post of Assistant Manager and she was to join at its branch office Vashi, Mumbai latest by 28th February, 2022, else the Bank will treat that the candidate is not interested and shall cancel the appointment.

Renuka was having pregnancy of 3 months at the time of receipt of the appointment letter. She was very happy to receive such appointment letter and as per the demand of her friends, she gave a little party in a Hotel, near her home. During the party hours, when she was in little dancing mood, all of a sudden she slipped down and an unwanted miscarriage happened. After taking the necessary medical treatment, she decided to join the bank branch on 28th February, 2022.

She went to the branch, shown the appointment letter and the manager allowed her to join. At the end of the same day, she applied for maternity leave from 1st March, 2022.

As per the relevant provisions of the law, whether the Manager of the branch was liable in employing Renuka, after her miscarriage ? (6 marks)

- (b) The Occupational Safety, Health and Working Conditions Code, 2020 is an Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment.

In light of this, list out the Central Acts, which were amalgamated, simplified and rationalised ? (6 marks)

6. Kishan Lal is a farmer. He is having a small piece of agriculture land, in which he and his wife Kanta, do all the farming activities. They do not engage any labour and do the work themselves. Sometime their children, Suresh and Mahesh, who are of 10 and 12 years old only, helps in farming activity, when there are holidays in their school.

In March, 2022, when the wheat crop was ready, Kishan Lal hired a threshing machine and asked his children to get the wheat out of the dry plant, through the use of that machine. The provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 suggest that no child shall be employed or permitted to work in any occupations or process.

What will be your answer in the following situations :

- (i) When the children are doing normal farming activity, when schools are off.
- (ii) When the children are using the machine for segregating the wheat from the dry plant.
- (iii) Rohan, a friend of Suresh, came from city to see the village life and stayed with Suresh in his house. Rohan is also of the age of 12. Kishan Lal also asked Rohan to help in the farm activity and if he do the work daily, for 8 hours, he will give him ₹ 200 per day. Rohan, in the greed of earning money, agreed to do the work. Whether Kishan Lal can engage Rohan ?
- (iv) If Rohan would have been of the age of 16 years, whether Kishan Lal can engage him in extracting the wheat from the threshing machine.

(12 marks)