

K. J. SOMAIYA INSTITUTE OF MANAGEMENT STUDIES AND RESEARCH

Program: PG/ MMS (Batch 2016-2018)

Subject: Labour Legislations
(End Semester examination)

Maximum Marks: 50

Duration: 2.5 hours

Date: 19/09/2017

Please answer either of Questions 1(a) or Question (b). It carries 20 marks.

Q1. (a)

In ABC Company, which is a Public Utility Service, 55 workmen went on illegal strike from 8.11.1990. All the 55 workers, who resorted to strike, were suspended. Even after their suspension, 16 workmen remained in the premises causing obstruction. All the 55 workers were charged for mis-conduct. Out of them 34 apologized and they were taken back into service. But subsequently, three more also apologized and they too were allowed to join duty.

Twenty one workmen, however, did not relent. On 14.3.1991 the General Secretary of the Tamil Nadu Panchalai Workers' Union served a strike notice on the management purportedly under Section 22(1) of the Industrial Disputes Act, 1947 (in short the 'Act') stating that "strike would commence on or after 24.3.1991" and on 8th and 24th April and 13th May, 1991, the 21 workmen were dismissed from service after a disciplinary enquiry held them guilty of misconduct. Petitions were filed **under Section 2-A** of the Act for re-instatement with back wages and continuity of service.

The Labour Court by its award dated 24.1.1994 held that **the strike was illegal**. However, it substituted the punishment of dismissal by order of discharge and awarded compensation of Rs.50, 000/- to each workman. The award was challenged by the company as well as the workmen before the High Court.

On 5.8.2000 the Single Judge of the High Court directed re-instatement of the workmen with full back wages and continuity of service on the ground of **non compliance of Section 33 (2)(b) of the Act** and. He took the view that a copy of the strike notice dated 14.3.1991 was sent to the Conciliation Officer and, therefore, **conciliation proceedings were pending on the date of dismissal** and since the dismissal was without the approval of the Conciliation Officer in terms of Section 33 of the Act the same was illegal.

On 30.12.2003 a Division Bench of the High Court confirmed the judgment by the single judge. The management preferred an Appeal to the Supreme Court.

Questions:

1. Did it constitute an Industrial Dispute?
2. Was the strike illegal?
3. Did the Labour Court have the authority to change the punishment?

Q.1(b)

Please indicate whether the Employer needs to register the factories in the following three situations under the Factories Act. Please indicate what documents need to accompany the application for registration.

- i. The company was manufacturing certain Ayurveda Medicines in its premises employing more than 20 persons for that purpose. For packing of the medicines, bottles were used. These bottles had to be washed and the herbs used in the manufacture of the medicines required to be soaked. For washing the bottles and soaking the herbs, water was being pumped out by means of a 2 HP electric motor from a well. Water pumped out was not used for production of medicine either as a raw material or as an ingredient.
- ii. The establishment was engaged in preparing and marketing prepared greetings

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cards. The paper used on occasions got wrinkled and a coal iron had to be used to iron out the wrinkles.

- iii. The Petrol pump was engaged in pumping oil and washing and servicing of vehicles.

2. Please explain the following terms (any five) : 15 Marks

- b. Arbitration.
- c. Award.
- d. Hazardous Process Industry.
- e. Set Off.
- f. Sickness Benefit.
- g. Subsistence Allowance.
- h. Model Standing Order.
- i. Allocable Surplus.
- j. Occupier.
- k. Principles of Natural Justice.
- l. In course and out of employment.
- m. Permanent Disablement.

3. Indicate True or False for any five statements, with one sentence explanations : 15 marks.

- n. The Factories Act provides for the appointment of a Safety Officer for Factories employing 500 workmen.
- o. The Payment of Wages Act prohibits deductions from salary without the consent of the employee.
- p. The Payment of Bonus Act is not applicable to an Apprentice engaged under the Apprentices Act.
- q. The ESI Act is applicable to all factories in India.
- r. Under the Payment of Gratuity Act, the maximum Gratuity payable is Rs. 20 Lakhs.
- s. A Welfare Officer can be required to work beyond normal working hours without being paid Overtime.
- t. A women worker and a Child worker are entitled to the Annual Leave with wages @ 1 day for every 15 days worked..
- u. The definitions for 'workmen' are the same in ID Act and the Payment of Bonus Act.
- v. The Principal employer has no role in the salary payment of contract labour.
- w. The employer can deduct part of the bonus when the employee is guilty of causing damage to company's property.