

Total number of printed pages-7

19 (V) LBIN-I

2019

LABOUR AND INDUSTRIAL LAW-I

Paper : 5.1

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Fill in the blanks with appropriate options :
1×10=10

- a) Labour law, generally, defines the rights and obligations as workers, union members and _____ in the workplace. [association of workers' union/employers]
- b) In a Conciliation proceeding, the third neutral party acts like _____ who mediate in and promote the settlement of the disputes. [an observer/a mediator/an arbitrator]

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Contd.

- c) The right to form associations or unions is a _____ right.
[constitutional/legal /fundamental]
- d) Duties of the Court of inquiry under section 14 of the Industrial Disputes Act, 1947 are to inquire into the matters referred to it by the _____.
[Conciliation Officer/appropriate Government/Presiding Officer of a Labour Court]
- e) The appropriate Government's power of reference of industrial disputes to the authorities under section 10 of the Industrial Disputes Act, 1947 is not judicial or quasi-judicial, but is _____ in its nature. [administrative/prerogative/discretionary]
- f) The appropriate Government's notification fixing the minimum wages under the Minimum Wages Act, 1948 _____ be interfered by the Court.
[can/cannot]

g) Adolescent under the Minimum Wages Act, 1948 means a person who has completed his fifteenth year of age but not completed his _____ year.

[fifteenth/seventeenth/eighteenth]

h) Unfair Labour Practice means any of the practices specified in the _____ Schedule to the Industrial Disputes Act, 1947. (First/Fifth)

i) The object of the legislature in enacting the Factories Act, 1948 was to regulate labour and to require the employer to pay adequate attention to _____ and protection of his workers. [the health, safety/pay compensation, health/disablement, injury]

j) Under the Assam Shops & Establishments Act, 1947, every employee in an establishment shall be entitled to Privilege leave _____. (during twelve months' continuous service/after twelve months' continuous service)

2. Write short answers : **(any five)** $2 \times 5 = 10$

- a. Distinguish between a Factory and an Industry
- b. Works Committee
- c. Trade unionism
- d. Collective Bargaining
- e. Public Utility Service
- f. Definition of shops & establishment under The Assam Shops and Establishment Act, 1961.

3. (a) Who can be appointed as Registrar of a Trade Union ? What are his powers and functions under the Trade Unions Act, 1926 ? $2+4=6$

(b) What are the different types of funds and the objects for which such funds can be applied by a Trade Union under the Trade Unions Act, 1926 ? 6

Or

(a) What do you mean by the term 'immunity' under the Trade Unions Act, 1926 ? 6

(b) Discuss the nature and extent of immunity from criminal conspiracy available to members and office bearers of registered trade unions under the Trade Union Act, 1926. 6

4. (a) 'A legal strike may be unjustified and an illegal strike may be justified'. Explain the statement in context of the law relating to strikes in India. 6

(b) What are the essential conditions of a valid 'retrenchment' under the Industrial Disputes Act, 1947? 6

Or

'The concept of 'retrenchment' under the Industrial Disputes Act, 1947 is not confined to termination of services on account of labour surplus age only but encompasses within it all terminations except those specifically excluded in the definition.'

Elucidate the above statement and categorise the circumstances in which an employer is liable to pay retrenchment compensation to the retrenched workmen. 12

5. Explain the distinction between 'lock out', 'lay off' and 'closure' under the Industrial Disputes Act, 1947. 12

Or

Briefly explain the following terms : **(any four)**
3×4=12

- (a) 'Crèche' under the Factories Act, 1948
Manufacturing Process
- (b) Young Persons
- (c) Occupational Diseases
- (d) 'Contracting Out' under the Minimum Wages Act, 1948
- (e) Prohibition of Strikes & Lock outs.

6. Discuss the law relating to health and cleanliness measures and safety arrangement in factory under the Factories Act, 1948. 6+6=12

Or

- (a) What are the provisions relating to employment of Children and Young Persons in a Factory ? Discuss. 6

(b) Are there any specific provisions concerning women workers in a Factory? Briefly enumerate the provisions. Suggest any additional provision, if you think so, with your comments. 6

7. Discuss the procedure for determination of compensation payable to under the Employee's Compensation Act, 1923 as amended through EC (Amendment) Act, 2017. What are the defences that are available to an employer against the claim of Compensation by an injured person under the said Act? 6+6=12

Or

What are the provisions of employment of children and women under the Assam Shops and Establishment Act, 1961? 12

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2018

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Paper : 5.1

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Fill in the blanks with appropriate answers :
1×10=10

(a) The registration of Trade Union is _____ under the Trade Union Act, 1926. [not compulsory/compulsory]

(b) A workman is deemed to be in continuous service under an employer for a period of one year if the workman, during a period of twelve calendar months preceding the date with reference to which the calculation is to be made

(i) has actually worked for not less than _____ days below ground in a mine and

Contd.

- (ii) has actually worked for _____
in any other case. [190, 240/
240,190]
- (c) The object of the legislature in enacting the Factories Act, 1948 was to regulate labour and to require the employer to pay adequate attention to _____, _____ and protection of his workers.
[the health, safety/pay compensation, health/ disablement, injury]
- (d) According to section 8(4) of the Factories Act, 1948, every District Magistrate is an _____ for his district for the purpose of Factories Act.
[Occupier / Inspector/Arbitrator]
- (e) Adolescent under the Minimum Wages Act, 1948 means a person who has completed his fifteenth year of age but not completed his _____year.
[fifteenth/seventeenth/eighteenth]
- (f) An employer is not liable to pay any compensation in case of any injury which does not result in total or partial disablement of a workman for a period exceeding _____. [seven days /three days /one month]

- (g) The appropriate Government's power of reference of industrial disputes to the authorities under section 10 of the Industrial Disputes Act, 1947 is not judicial or quasi-judicial, but is _____ in its nature. [administrative / prerogative / discretionary]
- (h) Duties of the Court of inquiry under section 14 of the Industrial Disputes Act, 1947 are to inquire into the matters referred to it by the _____. [Conciliation Officer / appropriate Government / Presiding Officer of a Labour Court]
- (i) The appropriate Government's notification fixing the minimum wages under the Minimum Wages Act, 1948 _____ be interfered by the Court. [can / cannot]
- (j) The Employees' Compensation Act was enacted to help workmen face the _____ resulting from accidents. [hardships / unemployment / civil society]

2×5=10

2. Write brief notes on :

- (a) Powers of the Registrar under the Trade Unions Act, 1926
- (b) A 'Contract of Service' and a 'Contract for Service'
- (c) 'Continuous service' under the Industrial Disputes Act, 1947
- (d) Collective Bargaining
- (e) Distinguish between a Factory and an Industry.

3. Discuss briefly the procedure for registration of a Trade Union. Mention the grounds for cancellation of registration of a Trade Union under sec. 10 of the Trade Unions Act, 1926

12

Or

Define Trade Union under the Trade Unions Act, 1926 . Discuss the nature and extent of immunity from criminal conspiracy available to members and office bearers of registered trade unions under the Trade Union Act, 1926.

4+8=12

4. 'A legal strike may be unjustified and an illegal strike may be justified.' Do you agree with the statement ? Discuss in the context of the law relating to strikes in India with recent case law. 12

Or

(a) What is the extent of jurisdiction of Labour Court under Industrial Disputes Act, 1947 ? Does the Labour Court has original jurisdiction to try a dispute ?

(b) Discuss the circumstances under which a dispute can be referred under section 10 of the Industrial Disputes Act, 1947 ? What is the effect of such an order of reference ? 6+6=12

5. Discuss provisions relating to Children and Young Person and Women workers in a Factory under the Factories Act, 1948. Are the provisions adequate ? Suggest *any* additional provisions, if you think so with your comments. 12

Or

Discuss the provisions relating to Safety & Welfare of Workers under the Factories Act, 1948. 12

6. (a) Define 'occupational disease' under the Employees' Compensation Act, (Workmen's Compensation Act, 1923). What is the extent of liability of an employer in such a case?

(b) What are the defenses that are available to an employer against the claim of compensation by an injured person under the Employees' Compensation Act? 6+6=12

Or

(a) Distinguish between 'living wage' and 'minimum wage'.

(b) What are the provisions laid down in the Minimum Wages Act, 1948 for fixation and payment of minimum wage to an employee? Can it be revised? If so, how? Discuss. 6+6=12

7. Discuss the object and salient features of the Assam Shops and Establishment Act, 1961.

12

Or

Discuss the procedure for enforcement of hours of works, leave and wages under the Assam Shops and Establishment Act, 1961. Are there any provisions for employment of children and women under the Act ? What are the powers of the inspector in this regard ? Discuss.

12

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2017

LABOUR AND INDUSTRIAL LAW-I

Paper : 5.1

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Fill in the blanks with appropriate answers given in the brackets : 1×10=10
 - (a) Trade Unions Act, 1926 was amended last in the year _____. (1964/2001)
 - (b) The Factory premises should be painted and refurbished every _____.
(year/five years)
 - (c) The Industrial Disputes Act, 1947 is preceded by the _____.
(Trade Disputes Act, 1934/Trade Disputes Act, 1929)

Contd.

- (d) The employer shall provide for canteen if there are _____ workers in a factory.
(*more than 250/more than 500*)
- (e) The subject of welfare of labour is in the _____ list of the seventh schedule to the Constitution of India.
(*Union/ State/ Concurrent*)
- (f) Under the Factories Act, 1948, a "child" means a person who has not completed his _____ year of age.
(*fourteenth/fifteenth*)
- (g) The decision in the case of Bangalore Water Supply and Sewerage Board v. A. Rajappa (AIR 1978 SC 548) has now been directed to be placed before a _____ Judge Bench of the Supreme Court for reconsideration.
(*five/seven/nine*)
- (h) The Minimum Wages Act, 1948 was passed on _____.
(*1st April, 1948/15th March, 1948*)
- (i) Under the Assam Shops and Establishments Act, 1971, every employee in an establishment shall be entitled to privilege leave _____.
(*during 12 months of continuous service / after 12 months of continuous service*)

- (j) Under the Assam Shops and Establishments Act, 1971, no period of work shall exceed _____.
(eight hours/four hours)

2. Answer the following questions: $2 \times 5 = 10$

- (a) Can State Government employees posted in the Raj Bhavan claim registration of Trade Union under the Trade Unions Act, 1926? Give reasons in brief in support of your answer.
- (b) Can persons employed for construction of railway lines in open space claim that their place of work is a factory? Give reasons in brief in support of your answer.
- (c) What are the essentials of a strike?
- (d) Write short note on "cost of living allowance".
- (e) What are the provisions for Medical leave under the Assam Shops and Establishments Act, 1971?

3. Members of a registered Trade Union make an agreement that they shall not accept employment under the employer at a wage lower than that specified in the said agreement. But after a few days some members break the agreement and accept employment at a wage lower than the wage specified in the aforementioned agreement. In such an event a section of members file a civil suit to recover damages for breach of agreement. Another section of members file a suit to enforce the agreement.

Can a Civil Court entertain or dismiss one or both of the suits ?

Discuss with reference to the provisions of the Trade Unions Act, 1926. 12

Or

Discuss the provisions of the Trade Unions Act, 1926 relating to appointment, powers and functions of the Registrar of Trade Unions. 12

4. "The Concept of 'retrenchment' under the Industrial Disputes Act, 1947 is not confined to termination of services on account of labour surplusage only but encompasses

within it all terminations except those specifically excluded in the definition”.

Elucidate the above statement and categories the circumstances in which an employer is liable to pay retrenchment compensation to workmen.

12

Or

Write notes on :

4×3=12

- (a) Public Utility Service
- (b) Unfair Labour Practice
- (c) Workman.

5. Who can be appointed as Authority to hear and decide claims under the Minimum Wages Act, 1948 ? What types of claims can be decided by the Authority under the Minimum Wages Act, 1948 ? Who can make application before such Authority ?

4+4+4=12

Or

- (a) Explain the doctrine of “notional extension of time and place of work”.

- (b) An employee employed in the saltworks of a Salt Manufacturing Company while returning home after finishing his work had to go by a public path, then through a sandy area in the open public and finally across a creek through a ferry boat. The employee while crossing the creek in a public ferry boat which capsized due to bad weather, was drowned.

Decide whether the incident could be treated as accident arising out of and in the course of employment.

6. Discuss the important provisions relating to safety of workers under the Factories Act, 1948. 12

Or

Discuss the provisions relating to hazardous processes under the Factories Act, 1948.

12

7. What are the provisions for working hours of establishments under the Assam Shops and Establishments Act, 1971? Discuss.

12

Or

- (a) Explain the term “establishment” under the Assam Shops and Establishments Act, 1971.
- (b) Write a note on the applicability of the Assam Shops and Establishments Act, 1971 and the exceptions and exemptions therefrom. $4+8=12$
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