

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Labour Laws I  
Semester-VII (Batch: 2014-2019)

Mid Semester Test: August- 2017

Date: 19<sup>th</sup> August, 2017

Duration: 2 hours

Max. Marks: 30

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

**Answer any three questions. All the questions carry equal marks.**

**Marks**

- Q.1 Radhey Krishna is a society registered under the Societies Registration Act, 1860, the object being to carry on religious, social and educational activities for the welfare of the public as part of the spiritual discipline. The memorandum of association of the society provides rules and regulations for the said purpose. The Radhey Krishna at Narendrapur is a religious institution being a branch of Radhey Krishna and has under its overall control the following educational institutions: (10)
- (1) A Degree College
  - (2) A Multipurpose Higher Secondary School.
  - (3) A Junior Technical School.
  - (4) An Institute of Social Education and Recreation.
  - (5) A Senior Basic School.
  - (6) A Students Home.
  - (7) A Gram Sevak Training Centre.
  - (8) A School of Shorthand and Typewriting.
  - (9) A Central Library for the benefit of the resident students, teachers and workers.
  - (10) A Blind Boys' Academy.

It is alleged that all these institutions are run by benevolent contributions of general public and with official and semi-official grants. It is also stated that the society has also a dairy farm, a poultry farm and an agricultural farm for the training of the students of the Multipurpose Higher Secondary School studying Agriculture as their main subject and for the trainees at the Gramsevak Training Centre. It is alleged that the produce of the aforesaid farms are used for the consumption of the students, teachers and employees numbering about 2000 and it is specifically asserted that the produce is never used for any, commercial purpose.

The workers of the said institution made a charter of demand and they have formed a Trade Union. The Union has also applied to the authorities concerned for the

registration of their trade union.

Decide on the basis of the relevant case laws and appropriate provisions under the Trade Unions Act, 1926 whether the workers of these institutions can form the trade union?

Q.2 On 17.7.2010, members of the All India Central Government Health Scheme (10)

(hereinafter referred to as the "Employees' Association"), who are the employees of the Director General, Health Services (hereinafter referred to as the "employer") had gone on strike and 17.7.2010 is treated as dies non (a day on which no legal business can be done, or which does not count for legal purposes) and break in service for those employees. The factual matrix which transpires is that the Employees' Association had certain demands, for which it had submitted charter of demands. One of the demands was to fill up the vacant posts on promotional basis. However, even when assurances were given, no action was taken and as there was no positive response to their charter of demands, the Employees' Association gave notice dated 4.6.2010 under the provisions of the *Industrial Disputes Act, 1947* (hereinafter referred to as the "Act") intimating the employer that they would be launching phase-wise agitation. This notice stipulated that there would be lunch hour demonstration on 20.6.2010; members of the Association will perform work as per their legal status from 25th to 28th June 2010 all over India; 50 hour hunger fast will be observed by the members of the Employees' Association from 3rd to 5th July 2010 and it would be followed by one day strike on 17.7.2010. It is with the serving of such a notice that ultimately the members and office bearers of the Employees' Association went on strike on 17.7.2010.

According to them they had given due notice under the Act and this strike was not declared illegal. In spite thereof, on 13.8.2010, they were given show-cause notice to explain why 17.7.2010 should not be treated as dies non and break in service. This show-cause notice was duly replied by every person making various legal submissions, but without dealing with the same the orders dated 19.11.2010 were passed treating 17.7.2010 as dies non with break in service.

The Employees' Association claimed that CGHC (employer) is an industry within the meaning of Section 2(j) of the Act. Employees' Association had right to air its grievances by resorting to the aforesaid means which are legitimate under the provisions of the Act. Due notice of strike was given. This strike was not declared illegal by any authority under the provisions of the Act. In the absence thereof, the employer could not pass the impugned orders treating the date of strike as dies non or break in service. The Employees' Association had also challenged the stand of the employer taking shelter under the provisions of FR 17A (i) and (ii) on the ground that both the provisions could not have been resorted to simultaneously. It was submitted that since CGHS was an industrial organization, the Employees' Association were covered under FR 17-A (i) only and the conditions laid therein were not satisfied as the strike was not declared illegal.

FR 17-A of the Fundamental Rules. This Rule makes the following reading :-

"F.R. 17-A. Without prejudice to the provisions of Rule 27 of the Central Civil Services

(Pension) Rules, 1972, a period of an unauthorized absence -

(i) In the case of employees working in industrial establishments, during a strike which has been declared illegal under the provisions of the Industrial Disputes Act, 1947, or any other law for the time being in force;

(ii) In the case of other employees as a result of action in combination or in concerned manner, such as during a strike, without any authority from, or valid reason to the satisfaction of the competent authority; and

(iii) In the case of an individual employee, remaining absent unauthorizedly or deserting the post, shall be deemed to cause an interruption or break in the service of the employee, unless otherwise decided by the competent authority for the purpose of leave travel concession, quasi- permanency and eligibility for appearing in departmental examination, for which a minimum period of continuous service is required.

EXPLANATION 1. - For purposes of this rule, "strike" includes a general, token, sympathetic or any similar strike, and also participation in a bundh or in similar activities."

In the light of the facts stated above argue on behalf of both the parties and decide the case.

- Q.3 A Multinational Company specialised in leather processing has been operating in India for about 4 decades. The Company has recently decided to expand its production. It was decided to shift the factory to a new location about 30 kms. away from its present site. As the workers transferred to the new site were living in town, the union demanded an increase of Rs. 80/- per month in the salary, but the Company offered to give Rs. 35/- only to cover the transport cost. When the plant was being shifted to the new site, negotiations went on uninterrupted between the Management and the Union on this issue. However both the parties could not come to a settlement even after six months. The Management was firm on their decision even though the union indicated some flexibility. The Union refused to compromise fully on the issue. They adopted go-slow tactics to pressurize the Management. The production went down drastically, but still the Management was firm on their stand. In the meanwhile the Management charge-sheeted some of the Trade Union leaders and suspended them pending enquiry. (10)

Read the problem and decide, in order to regulate the industrial relations in your establishment how would you deal with such a situation?

- Q.4 In the present era of Make in India and Ease of Doing Business what labour law reforms would you suggest? (10)

\*\*\*\*