

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Labour Law-I
Semester-VII (Batch: 2016-21)

End Semester Examination: October-2019

Date: 16th October, 2019

Duration: 3 hours

Max. Marks: 50

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 anything 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 five questions

Marks

- Q.1 'X' who is appointed as a sales executive has raised a dispute against the management of 'Y' corporation stating that he had been unlawfully terminated from service by the corporation. He alleged that the termination was without due compliance of statutory mandate of section 25 – F of the Industrial Disputes Act, 1947. The management contended that he was a sales executive and not a workman within the definition of the Industrial Disputes Act. It was further contended on behalf of the management that the workman had been employed under a stipulation as regards the period of employment and for a particular purpose of working as a sales executive in an automobile agency, which the Corporation had undertaken. The agency itself was withdrawn and consequently, the employment had also come to an end. 'X' claims that the termination amounts to retrenchment and he is entitled for retrenchment compensation. (5+5=10)
- On the basis of the above stated facts answer the following questions:
- (a) Whether X is a workman under the Industrial Disputes Act, 1947?
- (b) Whether termination of X amounts to retrenchment and consequently entitles him for retrenchment compensation?
- Q.2 The employees of the Bank of Baroda commenced slow-down strike, which was followed by a general strike. The strike was held during the pendency of the arbitration proceedings with regard to an industrial dispute between employees and the management. The Government intervened and as the result of an agreement between the parties the bank reinstated all the employees except 150, against whom it had positive objections. (5+5=10)
- These 150 employees raised a dispute against the management that they had been wrongly dismissed by the management. The employees contended that the bank wanted to penalise the active trade union workers by the said dismissals and it amounts to unfair labour practice on the part of the employer.
- On the basis of these fact, answer the following questions:
- (a) Decide, whether there is an unfair labour practice on the part of the employer?

- (b) What is the significance of the 'continuous service' under section 25 B of the Industrial Disputes Act, 1947?

Q.3 'X' is an employee in Bharat Electronic Limited and has at all relevant times been posted in its Ghaziabad Unit. He has been working as Junior Accountant in the Wage Group-VII, I.A./G.A.D. and has been transferred to Internal Audit Department, Bangalore Complex, Bangalore by the order dated 5.7.2011. 'X' makes a representation against the said order of transfer, but the same is rejected by the order dated 13.7.2011 and by an order of the same date i.e., 13.7. 2011. 'X' is informed that he has been relieved from duty with effect from 13.7.2011. (5+5=10)

'X' has challenged the order of transfer on the ground that the management has no power to transfer an employee from Ghaziabad to Bangalore. He alleges that the conditions of service in company at Ghaziabad are governed by the Standing Orders certified under the Industrial Employment (Standing Orders) Act, 1946. 'X' claims that there is no clause for transferring an employee from Ghaziabad to any other Unit of the company and the Standing Orders certified under the Industrial Employment (Standing Orders) Act, 1946 have statutory force. He further claims that there being no stipulation regarding transfer in the standing orders, which lay down statutorily the conditions of service of employees in an industrial establishment. Therefore 'X' claims that he cannot be transferred from Ghaziabad to Bangalore. He has filed a petition before the Jabalpur High Court.

The management of the company in the counter affidavit stated that 'X' was engaged originally as an apprentice. He was later on given an offer of appointment to the post of Clerk and Typist 'B' and the conditions of service were attached with the said offer. The said offer was accepted by 'X' which included the condition under which it was open to the company to post him at any place in India or abroad. Accordingly, 'X' was transferred to the Audit Department. 'X' was now promoted with effect from 5.7.2011 and was also informed that he would be governed by the terms of appointment contained in his initial appointment order, accordingly he could be transferred to any place in India and abroad. 'X' has been transferred to the Audit Department at Bangalore by the said order dated 5.7.2011, in the exigencies of service.

On the basis of the above stated facts, answer the following questions:

- (a) Whether 'X' can succeed in his claim as per the provisions of the Industrial Employment (Standing Orders) Act, 1946?
- (b) Whether the terms and conditions of employment laid down in the appointment letter of 'X' have the statutory force?

Q.4 'X' company is the owner of the cement factory and a limestone quarry. The lime stone quarry is situated about a mile and a half away from the factory. Limestone being the principal raw material for the manufacture of cement, the factory was depending exclusively on the said quarry for the supply of limestone. On behalf of the labourers in the limestone quarry certain demands were made to the management of the company but as they were rejected they went on strike. Consequently, on account of the non-supply of limestone due to the strike, the management had to close down certain sections of the factory. The company also declared a lay-off for the workers who were not required during the period of closure of the concerned sections. The workmen who were affected by this lay-off were the casual workmen employed by the company. After the dispute between the management and the workmen of the limestone quarry was settled and the strike came to an end, a demand was made on behalf of the workmen of (5+5=10)

the factory who had been laid-off during the strike, for payment of lay-off compensation under section 25 C of the Industrial Disputes Act, 1947, but the management refused the demand. The workmen have challenged it on the ground that they are the employees of the company and are entitled for the lay-off compensation.

On the basis of the above stated facts, answer the following questions:

- (a) Whether the workmen are entitled for the lay-off compensation?
- (b) What are the conditions when the workmen are not entitled to lay-off compensation as per the provisions laid down under section 25E of the Industrial Disputes Act, 1947?

Q.5 What are the prerequisites for collective bargaining in India? Do you think that the collective bargaining is successful in India? (10)

Q.6 The North Indian Cinema Employees' Association, a registered trade union whose members are the employees of the 24 cinema houses operating in the Kanpur City including some of the employees of the Prabhat Talkies, submitted a memorandum to the Labour Commissioner setting forth certain demands against their employers for increased wages etc. They requested the Labour Commissioner to settle the disputes. The Labour Commissioner suggested certain, "minimum terms" which were accepted by some of the companies including the Prabhat Talkies. At a meeting of the employees of the Prabhat Talkies, a resolution was passed to the effect that no action to be taken on the other demands of the Association. Consequently, the association decided to go on strike. The Labour Commissioner reported it to the Government, and the Government made a reference of dispute to an Industrial Tribunal. The Prabhat Talkies contended before the tribunal that, as there was no dispute between them and their employees, they should not be included in the reference or award, but the Tribunal did not exclude them and an award was passed in favour of the association. (5+5=10)

On the basis of the above stated facts, answer the following questions:

- (a) Whether the labour commissioner has made a valid reference?
- (b) Whether the dispute amounts to an 'industrial dispute'?

