

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Labour Law I
Semester-VII (Batch: 2017-22)

End Semester Online Examination: December 2020

Date: 13th December, 2020

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.

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- Answer any five questions**
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| Q.1 | <p>The Madras establishment of Mr. Ramesh's company publishes Indian Express, Jansatta and Financial Express dailies from its premises situated at Gulmohar Marg, Madras, where the printing units as well as the editorial and administrative offices are situated. It is alleged by Mr. Ramesh that since 14th October, 2019, a small number of employees led by an outsider Mr. Thakur, who is also the President of the Indian Express Employees Union, have staged a strike and prevented majority of employees from entering the premises and performing their duties. The demand of the employees is to increase in salary and to provide other incentives. The methods adopted to prevent the entry of employees included making it physically impossible for the employees to get into the building by forming human walls, by abuses, by physical assaults, by stone pelting etc. It is further alleged that these employees participating in protest along with their supporters have positioned themselves by pitching a tent right at the entrance of the building and have spread themselves on the steps leading to the building and on the platform or small stage inside the building. This is despite the fact that the standing orders of the establishment restrain the employees from demonstrating, picketing and gheraoing within 200 meters from the entrance of the Express Building. It is further alleged that these employees who are protesting with their supporters have indulged in various acts of violence and intimidation against individual employees of the company. Many of them have been beaten and some of whom have been hospitalised with head injuries. Despite of such intimidation and physical threat, over 350 employees of Mr. Ramesh's company entered the building on 28th October 2019 and made efforts to bring out the edition. However, the protesting employees along with their supporters successfully thwarted food supplies to these 350 employees working inside. As a result of it the</p> | <p>Marks
(5x2=
10)</p> |
|-----|---|---------------------------------------|

company was forced to call off the operation of bringing out the publication and pull out the employees under police escort. It is alleged that a majority of the executive members of the Indian Express Employees Union, which is a registered and recognized Union (hereinafter referred to as 'the Union') requisitioned a General Body Meeting of the members of the Union on 18th November 2019. The meeting was attended by 410 members and it was unanimously resolved to remove Mr. Thakur from the President ship and to appoint a Negotiating Committee to carry on discussions with the management on their demands and to call off the strike. It is also alleged that on 23rd November, 2019 a comprehensive settlement was reached between the management and the Union represented by Mr. R.K. Dogra, working President and Mr. C.M. Papnai, General Secretary and five other members of the Negotiating Committee appointed by the General Body at its meeting held on 18th November, 2019 whereby extensive benefits were conferred on the employees. The grievance of the management of the company is despite of the fact that all grievances have been settled and the overwhelming majority of the employees have sacked the President, Mr. Thakur and want to resume the work. Mr. Thakur along with his supporters by picketing at the entrance of the Express Building are preventing ingress and egress of the employees who want to go into the building and come out and, thus, prevent the publications from coming out in Madras.

On the basis of above stated facts answer the following questions: (word limit 300-350 words for each answer)

- a) Whether the members of the Union can claim the immunities available under the Trade Unions Act, 1926?
- b) What legal remedies are available to Mr. Ramesh as per the provisions of the Trade Unions Act 1926?

Q.2 Mr. Ram and Mr. Suresh were working as peons in the schools run by the Municipal Corporation of Vadodra. They were the active members of the school employees' Union. They were class-IV employees as per grades provided in service rules. In the year 2018, the Government invited applications for the full time vacant post of Librarian in the pay scale of Rs. 1200-30-1560-40-2040 from amongst the class-IV employees working in the secondary schools and possessing the qualifications of S.S.C. and a degree/diploma/certificate course in Library Science. The Head Masters of the concerned Schools were requested to furnish the information of all such eligible employees in class-IV for being considered to fill in the vacant posts of Librarian. A

(5x2=
10)

similar. letter was addressed by another authority to fill in the post of Junior clerk. However, the candidature of both Mr. Ram and Mr. Suresh was not considered by the Government as well as other authorities on some or the other grounds and, therefore, both of them approached the Industrial Court and raised the industrial dispute. They prayed for a declaration as well as for directions to give promotion to the post of clerk/Librarian as the case may be against the available vacancies. They have alleged that both of them have been working with the authorities as a Peon since 6-9-1974. They relied upon the provisions of the Secondary School Code and claimed that every post in class-III like that of Clerk, Librarian, Laboratory Assistant were required to be filled in by way of promotion from amongst the class-IV employees working under the authorities. They claimed that for being considered for promotion in class-III post, is their legal right under the Secondary School Code as well as the rules framed by the Corporation under which the posts of clerks were required to be filled in only by way of promotion subject to the percentage of reservation. They have also alleged that their candidature was not considered by the management because of the reason that they were the active members of the Union. They have raised the industrial dispute that the denial of promotion amounts to unfair labour practice.

On the basis of above stated facts answer the following questions (word limit 300-350 words for each answer)

- a) Whether the dispute raised by the employees is an 'industrial dispute' as defined under the Industrial Disputes Act, 1947?
- b) Whether there is any unfair labour practice on the part of the authorities? If the answer is yes, then what are the authorities under the Industrial Disputes Act, 1947 which can exercise their jurisdiction in such matters?

Q.3 The industrial dispute relating to conditions of work between the Hotel Fortune and their workmen was under consideration by the appropriate Government. In the meantime, the management of hotel sought approval from the Government for termination of 22 workmen because of surplus labour. This led to dissatisfaction and unrest amongst the workmen and they declared a strike in the hotel. On October, 3 2018, the management issued the notices directing the workmen to report to their duties within 3 hours failing which the action would be taken against them. The workmen ignored the directive and the management issued another notice on the same day asking them to show cause why disciplinary action should not be taken against them. The workmen in the meantime were suspended. On 7th October 2018 the management (10)

informed the workmen of its decision to dismiss them. The workmen challenged the dismissal.

Decide the issue according to the provisions of the Industrial Disputes Act, 1947. Identify the instruments of economic coercion exercised by the management and the workmen and the legality of these instruments in the above stated facts. (word limit 550-600 words)

- Q.4 X Airways' eight unions were notorious for their defiant attitude and their use of unscrupulous methods to force the management to agree to all their demands. Strikes, go-slow agitations and wage negotiations were common. For each strike there was a different reason, but every strike it was about pressurizing the management to increase the salary. The management was also reluctant to fulfil their demands. From November 2018 to June 2019, there were 13 agitations by different unions. During December 2019 to January 2020, there was a 46-day strike by the pilots and yet another one in November 2020. The cavalier attitude of the X Airways pilots was particularly evident in the agitation in April 2019. The pilots began the agitation demanding higher allowances for flying in international sectors. This demand was turned down. They then refused to fly with people re-employed on a contract basis. Thereafter they went on a strike, saying that the cabin crew earned higher wages than them and that they would not fly until this issue would be addressed. (10)

Due to adamant behaviour of pilots many of the cabin crew and the airhostesses had to be off-loaded at the last moment from aircrafts. In February 2020, there was another strike by the pilots, this time asking for increased foreign allowances, fixed flying hours, free meals and wage parity with Alliance Air.

What are the problems relating to industrial relations in the above stated facts? Identify the methods of collective bargaining that can be adopted in the given situation to improve the industrial relations. (word limit 550-600 words)

- Q.5 What are the challenges posed by the Covid 19 crisis especially for the working class in India? How can we improve our industrial relations policy in order to face any such global crisis? (word limit 550-600 words) (10)

- Q.6 The X Company which has the total workforce of 1000 employees had its factory and other works at Ahmedabad, Gujarat. On April 10, 2016 the Ministry of Commerce (5x2=10)

Government of India ordered the Company to shift its Jute Baling Hoops factory from Ahmedabad to Delhi. As no land was available in Delhi no effect could be given to this order till the year 2017. On March 3, 2018 the Iron and Steel Controller ordered the Company to stop the rolling of jute baling hoops with immediate effect. Accordingly, the production of these hoops was stopped from that date. At the same time there was scarcity of scrap iron and the working of its furnace was reduced from three shifts to one shift in a day.

The Company states that because of these two causes it was obliged to retrench its staff. Therefore, it issued the following- notice to 128 of its workmen:

"Consequent to the transfer order of the Rolling Mill to Delhi and want of scrap to Furnace Department in full, the services of the persons as per list attached are dispensed with from today. Their wages and other dues in full settlement will be paid after 2 p.m."

25 out of the 128 workmen accepted their wages and other dues in full settlement but the remaining 103 refused. Their cause was accordingly espoused by the Mazdoor Union which made an application to the Regional Conciliation Officer at Ahmedabad complaining that the retrenchment was illegal and unjustified and asking that the workmen be reinstated with full payment of their wages for the period they were out of work.

On the basis of the above stated facts answer the following questions: (word limit 300-350 words for each answer)

- a) Whether the retrenchment of the workmen is illegal and unjustified as per the provisions of the Industrial Disputes Act, 1947?
- b) If so, to what relief are the workmen entitled?
