

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Labour Laws-I  
Semester-VII (Batch: 2012-17)



End Semester Examination: Oct-Nov. 2015

Date: 19<sup>th</sup> October, 2015

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 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.
- **Bare Act is not allowed.**

**Part-A**

(Answer all the questions)

**Marks**  
(5x2=  
10)

**State true or false with the appropriate reasons (word limit: maximum 50 words)**

- Q.1 The conciliation officer acting under section 12 of the Industrial Disputes Act, 1947 can make a decision relating to the industrial disputes or pass an interim or final order during the conciliation proceedings.
- Q.2 The term 'industrial dispute' includes a claim of an employee who has ceased to be a 'workman'.
- Q.3 There can be different conditions of service for different employees in the same industrial establishment.
- Q.4 The standing orders under the Industrial Employment (Standing Orders) Act, 1946 are a special kind of contract.
- Q.5 In a domestic enquiry, the Indian Evidence Act is not applicable in strict sense.

**Part-B**

(Answer any three questions)

- Q.6 (a) Mr. Radhey, an employee working as muster –role labourer in the M.P. Electricity Board while in employment had allegedly attacked his superior officer in the presence of other employees with a tension screw on his back and nose, which resulted in fracture of the nose and severe bleeding. The incident was followed by unauthorized absence of Mr. Radhey from work for several days. (4+3+3=10)
- As per the Standing Order No. 23(i) of the Electricity Board, '*Riotous, disorderly or indecent behavior within the premises of the establishment is a misconduct.*
- Standing Order No. 29(ii) provides that '*habitual unauthorized absence is a misconduct.*'
- Assuming that a domestic enquiry is to be held against Mr. Radhey suggest various steps of enquiry in detail.

- (b) Can the Tribunal and court interfere with the punishment awarded by the management in case of attack by the delinquent employee on senior officer under section 11A of the Industrial Disputes Act, 1947?
- (c) What is the distinction between discharge and dismissal?

- Q.7 (a) The Kalinga Tubes Ltd. carried on the business of manufacturing and selling iron pipes and poles. Its workmen demanded 20 percentage of their annual salary or wages for the year 2011-12 as bonus. The management offered only 4 percentage. The workmen raised a dispute and the District Labour Officer fixed 2<sup>nd</sup> October, 2012 for discussion. On 1<sup>st</sup> October, 2012 about 150 workmen assembled after 2 p.m. at the gates of the Administrative Building in which about 40-47 members of the staffs were present. They were not allowed to leave the building till 5 a.m. of 2<sup>nd</sup> October 2012. Factory remained closed on 2<sup>nd</sup> October on account of Mahatma Gandhi's Birthday. In the morning of 3<sup>rd</sup> October 2012, the management offered to pay wages for one month in lieu of notice and reduced compensation under the proviso to sub-section (1) of section 25- FFF of the Industrial Disputes Act, 1947. Whether the company had declared lock- out by means of the notice or it was a closure? Decide. (3+4+3=10)

**Explanation-**

**Section 25FFF (1) in The Industrial Disputes Act, 1947**

Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub- section (2), be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25F shall not exceed his average pay for three months.

[ Explanation.-- An undertaking which is closed down by reason merely of--

- (i) financial difficulties (including financial losses); or
- (ii) accumulation of undisposed of stocks; or
- (iii) the expiry of the period of the lease or licence granted to it; or
- (iv) in a case where the undertaking is engaged in mining operations, exhaustion of the minerals in the area in which such operations are carried on; shall not be deemed to be closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub- section.]

- (b) Discuss the composition, power and functions of Labour Court, Tribunal and National Tribunal.
- (c) Discuss the Right of 'government servant' to strike.

- Q.8 (a) Thirteen workmen during strike obstructed other workers who were willing to work from doing their work by sitting down between the tramlines. The company served charge sheets on them. The welfare officer of the company conducted domestic enquiry and recommended their dismissal. The workmen raised a dispute stating that the punishment inflicted was disproportionate to the misconduct and the management had victimized them. (3+1.5+1.5+4=10)
- Whether it is an unfair labour practice on the part of employer? Decide.