

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: **Service Law**

**Semester- VIII (Batch: 2019-24)**

**End Semester Examination: May 2023**

**Date: 13<sup>th</sup> May, 2023**

**Duration: 3 hours**

**Max. Marks: 50**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- Do not write anything on the question paper.
- 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.

- |  | <b>Marks</b> |
|--|--------------|
| <p>Q.1 The High Court of a state issued a notification inviting applications for direct recruitment to fill vacancies at different levels in the Judicial Services of that State. Applications were invited from advocates having seven years standings as on the last date fixed for the submission of application form. The application was open for advocates registered with the Bar Council of the concerned state as well as for those who were registered with the Bar Council of other states. Preliminary examination was conducted by the concerned High Court. But, before the conduction of the final examination a writ petition was filed in the High Court by some applicants challenging the whole process. In fact, these applicant's applications were rejected on the ground that their experience as a judicial officer would not be counted for counting the seven years' experience as an advocate. The applicable rule which prescribe the source of recruitment for Higher Judicial Services in that state is as follows:</p> <p>Rule X: Sources of recruitment – The recruitment to the service shall be made –</p> <ol style="list-style-type: none"><li>a) By promotion from amongst the Civil Judge (Senior Division) on the basis of the principle of merit-cum-seniority and passing a suitability test;</li><li>b) By promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years of qualifying service;</li><li>c) By direct recruitment from amongst the advocates of not less than seven years standing as on the last date fixed for the submission of application forms.</li></ol> <p>Decide the validity of the challenge made through the writ petition relying on the applicable legal principles, provisions and decided cases.</p> | <b>(10)</b>  |
| <p>Q.2 A Government employee of a state, working on the post of a village accountant, was charged for demanding bribes to delete the name of a person from the official record held in his custody. A criminal complaint was registered with the police against him for the commission of demanding bribes which is an offence under the Prevention of Corruption Act, 1988. At the same time, a disciplinary enquiry was also initiated against him. Disciplinary authority held the misconduct proved, hence, imposed a penalty of compulsory retirement. However, he was acquitted of the criminal charges by the criminal court in the want of proper evidence establishing the charges beyond reasonable doubt. He then approached the Administrative Tribunal requesting to reverse the decision of the disciplinary authority on the ground of acquittal from the court on the</p>  | <b>(10)</b>  |

same charges. However, the tribunal upheld the decision of the disciplinary proceeding. Aggrieved by the decision, he filed a writ petition in the High Court. The High Court reversed the decision. Against this reversal, a Special Leave Petition (SLP) was filed in the Supreme Court.

Decide the SLP relying on the suitable legal provisions, decided cases and the principles governing disciplinary proceedings, trial on criminal cases in the court and judicial review by the High Court under Article 226 of the Constitution.

- Q.3 An officer of the Indian Revenue Service (Income Tax) working on the post of Additional Commissioner of Income Tax was seeking promotion to the grade of Commissioner of Income Tax with effect from the date when his immediate junior was promoted. However he was denied promotion. He then approached the Central Administrative Tribunal (CAT) with his grievance. CAT passed an order in his favour wherein CAT held that the officer fulfilled all the eligibility conditions for promotion and also the Annual Performance Appraisal Reports (APAR) of the officer for the relevant years met the benchmarks required for promotion. It further held that the officer was neither facing any criminal case or a disciplinary proceeding nor he was placed under suspension. However, the officer had not been promoted by the Departmental Promotion Committee (DPC) on the ground of advice received from the Central Vigilance Commission (CVC) for initiation of major penalty proceedings against the officer and therefore, his promotion was put on hold. He then challenged the withholding of his promotion in the High Court. (10)

Relying upon the decided cases and the law that govern the suspension and more specifically suspension on the ground of contemplation of an enquiry and the promotion, decide the challenge made in the above mentioned circumstances in the High Court to claim promotion from the date of the promotion of immediate junior.

- Q.4 A person joined the Central Government service. As per the service rules, he was appointed on probation for two years. He availed 5 days leave after one year of his probation. Unfortunately for some intervening reason beyond his control, he could not return and rejoin the service on the date expected to report after availing the sanctioned leave of 5 days. This unauthorized absence from the service had resulted in his termination from the service. He was given a letter of termination simpliciter and salary of 1 month in lieu of the notice. He claimed that he is entitled to get a hearing as the decision taken by the authority was unilateral and violated the principle of natural justice and also violated the protection available to the Government servant under Article 311 of the Constitution of India. Explain the law that governs the termination of the probationers discussing the applicability of protection available under Article 311 of the Constitution for probationers. Based on the legal principles and the decided case, decide his claim. (5)
- Q.5 Fundamental Rules and the Central Civil Services (Leave) Rules, 1972 provide various circumstances, subject to specified conditions, under which voluntary retirement and premature retirement may be given to a government employee working with the Central Government. Explain in detail the law governing retirements under these rules. (5)



- Q.6 Explain in brief the law governing the seniority of direct recruits and promotees in their respective categories. Also, explain the inter-se seniority between direct recruits and promotees taking into consideration the extension of reservation in promotion. (5)
- Q.7 Write short notes on **any two** of the following: (2.5x2=5)
- a) Function of Public Service Commission
  - b) Exception to Article 311 of the Constitution
  - c) Jurisdiction and power of Administrative Tribunals

\*\*\*\*