

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **Service Laws**

Semester- X (Batch: 2018-23)

End Semester Examination: May 2023

Date: 05th 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.

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| Q.1 | <p>A driver of a State Road Transport Corporation (SRTC), while plying a bus, met an accident with a jeep coming from the opposite direction. It was told by the people present on the spot that instead of driving the bus to left side driver took the bus to the extreme right and resulted into the accident. In this accident, a passenger occupying the first seat along with the driver of the jeep died on the spot and many people got injured. Driver of the SRTC was dismissed from the service following the disciplinary inquiry on the ground of this negligence. He was also prosecuted for the offence of rash and negligent driving and culpable homicide not amounting to murder as per the Indian Penal Code, 1860. However, he was honorably acquitted of all the charges from the court. He then requested the Appointing Authority from the SRTC to reinstate him on service. However, the same was denied on the ground that an appeal is pending against his acquittal from the Court. He challenged the refusal of his reinstatement in the High Court through a Writ Petition.</p> <p>Relying on the various decisions given by the Supreme Court and legal principles applicable in these circumstances, decide the claim made in the writ petition.</p> | (10) |
| Q.2 | <p>Mr. X, a visually challenged person, was appointed as a member of a State Public Service Commission (SPSC). The Chairman of the SPSC granted him some additional facilities to help him out in discharging his official functions as a member of the SPSC for him being visually challenged. He, however, kept on making various requests seeking more facilities from the Chairman. These requests were either turned down by the Chairman or were not responded to by him. In fact, these were such requests which were beyond the competence of the Chairman to grant. In the meanwhile, the appointment of Mr. X was challenged in the High Court on the ground of his visual impairments claiming it to be construed as an infirmity. During the same time, the Chairman got annoyed by the repeated request from Mr. X demanding the additional facilities, he withdrew all additional facilities extended to him. Mr. X then challenged the withdrawal of the facility extended to him on the ground that it amounted to variation in conditions of his service to his disadvantage after his appointment.</p> <p>Relying on the law applicable and the decided cases, decide the two writ petitions filed in the High Court?</p> | (10) |
| Q.3 | <p>A State Legislature enacted the State Reservation of Vacancies in Posts and Services (the Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act (the Reservation</p> | (10) |

Act). One of the provisions of the Act sought to impose reservation in direct recruitment to the posts in the subordinate judiciary of the State (subordinate to the High Court of the State). After enacting the Reservation Act, the Government advertised the post for District Judges and the Subordinate Judges following the criteria of reservation. However, the existing rules for recruitment on the post of District Judges as well as the posts in the lower judiciary at the grass-root level at that time was the State Judicial Service (Recruitment) Rules which does not prescribe reservation in judicial services. The advertisement of the Government was challenged in the High Court of the State on the ground that the scheme of reservation of the posts for governing persons to the Judicial Services of the State were ultra vires the provisions of the Constitution. In the light of given facts, explain the laws that govern the recruitment and conditions of service of persons appointed as Judge in the District Courts and in the subordinate judiciary and decide the challenge made in the High Court against the advertisement.

- Q.4 A person was appointed to the post of drug inspector on contractual basis for a period of five years by the Union Public Service Commission (UPSC). One of the conditions of his appointment was that his service would come to an end on conclusion of the contractual period or when a permanent employee got appointed against the post; whichever is earlier. However, no one was appointed to the post till the conclusion of the contractual period, rather, he got his contract renewed for another term of five years with similar conditions as prescribed earlier. During the last year of his second contract, UPSC advertised the vacancy to fill that post by a permanent employee. The maximum age prescribed for making the application was fixed as thirty years with five years relaxation for the government employee. He sought the relaxation certificate from the concerned officer enabling him to apply for that post, but this was denied on the ground that the relaxation can only be given to permanent employees. He challenged this refusal in the High Court. The court took time to decide his claim and in the meanwhile his contractual period came to an end. However, UPSC could not appoint anyone on that post as the final result of the selection was still pending. Therefore, once again he got the extension of his contract for further six months. After extension of his contract, he again went to the High Court requesting to get his service regularized. Decide the two petitions pending with the High Court on the basis of applicable law and decided cases. (10)
- Q.5 Whether the power and jurisdiction to decide constitutional validity of the service laws got vested in the Administrative Tribunal, and thus, the High Courts are divested off the jurisdiction post the enactment of Administrative Tribunals Act, 1985? Explain with the help of applicable provisions of law and decided cases. (5)
- Q.6 What are the various leaves recognized by the Central Civil Services (Leave) Rules, 1972 (the Leave Rules). Explain the conditions prescribed under the Leave Rules for availing the leaves. (5)
