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2018

LABOUR AND INDUSTRIAL LAW-I

Paper : 5-1

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Fill in the blanks with appropriate answers :

1×10=10

(a) The registration of Trade Union is _____ under the Trade Union Act, 1926. [not compulsory/compulsory]

(b) A workman is deemed to be in continuous service under an employer for a period of one year if the workman, during a period of twelve calendar months preceding the date with reference to which the calculation is to be made

(i) has actually worked for not less than _____ days below ground in a mine and

Contd.

- (ii) has actually worked for _____ in any other case. [190, 240/240,190]
- (c) The object of the legislature in enacting the Factories Act, 1948 was to regulate labour and to require the employer to pay adequate attention to _____, _____ and protection of his workers. [the health, safety/pay compensation, health/ disablement, injury]
- (d) According to section 8(4) of the Factories Act, 1948, every District Magistrate is an _____ for his district for the purpose of Factories Act. [Occupier / Inspector/Arbitrator]
- (e) Adolescent under the Minimum Wages Act, 1948 means a person who has completed his fifteenth year of age but not completed his _____ year. [fifteenth/seventeenth/eighteenth]
- (f) An employer is not liable to pay any compensation in case of any injury which does not result in total or partial disablement of a workman for a period exceeding _____. [seven days /three days /one month]

- (g) The appropriate Government's power of reference of industrial disputes to the authorities under section 10 of the Industrial Disputes Act, 1947 is not judicial or quasi-judicial, but is _____ in its nature. [administrative /prerogative/discretionary]
- (h) Duties of the Court of inquiry under section 14 of the Industrial Disputes Act, 1947 are to inquire into the matters referred to it by the _____. [Conciliation Officer/appropriate Government/ Presiding Officer of a Labour Court]
- (i) The appropriate Government's notification fixing the minimum wages under the Minimum Wages Act, 1948 _____ be interfered by the Court. [can/ cannot]
- (j) The Employees' Compensation Act was enacted to help workmen face the _____ resulting from accidents. [hardships/ unemployment/civil society]

2. Write brief notes on : $2 \times 5 = 10$

- (a) Powers of the Registrar under the Trade Unions Act, 1926
- (b) A 'Contract of Service' and a 'Contract for Service'
- (c) 'Continuous service' under the Industrial Disputes Act, 1947
- (d) Collective Bargaining
- (e) Distinguish between a Factory and an Industry.

3. Discuss briefly the procedure for registration of a Trade Union. Mention the grounds for cancellation of registration of a Trade Union under sec. 10 of the Trade Unions Act, 1926
12

Or

Define Trade Union under the Trade Unions Act, 1926. Discuss the nature and extent of immunity from criminal conspiracy available to members and office bearers of registered trade unions under the Trade Union Act, 1926. $4 + 8 = 12$

4. 'A legal strike may be unjustified and an illegal strike may be justified.' Do you agree with the statement? Discuss in the context of the law relating to strikes in India with recent case law. 12

Or

- (a) What is the extent of jurisdiction of Labour Court under Industrial Disputes Act, 1947? Does the Labour Court has original jurisdiction to try a dispute?
- (b) Discuss the circumstances under which a dispute can be referred under section 10 of the Industrial Disputes Act, 1947? What is the effect of such an order of reference? $6 + 6 = 12$

5. Discuss provisions relating to Children and Young Person and Women workers in a Factory under the Factories Act, 1948. Are the provisions adequate? Suggest any additional provisions, if you think so with your comments. 12

Or

Discuss the provisions relating to Safety & Welfare of Workers under the Factories Act, 1948. 12

6. (a) Define 'occupational disease' under the Employees' Compensation Act, (Workmen's Compensation Act, 1923). What is the extent of liability of an employer in such a case?
- (b) What are the defenses that are available to an employer against the claim of compensation by an injured person under the Employees' Compensation Act? 6+6=12

Or

- (a) Distinguish between 'living wage' and 'minimum wage'.
- (b) What are the provisions laid down in the Minimum Wages Act, 1948 for fixation and payment of minimum wage to an employee? Can it be revised? If so, how? Discuss. 6+6=12
7. Discuss the object and salient features of the Assam Shops and Establishment Act, 1961. 12

Or

Discuss the procedure for enforcement of hours of works, leave and wages under the Assam Shops and Establishment Act, 1961. Are there any provisions for employment of children and women under the Act? What are the powers of the inspector in this regard? Discuss. 12