

HIGH COURT OF JUDICATURE AT BOMBAY

Question paper for written examination for the post of Judge-Labour Court.

Date: Sunday, 12th August, 2007.

(Time: 10.30 a.m. to 1.30 p.m.)

Total Marks : 200

Part-I - 80 Marks

Part-II - 120 Marks

Note:

1. All questions are compulsory.
2. 30 minutes are given for reading the paper and remaining 2 hrs. 30 minutes are for writing the paper.
3. Candidates are required to answer all questions in Part-I by tick-marking on appropriate choice of answer. Each right answer will be allotted four marks and one mark will be deducted for each wrong answer.
4. Any deviant behaviour will result in disqualification.

P A R T - I

- Q.1. A permanent Clerk in a private aided school is terminated from service. His remedy to challenge the termination order lies,
- (a) Before the Labour Court under M.R.T.U. & F.U.L.P. Act, 1971.
 - (b) Before the School Tribunal under M.E.P.S. Act, 1971.
 - (c) He has the choice to elect the remedy either before the Labour Court or the School Tribunal.
- Q.2. A Muslim woman, resident of Pune, wants to claim maintenance against her husband. She has to file a Maintenance Petition before the,

- (a) Judicial Magistrate, First Class under Section 125 of Cr.P.C.,
- (b) Family Court under the Family Courts Act, 1984,
- (c) Wakf Board under the Muslim Women (Protection of Rights on Divorce) Act, 1986

Q.3. A person holding the post of Supervisor in a factory and drawing salary of Rs.5000/- is an "employee" as defined under the,

- (a) M.R.T.U. & P.U.L.P. Act, 1971
- (b) Factories Act, 1948,
- (c) Payment of Bonus Act, 1965

Q.4. An order of process issued in a Criminal Complaint by the JMFC can be challenged by filing,

- (a) an application before the JMFC to recall the order.
- (b) a Criminal Revision Application before the Sessions Court.
- (c) an application before the High Court.

Q.5. "Relation Back" is a doctrine referable to the,

- (a) Administrative Law
- (b) Labour Law
- (c) Civil Law

Q.6. A recovery certificate under Section 101 of the Co-operative Societies Act, 1960 has been issued against a borrower. His remedy to challenge the same lies by filing,

- (a) an appeal before the State Government.
- (b) a Revision Application before the Joint Divisional Registrar.

(c) a dispute before the Co-operative Court.

Q.7. "Collective Bargaining" is referable to,

- (a) Charter of demands
- (b) Adjudication by the Labour Court
- (c) Recognition of Unions

Q.8. "Maintenance of widowed daughter-in-law" is referable to maintenance under,

- (a) Section 125 of Cr.P.C.
- (b) the Hindu Adoptions and Maintenance Act, 1956.
- (c) the Hindu Marriage Act, 1955

Q.9. "Suspension pending enquiry" is referable to the,

- (a) M.R.T.U. & P.U.L.P. Act, 1971.
- (b) Bombay Industrial Relations Act, 1946.
- (c) Industrial Employment (Standing Orders) Act, 1946.

Q.10. In a private complaint filed for the offences punishable under Sections 420, 464, 468 and 471 read with Section 34 of IPC against four accused, the JMFC issues process against only one accused, the remedy for the complainant for issuance of process against other accused is by way of,

- (a) An appeal against acquittal.
- (b) A Criminal Revision Application.
- (c) An application before the JMFC to issue fresh order.

Q.11. A person employed by a Contractor to do any work in an establishment is an employee of that establishment under the,

- (a) Industrial Disputes Act, 1947,
- (b) Contract Labour (Regulation and Abolition) Act, 1971.
- (c) Bombay Industrial Relations Act, 1946.

Q.12. An agreement made without consideration is void as per the,

- (a) Transfer of Property Act, 1882.
- (b) Specific Relief Act, 1963.
- (c) Indian Contract Act, 1872.

Q.13. The amount of overtime paid to an employee is wages within the meaning of the,

- (a) Workmen's Compensation Act, 1923.
- (b) Industrial Disputes Act, 1947.
- (c) Payment of Bonus Act, 1965

Q.14. A decree passed under Section 6 of the Specific Relief Act, 1963 can be challenged in,

- (a) First Appeal
- (b) Revision Application
- (c) Writ Petition

Q.15. "Representative Union" is referable to,

- (a) The Trade Unions Act, 1926
- (b) The M.R.T.U. & P.U.L.P. Act, 1971
- (c) The Bombay Industrial Relations Act, 1946

- Q.16. In a factory employing 30 workers, its truck hit a helper in its premises at Thane and he sustained permanent disability. He can claim compensation under,
- (a) The Motor Vehicles Act, 1988
 - (b) The Employees' State Insurance Act, 1948
 - (c) The Workmen's Compensation Act, 1923
- Q.17. A person who holds a degree in law of a recognised University in India and has held or is holding the post of Assistant Labour Commissioner for 10 years is eligible to be appointed as a Member of the Industrial Court/Tribunal under,
- (a) The Industrial Disputes Act, 1947
 - (b) The M.R.T.U. & P.U.L.P. Act, 1971
 - (c) The Bombay Industrial Relations Act, 1946
- Q.18. Productivity-Linked Bonus is "wages" within the meaning of,
- (a) The Industrial Disputes Act, 1947
 - (b) The Factories Act, 1948
 - (c) The Employees' State Insurance Act, 1948.
- Q.19. An order allowing Review Application in a Civil Suit can be challenged in,
- (a) First Appeal
 - (b) Civil Revision Application
 - (c) Appeal From Order
- Q.20. A Manager in a Co-operative Bank against his order of dismissal has the remedy to challenge the same by filing,
- (a) a Civil Suit
 - (b) a Writ Petition before the High Court.
 - (c) a dispute before the Co-operative Court.
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P A R T - II

Q.1. Write a judgment on any one of the following facts: (30) Marks

(a) A conductor of Maharashtra State Road Transport Corporation found in misappropriation of tickets of Rs.10/- and with 10 years clean service record was dismissed from service on the basis of the charges proved in the domestic enquiry. After his Departmental Appeal was rejected, he filed a complaint of unfair labour practice under Item-1 of Schedule - IV of the M.R.T.U. & P.U.L.P. Act, 1971 on the grounds that, (a) the enquiry conducted was vitiated, (b) the charge was not proved (c) the punishment awarded was grossly disproportionate, (d) the Appellate authority did not apply its mind while rejecting his appeal and (e) he was victimised.

OR

(b) A cheque for Rs.50,000/- deposited by the Payee was dishonoured on 1/1/2007. The Payee issued legal notice on 10/1/2007 and the same was received by the Drawer on 15/1/2007 and there was no response from the drawer. On 1/2/2007 the Payee redeposited the cheque in his Bank and he received banker's slip on 7/2/2007 that the cheque could not be encashed. He, therefore, issued a fresh legal notice on 15/2/2007 which was received by the drawer on 20/2/2007. As there was response from the Drawer, he filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 on 10/3/2007 stating that the amount was due to be recovered by way of debt or other legal liability.

Q.2. Distinguish between any five of the following: (30) Marks

(a) Suspension pending enquiry and penal suspension.

(b) Illegal strike and illegal lockout.

(c) Rights of recognised unions and unrecognised unions under the M.R.T.U. and P.U.L.P. Act, 1971.

(d) Summons case and warrant case.

(e) Public documents and private documents.

(f) Accident compensation claim under the Workmen's Compensation Act and the Motor Vehicles Act, 1958.

(g) Remedy for challenging the order of dismissal by way of punishment under the M.R.T.U. and P.U.L.P. Act 1971 and the Industrial Disputes Act, 1947.

(h) Workman and Supervisor under the Industrial Disputes Act, 1947.

Q.3. Write short notes in about 100 words on any five of the following: (30) Marks

(a) Recognition of Union under the M.R.T.U. & P.U.L.P. Act, 1971.

(b) Declaration of strike as illegal

(c) Ownership by adverse possession

(d) Summary proceedings for eviction under the Maharashtra Rent Control Act, 1999

(e) Award in terms of settlement

(f) Eligibility and benefits under the Payment of Gratuity Act.

(g) Lis Pendente Lite

(h) Minimum wage and fair wage

Q.4. Write a short essay on the importance of speedy adjudication of Industrial Disputes for industrial peace and growth. (15) Marks

Q.5. Present your views in about 100 words on the success of the M.R.T.U. and P.U.L.P. Act, 1971 in achieving the cherished objective of one union one industry. (15) Marks
