

2856

8

- (b) Describe the Institutions/Employers to which the Payment of Bonus Act, 1965 Act does not apply.
- (c) Provisions of the Payment of Gratuity Act 1972.
- (d) Forfeiture of Gratuity under Payment of Gratuity Act, 1972.
- (e) Wages under the Payment of Wages Act, 1936.
- (f) Authorized deductions under the Payment of Wages Act, 1936. (5×4=20)

(100)

23.05.2016

[This question paper contains 8 printed pages.]

2856

Your Roll No.

M.COM. : SEMESTER – IV (OC) FC

Paper No. – 7152

Industrial Law

Time : 3 Hours

Maximum Marks : 100

(Write your Roll No. on the top immediately
on receipt of this question paper.)

Attempt All questions.

All questions carry equal marks.

All questions are compulsory
and carry equal marks.

Credit will be given for answers
supported by case laws, if any.

1. Attempt the following. Each carries equal marks :

(10×2)

- (a) Discuss briefly provisions of the Employees Provident Funds Scheme under the EPF & MP Act, 1952.

P.T.O.

- (b) Discuss the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 relating to the constitution, functions and powers of the Central Board.

OR

- (c) The petitioner's establishment is engaged in the sale of fruits in Subzi Mandi, Azadpur. The inspector of RPFC visited the premises of petitioner's establishment on 22nd June and 6th July, 1989 for the purpose of inspecting as to whether the petitioner establishment would be covered' under the Act and met one Sh. K.N. Jaggi, who transpired to be husband of one of the partners of petitioner's establishment Smt. Sulakshna Jaggi. Sh. K.N. Jaggi handed over letter dated 22nd June, 1989 to the inspector on the letterhead of petitioner's establishment, giving details about the said establishment duly signed by him. On the basis of the information received by the Inspector, he recommended coverage of the petitioner establishment with effect from 1st June, 1989 under the Act and accordingly submitted a report to his office. On the basis of the said report, a coverage letter dated 24th' July, 1989 was issued to the petitioner establishment, covering it under

the Act with effect from 1st June, 1989. As, the petitioner did not report compliance of the provisions of the Act, proceedings under section 7A of the Act were initiated against it and summons dated 11th April, 1990 were issued to the petitioner establishment. Decide, if the claim of the petitioner establishment that the 12 piece rate casual workers working under the contractor ought to have been excluded by the RPFC while considering the case of applicability of the Act to the petitioner establishment is contrary to the intendment of the Act and accepted. Will a sweeper who works twice or thrice a week, a night watchman who keeps watch on other shops also and a gardener who comes for ten days in a month be treated as 'employees' under the EPF Act, even though they are not directly connected with the establishment ?

- (d) On inspection of the premises, the enforcement officer of PF Organization found the strength of employees to be 22 which included 3 directors of the company who get remuneration from the company. He recommended that the respondent company be covered by the EPF Act. The respondent company challenged the coverage. Decide by citing a case law.

P.T.O.

2. (a) Petitioner is a limited company engaged in manufacturing rain wears, air pillows, rubber canvas foot wear etc.. in its small scale industrial unit. It is covered under the provision of the ESI Act. Petitioner offloads various work on piece rate basis to other units for stitching buttons hole fixing, taping, pasting, molding, mixing etc. The charges paid against such job work include the cost of job work and profit of the units who execute such job orders. Such units are independent and they do the job work of the petitioner as well as others at their own premises. Petitioner has no connection or control whatsoever on the said units. It has got no supervisory control over the day to day execution of the work. The said units submit their bills against such work and payment are made by cheque. Will a company manufacturing rainwear's and air pillows and covered under the ESI Act outsourcing various jobs on piece-rate basis to other units be liable to pay ESI contributions for such job work. Different establishments which is neither supervised nor controlled by the company ?
- (b) The respondent company is carrying on the activities of rendering service to it's members in the form of giving loans and accepting deposits, and more importantly, the said service being rendered for a price, which price is the interest that is levied on the loans taken by the members.

Decide citing a case law if the activities carried, oh by the respondent company brings it within the fold of an establishment carrying on a systematic commercial or financial activities and whether "Manipal Sowbhagya Nidhi, Ltd." a public limited company under the provisions of the Companies Act, 1956, is a "Shop" coming within the purview of section 1 (4) of the Employees' State Insurance Act, 1948.

OR

- (c) What is meant by the terms Allocable Surplus, Available Surplus, Set on and Set off of Allocable Surplus as provided in the Payment of Bonus Act, 1965? Elaborate the provisions of the Payment of Bonus Act, 1965 for determination of bonus.
- (d) Define the terms Employer, Employee and Continuous Service as per the Payment of Gratuity Act, 1972. (10×2)
3. (a) Gherao (physical blockade of a target either by encirclement or forcible occupation) done by the office-bearers/members of a Trade Union if provides them immunity from criminal proceedings? Discuss citing a case law under the Trade Union Act, 1926.

(b) Members of the Union went on strike to press their demands. President of Union made speeches and instigated workers for picketing of the Mill. He also brought his wife to the Mill gate with instructions to beat with slippers anyone who interfered with her in the picketing process. Later on he was prosecuted on the charges of instigating, picketing and abatement of picketing by his wife u/s 114 of Indian Penal Code. Decide, if the accused will get immunity from criminal proceedings ?
(10×2=20)

OR

(c) An electrician, who had to go frequently to a heating room from cooling plant, contracted pneumonia, which resulted in his death. Decide citing a case law if the dependents of the deceased workman were entitled compensation under the Employees' Compensation Act ?

(d) The employer went to the house of deceased workmen who was working as a stock maker with the respondent employer at a salary of Rs. 4,000 p.m. The employer took the deceased on his scooter for some urgent work when on the route, the scooter met with a serious accident and the deceased

succumbed to his injuries next day in the hospital. Decide, if the injury causing his death was sustained during course of employment and his heirs and dependants could file claim for compensation under the Employees Compensation Act, 1923 and Motor Vehicles Act, 1988.

4. (a) Differentiate between the provisions of the Employees' Compensation Act, 1923 and the ESI Act, 1948. (10)
- (b) Explain the meaning of expression 'arising out of and in the course of an employment' as applicable in case of personal injury, as provided in the Employees' Compensation Act, 1923. (10)

OR

(c) Discuss the dispute settlement machinery provided under the trade union act, citing the relevant case laws.

5. Write short notes on any **four** of the following :

(a) The provisions of the Payment of Bonus Act, 1965 relating to allocable and available surplus.