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FOR CS PROFESSIONAL EXAM PREPARATION

CS Professional 2024 Question Paper · Labour Laws and Practice

EXAM	YEAR	TYPE	SUBJECT
CS Professional	2024	Question Paper	Labour Laws and Practice

DATE

June 2024

NEW SYLLABUS

553

Roll No. .....

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 4

Total number of printed pages : 8

NOTE : *Answer* ***ALL*** *Questions.*

1. Aviary Metal Limited (AML) is a Maharatna PSU under the Ministry of Defence, Government of India, which gives progressed items and framework to military and government for manufacturing units. AML is one of the top Maharatna PSUs.

The company has grown significantly in turnover and is consistently giving sufficient profit. AML is focusing on solid development of 12-15% during 2022-23. Radar and Missile Systems, Communication, Network-Centric Systems and other areas will continue to drive the company's growth in the years ahead.

In spite of being one of the top industries, total 1000 workers are employed and the working condition of most of the contractual workers are not good. Therefore, Aviary Metal Limited (AML) workers union decided to amalgamate to have effective collective bargaining as there were two registered trade unions and they all were demanding 7th pay Commission and better working conditions in AML. The contractual workers comprising 60 percent of the AML strength, which are continuously working for the last 5 years and still they are on contract employment. Now after 5 years of service, the licence of the contractor has expired

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553

to engage the contract labor or the contractor has not applied for the renewal of the licence but the workmen were still employed with the company and not given the status of regular employees. There were frequent strikes with respect to it. Now to have effective collective bargaining with the management, those two registered trade unions have amalgamated to become a strong trade union with the name of Hind Mazdoor Sangh.

Hind Mazdoor Sangh were in negotiations with the management for implementation of 7th Pay Commission and to notify permanent positions for several months. Despite several round of discussions, no agreement has been reached. The industrial peace got disturbed which led to frequent strikes affecting the production and target delivery of products causing financial loss to the company. The union after giving notice to management decided to go on hunger strike for 10 days.

The management of AML claims that this strike is illegal under the Industrial Disputes Act, 1947, as it has not followed the prescribed procedure for calling a strike. The management has decided to deduct 10 days wages of workers who resorted to hunger strike and initiated disciplinary proceedings against them as they turned violent, they damaged the property of the company as well.

In the meanwhile, due to some dispute with the officers of AML, one worker named Rakesh has been suspended who was active member of the Union. In response to the above action, Hind Mazdoor Sangh filed the case before the Labour Court against the AML. Whereas Court decided the case in favour of Management along with compensation of ₹ 2 Lakh for the loss suffered by management.

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553

Based on the above facts, answer the following questions, with relevant provisions :

(*i*) Whether the employer is bound to pay the wages as per the 7th pay commission to the contractual employees and also liable to provide them better working conditions being contract employees under the Contract Labour (Regulation & Abolition Act), 1970.

(*ii*) Are contract employees eligible to form a trade union ? Are workmen entitled to go for civil or criminal immunities under the Trade Union Act ?

(*iii*) Who will be responsible for renewal of license for registration contract employees ? Explain the procedure with regard to renewal licence.

(*iv*) Is it necessary for the principal employer to register the establishment for engaging contract employees ? What are the effects of non-registration ?

(*v*) Can licence be revoked by the licencing officer for non-fulfilment of certain conditions ? Cite those conditions under The Contract Labour (Regulation and Abolition Act), 1970.

(*5 marks each*)

2. Rahul (appellant) was working as a Clerk in a Nationalised Bank posted at MG Road Branch, Panipat. He joined the branch on 1st November, 2016 and was assigned the duties of cashier. As per appellant he attended the duty on 10th and 11th November, 2018 and his attendance was marked on the muster roll for both days. But according to the Bank authorities the appellant absented from duties on both days without permission. The case of the Bank further was that the appellant on 10th November, 2018 entered the Bank with about 15 persons

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553

in the morning and went to the office of the Chief Manager and thereafter left the office. Again, on 11th November, 2018 he worked up to 2.30 pm and absented himself from duty thereafter. The bank deducted two days wages of appellant treating him absent from duty. As a reason of this, Appellant went on strike, later he provoked other bank employees as well and they all went on strike for first four hours on 13th November, 2018 without complying the notice period. Hence, the bank issued an administrative circular as per their Standing Orders, the employees cannot go on strike for first four hours, warning the employees that they would be committing a breach of their contract of service if they participate in the strike. By ignoring the order, they have participated in the strike from the beginning of the working hours on 13th November, 2018. The employees however, resumed work on that day after the strike hours and the bank did not prevent them from doing so. The bank had already made it clear in advance, that if they will go on strike for first four hours, they would not be entitled to the wages for the whole day and hence they need not report for work thereafter. On 16th November, 2018, the Bank issued a circular directing the managers to deduct the full day's wages of those employees who had participated in the strike. The employees requested to the Chief Manager not to make deduction from wages, but the bank deducted their wages, hence the employees referred the matter to the Labour Court.

On the basis of above facts, answer the following questions :

(*i*) Was appellant entitled for full day's wages for both days 11th and 12th November 2018, when he attended duty only for few hours ? Was the strike legal and justified, indicate the legal provisions of strike as per lndustrial Disputes Act, 1947.

(*5 marks*)

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553

(*ii*) The Bank Authorities made the deduction of wages for full day's salary for 13th November, 2018 from the employees' salary, was it justified ?

(*5 marks*)

(*iii*) Are bank employees bound to follow the Industrial Standing Orders of the Bank or the strike notice be complied ?

(*5 marks*)

(*iv*) Discuss the various authorities for the settlement of disputes between Bank and their employees under the Industrial Disputes Act, 1947.

(*5 marks*)

(*v*) What are the consequences of illegal strike, explain it, whether the Banking Industry come under the category of Public Utility Services ?

(*5 marks*)

3. The new technology has rapidly changed the nature of work and labour relations. A new type of workers 'the Gig Workers' as unorganised workers employed in unorganised sector have emerged in all the countries. Though there has been a significant increase in the number of Gig workers in India, but serious concerns have been expressed about the availability of jobs and income security to them. A mismatch of skills have also become a common phenomenon. Proper planning to reduce the mismatch and upskilling is thus required. State intervention has also become important to provide social security to these workers. These Gig workers as unorganised workers protest and demand for all social security laws and want the protection under Indian Labour Laws and the Constitution of India. These unorganised workers as Gig workers are educated youth and plays a significant share of growth in European countries. They provide skill intensive professional services such as legal, accounting services, software development and translation. They are demanding the status and the protection as

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553

given by the developed countries. As per these workers, they contribute majorly in the Indian economy. In the light of above, answer the following questions :

(*i*) Define the unorganised workers including Gig workers and their legal rights as per the Unorganised Workers' Social Security Act, 2008.

(*ii*) Do we have any new labour codes which provide the protection to the unorganised workers ? Explain. What are the initiatives proposed by the Indian Government for the protection of their legal rights ?

(*iii*) Why do we employ unorganised workers in India ? Is there any advantage to employ them ? Explain.

(*iv*) Are unorganised workers including Gig workers entifled for the regular status of the employee ? Explain.

(*v*) Which are the directive principles of our constitution for protecting and promoting the interest of weaker sections ? Explain.

(*5 marks each*)

4. (*i*) The United Nations Agency has published a report on profits and poverty. The profits through forced labour is generated by the exploitation of the labour. Elaborate the role of International Labour Organisation to protect the forced labour from exploitation.

(*5 marks*)

(*ii*) Solutia Company is engaged in the cotton mill business. It has challenged the revision and fixation of minimum wages done by the State Government. Decide whether the said notification is within the intra vires of Minimum Wages Act, 1948 based on the following contentions and facts.

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553

(*a*) The present revision has been made after three years of previous revision.

(*b*) The cotton mill gives employment to not more than 950 people in the entire state.

(*c*) The revision was made adopting the committee method. However, no representative from the Solutia company's employee was taken. Among the representatives from employer, Mr. Pranav, the Chairman of Solutia Company was a member of the committee.

(*d*) Solutia Ltd. is not expected to earn any profit in next ten years. The State Government did not consider this aspect while revising wages.

(*e*) The State Government fixed dearness allowance in excess of the amount required to neutralize the effect of inflation.

(*5 marks*)

(*iii*) Neither the desire of the members, nor registration or any other formality, but the principles object of the union or combination is the only test to ascertain as to whether the combination is a trade union or not.

Who among the following can be registered as trade union ? Justify your answer with appropriate reasoning :

(*a*) A resident welfare association

(*b*) The Delhi Automobile Manufactures' Association

(*c*) Teachers' Association

(*d*) All India Bank Employees' Association

(*e*) Delhi Union Journalist.

(*5 marks*)

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553

(*iv*) A jeep driver of the Bank took the officers of the Bank to a village in connection with recovery proceedings conducted by the Bank. He rested the jeep in the rest house and went to the market, where he was assaulted by some unknown persons. Subsequently he was found dead. Is the employer liable to pay compensation ? Explain.

(*5 marks*)

(*v*) A workman when he was on his way to the place of work, was murdered in a communal riot. Whether the widow of the deceased workman will succeed in getting compensation ? Explain.

(*5 marks*)

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