

NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination: July-November 2023

Semester: UG Semester 7

Subject: Labour Law-I

Time: Three Hours

Marks: 100

Instructions:

1. Answer Any Five Questions. Each Question carry 20 marks.
2. Read the questions carefully and answer accordingly.

1. Section 11A of the Industrial Disputes Act, 1947 says that "Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require." Analyse Section 11A supported by case laws. (Marks 20)
2. "THE INDUSTRIAL Disputes Act, 1947 (ID Act) was passed to pre-empt industrial unrest, ensure resolution of industrial disputes in a peaceful manner and protect workers against exploitation and victimization by the employer. The Act has given the words 'industry' and 'industrial dispute' a comprehensive import to include varied forms of industrial activities so that disputes in the industry are dealt with in a manner more in tune with conciliation and settlement than determination of the respective rights and liabilities according to strict legal procedure and principles. The conflicts between capital and labour are now required to be determined more from the standpoint of status than of contract. Defining 'industry' in its widest scope and 'sovereign functions' within a limited orbit, industrial adjudication has greatly been influenced by the aforementioned precept". Critically analyse the in Bangalore Water Supply & Sewerage Board v. A Rajappa (1978) 2 SCC 213 through the lens of the above statement. (Marks 20)
3. Respondent 1 company is a partnership firm, carrying on business of servicing and repairing air-crafts. It also carries on business of air supply drop, infra and scanning, aerial photography, aerial spraying etc. During the period 2001 to 2008, 160 workers were engaged by the company and during that period, the company was servicing air-crafts belonging to private sector companies, viz., Birla and JK Group, Border Security Force, N.S.R.A., D.G.C.A. and I.G.R.O. a Government organisation.
In addition, the company was also carrying on airlifting activity, regarding perishable cargo to the gulf countries. In August 2007, however, the first respondent-company lost Border Security Force contract, and D.C. IV air-craft operations contract for lifting perishable cargo and in May 2009, it lost flying operations contract given by IGRO. The workload was reduced in 2009-2010 by more than 50 per cent. The pilots were also retrenched and the site at which the work was carried out was reduced from two sheds to one shed. In 2012,

one of the hangars collapsed. The company had a Dakota Plane which also came to be returned to the Government. In 2012, contract of the company with Mahindra and Mahindra for maintenance of their aeroplanes was also terminated and so also contracts with Birlas and Agro-Air-craft Companies were also terminated. On 4 June, 2012, after reciting the above facts, notice of retrenchment was given by the company. According to the petitioner-union, the said notice was displayed only on 22 June, 2012.

According to the union, a list of persons retrenched was not enclosed although notice, dated 4 June, 2012, says so and according to the union, the said retrenchment was not on the basis of 'last come first go.' On 12 June, 2012, the petitioner-union informed the management that majority of the workmen had enrolled themselves as members of the petitioner-union. The matter was referred to the National Industrial Tribunal. By a written statement filed by the management, the company contended that in view of financial deteriorating position, the above retrenchment came to be imposed. They gave notice as well as compensation. In the circumstances, it was contended by the management that reference deserved to be rejected.

After recording of evidence, the impugned award came to be passed by the Industrial Tribunal in Reference (IT) No. 20 of 2012. By the impugned award, it was held, *inter alia*, that the company had complied with the provisions of the Industrial Disputes Act, that there was no evidence to show that the seniority list was not displayed, In the circumstances, by the impugned award, the Tribunal came to the conclusion that the reference was liable to be dismissed. Being aggrieved by the said award, the present writ petition has been filed.

(Marks 20)

4. "The socio-political system of collectivism is characterised by a particular attitude of the state towards the class struggle. The legal system does not negate the class struggle or suppress it, but it does not allow it unlimited freedom; it rather attempts, within the framework of the capitalist system, to determine the way it is conducted by the establishment of legal norms and, over and above this, to utilise the results of each individual stage of conflict for the further development of the law"- Otto Kahn Freund on Collectivism . Critically Analyse the statement with the Indian Industrial Jurisprudence.

(Marks 20)

5. The appellant's manager was violently attacked by his workmen as a result of which he sustained serious injuries. The workers in the lower division also threatened the appellant's staff working in that division that they would murder them if they worked there. The appellant was therefore compelled to notify that the division would be closed until further notice. Subsequently as a result of conciliation before the labour officer, the division was opened again. The workers made a claim for lay-off compensation under Section 25C of the Industrial Disputes Act, 1947, for the period during which the lower division was closed on the footing that the management for their own reasons did not choose to run the division during that period. The appellant's answer was, *inter alia*, that the closure of the division amounted to a lock-out which under the circumstances was perfectly justified and as such the workers were not entitled to claim any lay-off compensation. Decide.

(Marks 20)

6. The appellant was employed in the State Bank of Patiala, The Mall, Patiala from July 13, 2013 till August 21, 2014, when her services were terminated. Despite some breaks in service for a few days, the appellant had admittedly worked for 240 days in the year preceding August 2014. According to the workman, the termination of her service was

"retrenchment" within the meaning of that expression in Section 2(OO) of the Industrial Disputes Act, 1947, since it did not fall within any of the excepted cases mentioned in Section 2(OO). Since there was "retrenchment", it was bad for non-compliance with the provisions of section 25 F of the Industrial Disputes Act. On the other hand, the contention of the management was that the termination of services was not due to discharge of surplus labour. It was due to the failure of the workman to pass the test which would have enabled him to be confirmed in the service. Therefore, it was not retrenchment within the meaning of section 2(OO) of the Industrial Disputes Act. The Presiding Officer, Central Government, Industrial Tribunal-cum-Labour Court, accepted the management's contention and decided against the workman appellant. Against this appellant sought a Special Leave petition to the Hon'ble Supreme Court. Decide. (Marks 20)