

5 MAY 2025

NATIONAL LAW UNIVERSITY, JODHPUR

END TERM EXAMINATION MAY -2025

SEMESTER: UG VIII

SUBJECT: LABOUR LAW- II (Compulsory)

Time: 3 Hours

Max Marks 100

Instructions:

- 1. Attempt any five questions out of the following.**
- 2. All questions carry equal marks.**

Q.No. 1) To ensure transparency and accountability, Social assistance schemes with flat-rate benefits can be an element of a rights-based national social protection system if their eligibility criteria, benefit levels and modalities are set out in the national legislation. However, social assistance schemes should be part of a broader social protection system, which usually combines tax-financed schemes and social insurance to guarantee a social protection floor and provide higher-level benefits per international social security principles. There is a need to formalize all economic units, especially micro, small and medium-sized enterprises, and make the right to social protection a reality for workers in all types of employment. Discuss this statement by citing examples from various countries that have extended social protection by combining contributory and non-contributory elements.

(Marks 10+10)

Q.No. 2) The respondent, an employee of the PSU, was found guilty of misconduct for securing employment through fraudulent means. During the employer's internal inquiry, it was established that he had submitted a forged birth certificate, misrepresenting his date of birth as 1960 instead of 1953, to secure an appointment. In consequence, the PSU terminated his employment and forfeited his entire gratuity. The primary issue raised in light of the above-mentioned facts is whether the employer can forfeit gratuity under Section 4(6)(b)(ii) of the Gratuity Act upon termination of service of the employee for misconduct, which can be categorized as an offence involving moral turpitude, without there being any conviction in a criminal case or even a criminal proceeding having been initiated. Decide the following facts based on the landmark judgments relating to the matter.

(Marks 10+10)

Q.No. 3) Bringing out the difference between the General Maternity Law and Special Rules, discuss the landmark judgment of *Union of India v. Asiya Begum* (2019) and how the case factually goes outside the purview of the Maternity Benefit Act. Comment.

(Marks 10+10)

Q.No. 4. The petitioner is a Ginning and Pressing Factory, Murtisapur, and had employed respondents 2 to 10 as seasonal workers, and they preferred an application under S. 33-C(2) of the Industrial Disputes Act for a minimum bonus at the rate of Rs.100 per annum, basing their claim on the Payment of Bonus Act, 1965 provisions. The total number of working days



mentioned in the chart (annexure A) (S) to the petition is not disputed. The petitioner resisted the claim on the ground that the application was not maintainable under S. 33-C(2) of the Industrial Disputes Act and urged that the claim be barred by time. It is also contended that as the respondents were seasonal employees, they would not be entitled to claim the bonus under the provisions of the Payment of Bonus Act.

Issue: 1. Are Respondents No. 2 to 10, who were seasonal employees, entitled to claim the benefit of the Payment of Bonus Act, 1965?

2. Is the application barred by limitation reading together Section 33-C of the Industrial Dispute Act, 1947 and the Limitation Act, 1963? **(Marks 10+10)**

Q.No. 5) In the present matter, the appellant is the Regional Provident Fund Commissioner (RPFC), and the respondents are Sanathan Dharam Girls Secondary School, a Governmental Educational Institution and the State of Rajasthan, among others: the Employees Provident Fund and Misc. Provisions Act (in short 'the EPF Act') came into force in 1952. In 1982, via Gazette notification by the Government, Educational Institutions were added to the Schedule of the Act under Section 1 (3). The schedule reads thus:

(i) any University;

(ii) any college, whether or not affiliated to a University

(iii) any school, whether or not recognized or Aided by the Central or State Government

(iv) any scientific institution

(v) any institution in which research is carried out.

(vi) any other institution in which the activity of imparting knowledge or training is systematically carried on.

The State Government had framed rules known as 'The Rules for payment of Grant-in-Aid to non-governmental educational, cultural and physical educational institutions in Rajasthan, 1963'. Later, in 1989, the Rajasthan Legislative Assembly passed 'The Rajasthan Non-Government Educational Institutions Act, 1989' which came into force on 01.01.1993. On 05.08.1997, the State Government (Finance Department) issued an order to implement the EPF Act, 1952 provisions on Non-Governmental aided educational institutions employing 20 or more persons. On 24.01.1998, the State Government (Educational Department) passed an order by which it transferred the existing Provident Fund amount from the State treasury to the office of the Regional Provident Fund Commissioner. Later, on 24.08.1998, the State Government (Finance Department) passed an order to transfer the Provident Fund amount from the State treasury to the Provident Fund Commissioner.

Issues: 1. Are the provisions of EPF Act, 1952 applicable to the Non-Governmental Educational Institutions or not given the provisions contained in Section 16 of the EPF Act?

2. And whether the respondents' institutions will fall under the exceptions stated in Section 16(1) (b) of the EPF Act. **(Marks 10+10)**

Q.No. 6) Of the 31 conventions and 24 recommendations adopted in the area of social security between 1919 and 2012 by the ILO, the Social Security (Minimum Standards) Convention, 1952 (No. 102) is considered the flagship social security instrument. Convention No. 102 is unique for both its conceptual formulation of social security, and the guidance it provides for establishing social security systems. The notion of social security in the

Convention classifies the social security systems into nine standard branches. Discuss the important changes that Convention 102 attempts to bring in the Social Security laws globally.

(Marks 10+10)



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1. Attempt any five questions out of the following.
2. All questions carry equal marks.

Q. No. 1) Labour welfare refers to the measures taken to ensure the well-being of workers by employers, trade unions, and various governmental and non-governmental organizations. This welfare encompasses efforts aimed at enhancing the comfort and overall quality of life for employees, extending beyond their wages. By fostering high morale and motivation among employees, welfare initiatives contribute to better employee retention over time. Employee welfare involves overseeing working conditions, promoting industrial harmony through infrastructure supporting health, managing industrial relations, and providing insurance against illness, accidents, and unemployment for workers and their families. Discuss the seven theories of labour welfare in the context of the above statement.

(Marks 10+10)

Q. No. 2) The Labour Appellate Tribunal in the year 1949 had broadly approved a formula. Surplus available for distribution had to be determined by debiting the following prior charges against gross profits:

1. Provision for depreciation;
2. Reserve for rehabilitation;
3. Return of 6% on the paid-up capital;
4. Return on the working capital at a lower rate than the return on paid-up capital;

From the balance left, referred to as the "available surplus," was to be distributed among the workmen in a fair and reasonable manner by way of a bonus each year. This bonus was to be computed based on the establishment's profits in that year, ensuring an equitable distribution. Explain the concept of 'set on' and 'set off' based on Section 15 read with the Fourth Schedule of the Payment of Bonus Act, 1965.

(Marks 10+10)

Q. No. 3) The Petitioner is an establishment covered by the EPF Act. In furtherance to an inspection conducted on 23.05.2012, the then Enforcement Officer, Kumbakonam had submitted a report dated 11.06.2013. The respondent took into account the contents of that report and an inquiry against the petitioner under Section 7-A of the EPF Act was initiated. In the course of that inquiry, the petitioner made an application to the second respondent under section 7-A (2) of the Act, to cross-examine the said Enforcement Officer, who had submitted reports on 11.06.2013. The respondent rejected that request on the specious plea that as that enforcement officer had been transferred to Coimbatore, the respondent has no jurisdiction to direct him to appear for the hearing. The petitioner was required to submit a questionnaire So

that the doubts raised could be cleared through the present incumbent in the post of Enforcement Officer, Kumbakonam. An application for review dated 24.10.2014 of that order made by the petitioner was rejected by the respondent by order confirming the earlier decision. A grieved thereby the petitioner has filed the present writ petition challenging the refusal of the respondent to permit the petitioner to cross-examine the said Enforcement Officer, Kumbakonam. As the claim made by the respondent against the petitioner arises out of the report submitted on 11.06.2013 by the said Enforcement Officer, Kumbakonam. Is the petitioner entitled to cross-examine the said official to disprove its correctness?

(Marks 10+10)

Q. No. 4) The work of development of DLF Capital Green Project at a construction site described as 15, Shivaji Marg, Delhi-110 015 owned by DLF Universal Limited ("the land owner company") was underway in May, 2014, the contract for said construction work having been entrusted by the said land owner company to M/s. Larsen and Toubro Limited ("the construction contractor company"). On 17.05.2014, at about 3:50 p.m. a worker named Ankit Kumar, engaged as a painter at the level of 18th floor of Tower No.14, while applying paint on the face of the exterior wall, fell down to the ground suffering serious injuries that resulted in his death.

The matter was reported, inter alia, to the Station House Officer of Police Station Moti Nagar who registered first information report (FIR) and took up the investigation into offences suspected to have been committed, they being punishable under Section 288 (negligent conduct with respect to pulling down or repairing building) and Section 304-A (causing death by negligence) of Indian Penal Code, 1860. The investigation into the said FIR resulted in report under Section 173 of the Code of Criminal Procedure, 1973 being submitted to seek prosecution of one Shahzad son of Abdul Gani on the accusations of his complicity in the said offences under Sections 288/304-A IPC for the reasons that he was the supervisor engaged by the sub-contractor Anwar Ahmad, to whom the work in question had been allocated by the construction contractor company, the death being attributable to acts of commission or omission on his part.

Simultaneous to the aforesaid report to the police and initiation of action by it vis-à-vis the aforementioned cognizable offences, the matter was also brought to the notice of the authorities in the office of labour commissioner, Govt. of National Capital Territory of Delhi, particularly the Inspector of Building and Construction. The inquiries made by the said authorities culminated in a criminal complaint being presented in the court of Metropolitan Magistrate on 10.07.2014 by the Inspector of Building and Construction, the complaint alleging offence punishable under Section 47 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. Decide the following case based upon the above mentioned facts as to the liability of the employer regarding the deaths and accidents in the cases of building workers.

(Marks 10+10)

Q. No. 5) Respondent No. 2 is an Association representing Private Educational Institutions. On the representation made by the 2nd respondent Association seeking exclusion of the educational institutions run by the members of the Association from the purview of the EPF Act, the Regional Provident Fund Commissioner vide his proceedings dated 30.07.1996, informed the Association that as per the amended Section 16(1)(b)& (c) of the EPF Act, the educational institutions run by the members of the Association are not excluded from the purview of the provisions of the Act and, therefore, requested the Association to advise the members to commence implementation of the Act and schemes framed there under. Against



the said order, the 2nd respondent herein preferred to appeal before the Employees Provident Fund Appellate Tribunal, New Delhi. It was contended before the Tribunal that the provisions of the Andhra Pradesh Education Act, 1982, govern members of the 2nd respondent association. There is already a compulsory P.F. Scheme to enrol employees of the educational institutions, and, therefore, by Sections 16(1)(b) and (c) of the EPF Act, the academic institutions are exempted from the purview of the EPF Act. The Tribunal accepted the contention of the 2nd respondent and allowed the appeal. Aggrieved by the said order, the Employees Provident Fund Organization is before this Court. There is a pressing need for clarification on the exemption provided by Section 16(1)(b) of the EPF Act. This exemption is applicable to institutions 'belonging to' or 'under the control of' the Central Government or State Government or any other establishment set up under any Central, Provincial or State Act. Whether the private educational institutions 'belong to' or are 'under the control of' the State Government? **(Marks 10+10)**

Q. No. 5) Gig work is not a new concept in India. With its large informal economy and 'casual workers' segment, India has always had the equivalent of gig work across urban and rural areas - from temporary farm workers to daily-wage construction labourers to household help. While there are some clear benefits to this type of on-demand work - namely, convenience, flexibility, higher unit pay, and greater efficiencies - it has also raised questions around minimum wage requirements, worker protection, and consumer rights. Discuss the lacunae in the existing Indian legal framework regarding the protection of rights of gig workers. **(Marks 10+10)**