CS-Executive Programme (Module-II)
ECONOMICS AND LABOUR LAWS
PART-A
JUNE-2009

Q.1 With reference to the relevant legal enactments, write short notes on any five of the following :-

(i) Deficiency in services

Ans.

♦ Section 2 (1) (g) of the Consumer Protection Act, 1986 defines 'deficiency in services'.

♦ Deficiency in services means -
- fault
- imperfection
- shortcoming or
- inadequacy

in the -
- quality
- nature
- manner

  of performance which is required to be maintained by or under any law for time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to a service.

(ii) Exempted categories under the importer exporter code (IEC) number.

Ans. Please refer to Question No.5 under the head 'Topic not yet asked but equally Important for examination' on Pg. No. 22.

(iii) Know your customer (KYC) guidelines

♦ RBI (Reserve Bank of India) has issue the guidelines known as 'know your customer' [KYC]

♦ Issued on November 29,2004

♦ Objective :-
- Safeguard banks from acting as a chain in money laundering activities
- Helps banks to know more about the clients and keep a check

♦ Elements :-
- Customer Acceptance Policy
- Customer Identification Procedures
- Monitoring transactions
- Management of risk

(iv) Anti competitive agreements

Ans. (iv) Please refer to 2006 June [1] {C} (i) under the head 'Short Notes' on Page No. 32

(v) Minimum resale price maintenance

- Section 33 (1) (b) of MRTP Act, 1969 regards minimum resale price maintenance as a restrictive trade practice.
- It is required to be registered since it comes under the ambit of RTP.
- It is a form of VERTICAL RESTRICTION by means of which the manufacturer determines the sales price of the retailers.
- While MRP i.e. Maximum Retail Price is statutorily required to be declared on the products, minimum resale price is strictly prohibited by virtue of Section 39 and 40 of the Act.
- However, sales made to an agent donot fall within the purview since the same cannot be regarded as resale.

(vi) Contents of complete specifications.

Ans. (vi)Please refer to 2007 June [1] {C} (iv) under the head 'Short Notes' on

Pg. No.129

(vii) Principal display panel

Ans. Please refer to Question No. 7 of 'Topic not yet asked but equally Important for examination' given on Pg. No. 70.

Q. No. (2) State, giving reasons in brief, whether the following statements are true or false. Attempt any five :-

(i) In case an EOU fails to achieve its export obligations, it shall be liable to pay penalty at the time of exit.

Ans. (i) True,

- Export Oriented Units (EOU) shall be liable to penalty at the time of exit in case they are unable to fulfill their export obligations.
- Also they shall be required to make payment of custom duty and Excise duty and obtain 'no dues certificate' from Customs/Excise authority & thus obtain their consent also before adopting an exit route.
- Apart from this, prior approval of Development Commissioner shall also be required.

(ii) A person resident outside Indian can sell the shares and convertible debentures of an Indian company to whomsoever he wants.

Ans. (ii) False,

- A person resident outside India cannot sell the shares and convertible debentures of an Indian company to whomsoever he wants, rather he can sell the same only through a registered broker.

(iii) 'Goods' means every kind of movable property other than actionable claims and includes stock and shares even before allotment.

Ans. False,

- Though 'goods' include shares and stock but the same are regarded as goods only when the same are allotted. Thus, before allotment shares & stocks cannot be regarded as goods.

(iv) Tea is a 'food stuff' and hence constitutes and essential commodity under the Essential Commodities Act, 1995.

Ans. False,

Tea is not regarded as a 'food stuff' as it neither nourishes the body nor sustains or promotes the growth. (For details - Please refer Pg. No. 72-Question Number 11)

(v) An association pursuing a definite cultural, economic, educational, religious or social programme can receive foreign contribution without any limits.

Ans. True,

Section 6 of the FCRA, 1976 allows registered associations pursuing definite cultural, economic, educational, religious or social programme can receive foreign contribution but at the same time they are also required to communicate the details of the amount, reasons and source to the Central Government.

(vi) The provisions contained in the Special Economic Zones Act, 2005 shall have effect not withstanding anything inconsistent in any other law for the time being in force.

Ans. True,

The provisions contained in the SEZ Act, 2005 shall have effect 'NOT WITHSTANDING' anything inconsistent in any other law for the time being in force, thereby granting overriding power.

Thus SEZ Act 2005 shall prevail other the other laws, irrespective of the inconsistencies.

Q. No. 3

(a) Distinguish between any two of the following :-

(i) Seizure and confiscation under the Essential Commodities Act, 1955.

Ans. Please refer to Question No. 14 under the head 'Topic not yet asked but equally Important for examination' of Chapter 4 on Pg. No. 73.

(ii) 'COB licence' and 'industrial license'

Ans. Please refer to 2008 Dec [1] {C} (vii) under the head 'Short Notes' on Pg. No. 3 Also refer 2001 June [3] (b) on Pg. No. 14.

(iii) 'Invention' and 'patentable invention' under the Patents Act, 1978.

Ans. Please refer to 2008 June [3] (a) (iii) of Distinguish Between on Pg. No. 131.

3 (b) Choose the most appropriate answer from the given options in respect of the following :

(i) Under the Consumer Protection Act, 1986 the limitation period for filing a complaint from the date of cause of action is :-

(a) 60 days

(b) 6 months
(c) 1 Year
(d) 2 years

Ans. (d) - 2 years

(ii) The amount representing the full export value of goods is required to be realised and repatriated in India within :-
(a) 6 months
(b) 3 months
(c) 1 year
(d) 2 years

Ans. (c) - 1 year

(iii) The issue of Foreign Currency Convertible Bonds (FCCBs) in any financial year is subject to a ceiling of :-
(a) Rs. 50 crore
(b) US $ 500 million
(c) Rs. 100 crore
(d) US $ 1 million

Ans. (b) US $ 500 million

(iv) A registered trade mark requires to be renewed on expiry of the period of -
(a) 7 years
(b) 10 years
(c) 14 years
(d) 5 years

Ans. **(b) -**10 years

(v) Foreign direct investment (FDI) is prohibited in -
(a) Infrastructure sector
(b) Hospitals
(c) Retail trade
(d) IT Sector

Ans. (c) - Retail trade

Q.4

(a) What are the circumstances under which a registered trademark is deemed to be infringed under the Trade Marks Act, 1992

Ans. Please refer to 2003 Dec [4] (a) under the head 'Descriptive Questions' on Pg. No. 133

(b) Write a note on global initiatives in the prevention of money laundering.

Ans. Please refer to 2008 June [1] C} (iii) on Pg. No.140 and 2004 Dec [3] (b) on Pg.141.

(c) The insured (since deceased) had taken out four life policies with double accident benefits, premium payable half-yearly. When the third premium fell due, an agent of the insurer met the insured and took a bearer cheque towards the premium payable by him in respect of the policies. Although, the cheque was encashed immediately, it was not deposited with the insurer for 3 months. In the meantime, the insured met with a fatal accident and died. The widow filed a claim for payment of the sum assured. The insurer pleaded that the insurance agent had no implied authority to collect the premium. Will the widow succeed in her claim?

Ans. Please refer to 2002 June [5] (iii) under the head 'Topic not yet asked but equally Important for examination' on Pg. No. 57.

5 (a) What are the restrictions on the acceptance of foreign contribution by organisations of political nature under the Foreign Contributions (Regulation) Act, 1976 ?

Ans. Please, refer to 2003 Dec [1] {C} (ii) on Pg. No. 77.

(b) Write a note on regulatory framework for environmental protection in India**.**

Ans. In the present scenario, environment has degraded the most and to combat the problems caused by the same Government in India has enacted various rules. To incorporate penal provisions and instill stringency & vigilance so as to prevent environmental degradation the following Acts were enacted -

- Environment Protection Act, 1986
- Air (Prevention and Control of Pollution) Act, 1981
- The Water (Prevention and Control of Pollution) Act, 1974

■ For the furtherance of the objective of environmental protection, following were also introduced

- The National Environment Tribunal Act, 1955
- P L I (Public Liability Insurance) Act, 1991

(c) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder, advise on the following :-

(i) ABC Ltd, a company listed on the National Stock Exchange Ltd, is interested in investing in a company in the U.S.A.

Ans. Please refer to 2005 Dec [3] (a) (i) on Pg. No. 99

(ii) Ram, an NRI resident in Nepal, is interested to invest in shares & convertible debentures of an Indian company.

Ans. Yes, Ram can invest in shares and convertible debentures of an Indian company provided he made the investment by means of inward remittance via -

- Normal banking or
- NRE/FCNR account

Thus, Ram even being an NRI residing in Nepal and Bhutan can make the desired investment.

(iii) A foreign investor wants to invest in an Indian company which is a small scale industrial unit.

Ans. (iii) Yes, the foreign investor can invest in that Indian company which is a small scale industrial unit, subject to the compliance of the maximum limit of 24% of paid up capital of the Indian company as is required by virtue of FDI policy.

(iv) Brown, a UK citizen, is interested to make investment in the form of foreign direct investment (FDI) in retail trading business.

Ans. No, Mr. Brown being a UK citizen shall not be allowed to make investment in form of FDI in retail trading business since the same is prohibited as per the foreign policy.

(v) XYZ Ltd., a company listed on the Bombay Stock Exchange Ltd, wants to issue shares under the Employees Stock Option Scheme (ESOP) to the employees of its joint venture abroad.

Ans. Please refer to 2001 June [1] {C} (iv) on Pg. No. 90

PART-B

Q. No. 6

Write notes on any four of the following :-

(i) 'Dependent' under the Employees' State Insurance Act, 1948.

Ans.

★ Defined under Section 2 (6A) of the Employees' State Insurance Act, 1948.

★ Includes following relatives of a deceased person :-
- Widow, minor legitimate son, unmarried legitimate daughter (Son/daughter may be adopted)
- Widow mother
- Son/daughter though attained 18 years of age but were wholly dependant on insured person at the time of death.
- Other dependents also included even in case partly depend on the insured person.

(ii) 'Methods of fixing and revising minimum rates of wages' under the Minimum Wages Act, 1948.

Ans. Please refer to Question No.3 under the head 'Topic not yet asked but equally Important for examination' on Pg. No. 143.

(iii) Object and scope of Payment of Bonus Act, 1965.

Ans. Object and Scope :
- The object of the Payment of Bonus Act, 1965 in timely payment of bonus to the employees.
- Bonus is a right of the employees and to enforce the timely and proper discharge of bonus, The Payment of Bonus Act, 1965 was enacted.

- The Payment of Bonus Act, contains large number of provisions relating to Applicability, valuation, set off set on, payment, calculation of allocable surplus etc which ensures that the employees are not exploited by the employers while making the payment.

(iv) Principles laid down by the Supreme Court with regard to retrenchment under the Industrial Disputes Act, 1947.

Ans. Please refer to 2005 June [7] {C} (a) (iii) on Pg. No. 188.
Thus, in case the workmen is rendered surplus or any other valid ground, the management is empowered to retrench the workmen.
However, where there exist no reasonable cause of retrenchment the Tribunal is empowered to judge the validity of retrenchment.

(v) 'Occupier' under the Factories Act, 1948

Ans. Please refer to 2002 June [7] (C) of Descriptive Questions on Pg. No. 204.

Q. No.7 Distinguish between any two of the following :-

(i) 'Lay off' and 'lock out' under the Industrial Disputes Act, 1947.

Ans. Please refer to 2002 Dec [7] {C} (a) (ii) of Distinguish Between on Pg. No. 182

(ii) 'Arbitration' and 'adjudication' of disputes under the Industrial Disputes Act, 1947.

Ans. Please refer to 2007 June [7] {c} (a) (i) on Pg. No. 189 [For Adjudication]

- In case of arbitration, the dispute is referred to independent party known as arbitrator.
- They decide the dispute.
- It is fast and less costly method
- Intervention by arbitrator helps in arriving at relevant decisions
- Section 10A of Industrial Disputes Act, 1947 provides for arbitration.

(iii) Young person and adult

Basis	**Adult**	**Young person**
(1) Relevant section	Section 2 (a) of Factories Act, 1948	Section 2 (d) of the Factories Act, 1948

(2) Definition	A person who has completed 18 years of age.	Defined as a person who is either a child or adolescent. Thus excludes adult.

(b) Rewrite the following sentences after filling in the blank spaces with appropriate word (s)/ figure (s) -

(i) Minimum 10 years of contributory service is required for entitlement of pension under the Employee's Providend Funds and Miscellaneous Provisions Act, 1952.

(ii) It is mandatory to register an establishment under the contract. Labour (Regulation and Abolition) Act, 1970 in case it employs equal to 20 or above labour through a contractor.

(iii) A factory is required to appoint a welfare officer where greater than 50 workers are ordinarily employed.

(iv) The employer of an industrial establishment having 100 or more employees is required to submit draft standing orders within six months from the date on which the Industrial Employment (Standing Orders) Act, 1946 becomes applicable.

(v) Contracting out of compensation by a workman under an agreement shall be void.

(c) Choose the most appropriate answer from the given options in respect of the following.

(i) The appropriate government shall revise the minimum rates of wages under the Minimum Wages Act, 1948 at least once in every -

(a) 2 years
(b) 3 years
(c) 4 years
(d) 5 years

Ans. (d) 5 years

(ii) The disputes relating to benefits under the Employees' State Insurance Act, 1948 are required to be filed in -

(a) Civil Court
(b) Employee's Insurance Court
(c) Labour Court
(d) Industrial Tribunal

Ans.(b) Employee's Insurance Court

(iii) An employee is entitled to receive bonus provided he has worked in an accounting year in the establishment for not less than -

(a) 30 working days

(b) 1 year
(c) 8 months
(d) 4 months

Ans. (a) 30 working days

(iv) An employer is not liable to pay compensation under the Workmen's Compensation Act, 1923, if the injury does not result in disablement for a period exceeding -
(a) 1 week
(b) 3 days
(c) 1 month
(d) 6 months

Ans. (b) 3 days

(v) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is applicable to commercial establishments employing -
(a) 10 or more employees
(b) 20 or more employees
(c) 50 or more employees
(d) 100 or more employees

Ans. (b) 20 or more employees

Q. No.8

Attempt any five of the following stating relevant legal provisions and decided case law, if any :-

(i) Muskan Theatre is maintaining a canteen and a cycle stand through private contractors. Regional Director, ESI Corporation sent notices to the management of the theatre for contribution of the employees engaged the management contends that they are not employees but are the workmen of the contractor. Hence, the management is not liable. Will the management succeed in its contention?

Ans. No, the contention of the management of Muskan Theatre is not legally tenable.

Please refer to 2002 Dec [7] {C} (b) (v) on Pg. No.

(ii) Rajat, a workman in a factory, had no vision in his left eye but the defect was not visible later, during welding operations, accidently, a spark hit his blind eye. He lost his eye-ball and the blindness became visible. Though, there was no physical disability he lost his employment because the defect became visible. Has the accident caused any disablement ? Is the employer liable to pay any compensation ?

Ans. 8 (ii)

In the above case, Rajat had no vision in his left eye but the defect was not visible. Later, a spark hit his blind eye & lost his eye-ball & the blindness became visible. He lost his employment as the defect became invisible. This accident has resulted in total disablement. The employer will be liable to pay the compensation. The workman will be able to receive compensation from the employer.

Ans. 8 (iii)

In the above case, the act of workman of Bharat Chemicals was a misconduct. The workman went on go slow strike to compel the management to concede to their demands. The action of the management is justified.

Ans. 8 (iv)

In the above case, the employer contended that the arrears of contribution beyond 5 years are not recoverable. But the employer's contention is not tenable in law as limitation period of 5 years is not applicable in this case.

Ans. 8 (v)

In the above case, the workman will not succeed. The workman allegation regarding violation of the provisions of the Act relating to the retrenchment will not be tenable in law as decided in the judicial case as per the Section 2 (oo) (bb) of the Act.

Ans. 8 (vi)

In the above case ghee brought from the various customers is sampled chemically analysed & packed in tins for transportation to the head office of the company for sale in the market. It will amount to manufacturing process under the Factories Act, 1948.

Ans. 8 (vii)

If the injury is caused out of & in course of employment then the workman shall be entitled for compensation. In the above case, suicide is caused due to the effect of injury. Hence in the above case, the employer is liable to pay compensation under the workmen's Compensation Act, 1923 ?