

PGDM (2017-19)
Labour Legislations
DM 522

Trimester – V, End-Term Examination: December 2018

Time allowed: 2 hrs 30 min

Max Marks: 50

Roll No: _____

Instruction: Students are required to write Roll No on every page of the question paper, writing anything except the Roll No will be treated as **Unfair Means**. In case of rough work please use answer sheet.

Sections	No. of Questions to attempt	Marks	Marks
A	3 out of 5 (Short Questions)	5 Marks each	3*5 = 15
B	2 out of 3 (Long Questions)	10 Marks each	2*10 = 20
C	Compulsory Case Study	15 Marks	15
		Total Marks	50

Section A

Note: Answer any three question each question carries equal marks. (5 x 3 = 15)

- 1 Explain your understanding about Labour Reforms with special reference to India. As an HR manager, what key measures would you suggest to rationalize various labour legislations in India? (Be brief and to the point)
- 2 "All that is required for successful Industrial disputes redressal is meticulously drafted labour legislations and fair intent of the concerned parties". Do you agree or disagree? Discuss
- 3 State the salient features of Industrial employment (standing orders) Act 1946. Also elaborate the items discussed in its schedule ?
- 4 Elaborately discuss the salient features of Employee State Insurance act, 1948? (Also state the contribution rates of employer and employee)
- 5 Mr Robin Mathew, born on 25 Aug 1973, is working as a Dumper Operator in Bauxite Excavation Limited. He is associated with this company since 1995. On August 24, 2011 he met an accident, while on work, leading to an injury causing 90% loss of his earning capacity. His last drawn monthly wage was ` 5000 before the accident. Calculate his total compensation entitlement as per ECA 1923 (2009 Amendment)?
(Factor 31y:205.95, 32y:203.85, 33y:201.66, 34y:199.40, 35y:197.06, 36y:194.64, 37y:192.14, 38y:189.56, 39y:186.90, 40y:184.17)

Section B

Note: Answer any three question each question carries equal marks. (10 x 2=20)

1. Explain briefly three-tier system of adjudication under Industrial Disputes Act 1947. Also define "retrenchment" and "lockout" as per IDA 1947?
2. "Health Safety and Welfare are the essential features of factories Act" Explain and also state the provisions as illustrated in this Act? Also briefly discuss various schedule items under the factories act 1948?
3. As per the fourth schedule read with section 15 and 16 of the of payment of bonus act 1965 following details are provided-

[Turn Over]

Given: The total amount of bonus equal to 8.33 per cent of the annual salary or wage payable to all the employees is assumed to be Rs. 1,04,167. Accordingly, the maximum bonus to which all the employees are entitled to be paid (twenty per cent of the annual salary or wage of all the employees) would be Rs. 2,50,000.

Complete the chart as per the provisions on “set on and set off ” under payment of bonus act,1965.

Year (1)	Amount equal to sixty per cent, or sixty seven per cent, as the case may be, or available surplus allocable as bonus (2)	Amount payable as bonus (3)	Set on or set off of the year carried forward (4)	Total set on or set off Carried forward (5)
	₹(INR)	₹(INR)	₹(INR)	₹(INR) (year)
1.	1,04,167	1,04,167	Nil	Nil
2.	6,35,000	...	...	...
3.	2,20,000	2,50,000	Nil	
4.	3,75,000	...	...	...
5.	1,40,000	...	...	...
6.	3,10,000	2,50,000	Set on 60,000	
7.	1,00,000	...	...	Seton 35,000 (6)
8.	Nil (due to loss)	...	...	...
9.	10,000	...	...	...
10.	2,15,000	...	...	...

Section C

Note: Analyze the following case and answer the following questions. (15)

Unfair Labour Practices: A Case Study

Introduction

The Manas Electricals Equipment Pvt. Ltd., had its plant 25 km away from Mumbai, located in an Industrial area of Navi Mumbai. The Company was the manufacturer of electrical transformers and equipment in two different units. Their employee strength was 248, consisting of Managers, Technical and Non-Technical staff. Since its establishment in 1985, it was having a very good market with growing demand from public and private industries and achieved a turnover of INR 50 crores. All the employees were satisfied with the working conditions. The industrial relation situation was satisfactory at that time. By 1990, due to the centralised decision making process prevailing in the organisation, there was often a delay in the sanctions given that resulted in poor

[Turn Over]

customer service. The organization was having two units located in two different places that required employees to participate in the decision making process. However, that was not encouraged in the organization. This resulted in lack of proper coordination between different units and among different departments. There was always unnecessary delay in production and delivery due to faulty reporting system. Communication gap also aggravated the problem. Lower-level employees too had common grievances against top management for not sharing requisite information to them at the right time and the delay in settlement of some pending issues related to health, safety and welfare. There were also no avenues for them to share their grievances and suggestions with the top management. Since communication happened via the channel of hierarchy, there was also the possibility of information loss in the process. The main role of the Personnel Department was to handle the administrative and legal matters only.

Background

Managers, supervisors and workers were having half an hour rest for taking lunch during each shift and a rest room was provided for those who were bringing their own food to eat. However, some of the workers had to go out about a kilometer for their tea, lunch and dinner since the location of the company was at an isolated place on the outskirts of the city. However, half an hour was considered too less time for having their lunch. As a result, some workers were coming late frequently. The supervisors concerned were shouting at them. Slowly, this became a daily practice among the workers. One day, one of the workers was given show cause notice for coming late after lunch-break. This resulted panic in the workers. All the workers gathered, expressing their need for formation of trade union because of the harassment of the supervisors. Sunil, Chairman and Managing Director, called some senior supervisors and workers to discuss the problem. Workers explained, "We were not provided canteen in the organization where we could have our lunch. Due to non-availability of canteen, we had to walk through 1 km for having food outside the premises. It was natural for us to return late after lunch break. This was very unfair that one of the workers was issued show cause notice for that." It caused irritation to Sunil as he was not convinced by the reasons given by the workers. The senior workers also requested him to start a canteen in the factory premises. Sunil stated to the workers, "The premises was not sufficient for the production purpose and for providing canteen; therefore, the suggestion could not be accepted. All the workers are advised to give their full heart and soul to work and maintain industrial peace" After the discussion was over, all the workers wondered as to what could be done. They were waiting to see just how serious the issue was before taking any further action.

The Groundwork

After a few days, the factory manager of the company received a notice from a local union. The letter was addressed to Sunil, Chairman and Managing Director.

"Dear Sir,

I was to intimate to you that all the workers of our company were exploited with the management decisions and policies. They were not getting sufficient labour welfare facilities as per their rights and need. The workers had many pending issues which were not settled in due time by the management. Most of the workers had joined our union for their safeguard and interest. In view

[Turn Over]

of this, all the workers had requested to discuss the issues with the management. Therefore, we would appreciate an early discussion so that we may discuss how best to address the pending issues."

The copies of the above letter were also sent to the Assistant Labour Commissioner, Thane and the Inspector of Factories. A list of members of trade union was also attached. The workers wanted some protection because of their growing grievances and harassment from the supervisors including management's non-fulfillment of their demand for canteen. They sought after the management to talk to their President Avinash Sarode. After eight days, the workers in consultation with union leader filed a complaint of harassment by supervisors, lack of canteen facilities and unfair labour practices before the Inspector of Factories, Thane and Deputy Labour Commissioner, Thane.

Complaint:

"To

The Factory Inspector, Thane

Dear Sir,

We, the workers of The Manas Electricals Equipment Pvt. Ltd, were writing to raise the concerns regarding unnecessary harassment by the supervisors and management of the organization. The Management has not provided us with the basic facilities like canteen, rest rooms, etc., which are inevitable in any manufacturing organization for the workers. There was no canteen facility in the premises where we can have our food. Since last three years we had many issues which were still pending and remained unsolved on the part of the management. In view of the above issues,

we were obliged to draw the attention to these concerns.....

Thank you

Workers of The Manas Electricals Equipment Pvt. Ltd

Cc to: Deputy Labour Commissioner, Thane"

It was also mentioned in the letter that the workers and the union would prepare to take serious action if the Government did not respond in this respect. Avinash Sarode was a popular leader in the area having sufficient influence on the Government authorities. In response to the letter by workers, the Deputy Labour Commissioner, Thane, sent a notice to the organization on the grounds of unfair labour practice. In response to the notice, on the scheduled date, the factory manager along with his legal advisor visited the office of the Inspector of Factories. In the meeting, the union leaders were also present. The management representatives presented their contention that, "Under the Factories Act, 1948, Section 461, The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers. Since the company was having only 248 employees, this provision was not applicable to them. The government was examining the demand of the union whether canteen is to be provided in the factory. We required some time."

[Turn Over]

Action...

Avinash Sarode, being a popular and experienced union leader, made a serious attempt to create industrial peace for which he had thorough discussions with the labour advisor. He called Sunil to the Labour Advisor's office and recommended that, "A shed may be allowed to be constructed in the factory premises for the purpose of a canteen to provide normal facilities of lunch and snack at the market rate on contract basis under the control of the Management. This could be beneficial for the welfare of the workers."

What Next?

Despite the Avinash Sarode's proposition, Sunil had reservations for the suggestion. As the company was well maintained, having a canteen in the factory area would create nuisance. After persuasion by Avinash Sarode, both the parties came to an understanding to sign a settlement for having a Canteen in the factory premises. Accordingly, the settlement was signed by both the parties, copies of which were forwarded to the Inspector of Factories and the Deputy Labour Commissioner, Thane as a matter of settlement. The matter of unfair labour practice was dropped by the union in due course. But, certain questions remained unanswered. Was the matter of not providing canteen by the employer amounted to unfair labour practices? How did the employer justify the action of not providing canteen by them? Was the agreement between the Management and the Union in confirmation with the prevailing law?

Questions

1. Does the matter of not providing canteen by the employer amount to unfair labour practices? (4 Marks)
2. How did the Employer justify the action of not providing canteen by them? (4 Marks)
3. Was the agreement between the Management and the Union in confirmation with the prevailing law? (3 Marks)
4. Analyze the pros and cons of the decisions taken by the management and labour? (4 Marks)
