

Roll No.

B.A.LL.B. (Hons.) SEMESTER VIII EXAMINATION 2017-18**LAW****BLBH - 421 : Alternative Dispute Resolution****Time : Three hours****Max. Marks : 70****(WRITE YOUR ROLL NO. AT THE TOP IMMEDIATELY ON THE RECEIPT OF THIS QUESTION PAPER)****NOTE : ANSWER ANY FIVE QUESTIONS INCLUDING QUESTION NO. 01, WHICH IS COMPULSORY. MARKS ARE INDICATED AGAINST THE QUESTIONS.**

1. Answer the following : $2 \times 7 = 14$
 - a) Identify the provisions of the Arbitration and Conciliation Act, 1996 which allow judicial intervention in Arbitral process.
 - b) When can you say that requirement of 'Writing' for an arbitration agreement is fulfilled?
 - c) Discuss whether arbitration clause must follow the destiny of the contract to which they belong or can they have an independent life.
 - d) What are the effects of default of parties provided under Section 25 of the Arbitration and Conciliation Act, 1996?
 - e) Discuss the proviso to Section 2(2) of the Arbitration and Conciliation Act, 1996.
 - f) Briefly discuss Court assistance in taking evidence.
 - g) Identify the provisions of Part I of the Arbitration and Conciliation Act, 1996 which expressly or impliedly provide for party autonomy in choice of proper law of contact, proper law of arbitration agreement and proper law of proceeding (Curial Law).

2. a) The arbitration clause between 'A' and 'B' provided that if and when any dispute arises between the parties, such dispute shall referred to the arbitration of two Arbitrators, one to be appointed by 'A' and the other by 'B'. 8
 On emergence of dispute 'B' vide legal notice to 'A' nominated 'X' as the Sole Arbitrator and called upon 'A' to within 30 days consent to his appointment. 'A' refused to concur in the appointment of Sole Arbitrator and relying on arbitration clause nominated 'Y' as the arbitrator. 'B' thereafter moved a petition under the Arbitration and Conciliation Act, 1996 for the appointment of Sole Arbitrator on the ground that the Claim involved is very small and 'B' does not have the ability to afford the expenses of a tribunal of two arbitrators. Decide. Refer to statutory provisions and case law. 8

- b) Discuss the applicability of principles of Order XXXVIII and Order XXXIX of Code of Civil Procedure, 1908 for passing an interim measure under Section 9 of the Arbitration and Conciliation Act, 1996. 6

3. a) What do you mean by the principle of incorporation of arbitration clause by reference? Discuss whether general reference or specific reference is required in the following cases : 8
 - i) A and B make a contract in which they incorporate standard terms of B set out on the back of an offer letter.
 - ii) A and B make a contract in which they incorporate terms previously agreed between A and B in another contract.
 - iii) A and B make a contract incorporating terms agreed between A and C.

- b) "Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 from a decision of judicial authority under Section 8 of the Act is allowed only if authority refuses to refer the matter for arbitration." Discuss. 6

4. a) 'A' and 'B' are two Indian companies which entered into a contract. 'B' agreed to supply casing pipes on agreed terms and condition to 'A'. As per the terms of the contract, time of delivery was of essence and in case 'B' delays the supply, 'A' was entitled to recover from 'B' as agreed liquidated damages and not by way of penalty, a sum equivalent to 1% of the contract price on per week of such delay subject to a

P.T.O.

- ceiling of 10%. On 'B' delaying the supply 'A' deducted the agreed amount from the payment. 'B' invoked the arbitration clause for arbitration to be held in India and disputed the deduction made by 'A'. The arbitral tribunal decided in favour of 'B' holding that unless 'A' proved damages caused to it due to delayed supply by 'B' it cannot claim damages and thus 'A' wrongfully deducted the said amount. Aggrieved by the award 'A' files an application under Section 34 of the Arbitration and Conciliation Act, 1996 for setting aside the award. Apart from other grounds 'A' raised the ground that the award has been passed in violation of the terms of the contract. Decide. Give reasons in support.
- b) Will your answer be different if 'B' is a French Company?
- Discuss the law relating to enforcement of a domestic award in India. Highlight the changes brought about by the Arbitration and Conciliation (Amendment) Act, 2015 in relation to enforcement of domestic award.
5. a) Discuss the rule of Competence - Competence. How far do you think that the 2015 Amendment to the Arbitration and Conciliation Act has expanded the scope of Competence - Competence in Indian law?
- b) Discuss the validity of the following arbitration agreement:
- "All disputes or differences whatsoever arising between the parties out of, or relating to, the construction, meaning and operation or effect of the contract or the breach thereof shall be settled by arbitration in India through the arbitration panel of the Indian Council of Arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration. If either party is in disagreement with the arbitration result in India, either party will have the right to appeal to a second arbitration of ICC in accordance with the rules of arbitration of ICC and the results of this second arbitration will be binding on both the parties."
6. a) Discuss the provisions of the Arbitration and Conciliation Act, 1996 which provide for role of conciliator, status of settlement agreement, appointment of conciliators and confidentiality during conciliation proceeding.
- b) How far do you agree with the view that the Arbitration and Conciliation Act, 1996 has not adopted the territorial criteria/principle completely, party autonomy has been duly recognised and thus award is a foreign award not because it is passed in a foreign country but because it is passed by applying foreign law? Give reasons in support of your answer.
7. a) Once a person becomes ineligible to become an arbitrator under Section 12 (S) read with VII Schedule it is not necessary to go to the Arbitral Tribunal under Section 13. As opposed to this the challenge under grounds stated in the V Schedule has to be determined by the Arbitral Tribunal under Section 13 of the Arbitration and Conciliation Act, 1996." Discuss. Also discuss the various grounds for challenging an arbitrator.
- b) What are the grounds on which enforcement of a New York Convention awards may be refused in India. How far do you think that the award requires execution on the terms of Order XXI of the Code of Civil Procedure, 1908, after the Court is satisfied that it is enforceable under Section 48 of the Arbitration and Conciliation Act, 1996.
8. Answer the following :
- a) Discuss negotiation as a mode of resolution of dispute. Also discuss the meaning and importance BATNA, WATNA and MLATNA.
- b) "Interest on interest i.e. compound interest under Section 31(7) of the Arbitration and Conciliation Act, 1996 is not violative of public policy of India and is allowed in the Act." Discuss.
- c) Discuss Settlement under Section 30 of the Arbitration and Conciliation Act, 1996.
- *****

B.A. LLB. (Hons.) Semester VIII Examination 2017-18**LAW****BLBH-422 : Labour and Industrial Law-II****Time: Three Hours****Marks : 70**

(Write your Roll No. at the top immediately on the receipt of this question paper)

Note :
Answer any five questions including questions no. 1, which is compulsory.
Marks are indicated against each question.

1. Write short answer on any seven of the following –

7x2=14

(a) What is the meaning of Minimum wages?

(b) What is the object of the Payment of Wages Act, 1936.

(c) Define the term "Occupier" under the factories Act, 1948.

(d) Explain the meaning of "Employee" under the Minimum Wages Act, 1948.

(e) Discuss the procedure for computation of 'available surplus' under the payment of Bonus Act, 1965.

(f) Define the term "employer" under the payment of Bonus Act, 1965.

(g) Define the term "wages" under the payment of wages Act, 1936.

(h) Define the term "Fines" under the payment of Wages Act, 1936.

(i) Distinguish between "Minimum wage", 'Fair wages' and 'Living wages'

(j) Discuss the various Bonds under the minimum wages Act, 1948.

2. (a) Examine the procedure for fixing and revising rates of wages in scheduled employment under the Minimum wages Act, 1948

7

(b) Explain the meaning of "Appropriate Government". Discuss the appointment, powers of authority and procedure for hear and decide of claims under the minimum wages Act.

7

3. (a) "The Payment of Wages Act, 1936 provides that the wages are to be paid in a particular form at regular intervals and without any unauthorised deductions." Explain.

7

(b) State the composition and functions of the prescribed authority under the payment of wages Act, 1936.

7

4. Every employer shall be bound to pay every employee in respect of the accounting year a minimum bonus. Define 'Accounting year'. Discuss the provisions relating to eligibility, disqualification, minimum bonus, maximum bonus and time limit for payment of bonus under the payment of bonus Act, 1965.

14

5. (a) The employees state Insurance Act, 1948 aims at bringing about social and economic justice to the poor and labour class of the state". Discuss the aims and objects of the act in the light of the above statement. How far these objectives have been achieved?

7

(b) State the purposes for which the Employees State Insurance Fund may be expended under the employees State Insurance Act, 1948

7

6. (a) Discuss the various benefits available to employees under the provisions of Employees' State Insurance Act, 1948. Is it necessary that employee claiming benefit must be insured within the meaning of the set?

7

(b) Discuss the various obligations of employers under the employee's State Insurance Act, Rules and Regulations.

7

7. Define the term 'factory'. State and explain the provisions relating to "Health and welfare" of workers under the Factories Act, 1948.

14

8. Write critical notes on any two of the following :-

- (a) Employee's State Insurance Court under Employees state insurance Act, 1948.
- (b) Employees' State Insurance Corporation under Employees' State Insurance Act, 1948
- (c) Welfare officer under the factories Act, 1948
- (d) Safety measures' for workers under the factories Act, 1948.

Total Printed Pages : 4]

[Roll No.]

3847

**B.A. LLB. (Hons.) Semester - VIII
Examination, 2017-18**

LAW

Paper : BLBHE-423

(Service Protection Law in India)

Time : Three Hours]

[Full Marks : 70

*[Write your Roll No. at the top immediately on the
receipt of this question paper.]*

Note : Answer any *five* questions including question carry
No. 1 which is *compulsory*.

1. Explain the following : $2 \times 7 = 14$
- (a) What do you mean by government servant under CCS (CCA) Rules 1965.
 - (b) Status of Ad-Hoc Employee.
 - (c) Distinction between stop gap and fortuitous.
 - (d) Fundamental rule regarding compulsory retirement.
 - (e) Meaning of Recruitment in the context of service law.

P. T. O.

- (f) What do you mean by consequential seniority.
- (g) Meaning of ministerial servant under F. R. 9 (17).
2. "Equality under Art. 14 of the constitution is always against arbitrariness. If there is arbitrariness in the exercise of power by any authority, it means there is no equality." In the light of this statement discuss the meaning of equality and reasonable classification. Also discuss the validity of following and satisfy your answer with reason with the help of suitable case law : 14
- (i) Division of pensioners into two classes on the basis of date of retirement, where the government issued an office memorandum announcing a liberalized pension scheme for retired government servants but made it applicable to those who had retired after 31 March, 1979.
- (ii) A regulation of Indian Airlines which provides an air hostess will be retired from the service upon attaining the age of 35 years or on marriage within four years of service or on first pregnancy, whichever found earlier.
3. (a) While defining the term civil post and classification of services discuss the constitutional provision regarding the recruitment and regulation of conditions of service of person serving the union or the state. 7

(b) Pleasure doctrine was neither a relic of the feudal age nor was it based on any special prerogative of the British Crown but was it based upon public policy. In the light of this statement discuss the Doctrine of pleasure and its development in Indian Context. What are the limitations upon the doctrine of pleasure ? 7

4. Discuss the following with the help of suitable case Laws : $3.5 \times 4 = 14$

- (a) Advisory function of public service commission.
- (b) Technical resignation and lien.
- (c) Doctrine of equal pay for equal work is capable of being enforced in court of Law.
- (d) Distinction between Permanent and Regular in service law Jurisprudence.

5. (a) What do you understand by APAR ? Writing the APAR is a two tier system of reporting to minimize the operation of subjective human element and of bias in reporting. Discuss. 7

(b) Discuss whether the adverse remarks recorded in APAR regarding charges framed against any employee should be disclosed to employee or any third person, or not ? Give your answer with reason in the light of statutory provisions of RTI Act 2005 and with the help of suitable Case Law. 7

6. (a) What do you mean by deemed suspension ? For how long period a government officer can be kept under suspension ? Give your answer with appropriate rules and suitable Case Law. 7

(b) Discuss the provision regarding the subsistence allowance of suspended employee. Whether non-payment of subsistence allowance shall vitiate the inquiry ? 7

7. (a) Discuss in brief the procedure of imposing major penalties. Whether charges can be dropped by disciplinary authority after considering the written statement of defence submitted by the accused government servant under Rule 14 (4) of CCS (CCA) Rules 1965 ? 7

(b) Discuss the purpose and nature of preliminary enquiry with the help of suitable case law. Is there any time limit for issuing charge sheet for the purpose of disciplinary proceeding on the basis of preliminary enquiry ? 7

8. Explain any *two* of the following : 7 × 2 = 14

- (a) Temporary employee and contractual employee.
 - (b) Nature and calculation of earned leave.
 - (c) Development of service law in modern India.
-

(Write your Roll no. at the top immediately on the receipt of this question paper)

Note: Question No. 1 is compulsory. Attempt FIVE questions in all. Marks are indicated against each question.

- 1. Write short answer to any SEVEN of the following:** {7x2=14}
- a) Environment
 - b) Fundamental duty under the constitution to protect the environment.
 - c) Hunting
 - d) Ivory trade
 - e) Duties of Wild Life Advisory Board.
 - f) Noise Pollution.
 - g) Role of National Environment Tribunal.
 - h) Sustainable Development
 - i) The issues involved in the Silent Valley Project.
- 2. "Environmental law is a synthesis of principles, concepts and norms generated by other laws" Do you agree with the above proposition? Discuss the Nature and Scope of Environmental Law.** {14}
- 3. The Supreme Court of India by expanding the scope of Article 21 of the Constitution and by giving meaningful interpretation to Articles 48-A and 51-A (g) has created desired environmental awareness in the public mind" Elucidate.** {14}
- 4. Explain the powers and functions of the central and state boards of the Water (Prevention and Control of Pollution) Act 1974.** {14}
- 5. What do you understand by Air Pollution? Emphasize on the measures to control Air Pollution prescribed under the Air (Prevention and Control of Pollution) Act, 1981.** {14}
- 6. What are the mechanisms to prevent and control pollution under Environment (Protection) Act, 1986? What are your suggestions to make these mechanisms effective?** {14}
- 7. Discuss in brief as to how the concept of "Public Interest Litigation" helps to curb environment pollution with various case laws.** {14}
- 8. The concept of 'silent zone' under Noise Pollution (Regulation and Control) Rules, 2000.** {07}
- Discuss the constitution and duties of National Board and State Board under the Wild Life (Protection) Act, 1972. {07}

— o —

B.A. LLB. (Hons) Semester- VIII Examination 2017-18

Subject: Law

Paper No: BLBH 424- Law and Good Governance in India

Time: 03 Hrs

Full Marks: 70

Attempt any five questions from the following. All questions carry equal marks.

1. What do you understand by the term 'governance'? How the political structure of a country determines governance model of that country? 14
2. Law has always been regarded as one of the effective instruments of governance in a society however it has its own limitations and demerits. Explain 14
3. Attempt the following -
 - i) Impact of e-governance on the administration system in India.
 - ii) Do you think citizen's charter has failed in India? Give reasons for your answer.14
4. Under what circumstances a public servant can be prosecuted and punished under Prevention of Corruption Act? Write your answer specifically with regard to offences mentioned under Chapter III of the said Act. 14
5. Write a detailed note on the powers and functions of Information Commissions under RTI Act, 2005. 14
6. How judicial governance in India has made an impact on constitutionalism. Support your answer with the help of decide cases. 14
7. How does decentralization promote the idea of cooperative federalism in India? Elaborate with suitable examples. 14
8. Attempt the following in brief-
 - I. Whether judicial review of policy decisions of state is undermining governance by state?
 - II. Discuss some of the major schemes initiated by the government for the welfare of schedule tribes.14

(WRITE YOUR ROLL NO. AT THE TOP IMMEDIATELY ON THE RECEIPT OF THIS QUESTION PAPER)

Note: Answer any **five** questions including question No. 1, which is compulsory. Marks are indicated against each question.

1. Answer any **seven** questions.

($2 \times 7 = 14$)

- (a) What is 'Agricultural year'?
- (b) What is 'Declaratory Suit'?
- (c) Who is an 'Asami'?

(d) What are the requirements of a valid will under the U.P Revenue Code 2006?

(e) What do you mean by Khudkash Land?

(f) A female bhumidhar holding in her own rights dies leaving her co-widow, son's daughter and father-in-law. Who is the preferential heir?

(g) In what cases a bhumidhar with non-transferable rights may let out land in his holding?

(h) Discuss the law relating to 'Revision' under the U.P. Consolidation of Holdings Act, 1953?

(i) What do you understand by 'Consolidation of holdings'?

(j) Which lands are exempted under the U.P. Consolidation of Holdings Act, 1953?

(2)(a) Discuss the Socio-economic and Political factors responsible for the passing of the U.P Zamindari Abolition and Land Reforms Act, 1950.

(7)

(b) Discuss, how far the U.P Zamindari Abolition and Land Reforms Act, 1950 has been successful in achieving the ideals of Socio-economic justice as envisaged in the Constitution of India.

(7)

(3) State the effects of vesting of estates in the State of Uttar Pradesh on the followings:($2 \times 7 = 14$)

(a) Contracts for collection of fish from fisheries entered into after August, 8, 1946 between an intermediary and any other person.

(b) Buildings

(4)(a) "The right to transfer of a bhumidhar with transferable right is not unrestricted." (10)

Elucidate

(b) 'A', a bhumidhar with transferable rights transfers by way of sale his 11 acres of land to 'B', who has got his own 4 acres of land. Is this transfer valid? Would it make a difference, if the sale had been made to a charitable institution? (4)

(5) (a) Describe the modes of devolution of interest of a male bhumidhar dying intestate under the U.P Zamindari Abolition and Land Reforms Act, 1950. What changes are made in this regard under the U.P Revenue Code 2006? (10)

(b) Who is the preferential heir in the following cases? (2x2=4)

(i) A male bhumidhar died leaving his widow, brother and mother. The widow also dies after a year leaving her brother-in-law and mother-in-law.

(ii) A male bhumidhar dies leaving his brother, married sister and daughter's son.

(6) (a) What is Land Revenue? By what modes may the arrears of land revenue be recovered? Discuss. (10)

(b) Can more than one mode be relied upon by the authority empowered under the U.P Land Revenue Code 2006 to recover arrear of land revenue? Cite relevant case laws. (4)

(7) How is Provisional Consolidation Scheme prepared? Are changes possible in a Provisional Consolidation Scheme? If yes, when and by whom? (14)

(8) Write short notes on the following: (2x7=14)

(a) Statement of Principles

(b) Prerequisites of Provisional Consolidation Scheme