

# MODEL ANSWER

Question Paper Code-2459

Paper-MS-304: (A) Legal Framework Governing Human Relations

DEPARTMENT OF SOCIAL WORK

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MSW SEMESTER III

Paper-MS-304: (A) Legal Framework Governing Human Relations

I .ATTEMPT ALL QUESTIONS, EACH CARRY EQUAL MARKS 10X2=20.

1. Which of the following is the Objectives of Works Committee?
  - a) To promote industrial goodwill
  - b) To ensure the cooperation of private concerns
  - c) To secure cooperation from employers and employees
  - d) All of the above

Answer-D

2. When Standing Orders Act came in to force in?
  - a) 1942
  - b) 1944
  - c) 1956
  - d) 1946

Answer-D

3. Which of the following is the principle of Labor Welfare?
  - a) Carried At all levels in the organization.
  - b) Proper Co-ordination and Co-operation
  - c) Respects values, beliefs and tradition
  - d) All of the above

Answer-D

4. Which of the following Act is related to Social Security?
  - a) Maternity Benefit Act
  - b) Factory Act

- c) Trade union Act
- d) None of the above

**Answer-A**

5. Conciliation officer plays an important role to resolve industrial Dispute:  
True/False

**Answer-True**

6. Which of the following are Militant functions of trade union?
- a) To achieve higher wages and better working conditions
  - b) To generate self confidence among workers
  - c) To provide opportunities for promotion and growth
  - d) To protect women workers against discrimination

**Answer-A**

7. Which of the following Act is related to Un organized Labor
- a) The Bonded Labor System (Abolition) Act
  - b) Maternity benefit Act
  - c) Workmen Compensation Act
  - d) None of the above.

**Answer-A**

8. The book "The law of Industrial Disputes" written by
- a) A.P Malhotra
  - b) P Malik
  - c) D D Seth
  - d) None of the above

**Answer-A**

9. Which of the following is major trade union organization?
- a) Centre of Indian Trade Unions
  - b) United Trade Union Centre
  - c) Hind Mazdoor Sabha
  - d) All of the Above

**Answer-D**

10. Strikes are a result of more fundamental maladjustments, injustices and economic disturbances:  
True/False

**Answer-True**

**1. Discuss the rights and liabilities of a registered trade union**

**Answer-** Rights and liabilities of registered unions are:

The general funds and political funds of a registered union shall not be spent on any other objects than those specified in the act.

No office-bearer or member of a registered trade union shall be liable to punishment under sub-section (2) of section 120-B.

No suit or other legal proceeding shall be liable maintainable in any civil court against any registered trade union or any office-bearer or member thereof in respect of any act done in contemplation.

The accounts books of a registered trade union and the list of members thereof shall open to any inspection by an office bearer.

A person shall be disqualified for being chosen as, and for being a member of, the executive or any other office-bearer of a registered trade union if:

He has not attained the age of 18 years

He has been convicted by a court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of 5 years has elapsed since his release.

Any registered trade union may, with the consent of not less than two-thirds of the total number of its members and Subject to the provision of sec-25, change its name.

**2. What are the important provisions of the Minimum Wages Act**

- Answer- Applicable to Whole India
  - MINIMUM RATE OF WAGES WILL BE FIXED FOR
    - Employments provided in Schedule
    - Different Types of Employments provided
    - Adults, Adolescents, Children and Apprentices.
    - Different Localities
  - WAGE PERIODS FIXED UNDER MINIMUM RATE OF WAGES
    - By the Hour
    - By the Day
    - By the Month
    - By such other larger wage period as may be prescribed
  - MINIMUM TIME RATE
- The Minimum Wages paid for Time Work.
- MINIMUM PIECE RATE
- The Minimum Wages paid for Piece Work.

- GUARANTEED TIME RATE

- Those employed under the scheme of Piece Work but, Guaranteed Wages will be paid on the basis of Time.

- OVERTIME RATE

- Time Rate of Piece Rate will apply where the Employee has worked overtime over and above his normal working hours.

**3. Define Industrial Relations? What is the function of adjudication**

**Answer-** Industrial relations refer to the relationship between employees and employers. It is often known as employment relations and is divided in three; ethical, problem solving and science building. A breach in industrial relations can result to an industrial dispute whereby one party takes industrial action.

Adjudication may be described as process which involves intervention in the dispute by a third party appointed by the government

The Industrial Disputes Act, 1947 provides a three-tier adjudication machinery comprising

1. Labour Court
2. Industrial Tribunals
3. National Tribunals

Where an industrial dispute has been referred to a Labor Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall within the period specified in the order referring such industrial dispute or the further period extended submit its award to the appropriate Government. Other function is to hold adjudication proceedings expeditiously; and

Submit its award to the appropriate government as soon as practicable on the conclusion of the proceedings

**4. What are the provisions for annual leave with wages**

**Answer-** An employee is entitled to 7 days' annual leave with pay after serving every period of 12 months under a continuous contract. An employee's entitlement to paid annual leave will increase progressively to a maximum of 14 days according to his length of service as follows:

Years of Service	Annual Leave Entitlement
1	7
2	7
3	8
4	9
5	10
6	11
7	12
8	13

9 or above 14

The timing of the leave should be appointed by the employer after consultation with the employee or his representative. The employer should confirm by a written notice to the employee at least 14 days in advance, unless a shorter period has been mutually agreed. Paid annual leave should be granted for an unbroken period. If the employee so requests, it may be granted in the following manner: Leave entitlement not exceeding 10 days Up to 3 days can be granted separately; the balance should be granted consecutively Leave entitlement exceeding 10 days At least 7 days should be granted consecutively. An employee is entitled to pro-rata annual leave pay on completion of 3 months but less than 12 months' service in a leave year if his employment contract is terminated unless the employee is dismissed by summary dismissal.

### 5. What are the provisions relating to health in the plantations

**Answer-** PROVISIONS AS TO HEALTH

**Drinking water.** -In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.

**Conservancy.** -

(1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

### 10. Medical Facilities-

(1) In every plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers [and their families] as may be prescribed by the State Government.

(2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

(3) For the purposes of such recovery the chief inspector may certify the costs to be recovered to the collector, who may recover the amount as an arrear of land revenue.

### 6. Trace the origin and nature of labour legislation in India

**Answer-**

The origin of labour legislation is the history of continuous and relentless struggle for emancipation of working class from clutches of aggressive capitalism.

Factors Influencing Labour Legislations in India

- **Influence of colonial rule-**labour legislation came into being because of the pressure from the manufacturers of Lancashire and Birmingham; because labour employed in factories and mills in India were proving very cheap in comparison to their British counterpart. No doubt, these legislations were beneficial to Indian labour but this benefit was incidental to the main purpose i.e. the protection of the interests of British Capitalists.

- **The struggle for national emancipation and adoption of Indian Constitution**

The Industrial Workers got support from the freedom struggle and nationalist leaders who made tireless efforts to get protective labour legislations enacted. The Indian Trade Unions Act, the appointment of Royal Commission on Labour etc. was because of pressure from freedom struggle.

#### **Nature of labour legislation-**

Labor Legislation : The term 'Labor Legislation' is used to cover all the laws which have been enacted to deal with employment and non-employment, wages, working conditions, industrial relations, social security and welfare of persons employed in industries.

Labor Legislation' refers to all laws of the government to provide social and economic security to the workers. These acts are aimed at reduction of production losses due to industrial disputes and to ensure timely payment wages and other minimum amenities to workers.

### **7. Discuss wages related legislation in brief.**

#### **Answer-**

#### **1. Payment of Wages Act 1936**

Applicability-

Any factory (a saw mill, ginning factory, god owns, yards etc as defined in Factories Act,1948).

- Tramway service or motor transport service engaged in carrying passengers or good or both by road for hire or reward.
- Air transport service Dock, Wharf or Jetty, Inland vessel, mechanically propelled
- Mine, quarry or oil-field plantation
- Workshop or other establishment etc.

#### **OBJECT OF THE ACT**

- To regulate the payment of wages to certain classes of employed persons. Two fold:-
- First the date of payment of wages and
- Secondly the deductions from wages whether as fine or otherwise.

#### **WAGES TO BE PAID IN CURRENT COINS OR CURRENCY NOTES**

All wages shall be paid in current coins or currency notes or in both.

#### **TIME OF PAYMENT OF WAGES**

- The wages of every person employed is paid. When less than 1000 Persons are employed shall be paid before the expiry of the 7th day of the following month

#### **2. Equal Remuneration Act 1979-**

Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.

- No discrimination to be made while recruiting men and women workers
- Advisory Committee.

#### **3. Minimum Wages Act 1948**

- Applicable to Whole India
- MINIMUM RATE OF WAGES WILL BE FIXED FOR
- - Employments provided in Schedule
- - Different Types of Employments provided
- - Adults, Adolescents, Children and Apprentices.
- - Different Localities

- WAGE PERIODS FIXED UNDER MINIMUM RATE OF WAGES
  - - By the Hour
  - - By the Day
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  - - By such other larger wage period as may be prescribed
  -
- MINIMUM TIME RATE
  - The Minimum Wages paid for Time Work.
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  - The Minimum Wages paid for Piece Work.
    - GUARANTEED TIME RATE
  - Those employed under the scheme of Piece Work but, Guaranteed Wages will be paid on the basis of Time.
    - OVERTIME RATE
  - Time Rate of Piece Rate will apply where the Employee has worked overtime over and above his normal working hours.

#### **4.Payment of Bonus Act 1965**

The Act applies to-

- (a) Every factory; and
- (b) Every other establishment in which twenty or more persons are employed on any day during an accounting year.

The payment of Bonus Act provides for payment of bonus to persons employed in certain establishments of the basis of profits or on the basis of production or productivity and for matters connected therewith.

### **Section- C**

#### **(Long answer type Question) 10\*20**

#### **1. Examine the salient features of minimum wages Act**

##### **Answer-**

India enacted central minimum wage legislation, Minimum Wage Act in March 1948

Its Objectives are to promote the welfare of workers by fixing minimum rates of wages in certain industries where labor is not organized and sweated labor is most prevalent

This Act seeks to prevent exploitation of workers by ensuring that they are paid the minimum wages, which would provide for their subsistence and preserve their efficiency

##### **Scope and coverage of the Act**

Act applies allover India

Initially it applied to agricultural employment and other 12 employments

Now by the help of Government it has been extended to more than 300 employments

##### **Fixation and Revision of Minimum Wages**

- A basic rate of wages and a special allowance at a rate to be adjusted to variation in the cost of living index applicable to such workers at such intervals and in such manner as the Government may direct
- A basic rate of wages with or without the cost of living allowance, and the cash value of the concession, in respect of supplies of essential commodities at concession rates where so authorized
- An all inclusive rate, allowing for the basic rate, the cost of living allowance, the cash value of the concession if any

#### **Payment of Minimum Rates of Wages (Sec12)**

- Employer shall pay to every employee
- Wages at a rate not less than the minimum rate of wages fixed for that class of employees in the employment
- Shall be paid without any deductions except as may be authorized

#### **Fixing hours for a normal working day**

- Fix the number of hours of work, which constitute a normal working day, inclusive of one or more specified intervals
- Provide for a day of rest in every period of seven days and for payment of remuneration in respect of such days of rest
- Provide for payment for work on a day of rest at a rate not less than overtime rate

#### **FIXING OF MINIMUM RATE OF WAGES BY APPROPRIATE GOVERNMENT**

- MINIMUM TIME RATE

The Minimum Wages paid for Time Work.

- MINIMUM PIECE RATE

The Minimum Wages paid for Piece Work.

- GUARANTEED TIME RATE

Those employed under the scheme of Piece Work but, Guaranteed Wages will be paid on the basis of Time.

- OVERTIME RATE

Time Rate of Piece Rate will apply where the Employee has worked overtime over and above his normal working hours.

The Minimum Wages has to be paid irrespective of the extent of Profit or Financial Condition of the Establishment.

The Minimum Wages has to be paid irrespective of availability of workmen willing to Work on lower wages The Committees appointed will recommend the Minimum Wages to be paid which is Recommendatory. The final decision has to be made by the appropriate Government.

In case the Employers have not adhered to Minimum Wages then, the Employee can Move to Labour Courts before proceeding to High Courts Minimum Wages has been fixed for the bare subsistence of life and also to preserve the efficiency of the worker which will provide education, medical requirements and amenities of himself and his family.

### **COMPONENTS OF MINIMUM WAGES**

- Method 1 – Basic Rate of Wages + Special Allowance called as Cost of Living Allowance
- Method 2 – Basic Rate of Wages without any Cost of Living Allowance
- Method 3 – Consolidated Pay without splitting into Basis Rate of Wages, Cost of Living Allowance or Cash Value of Concession.
- Value of Supply of Essential Commodities
- The Value will be computed by the Competent Authority Periodically as per the directions given by the Appropriate Government.

### **COMMITTEES OR BOARD**

- ADVISORY BOARD

An Advisory Board will be appointed by the Appropriate Government for co-ordinating the work of Committees and Sub-Committees and also the Advisory Board will provide its valuable suggestions and recommendations to the Appropriate Government.

- CENTRAL ADVISORY BOARD

The Central Advisory Board Consisting of the persons nominated by the Central Government representing employers and employees in the scheduled employments who shall be equal in number. The Central Government will nominate independent persons not less than 1/3 rd of the total number of members. The independent person will be The Chairman of the Board.

- COMMITTEES

The Committees or Sub-Committees shall consist of the persons nominated by the Central Government representing employers and employees in the scheduled employments who

shall be equal in number. The Central Government will nominate independent persons not less than 1/3 rd of the total number of members. The independent person will be The Chairman of the Committee.

## **2. Who are the authorities under Payment of Gratuity Act 1972? What are their functions?**

**Answer-** Gratuity as an additional retirement benefit has been secured by labour in numerous instances, either by agreement or by awards. It was conceded as a provision for old age and a reward for good, efficient and faithful service for a considerable period.

The Act provides for a scheme of compulsory payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, motor transport undertakings, shops or other establishments and for matters connected therewith or incidental thereto.

All the Assistant Labour Commissioners and Labour Officers in the Labour Department have been appointed Controlling Authority and all the Deputy Labour Commissioners have been appointed Appellate Authority under the Act.

For the purpose of conducting an inquiry under sub- section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908 ), in respect of the following matters, namely:--

- (a) enforcing the attendance of any person or examining him on oath
- (b) requiring the discovery and production of documents
- (c) receiving evidence on affidavits
- (d) issuing commissions for the examination of witnesses

(6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code

The appropriate Government may appoint as many Inspectors, as it deems fit, for the purposes of this Act.

(2) The appropriate Government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same area, also provide, by such order, for the distribution or allocation of work to be performed by them under the Act

### 3. What are the benefits given under the Maternity Benefit Act

#### Answer-

#### **Benefits given under the Maternity Benefit Act**

The Act extends to the whole of India and applies to every establishment, factory, mine or plantation, including any such establishment belonging to the government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances.

- Maternity Benefit Act Prohibits the working of pregnant women for a specified period before and after delivery.
- It also provides for maternity leave and payment of certain monetary benefits to women workers during the period when they are out of employment because of their pregnancy.
- The maximum period for which a woman can get maternity benefit is 180 Days.
- To be entitled to maternity leave, however, a woman must have actually worked for not less than 80 days in the twelve months immediately preceding the day of her expected delivery
- To avail of the leave a notice must be given in writing stating the date of absence from work also a certificate of pregnancy.
- For the six weeks' leave from the date of delivery, another notice must be sent together with a certificate of delivery after the child is born. The employer has to pay to the employee, or her nominees, maternity benefit within 48 hours of receiving this notice.
- Every woman entitled to maternity benefit is also entitled to a medical bonus of rupees two hundred and fifty if no pre-natal and post-natal care have provided for by the employer free. Of charge.
- In case of miscarriage, a woman is entitled to six weeks leave with pay from the day of miscarriage
- For illness arising-out of pregnancy, delivery, premature birth or miscarriage, a woman employee can take extra leave up to a maximum period of one month.
- A female employee can ask for light work for one month preceding the six weeks prior to her delivery or during these six weeks
- The Act provides for (a) six weeks leave with wages in cases of medical termination of pregnancy (MTP); (b) grant of leave with wages for a maximum period of one month in cases of illness arising out of MTP or tubectomy; and (c) two weeks' leave with wages to women workers who undergo tubectomy operation.,

- No discharge or dismissal while on maternity leave
- Light work for 10 weeks ( 6 weeks plus 1 month) before delivery