

HIGH COURT OF JUDICATURE AT BOMBAY
(APPELLATE SIDE)
WRITTEN EXAMINATION
FOR THE POST OF MEMBER, INDUSTRIAL COURT

Date: 20.12.2015

Total Marks : 100

Time : 3 hours

INSTRUCTIONS

1. All questions are compulsory.
 2. Figures to the right indicate marks.
 3. Answers to optional questions, in excess of prescribed number, will not be assessed.
1. Write a judgment on the following facts after mentioning bare necessary facts and presuming that necessary witnesses were examined and relevant documents have been produced. (20)

'A' is employed as a 'Clerk' in a Corporation, an undertaking of Government of Maharashtra. He was appointed by Managing Director on Daily Wages, by taking into account urgent need of the Corporation at relevant time. 'A' has worked with Corporation continuously for 240 days. He therefore, wrote letter to Corporation asking for permanency in service.

The Corporation replied said letter denying status of permanent employee to 'A'. According to Corporation, 'A' was not appointed in accordance with the process of recruitment. It is stated that the appointment of 'A' was by way of back door entry and hence he does not have right of employment. He was however given option to participate in the recruitment process adopted by corporation.

'A' therefore filed complaint before Industrial Court under item 9 of Schedule IV of MRTU and PULP Act, for following reliefs:-

- (i) To get status of permanent employee.
- (ii) Restraining order against Corporation to initiate recruitment process.
- (iii) Not to terminate 'A' from service.

The Corporation opposed Complaint by filing written statement on following grounds:-

- a. Complaint is not maintainable as there exist recognized Union in Corporation and hence complaint by Individual is not maintainable.
 - b. 'A' not employed by due process of law/back door entry not permitted.
 - c. Corporation cannot be restrained from adopting recruitment process.
2. Write short notes on any four of the following : (20)
- a. Rights and Obligations of recognized Unions.
 - b. General prohibition of strikes and Lock-outs.
 - c. Notice of change.
 - d. Deemed Industrial Disputes of an individual workman under The Industrial Disputes Act, 1947.
 - e. Provisions regarding working hours of Child under Child Labour (Prohibition and Regulation) Act, 1986.
 - f. Obligation of Principal Employer to pay contributions under The Employees' State Insurance Act, 1948.
 - g. Provisions of Section 17B of The Industrial Disputes Act, 1947.
3. Write an essay in 300 words on any one of the following: (20)
- a. Evolution of Indian Labour Legislations.
 - b. Need for Labour reforms in India.
4. Answer any one of the following: (20)
- a. Give three instances of disputes between a workman and the employer where jurisdiction of Civil Court would not be barred by applying relevant case laws?
 - b. Discuss in detail provisions regarding Lay-off, retrenchment and closure having regard to the number of employees in an Industrial Establishment.
5. Answer in brief any two of the following: (20)
- a. Explain "Arising out of and in the course of employment" in context of Employees Compensation Act, 1923?
 - b. Discuss the provisions under Industrial Employment Laws in India with relation to Apprentice vis-a-vis workmen.
 - c. Discuss the scope of the jurisdiction of Industrial Court under MRTU AND PULP Act.