

8155002

Pondicherry University

MBA DEGREE EXAMINATION

JANUARY/FEBRUARY 2023

Third/Fourth Semester

INDUSTRIAL RELATIONS AND LABOUR LEGISLATION

YEAR II / SEMESTER III

Answer Key

PART A (6 X 5 = 30 marks)

1. Importance of Industrial Relations.

- Promotes democracy
- Aids economic growth and development
- Boosts employee morale
- Accountability and optimum use of scarce resources
- Avoids conflicts between management and unions
- It promotes the depiction of sound labour legislation
- Initiates an environment of change

2. What are the benefits associated with Industrial Relations?

- Foster industrial peace
- Promote industrial democracy
- Benefits to workers
- Benefit to management
- Improve productivity

3. What are the Social responsibilities of trade union?

- Provide education and awareness amongst labours so that a traditional or conventional way indulging into grave agitation can get the shape of cooperation and understanding.
- The development of the society should not be obstructed by virtue of unnecessary strikes and grave agitation.
- Their acts and deliberation with employer should be in the manner so that consensus becomes the part of economic growth and development.
- Goals should be achieved by not overlooking the interest of community at large.
- Rural and urban population comprises of unorganized labour which should be made organized by trade union to uplift them and to get them above poverty line.

- To promote the planned schemes and ideas for savings so that capital formation increases.
- New equipment should be supported by virtue of awareness programmes about its use.
- Welfare Activities must be provided by trade unions.
- Education
- Communication with the Members and the Community
- Research - Collection and analysis of wage data including fringe benefits
 - Market survey for other benefits and services in order to get the idea about competitive practices
 - Data on working conditions and welfare activities.

4. Mention the rights of registered trade union.

As per Clause VIII of the Code of Discipline, recognized trade unions enjoy the following rights:

1. Right to raise issues and enter into collective agreements with employers,
2. Right to collect membership fees and subscriptions,
3. Right to put up notices and make announcements at prominent places in the premises of the undertaking,
4. Right to hold discussions with employees and employers for the purpose of either prevention or settlement of disputes,
5. Right to representation on the grievance committee, joint management councils, and other non-statutory bipartite committees like the welfare committee, canteen committee etc.

5. Define arbitration.

Arbitration is an out-of-court method for resolving a dispute between a worker and an employer. Arbitration takes place in front of a neutral decision-maker called an “arbitrator” (or in some cases, a group or “panel” of arbitrators) who will listen to each side and make a decision about the case.

6. Employee Counselling.

It is a process of helping the employees to achieve better adjustment with his work environment to behave as a psychologically mature individual, and help in achieving a better understanding with others so that his dealings with them can be effective and purposeful.

7. Define the term child labour.

The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and/or
- interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.

8. Main objectives of Payment of Gratuity Act 1972.

The sole purpose of the Payment of Gratuity Act, 1972 was with a view to provide a gratuity to the employees working in the companies, factories, mines, oilfields, shops or other establishments upon their superannuation, resignation, retirement, death or disablement.

9. What are the main features of Information Technology Act 2006?

The act was enacted to give legal sanction to electronic commerce and electronic transactions, to enable e-governance, and also to prevent cybercrime. Under this law, for any crime involving a computer or a network located in India, foreign nationals can also be charged. The law prescribes penalties for various cybercrimes and fraud through digital/electronic format. It also gives legal recognition to digital signatures.

The IT Act also amended certain provisions of the Indian Penal Code (IPC), the Banker’s Book Evidence Act, 1891, the Indian Evidence Act, 1872 and the Reserve Bank of India Act, 1934 to modify these laws to make them compliant with new digital technologies.

10. Differences between EPF and EPS?

EPF (Employee Provident Fund) is a retirement savings scheme where both an employer and an employee contribute 12% of this fund's basic and dearness allowance (DA). It comprises a total contribution of 24%. One can withdraw some part of this deposited amount before retirement. The total amount can be withdrawn post-retirement. When signing up for this scheme, one will get a UAN or a Universal Account Number that will remain with the person until the end of his/her career. Then, when the person transfer jobs, the UAN goes with the person.

EPS is another pension scheme that the Government of India offers. It springs from the EPF, i.e., not all of an employer’s contribution goes towards an Employee Provident

Fund. 8.33% of this amount goes to the Employee Pension Scheme or EPS. The rest becomes the actual EPF contribution.

The maximum amount one can contribute to this scheme is ₹1,250. Employees do not contribute to this scheme.

Part B (5 x 10 = 50 marks)

11. What do you mean by industrial relations? Discuss the different approaches to industrial relations.

Industrial relations refer to the collective relationship between management, employees and government in any organization. It deals with the people at work.

Approaches to Industrial Relations is a comprehensive field of study, subtle as well as gross, a vast area of interactions, actions and reactions which affect not just a company or an industry, but also the economy. Industrial relations can be described as the relationship between management and employees or among employees and their organizations that characterize or grow out of employment.

Some of the approaches of industrial relations are:-

1. Unitary Approach
2. Systems Approach
3. Pluralistic Approach
4. Marxist Approach
5. Strategic Management Approach
6. Psychological Approach
7. Sociological Approach
8. Human Relations Approach
9. Socio-Ethical Approach
10. Gandhian Approach
11. Dunlop's Approach
12. V. V Giri Approach
13. Comparative Approach.

12. How do you manage changes in industrial relations?

There will be a renewed expectation from organizations to adapt to change even quicker than ever before. The task of an HR professional is only getting difficult in a knowledge driven economy where employees are educated, opinionated, ambitious and connected. The employee relations policies need to be malleable enough that it can transcend geographies, age groups and situations and yet be strong enough to drive a culture. The key challenge for organizations will be to transform constraints into opportunities for improved employee relations.

13. What is the role of trade unions in present day scenario? Give your critical views on this observation.

Communication

Many large unions publish a newsletter or a magazine, with the main aim of clarifying their policy or stance on certain principal issues, as well as to pass on information about their activities.

Welfare activities

Many unions are engaged in a number of welfare activities, such as providing housing and organizing cooperative societies to improve the quality of workers' lives. The Textile Labour Association (TLA), Ahmedabad, for example, has ventured to organize self-employed women (in the Self Employed Women's Association [SEWA]) and has even started banking activities for this purpose.

Education

Education helps to make workers aware of their surrounding environments. Unions make efforts to launch educational programs for workers to enhance their knowledge of the work environment and to inform them about issues concerning them, particularly those regarding their rights and responsibilities and regarding procedures and systems that exist in the workplace for redressing grievances.

Research

Union negotiators need updated information to be systematically collected and analyzed at the bargaining table. They also need to backup their wage demands with knowledge of the industry, of productivity, and of comparative industry practices. Many unions conduct their own research to this effect, laying emphasis on practical problems, especially day-to-day affairs at work.

14. Describe the industrial conflict resolution mechanism followed in manufacturing industries.

In general, any dispute mentioned above can be handed to the Industrial Relations Court. However, before taking the cases to the Court, some preliminary steps or alternative solutions should be taken through bipartite negotiation, mediation, conciliation. Another method of settlement is through arbitration. Arbitration decisions are final and binding. If bipartite negotiations have failed, the Ministry of Manpower and Transmigration or the designated Manpower Office will offer settlement through:

Arbitration: the resolution of a dispute over interests, and disputes between trade unions within an enterprise. It is outside the Industrial Relations Court through a written agreement between the parties in dispute who agree to submit the settlement of the dispute to an arbiter whose decision is binding on the parties involved and is final; or

Conciliation: the settlement of disputes over interests, disagreements over the termination of work relationships, or disputes between trade unions within one company only. It is done through deliberations mediated by one or more neutral conciliators.

If neither of the above options is selected by the parties within 7 days, the dispute will be settled through a mediation: the settlement of disputes over rights, conflict over interests, disputes over termination of the work relationship, and disputes between worker/trade unions within one company only through deliberations that are mediated by one or more neutral mediators that are governmental officials.

The Ministry of Manpower and Transmigration or the designated Manpower Office should maintain a list of arbitrators, conciliators and mediators to deal with local industrial disputes.

15. What are the different methods for settlement of industrial disputes provided in the industrial disputes act 1947?

To maintain a cordial relation between the employer and the employee, the Act lays down settlement mechanisms as well that can be of some help. The authorities on whom the Act confers authority to carry out settlement and investigation purposes for an industrial dispute are mentioned below:

- ✓ Conciliation officer under Section 4 of the Act, 1947
- ✓ Works committee under Section 3 of the Act, 1947
- ✓ Labour court under Section 7 of the Act, 1947
- ✓ Boards of conciliation under Section 5 of the Act, 1947
- ✓ Labour Tribunal under Section 7A of the Act, 1947
- ✓ National tribunal under Section 7B of the Act, 1947

16. Write in detail the causes for employee grievance in an organization. Discuss the purpose and procedure of disciplinary action.

Grievances typically could arise because of a variety of reasons:-

1. Grievances Resulting from Working Conditions
2. Grievances Resulting from Personal Maladjustment
3. Grievances Resulting from Management Policy
4. Grievances Resulting from Alleged Violation
5. Grievances Resulting during Concerning Wages
6. Grievances Resulting during Supervision
7. Poor Working Environment
8. Poor Quality of Manager
9. Unfair Practices
10. Work Overload
11. Favouritism
12. Disciplinary Actions.

Following are some of the purposes and objectives of disciplinary action:

- ✓ To enforce rules and regulations.
- ✓ To punish the offender.

- ✓ To serve as an example to others to strictly follow rules.
- ✓ To ensure the smooth running of the organization.
- ✓ To increase working efficiency.
- ✓ To maintain industrial peace.
- ✓ To improve working relations and tolerance.
- ✓ To develop a working culture which improves performance.

Procedures for taking disciplinary action against employees are as follows:

1. Location of Responsibility
2. Define Performance Expectations
3. Communication of Policy, Procedures and Rules.
4. Collection of Performance Data
5. Framing Charges and Intimation
6. Consideration of Explanation
7. Awarding Punishment
8. Follow up.

17. What are the main obligations of the employer towards payment of bonus? Write the rights of both the employer and employee under payment of bonus act 1965.

The Act Applies to all Factories and every other establishments, which employs twenty or more workmen. The Payment of Bonus Act, 1965 provides for a minimum bonus of 8.33 percent of wages. The salary limited fixed for eligibility purposes is Rs. 3,500 per month and the payment is subject to the stipulation that the bonus payable to employees drawing wages or salary not exceeded to Rs.10000 per month would be calculated as if their salary or wages is Rs. 3,500 per month. The Central Government is the appropriate authority in respect of the industries /establishments for which it is appropriate Government under the industrial Disputes Act, 1947.

Rights of Employers

Right to notice any disputes relating to application or interpretation of any provision of the Act, to the Labour Court or Labour Tribunal. Right to make a valid deduction from the bonus due to an employee, such as festival bonus paid and financial loss created by the misbehaviour of the workers.

Rights of Employees

Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

18. Critically examine the rights and liabilities of registered trade unions under the trade unions act 1926.

Rights of Trade Union:

The trade union are granted rights so that they may be able to take appropriate actions for the attainment of objectives for which they have been formed. Under section 15-28 rights,

liabilities and immunities which granted to registered trade union is given. Under section 15 a registered trade union has a right to establish a general fund.

Under section 16 a registered trade union has a right to establish a political fund. For member subscription to this fund is not mandatory.

Under section 23 a registered trade union can change the name with minimum 2/3 majority and all requirement of section 25 must be fulfilled. Section 24 gave the right to amalgamation: any two or more than two trade unions may amalgamate into one with or without dissolution of funds but atleast 50% of majority votes is recorded and atleast sixty percent of those votes are in favour of amalgamation.

Any member of Trade Union may inspect the books himself or through agent under section 20. Section 21 confer the right of minor membership: minor more than 15 years of age can become a member but cannot hold the office until the attainment of 18 years of age.

As a legal person some rights are granted:

- ✓ Right to have perpetual succession
- ✓ Common seal in its own name.
- ✓ Right to acquire, hold and dispose of both movable and immovable property in its own name.
- ✓ Right to contract in its own name.
- ✓ Can sue and can be sue.[iv]

Liabilities:

- ✓ Restriction to spend fund: The trade union cannot spend the fund for any voluntary reasons. They can only spend for specific activities which is enumerated in section 15.
- ✓ If trade union decides to promote its civil and political activities, then a separate political fund has to constitute under section 16. However, no trade union can force its members to subscribe to political funds.
- ✓ Trade union must make available all records, its books of accounts and list of membership for inspection which conferred in section 20 upon request of any member or his representatives.
- ✓ Minors more than 15 years of age can be a member as per section 21 but they can't hold office.
- ✓ Under section 21-A trade union cannot appoint a person who has been convicted for a crime involving moral turpitude or has been imprisoned for 6 months or more within last 5 years.
- ✓ Under section 22 at least half of the office bearers of union must be engaged or employed in an industry to which trade union is connected and they also use the power judiciously while removing any member.
- ✓ Under section 28, general statement, audit report in prescribed manner, all income and expenses and assets and liabilities existing on such 31st day of December must be sent to the register every year.

- ✓ The trade union has to send notice to registrar in case of every change of its name[x], amalgamation of trade unions[xi], any change in the address of head office, for dissolution[xii] and a copy of every alteration made in the rules of registered trade union which conferred by section 25 and section 28.

19. Highlight the salient features of payment of maternity benefit act 1962.

The Act extends to whole of India to all mines, plantations, shops, establishments and factories either in organized or unorganized sector in which 10 or more persons are or were employed on any day of the preceding twelve months.

Any woman who has worked in the establishment for more than 80 days is entitled to the maternity benefit.

1. - All women who are employed in any capacity directly or through any agency i.e. either on contractual or as consultant can avail.
2. - Every woman will be entitled to maternity benefit of 26 weeks.
3. This maternity benefit should not be availed before 8 weeks from the date of expected delivery.
4. If a woman has two or more children, the maternity benefit will continue to be 12 weeks, which cannot be availed before 6 weeks from the date of the expected delivery.
5. A woman who legally adopts a child below the age of three months or a commissioning mother (the woman who has donated her egg o another woman) shall be entitled to maternity benefit for a period of 12 weeks from the date the child is handed over to the adopting mother or the commissioning mother.
6. Every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.
7. Every establishment with 50 or more employees to provide crèche facilities within a prescribed distance. The woman will be allowed four visits to the crèche in a day. This will include the interval of rest allowed to her.
8. An employer may permit a woman to work from home. This would apply if the nature of work assigned to the woman permits her to work from home. This option can be availed of, after the period of maternity leave, for a duration that is mutually decided by the employer and the woman.
9. Every establishment should intimate a woman at the time of her appointment of the maternity benefits available to her. Such communication must be in writing and electronically.
10. - If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work or her pregnancy, shall be punishable with imprisonment which is not less than 3 months but which may extent to one year and with a fine of no less than Rs. 2000/- which

may exceed to Rs. 6000/-. Women in instance like these may make a complaint to the Inspector as prescribed in the Act.

20. What are the main provisions of consumer protection act 1986?

Consumer Protection Act 1986 was enacted for superior protection of the interest of consumers. The provision of the Act came into force from 15-04-1987. Consumer Protection Act forced strict liability on a manufacturer in case of the supply of faulty goods by him and strict liability on a service provider in case of shortage in rendering his services.

To safeguard the interests and rights of consumers, quasi-judicial machinery is sought to be set up at the district, state and central levels. This Act applies to the whole of India except the state of Jammu and Kashmir. This Act was replaced by the 'Consumer Protection Act 2019' which came into force on 24th July 2020.

Consumer protection means protecting the rights and interests of consumers. In other words, it refers to the measures taken to protect consumers from unprincipled and unethical misconduct by the business and provide them quick redressal of their grievances.

Features of Consumer Protection Act, 1986

It applies to all goods, services and inequitable trade practices unless specified and exempted by the Central Government

It covers all sectors, private, public or co-operative

It provides the establishment or setting up of consumer protection councils at the district, state and central levels to encourage and protect the rights of consumers and three-tier quasi-judicial machinery to deal with consumer grievances and disputes

Objectives of Consumer Protection

To protect the consumer from abuse

To provide a venue for grievances/compensation

To ensure a superior quality of living by upgrading consumer products and services

Protecting the consumer against immoral and unfair activities of the traders

Need for Consumer Protection Act

The necessity of acquiring measures to protect the interest of consumers come to light mainly due to the vulnerable position of the consumers.

Social Responsibility

It is the moral responsibility of the business to serve the interest of consumers. In line with this principle, producers and traders have to provide the right quality and quantity of goods at fair prices.

Increasing Awareness

Consumers are becoming more mature and conscious of their rights against the malpractices of the business. Many consumer organizations and associations are making efforts to build consumer awareness.

Consumer Satisfaction:

The Father of the Nation, Mahatma Gandhi, had once called manufacturers and traders to "treat your consumers as god". Consumer satisfaction is the only key to the success of the business. Hence, people in business should take every step to serve the interests of consumers by providing them quality goods and services at a reasonable price.

Survival and Growth of Business

Businesses have to be in the service of consumer interests for their survival and growth. On account of globalization and the rise in competition, any business organization which indulges in malpractices or fails to provide improved services to its ultimate consumer shall find it difficult to continue.

Principle of Trusteeship

Resources/Assets were contributed by society. They are merely the trustees of the wealth and, therefore, they should use such resources effectively for the sake of the community, which includes the consumer.

Rights of the Consumer

Right to Safety – To be secured against the marketing of goods on delivering dangerous services to health and life

Right to Information – To be protected against dishonest or misleading advertising or labelling and the right to be given the facts and figures needed to make an informed choice

Right to Choice – To choose products at competitive prices with an assurance of satisfactory quality

Right to Representation – To express consumer interests in the making and execution of government policies

Right to Seek Redress – To be compensated for misrepresentation, shoddy goods or unsatisfactory services

Right to Consumer Education – To Acquire the Knowledge and skills necessary to be an informed customer

Right to Basic Needs – This Guarantees adequate food, shelter, health care, clothing, education and sanitation

Filing a Complaint

There are three tier Consumer Grievances machinery under the Consumer Protection Act, 1986 and their jurisdiction.

District Forum – The value of goods or compensation claim does not exceed Rs. 20 lakh.

State Forum – The value of goods or compensation is more than Rs. 20 lakh but does not exceed one crore.

National Forum – It takes up all the cases exceeding the value of Rs. 1 crore.

Part C (1 x 20 = marks)

21.

A) Analyze the case and elucidate the problems and causes.

The case is about a multinational company specialized in food processing that has been operating in India for about three decades. The company had recently decided to expand its production. It was decided to shift the factory to a new location about 20 kilometres away from its present site. As the workers transferred to the new site were living in town the union demanded an increase of rupees 1000 per month in the salary but the company offered to give rupees 500 only to cover the transport cost. When the plant was being shifted to the new site, negotiations went on an uninterrupted between the management and the union on this issue.

However both the parties could not come to a settlement even after 4 months. The management was firm on their decision even though the union indicated some flexibility. The union refused to compromise fully on the issue. They adopted go slow tactics to pressurize the management. The production went down drastically but still the management was firm on their stand. In the meanwhile the management charge sheeted some of the trade union leaders and suspension pending enquiry.

B) Do you justify the management's decision? If yes/no why?

No, I don't justify the management's decision.

Any change is always resisted. So management needs to be sensitive and polite towards the employees and about their feelings and emotions. Covering only the transportation cost would not motivate the employees and accept the change in a smooth way. People need to adapt and it takes a course of time to adapt to the change.

C) Are the workers right in their approach? Comment.

No, the workers were not right. They should not adopt the go slow tactics which is the normal tendency of the employees. Rather they must take the highway and keep doing their work in their regular pace while still fighting for their increase in pay.

D) As a General Manager – HR of this company how would you resolve the problem.

As a General Manager – HR, I would be understanding and try to come towards a common resolution catering to both sides. Thus the production would not go down drastically. I would do more of communication and negotiation until a common acceptable platform is arrived.

*Answers with different points of view are also accepted in Part C alone based on individual perception.