

QUESTIONS FOR JUDICIAL OFFICERS' WORKSHOP TO
BE HELD ON 10.01.2015

: Subject 2 (a):

Law relating to strike, lock-out, lay-off, retrenchment,
closure.

Que-1 : Whether the employees are entitled for the wages of strike period?

Que-2 : Whether the strike commenced or continued after issuance of notice under Section 24 (i) (a) of MRTU & PULP Act can be said to be illegal under the provisions of the Maharashtra Industrial Relations Act for failure of the workers to issue notice under Section 42 (2) of the MIR Act?

Que-3 : When a strike can be declared illegal?

Que-4 : Whether the employer can be awarded compensation for loss of profit due to illegal strike by the workers?

Que-5 : When the strike and lock-out of public utility services are prohibited?

Que-6 : Whether an employer can demand written undertaking of good behaviour from the employees on lifting the lock-out, if there were incidents of violence and indiscipline?

- Que-7 : Whether suspension of work can amount to lock-out?
- Que-8 : Whether the Industrial Court can give direction for lifting lock-out when the proceedings are pending before BIFR for rehabilitation of the Company though the workers are willing to give undertaking of good behaviour and to join duties?
- Que-9 : What are the ingredients of lock-out?
- Que-10 : Whether justifiability or otherwise of lock-out can be questioned under the provisions of MRTU & PULP Act?
- Que-11 : Whether refusal of the employer to continue to employ workman with no intention to close industrial activities will amount to closure or lock-out?
- Que-12 : Can there be a reference for wages for the period of lock-out when the factory was actually closed down?
- Que-13 : What are the pre-conditions for closure of undertaking?
- Que-14 : Whether an employer, who withdraws an application for closure can file a fresh application for seeking again permission for the same?
- Que-15 : Whether the termination of service of contractual appointment of workman for a fixed period is retrenchment?
- Que-16 : Whether the termination of service of an employee for loss of confidence, will fall in "any reason whatsoever" and consequently will it amount to retrenchment?
- Que-17 : Whether payment of retrenchment compensation and one month salary pending by account payee

cheque by _____ registered A. D. on the date of retrenchment is sufficient _____ compliance of Section 25-F of the Industrial Disputes _____ Act, 1947?

Que-18 : Whether encashment of cheque by retrenched employee _____ will debar him from challenging the order of termination _____ of his services being violative of fundamental rights or _____ constitutional rights?

Que-19 : Whether it is mandatory to give one month's notice to _____ an employee if his services are being retrenched by the _____ employer?

Que-20 : Whether termination of employee employed in a _____ temporary _____ capacity for fixed period is a retrenchment _____ under Section 2 (oo) of the Industrial Disputes Act?

Que-21 : If the initial appointment of employee is void, whether it _____ is a retrenchment under Section 2 (oo) of the Industrial Disputes Act, 1947?

Que-22 : Whether termination of a apprentice who was appointed _____ under Apprentice Act is retrenchment?

Que-23 : Whether termination of a probationer during probation _____ period is a retrenchment under Section 2 (oo) of the _____ Industrial Disputes Act, 1947?

Que-24 : Can the employer retrench permanent workman without _____ publishing the seniority list of employees?

Que-25 : When the establishment is covered under the Standing _____ Orders Act and services are terminated under the _____

_____ Service Rules framed by the Government establishment, _____ whether it amounts to illegal retrenchment?

: Subject 2 (b):

Powers and duties of Employees' Insurance Court.

Que-26 : What is difference between the application under Section 75 and Appeal under Section 54-A of the ESI Act for the Insurance Court?

Que-27 : Whether there is any bar to challenge the order passed by the Corporation under Section 54-A directly to the Insurance Court without availing remedy under Section 45 (AA) of ESI Act?

Que-28 : What is the time limit prescribed for determining the

contribution by the Corporation against the employer?

- Que-29 : Whether ESI Court can grant an injunction or interim stay?
- Que-30 : What are the powers of ESI Court to determine the questions about rights and liabilities of the employees?
- Que-31 : Whether ESI Court has power to reduce or waive the damages?
- Que-32 : Whether the ESI Court can condone the delay?
- Que-33 : Whether deposit of 50% amount of contribution before ESI Court is mandatory?
- Que-34 : Whether ESI Court can decide the matter simply on the basis of demand of contribution made by the Corporation?
- Que-35 : Whether Insurance Court has power to impose punishment for failure to pay contribution?
- Que-36 : Whether ESI Court has power to review its own order?
- Que-37 : Whether the provisions of ESI Act are applicable to Municipality/Municipal Corporation?
- Que-38 : Whether establishment of architect comes within the purview of the term "Shop" and is liable to be covered under the provisions of ESI Act?
- Que-39 : Whether the Race Club would fall under the scope of the term "Shop" for the purpose of the notification issued under Section 1 (5) of the ESI Act?
- Que-40 : Whether ESI Court acting under Section 75 of the Act is competent to consider the validity of the order of dismissal from service of an employee, on the ground of violation of Section 73 of the Act?

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