

Serial No.

151

LAW
Full Marks-300
Time-4 Hours

The figures in the margin indicate full marks for the questions

Answer all questions

PART-I

Section -A [50 marks]

1. Draft an Affidavit in opposition on behalf of the Government with reference to the passage given below :

A writ petition has been filed in the High Court Of Meghalaya by Miss. A alleging that has been denied promotion from lower division Assistant to upper division Assistant and her junior Mr X has been promoted by superseding her. It is the case of Ms. A that the criteria for promotion from LDA to UDA is seniority cum merit and has as such prayed for quashing of the promotion order besides issuance of a mandamus in her favour directing her promotion as UDA.

The plea of the department is that the Petitioner, though senior to Mr.X was not given the promotion because there were red mark entries in her ACRs for the last five years besides allegations of corruption against her and the Department after due consideration decided to promote Mr. X who was found fit by the Departmental Promotion Committee.

Prepare an Affidavit in Opposition for and on behalf of the Department.

[25 marks]

2. Draft a Special Leave Petition to be filed before the Supreme Court of India as provided for under the Rules of the Supreme Court of India.

A writ petition registered as WP(c) 130/2014, was filed against the State of

[1]

LO(LD-L)

Meghalaya and the Department of Mines, Govt. of Meghalaya challenging a prohibition order dated 30.11.2014, where by restrictions were imposed on open caste mining of coal on the ground of environmental hazard. The High Court of Meghalaya vide judgement and order dated 10.5.2017 while allowing the said Writ petition held that the prohibition order is blanket in nature and hence violative of Article 19(1) (g) of the Constitution of India as it puts absolute restriction on trade and commerce. The State of Meghalaya being aggrieved by the said Judgement and order dated 10.5.2017 preferred an inter court appeal registered as Writ Appeal No. 21/2017 which came to be dismissed vide Judgement and Order dated 7.11.2017 and the Judgement and Order dated 10.5.2017 was upheld.

The State Govt. being aggrieved by the said Judgements and Orders afore-stated wishes to prefer an Appeal before the Hon'ble Supreme Court of India. Prepare a SLP in conformity with the Supreme Court Rules, 1966.

[25 marks]

Section- B [50 marks]

i) What is the distinction between a civil contempt and a criminal contempt ? Define with suitable illustration the meaning of purging contempt ? 10

ii) What constitute a clear case of criminal Contempt ? Define with suitable illustration ? 5

iii) Discuss any **TWO** of the following with reference to Contempt of Courts Act, 1971 :

a) Types of contempt of court.

b) Defenses open to contemnor.

c) Appeal against cognizance of Contempt.

d) Punishment for Contempt of Court. 5x2=10

iv) State and explain the kinds of Contempt of Courts enumerated under the Contempt of Court Act, 1971 ? 5

[2]

LO(LD-L)

Write Short notes on any FOUR of the following with reference to Judgments of the Supreme Court of India :

4x5=20

1. Acts In Peri Materia.
2. Enabling Provision
3. Non Obstante Clause
4. Generalia Specialibus Non Derogant
5. Doctrine of Merger
6. Doctrine of Continuity

Section- C [50 marks]

1. In a pending Writ petition before the Hon'ble High Court of Meghalaya i.e. WP(c) 102/2016, relating to settlement of a tender for supply of Medicines, the State of Meghalaya has already filed a Counter Affidavit, to which the Petitioner in the Rejoinder Affidavit has alleged that the averments in the Counter Affidavit filed on behalf of the State are contrary to records. The High Court of Meghalaya has permitted the Govt. to rebut the allegations by filing of an additional Affidavit. Prepare an Additional Affidavit to be filed on behalf of the Govt. rebutting the allegations that have been made in the Rejoinder and asserting that the averments in the Counter Affidavit are substantiated by records. [20 marks]

2. The State Govt., the lessor of a Fishery has issued tenders for settlement of the fishery at a minimum annual lease of Rs. 3 lakhs. Among the bids received, Mr. Y has become the highest bidder with an offer price of Rs. 5 lakhs. In terms of the tender conditions, the highest bidder would have to execute an agreement with the State Govt. to deposit 25% of the bid amount as interest free security deposit initially, 25% of the bid amount at the end of 3 months and the remaining 50% at the end of 6 months. The tender conditions also contains a clause that if the highest bidder fails to pay the amount within the stipulated time frame as stated above, the fishery settlement would be revoked and the fishery settled with a Third Party for the remaining duration.

[3]

LO(LD-L)

Prepare a Contract agreement between the State of Meghalaya and Mr.X.
[20 marks]

3. Mr. X who is the owner of a plot of land measuring 10000 sq/ft situated at Bivar Road, Shillong, East Khasi Hills District, Meghalaya, wants to sell his land to Mr. Y for a consideration amount of Rs. 20 Lakhs. The land is bounded as follows :

North : PWD road
East : Land of Mrs. Z
South : Land of Mr. A
West : Stream

Prepare a Sale Deed for transfer of the land from Mr. X to Mr. Y keeping in mind the requirements of law in Meghalaya.
[10 marks]

PART-II

Section- A : 50 marks *(Answer any five questions given below)*

1. **Write short notes on the following (Any two)** [10 marks]

- a) Natural Justice
- b) Rule of Law
- c) Droit Administration
- d) Distinction between administrative action and quasi judicial action.

2. **Write short notes on the following (Any two)** [10 marks]

- a) Equality of opportunity in matters of public employment under Article 16 of the Constitution of India.
- b) Protection available to Govt. Servants under Article 311 of the Constitution of India

c) Vacation of ex parte Interim Order under Article 226(3) of the Constitution of India.

3. Write short Notes on the following: (Any two) [10 marks]

- a) Constructive Res judicata
- b) Rejection of Plaint under Order 7 Rule 11 CPC
- c) Prohibitory Orders under Section 144 CrPC
- d) Distinction between Sections 437, 438 and 439 CrPC
- e) Distinction between Primary and Secondary Evidence.

4. Elucidate : All Contracts are agreements but all agreements are not Contracts. [10 marks]

5. Explain the various stages of a tender process and Administrative fairness required in awarding Contracts with reference to the Judgement of the Hon'ble Supreme Court of India in the case of Tata Cellular. [10 marks]

6. Enumerate the procedure for eviction of unauthorized occupants from Govt. land under the Meghalaya Public Premises (Eviction of Unauthorized Occupants) Act. [10 marks]

Section -B [50 Marks]

1.a) Define Hindu undivided Family under Mitakshara Coparcenary. [10 marks]

b) Write a note on Section 125 CrPC. [10 marks]

2. Answer any Three : [30 marks]

a) Whether a second wife is entitled to pension ? If yes, when and under what circumstances ?

b) Is promotion a fundamental right ? Explain with reference to case laws.

- c) Transfer is an incidence of service. Under what circumstances can an order of transfer be challenged ?
- d) What is second Show Cause Notice in Departmental Proceedings ? Whether proceedings are vitiated for want of service of second Show Cause Notice ? Explain with relevant case law.
- e) Write a short note on Validity of Select List with reference to relevant case laws.

Section- C [50 marks]

1. Write brief notes on the following : [30 marks]

- a) What are the major penalties under the Meghalaya (Service, Appeal and Discipline) Rules ?
- b) What is the distinction between Chargesheet and Statement of Allegations ?
- c) Whether an authority which is not the appointing authority can suspend a Govt. servant ? Explain with reference to Law.

2. Answer any TWO of the following : [20 marks]

- a) What is the meaning of the expression "Public policy" under the Arbitration and Conciliation Act, 2016 ?
- b) Whether a Court can grant interim measures even before the commencement of Arbitral proceedings ? Answer with reference to statutory provisions.
- c) How and in what manner can an arbitral award be enforced ?

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The figures in the margin indicate full marks for the questions

Answer all questions

1. Write an essay, not exceeding 500 words, on **any one** of the following topics : 50

- a) Use and abuse of social media in the modern world.
- b) Environmental concerns of North-East India.
- c) Knowledge is power.
- d) Terrorism-Its effects on India.

2. Make a precis of the following passage in your own words, reducing it to about 160 words, and give it a suitable title. Write your precis on the special sheet provided for this purpose:- 50

In India, there has been a lot of debate on the drivers of and deterrents to economic growth. Since the debate has by and large raged among economists, it has been largely restricted to what one may refer to as technical formal factors :the local and global macroeconomic framework, infrastructure, agricultural performance, governance, health and education, etc. The role of social structures and processes has more or less been neglected. In fact, even in dealing with the so called technical-formal factors, the non-technical-informal processes and politics have not been part of this debate. On the other hand, sociologists have engaged in detailed discussions on the changing structures and processes of Indian society for a close to a century now, but have mostly kept away from demonstrating the relevance of these social changes to the country's economy. One can argue that a disciplinary divide like this exists even in western countries, where these sciences have originated in their modern form, but we would also agree that the sharpness

of the divide there has been blunted to a greater degree by the prevalence of inter, multi and trans-disciplinarily than it has been here.

At a more practical level, this divide has meant that the notion of equity has come to be seen in the limited sense of redistribution and welfare, and as such opposed by particular group of market economists. Politicians, with their patronizing pursuit of social justice in the form of various bail-outs and dole-outs, seem to have made the perceived trade-off between equity and efficiency look more real. The truth of the matter is, if we bring insight from these two disciplines together, we would realize that, in fact, it is the presence of vast and persistent social inequities based on gender, class, caste, religion etc that pose a fundamental challenge to the pursuit of economic efficiency in India.

In India, *prima facie* we come across horizontal and vertical forms of equity. Equity in horizontal sense-addressing social biases and creating an enabling environment for all to participate in the process of economic growth itself-ceases to be a predicament, but a pre-condition for efficiency. Equity in vertical sense is meant to advocate the idea of efficiency first, equity later-we need wealth to be able to redistribute it.

Unfortunately, the horizontal form of equity is not preferred by the political class in India. It can not be since the pursuit of equity has largely been taken up because of political compulsions to please and pacify certain sections of the electorate. Social sector programmes that have come up do have potential to mitigate the immediate hardships of the poor. They reflect the curative firefighting style of Indian policymaking, indisposed to address the root causes of the problems we face. And what is worse, even these token measures could be gradually toned down the moment they stop yielding the desired political results or the crisis does not loom large on our heads. The rise of coalition politics has in a way made this problem more chronic, with a great amount of focus on keeping the coalition partners together and continuing in power.

If the Government is serious about inclusive growth, the focus has to be on horizontal equity, on social liberalization which entails opening up barriers that prevent millions from participating in the process of growth in itself.

It is not poverty alone that has to be tackled, the self respect and confidence of the oppressed has to be restored to enable them to stand up and pursue their and their country's prosperity. What is keeping a massive pool of our talent untapped and holding the country back from a gigantic growth momentum are horizontal inequities. And once we are able to tackle them even to a limited degree, then sky would be the only our limit.

-----X-----