

SUGGESTED ANSWERS TO QUESTIONS

INTERMEDIATE EXAMINATION

GROUP - I

(SYLLABUS 2016)

DECEMBER - 2021

Paper - 6 : LAWS & ETHICS

Time Allowed : 3 Hours

Full Marks : 100

Section : A - MCQ

20X1=20

Q.1 The phrases 'business ethics and corporate ethics' are often used to describe the application of ethical values to

- Ans 1. Business activities
2. Make businessman spiritual
3. Nation building
4. Democratize corporate

Q.2 An individual shall give his consent to become a designated partner in

- Ans 1. Form- 3
2. Form- 10
3. Form- 4
4. Form- 9

Q.3 The annual return of an OPC shall be signed by the company secretary or where there is no company secretary, by the

- Ans**
1. Auditor of the company
 2. Advocate of the company
 3. Director of the company
 4. Senior executive of the company

Q.4 Value chain as a strategic framework for analysis of competitive advantage was promoted by

- Ans**
1. Tom Herison
 2. Peter Drucker
 3. Michael Porter
 4. F. W. Taylor

Q.5 In case of a sale by auction the sale may be notified to be subject to a

- Ans**
1. Recovery price
 2. Cost price
 3. Market price
 4. Reserved price

Q.6 In which one of the following cases an agreement without consideration is void

- Ans**
1. Gift actually made
 2. Sale of property
 3. Creation of agency
 4. Charitable subscription

Q.7 In case of a private company, mention the number of members personally present to form the quorum of a meeting of the company.

- Ans**
1. Two members
 2. Four members
 3. One member
 4. Three members

Q.8 The registered office shall be opened within _____ from the date of incorporation of the company.

- Ans**
1. 15 days
 2. 60 days
 3. 90 days
 4. 30 days

Q.9 Every occupier shall ensure the health, safety and welfare of all workers

- Ans**
1. While employer desires so
 2. Till life time
 3. Till they are employed with the factory
 4. While they are at work in the factory

Q.10 A new partner may be admitted in a partnership firm either for the increase of capital of the firm or to strengthen the

- Ans**
1. Production of the firm
 2. Management of the firm
 3. Profit share of the firm
 4. Manpower of the firm

Q.11 Every employee shall be entitled to receive bonus from his employer in an accounting year if he has worked for not less than

- Ans**
1. Twenty working days
 2. Thirty working days
 3. Ten working days
 4. Forty working days

Q.12 All payment of wages shall be made on

- Ans**
1. A holiday
 2. Weekend
 3. A working day
 4. Any day

Q.13 An instrument of the proxy shall be deposited with the registered office of the company before _____ hours of the conduct of the meeting.

- Ans**
1. 21 hours
 2. 60 hours
 3. 7 hours
 4. 48 hours

Q.14 Review of minimum wages is to be done at such interval not exceeding

- Ans**
1. 10 years;
 2. 7 years;
 3. 3 years;
 4. 5 years;

Q.15 A general meeting may be called after giving a shorter notice if consent is given by not less than_____of the members entitled to vote at such meeting.

- Ans** 1. 95%
2. 45%
3. 55%
4. 65%

Q.16 Presentation for acceptance of the bill may not be excused in the following cases

- Ans**
1. Where the drawee cannot be found with reasonable efforts
 2. Where the drawee is insolvent
 3. Where the drawee is a fictitious person
 4. Where the drawee is in a special economic zone (SEZ)

Q.17 The office of a director shall become vacant in case he absents himself from all the meetings of the Board of Directors held during a period of_____with or without seeking leave of absence of the Board.

- Ans**
1. 6 months
 2. 3 months
 3. 9 months
 4. 12 months

Q.18 Meaning of the Latin word 'Indorsum' is

- Ans**
1. Under the law
 2. Inside the box
 3. Upon the back
 4. With the bearer

Q.19 Which of the following is not a valid method of voting in a meeting of a company?

- Ans**
1. Voting through electronic means
 2. Voting by showing hands
 3. Voting by poll
 4. Voting by creating sounds

Q.20 Permanent disablement benefit is paid at the rate of _____ of wages.

- Ans**
1. 90%
 2. 79%
 3. 120%
 4. 100%

Q.1 The particulars of the issue of preference share holders shall be noted in the _____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Register of members**

Q.2 Where a person provides labour or service to another for remuneration which is less than the minimum wage, such labour is called_____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Forced labour**

Q.3 The seven principles of public life were set out by_____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Lord Nolan**

Q.4 Annual return under the Payment of Bonus Act shall be filed by every employer on or before_____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **1st February in each year**

Q.5 What is the name of an agency registered to perform the functions of recordkeeping, accounting, administration and customer service for subscribers under PFRDA Act?

Answer : **Central recordkeeping agency**

Q.6 The dishonor of the instrument may be due to _____ and _____. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **non payment and non acceptance**

Q.7 The seller of the goods is deemed to be _____ when the whole of the price has not been paid. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **unpaid seller**

Q.8 Occupier of every factory shall provide and maintain suitable room or rooms for the use of the children under the age of six years of women workers where the number of such women workers exceed _____. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **30**

Q.9 A nominal partner can be of two types – Partner by estoppels and Partner by _____. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **holding out**

Q.10 When the drawee accepts the bills subject to qualification is known as _____. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **qualified acceptance**

Q.11 A LLP formed, incorporated or registered outside India which establishes a place of business within India is called _____. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Foreign LLP**

Q.12 A proper foundation of ethics requires a standard of _____ to which all goals and actions can be compared to. Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Value**

Q.13 Section 92 of the Companies Act provides that every company shall prepare an Annual Return in Form No._____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **MGT-7**

Q.14 A shareholder holding shares of nominal value not more than Rs. 20,000 is called _____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **small shareholder**

Q.15 A representation when wrongly made either innocently or unintentionally is a _____.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **mis-representation**

Q.16 A company whose principal business is the acquisition of shares, debentures or other securities is called _____ company.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Investment**

Q.17 The term of office of a member of the standing committee under the ESI Act shall be _____ years from the date of election notification.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **Two**

Q.18 No prospectus shall be valid if it is issued more than _____ days after the date on which a copy thereof is delivered to the Registrar.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **90**

Q.19 The Regional Director shall communicate the confirmation of shifting of registered office within _____ of receipt of the application.
Which word(s) according to you most appropriately fill(s) the above blank?

Answer : **30 days**

Q.20 What should be the maximum time gap between two annual general meetings of a company?

Answer : **Not more than 15 months**

Section- C

(12X4= 48 Marks)

One LAQ

Q.1 What do you mean by bailment? Mention the duties of a bailor in this respect.

(6 Marks)

Answer :

Section 148 of the Indian Contract Act defines the term 'bailment' as the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them.

Section 150 lays down three duties of the Bailor, namely-

- It is the duty of the bailor to disclose to the bailee faults in the goods bailed, of which the bailor is aware, and which materially interfere with the use of them, or expose the bailee to extraordinary risks;
- If the bailor does not make such disclosure and some loss or damage results, he is responsible for so much of it as arises to the bailee directly from such faults;
- If the goods are bailed for hire, the bailor is responsible for damage arising to the bailee directly from such faults, whether he was or was not aware of the existence of such faults in the goods bailed.

Q.2 Discuss the remedies available to buyer against seller for breach of contract.

(6 Marks)

Answer :

A buyer also has certain remedies against the seller who commits a breach.

These are as under:

1. **Suit for Damages for Non-Delivery [Section 57]**- When the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.
2. **Suit for price**- Where the buyer has paid the price and the goods are not delivered to him, he can recover the amount paid.
3. **Suit for specific performance [Section 58]**- When the goods are specific or ascertained, a buyer may sue the seller for specific performance of the contract and compel him to deliver the same goods.
4. **Suit for Breach of Warranty [Section 59]**-Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat the breach of condition as breach of warranty; the buyer cannot reject the goods. The buyer may— (a) set up the breach of warranty in extinction or diminution of the price payable by him, or (b) sue the seller for damages for breach of warranty.
5. **Repudiation of contract before the due date [Section 60]** Section 60 provides that where either party to a contract of sale repudiates the contract before the date of delivery and the other may either treat the contract as subsisting or wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.
6. **Suit for interest** The buyer may recover such interest or special damages, as may be recoverable by law. He may also recover the money paid where the consideration for the payment of it has failed.

Section : Two LAQ

Q.1 How would you differentiate between negotiation and assignment?

(6 Marks)

Answer :

Differences between Negotiation and Assignment are as under:

Sl. No.	Negotiation	Assignment
1	Consideration is presumed until contrary is proved.	Consideration must be proved.
2	If transferee is a holder in due course, he takes the instrument free from any defects.	Assignee's title is always subject to defenses and equities between the original debtor and assignor.
3	Notice of transfer is not necessary.	Notice of assignment must be given
4	Negotiation is effected by delivery in case of instruments payable to bearer and by delivery and endorsement in case of instrument payable to order.	Assignment is effected only by writing
5	Transferee can sue the third party in his own name.	Assignee cannot do so.
6	There are a number of presumptions in favor of holder in due courses	There are no such presumptions.

Q.2 Discuss the different provisions relating to pension fund as per section 23 of the PFRDA Act, 2013.

(6 Marks)

Answer :

The following provisions relating to pension fund have been laid down in the **section 23 of the PFRDA Act, 2013:**

1) The Authority may, by granting a certificate of registration under **sub-section**

(3) of Section 27, permit one or more persons to act as a pension fund for the purpose of receiving contributions, accumulating them and making payments to the subscriber in such manner as may be specified by regulations.

2) The number of pension funds shall be determined by regulations and the Authority may, in public interest, vary the number of pension funds: Provided that at least one of the pension funds shall be a Government company. Here, for the purposes of this sub-section, the expression "Government Company" shall have the meaning assigned to it in **Section 617 of the Companies Act, 1956**.

3) The pension fund shall function in accordance with the terms of its certificate of registration and the regulations made under this Act.

4) The pension fund shall manage the schemes in accordance with the regulations.

Section : Three LAQ

Q.1 Discuss the different powers that can be exercised by an inspector under the Factories Act.

(7 Marks)

Answer :

As per the provision of **section 8 of the Factories Act, 1948** the state government may appoint a person possessing the prescribed qualifications to be inspector for the purpose of this Act and may also assign local limits as may be think fit by the said government.

As per **section 9 of the said Act** the following powers can be exercised by the inspector:

- i. He may enter to any place which is used, or which has reason to believe is used as a factory,
- ii. He can examine the premises, plant, machinery, article or substance,
- iii. He may inquire into any accident or dangerous occurrence whether resulting in bodily injury, disability or not take on the spot statements of any person which he may consider necessary for such inquiry,
- iv. He can require the production of any document relating to factory,
- v. He may seize or take copies of any register, record or other documents of any portion thereof as he may consider necessary,
- vi. He can take possession of any article or substance or part thereof and detain it for so long as is necessary for such examination
- vii. He can exercise any such other powers as may be prescribed.

Q.2 Discuss the procedure for determination of the amount of gratuity.

(5 Marks)

Answer :

Section 7 of the Payment of Gratuity Act, 1972 prescribes the procedure for determination of the amount of gratuity. As soon as the gratuity becomes payable the employer shall whether the employee has made application or not, determine the amount of gratuity. Then he is to give notice to the person to whom the gratuity is payable and also to the controlling authority, specifying the amount of gratuity so determined.

The employer shall arrange to pay the amount of gratuity within 30 days from the date of its becoming payable to the person to whom it is payable. If it is not paid within stipulated period the employer is liable to pay interest at the rate of 10 % per annum. If the delay in payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment, on this ground, no interest is payable.

If the claim for gratuity is not found admissible, issue a notice in **Form 'M'** to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible. In either case a copy of the notice shall be endorsed to the controlling authority.

Section : Four LAQ

Q.1 What are the benefits of One Person Company?

(6 Marks)

Answer :

Benefits of One Person Company

- The concept of One Person Company is quite revolutionary. It gives the individual entrepreneurs all the benefits of a company, which means they will get credit, bank loans, and access to market, limited liability, and legal protection available to companies.
- Prior to the new Companies Act, 2013 coming into effect, at least two shareholders were required to start a company. But now the concept of One Person Company would provide tremendous opportunities for small businessmen and traders, including those working in areas like handloom, handicrafts and pottery. Earlier they were working as artisans and weavers on their own, so they did not have a legal entity of a company. But now the OPC would help them do business as an enterprise and give them an opportunity to start their own ventures with a formal business structure.
- Further, the amount of compliance by a one person company is much lesser in terms of filing returns, balance sheets, audit etc. Also, rather than the middlemen usurping profits, the one person company will have direct access to the market and the wholesale retailers. The new concept would also boost the confidence of small entrepreneurs.

Q.2 What is the procedure for issue of renewed share certificate under Companies Act,2013?

(6 Marks)

Answer :

Issue of renewed share certificate

Rule 6 provides that the certificate of any share(s) shall not be issued either in exchange for those which are sub-divided or consolidated or in replacement of those which are defaced, mutilated, torn or old, decrepit, worn out or where the pages on the reverse for recording transfers have been duly utilized, unless the certificate in lieu of which it is issued is surrendered to the company. The company may charge such fees as the Board thinks fit, not exceeding Rs.50/- per certificate issued on splitting or consolidation of share certificate(s) or in replacement of share certificate(s) that are defaced, mutilated, torn or old, decrepit or worn out. In such cases it shall be stated on the face of the share that it is "*Issued in lieu of Share Certificate No. _____*"

Sub-divided/replaced/on consolidation" and also that no fee shall be payable pursuant to scheme of arrangement sanctioned by the High Court or Central Government.

A company may replace all the existing certificates by new certificates upon subdivision or consolidation of shares or merger or demerger or any reconstitution without requiring old certificates to be surrendered. The details of such nature are to be entered in the Register maintained for this purpose.

Section : Five LAQ

Q.1 What are the different duties of a director of a company under the Companies Act, 2013?

(6 Marks)

Answer :

As per **Section 166 of the Companies Act, 2013** a director of a company is bound to perform the following duties as mentioned below:

- A director of a company shall act in accordance with the articles of the company,
- A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment,
- A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment,
- A director shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company,
- A director of a company shall not achieve or attempt to achieve any undue gain or advantages either to himself or to his relatives, partners or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company,
- A director of a company shall not assign his office and any assignment so made shall be void, If a director of a company contravenes the provisions of Section 166 such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Q.2 Discuss the importance of ethics.

(6 Marks)

Answer :

Importance of ethics

Ethics is a requirement for human life. It is our means of deciding a course of action. Without it, our actions would be random and aimless. There would be no way to work towards a goal because there would be no way to pick between a limitless numbers of goals. Even with an ethical standard, we may be unable to pursue our goals with the possibility of success. To the degree which a rational ethical standard is taken, we are able to correctly organize our goals and actions to accomplish our most important values. Any flaw in our ethics will reduce our ability to be successful in our endeavors.

A proper foundation of ethics requires a standard of value to which all goals and actions can be compared to. This standard is our own lives, and the happiness which makes them livable. This is our ultimate standard of value, the goal in which an ethical man must always aim. It is arrived at by an examination of man's nature, and recognizing his peculiar needs. A system of ethics must further consist of not only emergency situations, but the day to day choices we make constantly. It must include our relations to others, and recognize their importance not only to our physical survival, but to our wellbeing and happiness. It must recognize that our lives are an end in themselves, and that sacrifice is not only necessary, but destructive.

Section : Six LAQ

(4X3=12 Marks)

Q.1 Write Short Notes on Revocation of license under Section 8(6) of Companies Act.

(3 Marks)

Answer :

Revocation of License:

Section 8(6) provides that the Central Government may, by order, revoke the license granted to the company registered under this section-

- if the company contravenes any of the requirements of this section; or
- any of the conditions subject to which a license is issued; or
- the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest.

The Central Government shall direct the company to convert its status and change its name to add the words "Limited" or "Private Limited" to its name. No such order will not be passed without giving opportunity to the company of being heard. A copy of such order shall be given to the Registrar. The Registrar shall, without prejudice to any action taken, on application, in the prescribed form, register the company accordingly.

Q.2 Write Short Notes on Hazardous Process

(3 Marks)

Answer :

Hazardous Process

Section 2 (cb) of the Factories Act, 1948 defines the expression 'hazardous process' as any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes, or effluents thereof would-

- cause material impairment to the health of the persons engaged in or connected therewith, or
- result in the pollution of the general environment.

The State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry, specified in the said Schedule.

Q.3 Write Short Notes on Types of Ethics

(3 Marks)

Answer :

Type of ethics

Ethics may be divided into three types as follows:

- i) **Meta ethics**:- Meta ethics deal with the nature of moral judgment. It looks at the origins and meanings of ethical principles.
- ii) **Normative ethics**:- Normative ethics is concerned with the content of moral judgments and the criteria for what is right or wrong.
- iii) **Applied ethics**:-Applied ethics looks at controversial topics like war, animal rights and capital punishment

Q.4 Write Short Notes on Endorsement under Negotiable Instruments Act, 1881

(3 Marks)

Answer :

Endorsement:

Section 15 of the Negotiable Instrument Act provides that when the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negation on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as negotiable instrument he is said to indorse the same and is called the 'indorser'.

Therefore, endorsement (indorsement) means writing of a person's name (other than maker) on the face or back of an instrument or on a slip of paper attached thereto for the purpose of negotiation.

The person signing the instrument is known as endorser and the person in whose favour it is endorsed is known as endorsee.

Q.5 Write Short Notes on Coercion**(3 Marks)**

Answer :

COERCION: The term "Coercion" has been defined in **Section 15 of the Indian Contract Act, 1872** as the committing or threatening to commit, any act forbidden by the Indian Penal Code, or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement. **Explanation:** It is immaterial whether the Indian Penal Code is or is not in force in the place where the coercion is employed.

From the above definition of coercion given in section 15, consent is said to be caused by coercion, when it is obtained by any one of the following;

- (i) Committing or threatening to commit any act forbidden by Indian Penal Code;
- (ii) Unlawful detaining or threatening to detain the property of another person. Coercion may come from a person party to the contract or even third person not connected with the contract directly.

Section : D — Case Study Question

Q. 1 M/s TNT Pvt. Ltd. incorporated on 2nd March, 2009 carrying on business from the date of incorporation employing 70 persons. It's one of the renowned companies in the country.

There had been certain turn of events recently and the company has started to face challenges since mid of the year of 2020 due to COVID-19 pandemic. Like most parts of the world this company was also badly hit by this pandemic. A larger number of companies in India were affected directly or indirectly by this pandemic and complete lockdown. Due to this pandemic and losses, the number of employees reduced to 7 w.e.f. 15-07-2020 by M/s. TNT Pvt. Ltd. Mr. Jain who retired on 30-12-2020 was refused gratuity on the ground that the total number of employees is below 10. Another senior employee of the company Mr. T.K. Singhanian who retired on 31-12-2020. Mr. Singhanian, continued to occupy the quarter of the company for eight months after superannuation and as a result the company decided to forfeit the amount of gratuity of Mr. Singhanian. Mr. Arun Bharat an employee of the company who was frustrated with his work and willfully causing damage of a machine. M/s TNT Pvt Ltd. had to spend ₹95000 to get the machine in working condition and due to this damages M/s TNT Pvt. Ltd. withhold the gratuity of Mr. Arun Bharat. On the other hand one employee Mr. Jain retired on 30-11-20 was refused gratuity on the ground that the total number of employees is below ten. M/s TNT Pvt. Ltd. has a separate factory which is a seasonal establishment. Mr. Barun Bharat brother of Mr. Arun Bharat is employed in this factory. The factory was in operation for four months only during the financial year: 2020-21 due to Covid-19 pandemic. Mr. Barun Bharat was not in continuous service during this period and he has worked only 60 days.

(i) Examine the validity of decision taken by M/s TNT Pvt. Ltd. to forfeit the amount of gratuity of Mr. Singhanian in the light of the Payment of Gratuity Act, 1972.

(4 Marks)

Answer :

(i) The gratuity of an employee, whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, can be forfeited to the extent of the damage or loss so caused. The gratuity payable to an employee may be wholly or partially forfeited:

- (i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part or
- (ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

It is not a valid ground for forfeiture of entire gratuity. In such case, the company is entitled to charge the quarter rent as per rules and after adjustment of such charges, **Mr. Singhanian** is entitled to receive the balance amount of gratuity.

Q.2 M/s TNT Pvt. Ltd. incorporated on 2nd Mach,2009 carrying on business from the date of incorporation employing 70 persons. It's one of the renowned companies in the country.

There had been certain turn of events recently and the company has started to face challenges since mid of the year of 2020 due to COVID-19 pandemic. Like most parts of the world this company was also badly hit by this pandemic. A larger number of companies in India were affected directly or indirectly by this pandemic and complete lockdown. Due to this pandemic and losses, the number of employees reduced to 7 w.e.f. 15-07-2020 by M/s. TNT Pvt. Ltd. Mr. Jain who retired on 30-12-2020 was refused gratuity on the ground that the total number of employees is below 10. Another senior employee of the company Mr.T.K.Singhania who retired on 31-12-2020. Mr. Singhania, continued to occupy the quarter of the company for eight months after superannuation and as a result the company decided to forfeit the amount of gratuity of Mr. Singhania. Mr. Arun Bharat an employee of the company who was frustrated with his work and willfully causing damage of a machine. M/s TNT Pvt Ltd. had to spend `95000 to get the machine in working condition and due to this damages M/s TNT Pvt. Ltd. withhold the gratuity of Mr. Arun Bharat. On the other hand one employee Mr. Jain retired on 30-11-20 was refused gratuity on the ground that the total number of employees is below ten. M/s TNT Pvt. Ltd. has a separate factory which is a seasonal establishment. MrBarun Bharat brother of Mr. Arun Bharat is employed in this factory. The factory was in operation for four months only during the financial year: 2020-21 due to Covid-19 pandemic. Mr. Barun Bharat was not in continuous service during this period and he has worked only 60 days.

(ii) Examine the validity of decision taken by M/s TNT Pvt. Ltd. to withhold the amount of gratuity of Mr. Arun Bharat in the light of the Payment of Gratuity Act,1972.

(2 Marks)

Answer :

The Employer cannot withheld or forfeit gratuity of **Mr. Arun Bharat** since his services was not terminated for the damages caused by the worker as per Payment of Gratuity Act, 1972.

Q.3 M/s TNT Pvt. Ltd. incorporated on 2nd Mach,2009 carrying on business from the date of incorporation employing 70 persons. It's one of the renowned companies in the country.

There had been certain turn of events recently and the company has started to face challenges since mid of the year of 2020 due to COVID-19 pandemic. Like most parts of the world this company was also badly hit by this pandemic. A larger number of companies in India were affected directly or indirectly by this pandemic and complete lockdown. Due to this pandemic and losses, the number of employees reduced to 7 w.e.f. 15-07-2020 by M/s. TNT Pvt. Ltd. Mr. Jain who retired on 30-12-2020 was refused gratuity on the ground that the total number of employees is below 10. Another senior employee of the company Mr.T.K.Singhania who retired on 31-12-2020. Mr. Singhania, continued to occupy the quarter of the company for eight months after superannuation and as a result the company decided to forfeit the amount of gratuity of Mr. Singhania. Mr. Arun Bharat an employee of the company who was frustrated with his work and willfully causing damage of a machine. M/s TNT Pvt Ltd. had to spend `95000 to get the machine in working condition and due to this damages M/s TNT Pvt. Ltd. withhold the gratuity of Mr. Arun Bharat. On the other hand one employee Mr. Jain retired on 30-11-20 was refused gratuity on the ground that the total number of employees is below ten. M/s TNT Pvt. Ltd. has a separate factory which is a seasonal establishment. MrBarun Bharat brother of Mr. Arun Bharat is employed in this factory. The factory was in operation for four months only during the financial year: 2020-21 due to Covid-19 pandemic. Mr. Barun Bharat was not in continuous service during this period and he has worked only 60 days.

(iii) From the above decide whether Mr. Barun Bharat is entitled to claim gratuity under the provisions of the Payment of Gratuity Act,1972.

(4 Marks)

Answer :

For entitlement of gratuity one must work for at least 75% of the days on which the establishment was open and in operation. The factory was in operation for 120 days. One must work for 75% of 120 i.e. 90 days to claim gratuity. **Mr. Barun Bharat** is not entitled to gratuity, since he has actually worked for less than 75% of the number of days on which the establishment was in operation during such period.

Q.4 M/s TNT Pvt. Ltd. incorporated on 2nd Mach,2009 carrying on business from the date of incorporation employing 70 persons. It's one of the renowned companies in the country.

There had been certain turn of events recently and the company has started to face challenges since mid of the year of 2020 due to COVID-19 pandemic. Like most parts of the world this company was also badly hit by this pandemic. A larger number of companies in India were affected directly or indirectly by this pandemic and complete lockdown. Due to this pandemic and losses, the number of employees reduced to 7 w.e.f. 15-07-2020 by M/s. TNT Pvt. Ltd. Mr. Jain who retired on 30-12-2020 was refused gratuity on the ground that the total number of employees is below 10. Another senior employee of the company Mr.T.K.Singhania who retired on 31-12-2020. Mr. Singhania, continued to occupy the quarter of the company for eight months after superannuation and as a result the company decided to forfeit the amount of gratuity of Mr. Singhania. Mr. Arun Bharat an employee of the company who was frustrated with his work and willfully causing damage of a machine. M/s TNT Pvt Ltd. had to spend `95000 to get the machine in working condition and due to this damages M/s TNT Pvt. Ltd. withhold the gratuity of Mr. Arun Bharat. On the other hand one employee Mr. Jain retired on 30-11-20 was refused gratuity on the ground that the total number of employees is below ten. M/s TNT Pvt. Ltd. has a separate factory which is a seasonal establishment. MrBarun Bharat brother of Mr. Arun Bharat is employed in this factory. The factory was in operation for four months only during the financial year: 2020-21 due to Covid-19 pandemic. Mr. Barun Bharat was not in continuous service during this period and he has worked only 60 days.

(iv) Examine the validity of decision taken by M/s TNT Pvt. Ltd. for Mr. Jain to refuse to pay the gratuity since the number of employees reduced to seven w.e.f. 15-07-20 under the provisions of the Payment of Gratuity Act,1972.

(2 Marks)

Answer :

Payment of Gratuity Act provides that a shop or establishment to which this Act has become applicable shall continue to be governed by this Act in spite of persons employed therein at any time it has become so applicable falls below ten. Hence TNT Pvt. Ltd. cannot refuse payment of gratuity to **Mr.Jain**.