

LABOUR AND INDUSTRIAL LAWS

SOLVED PROBLEMS

(FROM PREVIOUS YEAR UNIVERSITY QUESTIONS)

I. THE INDUSTRIAL DISPUTES ACT, 1947

PROBLEM NO. 1

Sun Tea products Co. had its Branch office at Bangalore and Head Office at Chennai. A workman of Bangalore Office was terminated from service and the Trade Union of the Company raised an Industrial Dispute. Karnataka Government referred the matter to the Industrial Tribunal at Bangalore. The Management raised an objection stating that Karnataka Govt. was not the appropriate government to refer the dispute and hence the reference was bad. Decide.

ANSWER:

Sec. 2(a) of the Industrial Disputes Act, 1947 states: "Appropriate Government" means the Central Government in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, Banking company,

Insurance company etc. In relation to any other industrial dispute, the appropriate Government is the State Government.

In the above case, the Industrial dispute regarding the dismissal of a worker in Sun Tea Products Co. was referred by the Government of Karnataka to the Industrial Tribunal at Bangalore.

Though the Company has its Head Office at Chennai, the appropriate Government to refer the dispute for adjudication is the State Government as this Company is neither under the control of the Central Govt. nor is it a Public Sector Company viz. a Bank or an Insurance Co.

In view the above provision of Sec. 2(a) of the I.D. Act, the contention of the Management of Sun Tea Products Co. that Karnataka Govt. is not the appropriate Govt. for referring the dispute on hand, is not legally sustainable.



PROBLEM NO. 2

The appropriate Government referred an Industrial dispute which existed in a coffee estate for adjudication. During the pendency of the dispute, the Management and the Trade Union arrived at a settlement. Decide the legality of the settlement.

ANSWER:

Sec. 2 (p) of the Industrial disputes Act, 1947 states that “settlement” means a settlement arrived at in the course of conciliation proceeding. A written agreement between the employer and workman arrived at otherwise than in the course of conciliation proceeding is also conciliation.

Such a written agreement must be signed by the parties to the agreement in the prescribed manner. A copy of the agreement must also be sent to an officer authorised in this behalf by the Appropriate Government and to the Conciliation Officer.

Since the Management of the Coffee Estate and the Trade Union arrived at a settlement pending the completion of the conciliation proceeding, a copy of the Agreement mutually arrived at and signed, shall have to be sent to the Officer authorised by the Court which the Appropriate Government has referred the dispute to, as prescribed by the above section of the Act.

Therefore, this type of settlement is legal and binding on the parties concerned.

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PROBLEM NO. 3

On 25.11.2010, the workers of M/s. Murugan Transport, operating buses for public conveyance from Madurai to Tirunelveli issued a strike notice for the demand of higher wage. They went on strike from 6:00 AM on 6.12.2010 onwards. Decide the legality of the strike.

ANSWER:

As per the I Schedule of the Industrial Disputes Act, 1947, Transport (other than railways) for the carriage of passengers or goods, [by land or water] is a Public Utility Service. No person employed in a public utility service shall go on strike in breach of contract-

- (a) Without giving to the employer notice of strike within six weeks before striking;
- (b) Within fourteen days of giving such notice;

In the above case, the workers of M/s. Murugan Transport which operates buses for public conveyance is a public utility service provider.

The strike notice by the workers demanding higher wages was given on the 25th November, 2010 and the strike was commenced on the 6th December, 2010 in a span of 11 days. This violates the rule prescribed under the Act which states that the workers shall not go on strike without giving notice within six weeks before strike or within fourteen days of giving notice.

Therefore, the strike on the part of the workers of M/s. Murugan Transport is illegal.



PROBLEM NO. 4

An industrial dispute arose between the Management and the Union of the workmen of a Tea Estate. The Union requested the Govt. to refer the dispute for adjudication. But, the Govt. refused. After one year, the Govt. decided to refer the dispute for adjudication. Whether the reference is valid?

ANSWER:

Under Sec. 10 (1) of the Industrial Disputes Act, 1947, if the Appropriate Government is of the opinion that an Industrial dispute exists or is apprehended, it may refer it to the concerned Authority.

This means that the appropriate Government has discretion either to make reference or not of an industrial dispute for adjudication.

The exercise of this discretionary power is not uncontrolled. The appropriate Government is bound to record and communicate the reasons to the parties concerned for not referring the matter to the Authorities. The reasons should be relevant, supported by material evidence.

Reference is made to the case law , ‘O.N.G.C Madras Port Contract Employees’ Union Vs. The Management of Oil and Natural Gas Corporation Ltd., where order was given after declining the reference earlier, it was held by the Supreme Court that such order is subject to Judicial Review.

Going by the above decided case, in the instant case, the reasons adduced for reference made by the Government after one year is subject to Judicial Review.



PROBLEM NO. 5

Suresh is employed in a managerial capacity in Rajmangal Co. He claims to be a ‘workman’ under the Industrial Disputes Act, 1947. Is his claim justified?

ANSWER:

As per Sec. 2 (s) of the Industrial Disputes Act, 1947, ‘Workman’ means ‘any person (including an apprentice) employed in any Industry to do any manual,