BLOGS

Passage-Based Questions on Labour Law for CLAT PG

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The law is well settled that the determinative factor for “workman” is covered under section 2(s) of the I.D. Act, is the principal duties and functions performed by an employee in the establishment and not merely the designation of his post. Further, the onus of proving the nature of employment rests on the person claiming to be a “workman” within the definition of section 2(s) of the I.D. Act.

In the present case, there is no specific document adduced relating to the actual work and functions performed by the employee. In the absence of any concrete material to demonstrate the nature of duties discharged by the employee, the employment orders issued by the management will have to be taken into consideration and as per the same, the employee was appointed as Junior Engineer and was promoted as Assistant Engineer, on the administrative side.

It is the evidence of M.W.1 that the employee was supervising the work of two junior Engineers, who were working under him, which was also admitted by the employee in his cross examination, as W.W.1. Even according to the employee, the nature of duties and functions discharged by him was supervisory. As such, applying the pre-amended provision of section 2(s), since the employee was terminated from service on 08.10.2003 and was drawing a salary of more than Rs.1,600/-, he does not come within the definition of “workman”.

Therefore, we hold that the employee is not a “workman” as defined under section 2(s) and is not covered by the provisions of the I.D. Act. In view of the same, the order of the High Court upholding the finding of the Labour Court that the employee was a “workman” within the definition of post-amended section 2(s), is liable to be set aside.

Excerpt from Lenin Kumar Ray v. Express Publications (Madurai) Ltd., 2024 SCC OnLine SC 2987

1. Which of the following statements are true regarding the definition of workman as held in Lenin Kumar Ray v. Express Publications (Madurai) Ltd.?

I. The determinative factor for “workman” covered under Section 2(s) of the I.D. Act, is the principal duties and functions performed by an employee in the establishment.
II. Mere designation of the employee’s post is not to be considered.
III. The onus of proving the nature of employment rests on the management.

a. I and II
b. I and III
c. I only
d. All of the above

2. Which of the following sections of the Industrial Dispute Act deals with the definition of the “workman”?

a. Section 2 (g)
b. Section 2 (s)
c. Section 2 (p)
d. Section 2 (r)

3. Which of the following is NOT a relevant factor in determining whether a person is a workman?

a. Nature of duties
b. Employer’s designation of the employee
c. Actual functions performed
d. Degree of supervisory power

4. The burden of proving that an employee is a workman generally lies on:

a. Employer
b. Labour court
c. Government
d. Employee

5. Which category of employees is expressly excluded from the definition of workman?

a. Clerical employees
b. Skilled workers
c. Armed forces personnel
d. Operational employees

6. Which case clarified that medical representatives are not workmen unless their duties fall within Section 2(s)?

a. May & Baker v. Workmen

b. H.R. Adyanthaya v. Sandoz

c. Burmah Shell v. Staff Association

d. S.K. Verma v. Mahesh Chandra

7. Which of the following best describes a supervisory employee under labour law?

a. One who issues instructions occasionally

b. One who has authority over work and workers

c. One who performs only clerical tasks

d. One who works under supervision

8. Which of the following statements are true regarding the definition of workman?

I. An apprentice does not come under the definition of workman

II. Any person who performs manual, unskilled, skilled, technical, operational, clerical, or supervisory work for hire or reward is a workman

III. The definition includes employees who are dismissed, discharged, or retrenched.

a. I and II

b. I only

c. II and III

d. All of the above

9. Which of the following best reflects the judicial approach to the definition of workman?

a. Strict reliance on designation

b. Salary-based determination

c. Employer’s classification

d. Functional and duty-based interpretation

10. Assertion (A): Managerial employees are excluded from the definition of workman under the Industrial Disputes Act.

Reason (R): Section 2(s) specifically excludes persons employed mainly in managerial or administrative capacity.

a. Both Assertion (A) and Reason (R) are correct and R is the correct explanation of A.

b. Both A and R are correct but R is not the correct explanation of A.

c. A is correct but R is incorrect.

d. A is incorrect but R is correct.

11. Assertion (A): Designation given by the employer is decisive in determining whether an employee is a workman.

Reason (R): Courts emphasize the actual nature of duties performed rather than job title.

a. Both Assertion (A) and Reason (R) are correct and R is the correct explanation of A.

b. Both A and R are correct but R is not the correct explanation of A.

c. A is correct but R is incorrect.

d. A is incorrect but R is correct.

12. Assertion (A): The dominant nature test is used by courts to determine whether a person is a workman.

Reason (R): Courts examine the main duties performed when an employee performs mixed functions.

a. Both Assertion (A) and Reason (R) are correct and R is the correct explanation of A.

b. Both A and R are correct but R is not the correct explanation of A.

c. A is correct but R is incorrect.

d. A is incorrect but R is correct.

13. The dominant nature test to determine whether an employee is a workman or not implies that:

a. Only salary determines workman status

b. Occasional duties determine classification

c. The main duties performed by the employee determine status

d. Employer’s classification is final

14. Assertion (A): An employee performing mainly technical duties may qualify as a workman.

Reason (R): Technical employees are included within the categories mentioned in Section 2(s).

a. Both Assertion (A) and Reason (R) are correct and R is the correct explanation of A.
b. Both A and R are correct but R is not the correct explanation of A.
c. A is correct but R is incorrect.
d. A is incorrect but R is correct.

15. Assertion (A): Labour courts frequently examine evidence regarding job responsibilities in determining workman status.

Reason (R): Documentary evidence and witness testimony may reveal actual duties performed.

a. Both Assertion (A) and Reason (R) are correct and R is the correct explanation of A.
b. Both A and R are correct but R is not the correct explanation of A.
c. A is correct but R is incorrect.
d. A is incorrect but R is correct.

Answers

1. (A) The onus of proving the nature of employment rests on the person claiming to be a “workman”.
2. (B)
3. (B)
4. (D)
5. (C)
6. (B)
7. (B)
8. (C) An apprentice is a workman under Section 2(s).
9. (D)
10. (A)

11. (D)
12. (A)
13. (C)
14. (A)
15. (A)