

III LL.B. / V B.A., LL.B.,

FOURTH SEMESTER / EIGHTH SEMESTER

PAPER-VI- LABOUR LAWS

Unit I HISTORICAL PERSPECTIVES ON LABOUR:

1.1. labour through the ages - Slave labour - Guild system - division on case basis - labour during feudal days. 1.2. Colonial labour law and policy. 1.3. labour - capital conflicts: Exploitation of labour, profit, motive, poor bargaining power, poor working conditions unorganised labour, surplus labour, division of labour and super-specialisation, lack of alternative employment. 6.4. International Labour Standards and their implementation. 6.5. From Laissez faire to Welfare State: transition from exploitation to protection and from contract to Statute.

Unit II TRADE UNIONISM:

2.1. Labour Movement as a counter measure to exploitation - History of trade union movement in India. 2.2. Right to trade union as part of human right freedom of association, amalgamation, rights and liabilities dissolution. 2.3. Legal control and protection of trade union: registration, amalgamation, rights and liabilities, dissolution. 2.4. Problems: multiplicity of Unions, over politicization - intra-union and inter-union rivalry, outside leadership, closed shop and union-shop, recognition of unions.

Unit III COLLECTIVE BARGAINING:

3.1. Concept of collective bargaining. 6.2. International norms-conditions precedent - merits and demerits. 3.3. Bargaining process. 3.3.1. Negotiation 3.3.2. Pressurization: Strike and lockout, go slow, work to rule, gherao. 3.4. Structure of bargaining: Plant, industry and national levels. 3.5. Duration and enforcement of bipartite agreement. 3.6. Reforms in law.

Unit IV STATE REGULATION OF INDUSTRIAL RELATIONS:

4.1. Theoretical foundations: Social Justice, labour welfare, public interest productivity, productivity, industrial peace and development, price control. 4.2. Recognition of mutual arrangements. 4.2.2. Assistance to bipartite settlement :

Conciliation, voluntary arbitration, formulation of standing orders. 4.2.3. State prescription of machinery: reference for adjudication (the political overtones), the adjudicatory mechanisms (How do they differ from courts? Award and its binding nature, judicial review of awards. 4.2.4. State prescription of standards in layoff, strike, lockout, retrenchment, closure and transfer of undertakings. 4.3. The conceptional conundrum: industry, industrial disputes, workmen. 4.4.unfair labour practices.

Unit V DISCIPLINE IN INDUSTRY: RESTRAINTS ON MANAGERIAL PREROGATIVES:

5.1.Doctrine of hire and fire history of management's prerogative. 5.2.Fairness in disciplinary process: 5.2.1. Punishment for misconduct meaning of misconduct. 5.2.2. the right to know: the charge sheet. 6.2.3. the right to defend: domestic enquiry, notice, evidence, cross-examination, representation, unbiased inquiry officer and reasoned decision. 5.2.4. Prenatal (permission) and postnatal Approval) control during dependency of proceedings (5.33 of the I.D.Act).

Unit VI REMUNERATION FOR LABOUR: 6.1.Theories of wages:

Marginal productivity, subsistence, wages fund, supply and demand, residual claimant, standard of living. 6.2. Concepts of Wages (minimum wages, fair wages, living wages, need-based minimum wages).6.3.Components of wages: dearness allowance, principle of fixation. 6.4. Disparity in wages in different sectors - Need for rationalisation and national approach.6.5.Wage determining process - modes and modalities 6.5.1.unilateral fixation by employer.6.5.2.Bilateral fixation a.5.3.Conciliation, arbitration and adjudication. 6.5.4. Wage Board and Pay Commission. 6.5.5. principles of Wage fixation.6.5. Concept of bonus - Computation of bonus 6.7.Protection of Wages: Non-payment, delayed payment, unauthorised deductions remedial measures

Unit VII HEALTH AND SAFETY:

7.1. Obligations for health and safety of workmen- Legislative controls: Factory, mines, and plantations. 7.2. Employer's liability7.2.1. Workmen's compensation. 7.2.2. Employees' State Insurance 7.2.3. Liability for hazardous and inherently dangerous industries - Environmental protection.

Unit VIII LABOUR WELFARE :

8.1. Welfare provided by the employers and through bipartite agreements and by statutory prescription. 8.2. Provident Fund and family pension. 8.3. Gratuity. 8.4. Inter-state migrant workmen - regulation of employment and conditions of service. 8.5. Regulation of working hours: Statutory controls. 8.6. Women and labour force. 8.6.1. Equal Remuneration law, maternity benefits, protective provisions for women under factories, plantations and Mines laws. 8.7. Employment of young persons - prohibition of employment of children, regulation of employment of young persons.

Unit IX PROTECTION OF THE WEAKER SECTIONS OF LABOUR:

9.1. Triballabour: Need for regulation. 9.2. Beedi workers 9.3. Unorganised labour like domestic servants Problems and perspectives. 9.4. Bonded Labour: Socio-economic programmes for rehabilitation. 9.5. Contract labour - regulation. 9.6. Constitutional dimensions of labour standards.

PAPER - VII-INTERPRETATION OF STATUTES

Unit I INTRODUCTION:

1.1. Difference between Construction and interpretation. 1.2. Concept and power interpretation. 1.2.1. Literal Construction. 1.2.2. Other principles of interpretation. 1.3. GENERAL PRINCIPLES OF INTERPRETATION: 1.3.1. The Primary rule: Literal construction. 1.3.2. The other main principles of interpretation. 1.3.3. Reading words in their context the external aspect. 1.3.4. Reading words in context: the statutory aspect.

Unit II BENEFICIAL CONSTRUCTION AND RESTRICTIVE CONSTRUCTION:

2.1. Consequences to be considered. 2.2. Presumption against change in the common law 2.3. Mens rea in statutory offences

Unit III THEORETICAL OR IDEOLOGICAL APPROACHES TO INTERPRETATION:
3.1. Judicial Restraint. 3.2, Judicial activism 3.3. Juristic restrained 3.4. Juristic activism.

Unit IV PRESUMPTIONS REGARDING JURISDICTION: 4.1. Presumptions

against ousting established jurisdictions. 4.2. Presumptions against creating new and enlarging established jurisdictions 4.3. How for statutes affect the crown. FURTHER PRESUMPTIONS REGARDING JURISDICTION: 4.4.Territorial extent of British legislation. 4.5.How for statutes conferring rights affect Foreigners. 4.6.Presumption against violation of International law.

Unit V CONSTRUCTION TO AVOID COLLUSION WITH OTHER PROVISIONS, CONSTRUCTION MOST AGGEEABLE TO JUSTICE AND REASON:

5.1. Presumption against intending what is inconvenient or unreasonable. 5.2. Presumption against intending injustices or absurdity. 5.3. Presumption against impairing obligations, permitting advantage from ones own wrong. 5.4.Retrospective operation of statutes.

Unit VI EXCEPTIONAL CONSTRUCTION:

6.1. Modification of the Language to meet the intention. 6.2. Equitable construction.6.3.Strict Construction of penal Laws. 6.4. Statutes encroaching on rights or imposing burdens.6.5.Construction to prevent evasion. 6.6.Cons!ruction to prevent abuse of powers.

Unit VII SUBORDINATE PRINCIPLES:

7.1.Usage and contemparence exposit 7.2. Construction imposed by statute. 7.3.Construction of words in bonam pattern.7.4.Change of Language. 7.5.Understanding associate words in a commonsense, and the expression unique. 7.6. General words following more specific.7.7. Meaning of some particular expressions.

Unit VIII INTENTIONS ATTRIBUTED TO THE LEGISLATURE WHEN IT EXPRESSES NONE:

8.1. Imperative and directory and enhancementS.8.2.Absolute and qualified duties. 8.3.Impossibility of compliance. 8.4. Waiver. 8.5. Public and private remedies.

Unit IX STARE DECISIS:

9.1.The doctrine has inherited by us. 9.2. Techniques of innovation (subversion) of stare decises.9.3. Supreme Court's authority to over rule its own decisions

(Eg. Antulay Case). 9.4. Advisory jurisdiction and its import on precedent. 9.5. Prospective overruling in India. 9.6. Objections to judicial review as anti majoritarian.

Unit X STATUTORY INTERPRETATION AS ASPECTS OF JUDICIAL PROCESS:

10.1. Rules of statutory interpretation: their judge made character. 10.2. Legalism and rule of literal interpretation. 10.3. Creativity: Mischief and Golden Rule. 10.4. Self Discipline: Rule of construction in Fiscal and Criminal Statutes. 10.5. Technicality: Rules as to necessary and implied repeal: Rules for interpretation of codifying, consolidating and amending statute. 10.6. Values and interpretation.

Unit XI CONSTRUCTIONAL INTERPRETATION:

11.1. Differentiation from statutory' interpretation Rex Vs. Burah as example. 11.2. Literal interpretations. 11.3. Harmonious construction. 11.4. Reference to Constituent assembly debates. 11.5. Pith and substance 11.6. Occupied field. 11.7. Residuary power 11.8. Repugnancy 11.9. Amending power 11.10. Directive Principles as source of constitutional interpretation.

PAPER VIII- LAND LAWS INCLUDING CEILING AND OTHER LOCAL LAWS

Unit I Ownership of land - Doctrine of eminent Domain - Doctrine of escheat.

Unit II MOVEMENT OF LAW REFORMS:

2.1. Pre-Independence position - zamindari settlement - Ryotwari Settlement - Mahalwari system - Intermediaries - Absentee Landlordism - Large holdings. 2.2. Post-independence Reforms: 2.2.1. Abolition of zamindaries. 2.2.2. Laws relating to Abolition of Intermediaries.

Unit III LAWS RELATING TO ACQUISITION OF PROPERTY AND GOVERNMENTAL CONTROL AND USE OF LANDLAND ACQUISITION ACT OF 1994.

Unit IV LAWS RELATING TO CEILING ON LAND HOLDINGS:

4.1.Urban land ceiling. 4.2.Agricultural land ceiling.

Unit V LAWS RELATING TO TENANCY REFORMS:

5.1. Land to the Tillar 5.2. Rent control and protection against eviction.

Unit VI LAWS RELATING TO ALIENATION/ASSIGNMENT IN SCHEDULED AREAS:

Unit VII LAWS RELATING TO GRABBING

Unit VIII FOREST LAWS - CONSERVATION OF FOREST ACT.

PAPER IX -INTELLECTUAL PROPERTY LAWS

Unit I INTRODUCTORY:

1.1. The Meaning of Intellectual Property. 1.2.Competing rationales of the legal regimes for the protection of intellectual property.1.3.The main forms of intellectual property - Copy right - Trade marks, Patents, Designs - Geographical indications, Merchandise, Franchise and forms of unfair competition. 1.4. The competing rationalise for protection of rights 1.4.1.Copy right 1.4.2. trade marks 1.4.3.Patents 1.4.4.designs.1.5. introduction to the leading international instruments concerning intellectual property rights: the Berna convention. Universal Copy right convention, the Paris union, the world Intellectual property rights organization (WI PO) and the UNESCO, TRIPS, TRIMS, WTO.

Unit II SELECT ASPECTS OF THE LAW OF COPYRIGHT IN INDIA:

2.1. Historical evolution of the law. 2.2. Meaning of copyright. 2.3. Copyright in literary, dramatic and musical works. 2.4.Copy right in Musical works and cinematograph films. 2.5.Ownership of Copyright.2.6.Assignment of Copyright.2.7. Author's special Rights. 2.8.Notion of Infringement. 2.9.Criteria of Infringement. 2.10.Infringment of copyright by films of literary and dramatic works. 2.11.Importation of Infringement. 2.12.Fair use provisions. 2.12.Video piracy. 2.14.Aspects of Copyright Justice. 2.15. Remedies, especially the possibility of Anton Pillar Injunctive relief in India.

Unit III INTELLECTUAL PROPERTY IN TRADEMARKS:

3.1. The rationale of protection of trade marks as (a) and aspect of commercial and (b) of consumer rights. 3.2. Definition Conception of Trade Marks. 3.3. Registration. 3.4. Distinction between Trade Mark and Property Mark. 3.5. The Doctrine of Honest Concurrent user 3.6. The Doctrine of Deceptive Similarity. 3.7. Passing off and Infringement, Criteria of Infringement 3.8. Standards of proof in passing off action. 3.9. Remedies

Unit IV THE LAW OF INTELLECTUAL PROPERTY IN PATENTS:

4.1. Conception of patent. 4.2. Historical overview of the patents law in India. 4.3. Patentable Inventions with special reference to Biotechnology products entailing creation of new forms of life. 4.4. Process of obtaining a patent: Application, examination, opposition, and sealing of patents: general introduction. 4.4.1. The problem of limited *locus standi* to oppose, specially in relation to inventions having potential of ecological and mass disasters. 4.4.2. Wrongfully obtaining the invention. 4A. 3. prior publication or Anticipation. 4AA. Obviousness and the lack of Inventive Step AA.5. Insufficient description. 4.5. Rights and obligations of a patentee A.5.1. Patents as chose in action. 4.5.2. Duration of patent: Law and Policy consideration. 4.5.3. Use and exercise rights. 4.5A. Right to secrecy. 4.5.5. The notion of "abuse" of patent rights. 4.5.6. Compulsory Licenses. 4.6. Special Categories. 4.6.1. Employee Invention: Law and Policy Consideration. 4.6.2. Combination and selection patents A.6.3. International patents, Transfer of Technology, know-how and problems of self-reliant development. 4.6A. Biotechnology patents. (New varieties of plant breeds and medical plants) A.6.5. Patents in Nuclear power. 4.7. Infringement. 4.7.1. Criteria of Infringement: 4.7.2. Onus of proof 4.7.3. Modes of Infringement : The Doctrine of colourable variation. 4.7A. Defences in suits of infringement. 4.7.5. Injunctions and related remedies

UNIT-V INTELLECTUAL PROPERTY AND REMEDIES UNDER CRIMINAL LAW.

UNIT-VI CONSIDERATION OF SOME ASPECTS OF REFORM IN THE LAW OF INTELLECTUAL PROPERTY.

6.1. Information technology and exclusive marketing rights.

PAPER-X
LAW OF BANKING

1. The Nature and Development of Banking
 - 1.1. History of Banking in India - Evolution.
 - 1.2. Constitutional perspectives - Union List, entries 36,37,38 43, 44, 45 and 46 - State List, entry 30 of List-II
2. Relationship of Banker and Customer
 - 2.1. Banker, Banking business, Meaning of Customer, Types of Customers, Types of Accounts.
 - 2.2. Contract between Banker and Customer; General relation, Legal relation - Their rights and duties.
 - 2.3. Banker's lien
 - 2.4. Banking instruments: Bank Notes, Bankers Drafts, Deposit receipts, Letter of Credit, Indemnities, Traveler's cheques, Postal orders, Dividend Warrants, Bonds.
3. Law Relating to Banking Companies in India:
 - 3.1. The Banking Companies Act, 1949, Extent and application, Business of Banking Companies: Control and Management by Reserve Bank of India : Suspension of Business and winding up of Banking Companies: Special provisions for speedy disposal of winding up of proceedings.
 - 3.2. The Banking Regulation Act, 1948 : Extent and application Business of Banking companies, Provisions for winding up.
 - 3.3. Reserve Bank of India Act, 1934, Characteristics and Functions, Objectives, Legal status and organisational structure functions such as: Banking, Currency, Banker to Government, Exchange Control over non-banking companies and supervision of other Banks (See Sections 17, 18 and 42).

- 3.4. Cooperative Banking law: Banking Regulation (Cooperative Societies) Rules, 1966 - Cooperative Credit Society Act, 1904 and 1925.
4. Nationalisation of Banks: Banking Companies (Acquisition and Transfer of undertaking) Act, 1969 and 1970.
 - 4.1. Legislative competence for Nationalisation : Entries 43, 44 and 45 of List I, Entry 42 of List III, Entry 7 and 52 of List I, Entries 24,26,27 of List II, 33 of List III, Entries 54, 56 of List-I, Articles 19(1) (f), 19(5),31,31(1).
 - 4.2. Banks before and after Nationalisation : Growth, assets and Disabilities, efficiency and profitability, Recovery, Frauds in Banks, Bank Robberies.
5. Foreign Exchange Control and Banking for Non Resident Indians.
 - 5.1. FERA, 1974, Authorised Dealers in Foreign Exchange: Restrictions on dealing on payment (Sections 3 to 10, 13 to 17, 19,22,27)
6. Law Relating to Negotiable Instruments: Negotiable Instruments Act, 1881; Meaning; Kinds of Negotiable Instruments - Promissory Notes, Bill of Exchange, Holder· Holder in due course, parties, Negotiation, Presentment, Discharge from liability, Dishonour Noting and payment for honour of cheques, Crossing of Cheques, Pledge of stocks, shares, life policies, documents of title to goods Guarantee and hypothecation.
7. Reforms in Indian Banking Law: The Indian Banking Commission and Banking Laws; Committee of Government of India - A review of their Recommendations.

BOOKS RECOMMENDED FOR STUDY:

1. Paget - Law of Banking
2. Sheldon - Law of Banking
3. Gulati - Banking Companies Act
4. Maheswari· Banking law and practice
5. Ravi R. Mehta - Fundamentals of Banking
6. Promod Kumar Mukargee - Moderan Banking Theory
7. B.G. Papapolkar - Banking in India.

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