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64880

HOSPITALITY LAW AND HUMAN RESOURCE MANAGEMENT

Answer Key – Paper 2

Q.1.A. Fill in the blanks: 1 mark for each correct answer.

- a. Consideration;
- b. Strike;
- c. Bailment;
- d. Occupier;
- e. Adulteration.

Q.1.B. Match the following: 1 mark for each correct answer.

1. d; 2. C; 3 b; 4. E; 5. A.

Q.1. C. True or false: 1 mark for each correct answer.

- a. True;
- b. False;
- c. True;
- d. False;
- e. True.

Q.2. Each answer carries 5 marks maximum. The answer must be along the following lines:

Rights:

- a. Right of retainer: The agent has a right to retain money due to him in respect of his remuneration, expenses incurred or advances paid out of any sums received by him in the course of business.
- b. Right to receive remuneration: An agent is entitled to his agreed remuneration. In the absence of an agreement a reasonable remuneration.
- c. Right of lien: In absence of any contract to the contrary, an agent is entitled to retain goods, papers and other property whether movable or immovable belonging to the principal if any commission, disbursements or service charges in respect of the same, have not been paid to him by the principal.
- d. Right of indemnification: The agent has the right to be indemnified (secured and compensated) against consequences of all lawful acts done by him in exercise of authority conferred upon him.

Duties:

- a. It is the duty of an agent to carry out the work undertaken as per the directions given by the principal. In the absence of such directions the agent must act as per the custom that prevails in doing business of the same kind. If the agent acts otherwise and if there is any loss than he must repay for the same and if there is a profit he must account for it.

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- b. An agent is bound to carry out his work with reasonable care and skill as generally possessed by people engaged in similar business and has to be reasonably careful.
- c. An agent is bound to render proper accounts to his principal on demand.
- d. In case of difficulty an agent is bound to use all reasonable diligence in communicating with his principal and obtaining his instructions.
- e. An agent is not supposed to deal on his own account in the agency business without obtaining the consent of the principal and acquainting him with all the material circumstances that has come to his knowledge. If the agent acts on his own the principal can reject the transaction or he may claim any benefit which has resulted to the agent.
- f. An agent is bound to pay to his principal all the sums of money received on his account after deducting his commission, expenses incurred by him and advance money paid by him if any.
- g. It is the duty of the agent to protect and preserve the rights of the interest of the principal in case of death of the principal or in case if the principal becomes insolvent.
- h. It is the duty of the agent not to use any information that he obtains in the course of the agency against the principal. If he does so and the principal suffers a loss than the agent shall be bound to compensate the same.

b. Sources of Indian Law:

The main sources of modern Indian law, as administered by Indian courts, are as follows:

Customs and religion: Religion is a system of faith and belief in a superpower. It is a cultural system of behaviours and practice. Religion is one of the important sources of law in India. It plays a very important role in the Indian law. Hindu Laws are based on the code of Manu and the Mohammedan Laws are based on the holy Koran. In India the religious codes have become a part of the law of the land and they have been incorporated in the legal system. For example in Muslims more than one wife is allowed, charging or taking interest is not allowed etc. Customs are an integral part of religion and have played a vital role in making the laws. A custom is an observed course of conduct by people on a particular matter. When a particular course of conduct is followed again and again, it becomes a custom. Every custom does not become law.

Common Law: Refer to the previous explanation

Statutory Law: Refer to the previous explanation

English law: The English Law is the principal source of Indian Law. English Law originates from the following sources:

Even though the bulk of our law is based on and follows the 'English Law', yet in its application our courts have to be selective. It is only when the courts do not find a provision on a particular problem in the 'Indian Law' it may refer to the 'English Law'.

d. Differences between Contracts of Indemnity and contracts of Guarantee:

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1. In indemnity there are 2 parties - Indemnifier and the Indemnified. In guarantee 3 parties, surety, principal debtor and creditor.

2. Indemnity - the promisor is primarily and independently liable. In contracts of guarantee, the liability of the surety is collateral or secondary.

3. In Indemnity, the possibility or risk of any loss happening is the only contingency against which indemnifier undertakes to indemnify, while in guarantee there is an existing debt or duty, the performance of which is guaranteed by the surety

4. Indemnity, the indemnifier cannot sue the third party unless there be assignment of contract, while under guarantee, where the surety discharges the debt payable by principal debtor to creditor, the surety is entitled in law to proceed against the principal debtor in his own name.

d. Rights of a consumer:

- a. **The right to be protected** against marketing of goods and services, which are hazardous to life and property.
- b. **The right to be informed** about quality, quantity, potency, purity, standard and price of the goods and services as the case may be so as to protect a consumer against unfair trade practices.
- c. **The right to be assured** wherever possible access to a variety of goods and services at competitive prices.
- d. **The right to be heard** and to be assured that interest of the consumers will receive due consideration at appropriate forums.
- e. **The right to seek redressal** against unfair trade or restrictive trade practices or unscrupulous (dishonest) exploitation of consumers.

e. The six fundamental rights:

- a) Right to equality, including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles.
- b) Right to freedom which includes speech and expression, assembly (assembling peacefully on which state can impose certain restrictions), association or union or cooperatives, movement, residence, and right to practice any profession or occupation, right to life and liberty, right to education, protection in respect to conviction in offences which means no one can be awarded a punishment which is more than what the law of the land prescribes.
- c) Right against exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings;
- d) Right to freedom of religion, including practice, and propagation of religion, freedom to manage religious affairs, and freedom from religious instructions in certain educational institutes.
- e) Cultural and Educational rights preserving Right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice.
- f) Right to constitutional remedies for enforcement of Fundamental Rights.

f. Essentials of a valid contract: (The student must expand on the following):

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- Proposal and acceptance;
- Competency to contract;
- Intention to create legal relations;
- Free consent;
- Consideration;
- Legal objects.

Q.3. a. Functions of the HR Department:

- HR Planning which includes forecast of demand and supply of personnel; assessing the need for human resources in the light of organizational goals and making plans to ensure that a competent and motivated work force is employed;
- Job analysis and design; in depth study of the requirements of a job and its working conditions, grouping of activities in a way that encourages integration;
- Recruitment and selection of manpower at various levels; attracting qualified people to the organization and selecting from eligible candidates;
- Employee orientation and training to improve the performance of individuals and the groups within the organization;
- Performance and appraisal in the light of Job Evaluation: this is an ongoing activities where feedback is required to be given to the employees;
- Employee remuneration and placement/transfer/promotions: recognition and appreciation is important to employee morale ;
- Motivation and communication – including trade union dialogue; also suggestion systems in order to ensure employee participation in Management;
- Safety and welfare, including recreational facilities: legal and mandatory provisions must also be taken into account such as medical facilities, crèches and canteens under the Factories Act of 1948.
- Employee Information Systems and statistics: maintaining an up-to-date data base of all employees;
- Human Engineering and Human Resource Accounting.

b.

Definition: Job Analysis is defined as “ a detailed study of the various aspects of the job in order to analyse its essential features”. It is a primary study which must be undertaken in order to understand what the job entails. It is a process of collecting data on all aspects of a job.

Job Specification – also called Man Specification – is based on Job Description. It states the minimum acceptable human qualifications and qualities required for performing a job. Such requirements usually include the following:

- Educational qualifications;
- Professional qualifications;
- Practical experience required, if any;
- Personality and mental qualities required;
- Physical fitness;
- Interpersonal skills such as communicative ability, etc.

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Job Specification may be defined as a catalogue of various qualities that a person doing a job should possess. It is drawn up with the help of supervisory staff and behavior specialists.

c. Work Life Balance:

It is an initiative that companies all over the world have taken towards balancing the personal and professional lives of the employees for greater efficiency and loyalty. Though on the other hand no company has found a perfect mantra of balancing work and personal life. It continues to pose a challenge on the HR department. However, multinationals, information technology (IT) companies in India have been able to promote the balance between career, family and leisure-time better. Other sectors have also been increasingly promoting a work-life balance. Interestingly, most companies in India use benefits such as flexitimes, telecommuting, crèche facilities and concierge services as an attraction and retention strategy. Experts say companies should see the work-life balance as a business scheme since progressive companies carry business forward with employees and families.

d....The student must write a detailed note on Job specialization giving its various merits and demerits.

e. Challenges of HRM:

- Globalization : the opening up of foreign markets to international trade and commerce has had a tremendous impact on the way human resources are managed and businesses are run. Overseas job openings are available and so domestic employers have to compete with the overseas job market as well.
- Technology : Advances in computer technology have vastly increased the jobs that require considerable technological skill. Also, technology makes it possible for prospective employers and employees to get in touch with each other swiftly and easily. HRIS also makes data available to all.
- Increasing presence of women : Today, a vast percentage of the work force comprises of women employees and this is an important challenge to the Management.
- Virtual offices: Office space is now replaced by portable computers and mobile phones so as to enable employees to operate from locations other than the office. This has its upside as well as its downside for both employer and employee.
- Social responsibilities : today Management is all about service and responsibility to the society in addition to its main aim of profit maximization.

- f. It helps to track employee records as related to attendance, salary grades, positions held, promotions and transfers, training received, and disciplinary action, if any, taken;
It leads to faster and more accurate information processing;
At the time of recruitment, it helps to track applications, interviews, etc.,
It helps to plan for human resources – demand and supply forecast;
It helps in planning and budgeting for compensation packages, other fringe benefits and perquisites;
It helps Human resource Accounting and audit;
It helps in salary surveys and salary patterns as compared to other comparable Organizations;
It helps in planning Training Programmes as well as other motivational techniques for employees.

All in all, effective HRIS helps top Management to assess, review and plan for Personnel policies keeping the interest of human resources at heart.

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Q,4, a. Student must expand on the following:

- Receipt of applications ;
- Screening or short-listing of candidates for the preliminary interview;
- Testing of candidates: Intelligence tests, aptitude tests, personality tests, tests of skill, etc. all would depend on the job in question;
- Group discussions if necessary to see the leadership and communication ability of candidates;
- Second round of interviews with HR personnel;
- Final interview;
- Medical Examination of the selected candidates;
- Reference or background checks of the candidates;
- Offer letter with latest joining date.

b. Orientation:

This is also known as Orientation Training. It is given to new employees as an introduction to the Organization, the structure, the various employees, the nature of the job, conditions of service and other related information. Normally, an "Employee Handbook" is also handed over to the employee, which contains rules and regulations of service.

c. Absenteeism: Absenteeism is defined as failure to report to work. Every organization expects employees to be present in their respective workplaces as per the timings or schedules fixed by the management. Any deviation from the fixed timings or schedules entails a loss to the organization financially and otherwise. When employees fail to report for duty without prior intimation or approval the HR department faces a very big challenge because productivity is affected badly and it also reflects on the management capabilities of the HR department.

(Suggest ways to tackle the problem)

d. The rate of attrition in an Organization is known as labour turnover. Every organization strives to keep this turnover rate as low as possible.

Why do employees leave an Organization?

This is a very pertinent question which an Organization must pose in order to analyse the phenomenon of labour turnover.

- Is it the nature of the job?
- Is it the type of leadership and supervision being done?
- Could it be the level of motivation?
- If so, what factors are contributing towards this condition?

An Organization spends a lot of time, effort and money on recruitment, placement, training and development of the employee. When an employee leaves the Organization, there is a great deal of upheaval in the flow of work as well as monetary loss in terms of investment made on the outgoing employee as well as the costs of hiring a new employee.

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- e.... A trained person commits lesser operational mistakes and hence there is a marked improvement in the quality and quantity of work.
- As a result of training, the employees' chances of promotion, higher status in the Organization and better earnings are increased.
- The enthusiasm and morale of the employees goes up on account of the knowledge of better skills, newer methods and learning of advanced procedures of work.
- As a result of training, the overall attendance of the employee increases since he gets the satisfaction of a job performed well.
- A motivated employee will also be more loyal since he is aware of the interest of his employer in his growth and development.
- Trained employees are able to think of newer and better methods of job performance as a result of their proficiency and therefore research and development may take place as far as methods and procedures of work performance are concerned.

f... Definition: "Promotion is the upliftment of the employee from one level in the Organization to another level in the Organization, with higher status, and higher salary or a combination of both".

Promotion is an extremely effective way of showing appreciation for the work of an employee and rewarding him for it. It is a strong motivational technique which helps the employee to be even more ambitious, devoted and loyal to his employer since he knows that the employer is giving him return for his efforts.

Promotion is given on some scientific basis: the three main basis of promotion being-

- Promotion on the basis of merit;
 - Promotion on the basis of seniority or years of service;
 - Promotion on the basis of a combination of both of the above.
- (The student must expand on the above)

Q.5. a. HR Audit:

HRM evaluation refers to the procedures and processes that measure, evaluate and communicate the value of the HR practices to the Organization. In simple terms. HR Audit evaluates the effectiveness of the entire HR function.

HR Audit-

- Provides verifiable data on the HRM function;
- Clarifies the HR function's duties and responsibilities;
- Identifies critical HR problems;
- Helps reduce HR costs;
- Improves the status of the HR function;
- Helps review and improve the HRIS.

In all these cases, however, HR auditors depend on research and data. The major aspects of such research cover:



- Wage and salary surveys;
- Effectiveness of training efforts;
- Effectiveness of various recruitment sources;
- Recent industrial settlements;
- Job analysis;
- Job satisfaction surveys;
- Areas of high accident frequency, etc.

b. **Management by Objective (MBO):** The employee has a course to follow and a target to shoot for. A central feature of MBO is discussion about subordinates' performance, centered on results. In the words of George Odiorne MBO is defined as the process where the superior and the subordinate managers of an organization jointly define the common goals, define each individual's major areas of responsibility in terms of results expected of them and use these measures as guides in operating the unit and assessing the contribution of each of its members.

Advantages of an MBO:

- a) It facilitates effective utilization of human resources.
- b) It helps to set clear and achievable targets after careful consideration.
- c) It promotes overall development of an employee.
- d) It strengthens the bond between a manager and his subordinate.
- e) In MBO as goals are set as per KRA hence wasteful activities can be avoided.
- f) A manager can evaluate his/her subordinate objectively.
- g) In this process there are periodic reviews which can be changed to suit the needs of the company.

Pitfalls of MBO system:

- a) If too many objectives are set, confusion occurs.
- b) Too much paperwork is involved.
- c) It is forced into jobs where setting objectives is difficult.
- d) Rewards may not be tied to results sometimes.
- e) There may be too much emphasis on the short term goals.
- f) Superiors are not trained in the MBO process.

c. Job Rotation:

It implies systematic movement of employees from one job to another. The job remains the same but employees performing them shift from one job to another. With this, an employee is given an opportunity to perform different jobs, which enriches his skills, experience and ability to perform different jobs. Such rotation relieves the employee from boredom or monotony of doing a single task. He also gets variety of work, workplace and peers. The Management also gets employees who can do a variety of jobs to meet with contingencies of absence of some of them. However, the jobs will have to be more or less of the same nature as each other, since the employee will be qualified for them.

Job Enrichment:

In the past two decades much work has been done on making jobs more meaningful rather than using rotation and enlargement. This approach is known as job enrichment. It was developed by Frederick Herzberg. This approach focuses on higher order needs. It tries to design/redesign jobs in ways that help incumbents satisfy their need for growth, recognition and responsibility. The job is expanded vertically

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(giving a more elbow room) and employees are given additional higher responsibilities, pertaining to a variety of jobs, more control and greater decision making power that might previously not have been part of their job. According to Herzberg, employees are motivated by job enrichment as it enhances their feelings of self-worth. For example an assistant restaurant manager is given the additional responsibility of being an in-charge of the restaurant in the absence of his manager along with his regular responsibilities. Here there is a qualitative expansion of his job as he is now handling the higher responsibilities of the restaurant manager.

d. Effectiveness of Training:

It is not possible to say with definition whether training has been effective or not. The value of the training will be felt over a period of time by answering one or more of the following questions:

- Has the training resulted in improvement in the quality and quantity of work?
- Has the output and productivity increased?
- Have the number of errors reduced?
- Has the level of absenteeism gone down?
- Has the employee morale and motivation improved?

If one is able to answer these questions satisfactorily, one can say that the training has been effective.

e.....Adulteration:

1. If the article sold by a vendor is not of the quality demanded by the purchaser.
2. If the article contains any other substance which affects the substance or quality thereof.
3. If any inferior or cheaper substance has been substituted wholly or partly for the article that affects the quality of the product.
4. If any component of the article has been wholly or partly removed to affect the quality.
5. If the article has been prepared, packed or kept under unhygienic conditions whereby it has become contaminated or injurious to health
6. If the article consists, wholly or partly any filthy, putrefied (rotten), decomposed substance or is insect-infested or is otherwise unfit for human consumption.
7. If the article is obtained from a diseased animal.
8. If the article contains any poisonous or other ingredient which makes it injurious to health
9. If any colouring matter other than that prescribed in respect thereof is present in the article or if the amounts of the prescribed colouring matter in the article are not within the prescribed limits.
10. If the quality or purity of the article falls below the prescribed limits which makes it injurious to health.

f....General duties of the Occupier:

- a) He has to make provision for the maintenance of the plant and the systems of work in the factory and ensure that there is safety and no risk to health of workers.
- b) He has to ensure safety and health of the workers in connection with handling storage and transport of articles and substances.

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- c) He has to provide all the necessary information, instructions, training and supervision that is necessary to ensure good health and safety of all the workers.
- d) He has to ensure the overall maintenance of all the places within the factory and ensure safety and good health. He has to also make sure that access and egress (door) from such places are safe.
- e) He has to ensure adequate health, safety and welfare facilities for the workers.
- f) He is responsible to prepare and revise as often as may be appropriate, a written statement of his general policy with respect to health and safety of the workers. He has to organize and arrange to carry out the above policy. If there is any revision in the above policy he has to bring the same to the notice of the workers. In some cases as prescribed the occupier may be exempted from his duties.
