

FHT OU LLB

All In One Books

3YDC-4th Sem

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“in this all in one book ,for each subject we will cover following things for easy exam preparation”

- 1.Unit Syllabus Wise- Short Notes**
- 2.Model Answers to Case Law Questions**
- 3.Last Minute Revision Notes**

Labour Law-2 Unit-1

By Few Helping Turtles

Unit-1 Syllabus

The Remunerative Aspects – Wages – Concepts of wages – Minimum, Fair, Living Wages – Wage and Industrial Policies – Whitley Commission Recommendations – Provisions of Code on wages, 2019 – Timely payment of wages – Authorized deductions – Claims – Minimum Wages under the code of wages, 2019 – Definitions – Types of wages – Minimum rates of wages – Procedure for fixing and revising Minimum Wages – Claims – Remedy.

Chapter 1: Foundational Concepts of Wages

Remuneration is the cornerstone of the employer-employee relationship, representing the consideration for the labour and service provided by a worker. In the context of labour law, remuneration, commonly referred to as wages, is not merely a matter of contractual agreement but is a subject of extensive state regulation. The primary objective of this regulation is to ensure that workers receive fair and timely compensation for their efforts, protecting them from potential exploitation and ensuring a basic standard of living.

The concept of wage regulation is rooted in the principles of social justice, which are enshrined in the Constitution of India. It seeks to correct the inherent inequality in bargaining power between employers and individual workers. Labour law, therefore, provides a framework that governs the payment, quantum, and components of wages, ensuring that the economic progress of a nation translates into the well-being of its workforce. This unit explores the fundamental concepts of wages, from their basic definition to the various levels of wage standards recognized in industrial jurisprudence.

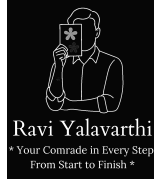
1.2 Defining 'Wages': A Comparative Analysis

The definition of 'wages' is critical as it determines the scope of various labour welfare legislations. Historically, different statutes provided slightly different definitions, leading to complexity. A comparative analysis between the definition under the earlier Payment of Wages Act, 1936, and the new Code on Wages, 2019, highlights the move towards uniformity.

A. Definition under the Payment of Wages Act, 1936 The earlier definition was primarily inclusive, covering all remuneration expressed in monetary terms. It included any sum payable on account of the termination of employment, but it specifically excluded certain items like the value of house accommodation, employer's contribution to pension or provident funds, and travel allowances. This led to situations where a significant part of an employee's total compensation package was not considered 'wages' for statutory purposes.

B. Definition under the Code on Wages, 2019 The Code on Wages, 2019, introduces a more standardized and comprehensive definition. It establishes a three-part structure:

- **Inclusions:** Wages include all remuneration such as basic pay, dearness allowance, and retaining allowance.
- **Specific Exclusions:** The definition explicitly excludes components like statutory bonus, house rent allowance, employer's contribution to provident fund, and gratuity.



Case Law Model Answer- Labour Law2

**** These are model answers, so read these to get an idea on how can we attempt these case law questions in the semester exams, then write your own answers by including what we read from above subject notes**

Q. The management of Prasad Industries Ltd. has terminated the services of Faculty, citing “loss of confidence” without conducting any domestic enquiry. Discuss the validity of such termination.

1. Issue

Is the termination of an employee by the management on the ground of “loss of confidence” legally valid if it is done without conducting a domestic enquiry and without providing any objective basis for such a decision?

2. Rule

The validity of a termination based on “loss of confidence” is governed by the principles of natural justice and has been extensively interpreted by Indian courts. While the term is not explicitly defined in statutes like the **Industrial Disputes Act, 1947**, its application is subject to rigorous judicial scrutiny.

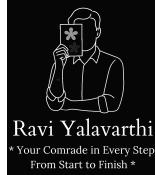
A. Principles of Natural Justice: A core principle of Indian administrative and labour law is *audi alteram partem*, which means "let the other side be heard." Any action that has adverse consequences for an individual, such as the termination of their employment, must be preceded by a fair and just procedure. This typically involves:

- Providing notice of the charges against the employee.
- Giving the employee a reasonable opportunity to present their defence.
- Holding an impartial enquiry into the allegations.

Termination of service is a punitive measure that attaches a stigma to the employee's career. Therefore, resorting to such a step requires adherence to these principles.

B. Judicial Precedents: The Supreme Court of India has consistently held that "loss of confidence" cannot be a subjective and arbitrary assessment by the employer. It must be based on objective facts and credible material.

- In the landmark case of **L. Michael & Anr. vs. M/s. Johnson Pumps India Ltd.**, the Supreme Court established that the loss of confidence must be genuine and not a cloak for arbitrary dismissal. The Court held that the employer's belief must be based on a rational and objective foundation. The employer must be able to present evidence to the Labour Court/ Tribunal to justify this loss of confidence if the termination is challenged.



Revision Notes- Labour Law2

By Few Helping Turtles

6 Mark Questions		
S. No	Topic	Key Points
1	Unorganized Sector	Refers to enterprises owned by individuals or self-employed workers engaged in the production or sale of goods or services, with fewer than 10 workers. Key Issues: Lack of job security, irregular wages, absence of social security benefits. Legislation: The Unorganized Workers' Social Security Act, 2008, aims to provide social security to these workers.
2	Industrial Disputes Code, 2020	Part of the four new Labour Codes. It consolidates and amends laws relating to Trade Unions, conditions of employment in industrial establishments, and the investigation and settlement of industrial disputes. Key Features: New conditions for legal strikes, provision for a re-skilling fund for retrenched workers, and a new structure for grievance redressal.
3	Occupational Diseases	Diseases contracted as a direct result of exposure to risk factors arising from work activities. Legal Framework: Covered under the Employee's Compensation Act, 1923 and the ESI Act, 1948. Schedule III of the Employee's Compensation Act lists specific diseases (e.g., silicosis, asbestosis) for which compensation is payable if the worker was employed in a specified process.
4	Gratuity	A statutory lump sum payment made by an employer as a reward for an employee's long and meritorious service. Governing Law: The Payment of Gratuity Act, 1972. Eligibility: Payable on termination of employment (superannuation, retirement, resignation) after at least 5 years of continuous service. Exception: The 5-year service rule is waived if termination is due to death or disablement.
5	Social Security Legislation	A set of laws designed to provide a safety net and protect employees from contingencies like sickness, maternity, employment injury, old age, and death. Key Acts: ESI Act, 1948; EPF Act, 1952; Payment of Gratuity Act, 1972; Maternity Benefit Act, 1961. These are now being consolidated under the Code on Social Security, 2020 .
6	Bonus	A share in the profits of an establishment paid to employees. Governing Law: The Payment of Bonus Act, 1965. Key Concepts: • Eligibility: Based on salary and days worked in a year. • Full Bench Formula: A method to calculate the "available surplus" for bonus distribution. • Set-on & Set-off: A mechanism to carry forward surplus (set-on) or deficit (set-off) of the allocable surplus to ensure stability in bonus payments across different years. • Recovery: Can be recovered as an arrear of land revenue.
7	Retrenchment	The termination of a workman's service by the employer for any reason whatsoever, other than as a punishment, voluntary retirement, superannuation, or continued ill-health. Governing Law: Industrial Disputes Act, 1947. Conditions: Requires notice (or wages in lieu), payment of retrenchment compensation, and adherence to the "last come, first go" principle.
8	Industrial Tribunal	A judicial body constituted by the government under the Industrial Disputes Act, 1947, to adjudicate industrial disputes on matters such as wages, bonus, and conditions of service. Its decisions, known as "awards," are binding on the parties.