

Question No.1

(A) The pay of the employee shall be fixed as under:-

<u>Date</u>	<u>Pay</u>	<u>Pay- Scale</u>
1.10.2014	26590/-	10900-34800 (Grade Pay 4850)(Given).
1.2.2015	27640/-	10900-34800 (Grade Pay 5100)(On promotion).
1.4.2015	26590/-	10900-34800 (Grade Pay 4850)(On reversion).
31.8.2015	26590/-	10900-34800 (Grade Pay 4850) (On premature retirement).

(i) **Calculation of Pension**

Average of Last 10-months Basic Pay

<u>11/2014 to 1/2015</u>	= 26590 X 3	= 79770
<u>2/2015 to 3/2015</u>	= 27640 X 2	= 55280
<u>4/2015 to 8/2015</u>	= 26590 X 5	= 132950

Average of last 10-months = 268000 / 10 = 26800/-

Since average of last 10-months basic pay is more than the last pay drawn, Pension will be calculated on this average pay **(F.Circular-18/2009)**

Monthly basic pension (50%) = 26800/2 = 13400/-

Weightage of 5-years is to be given as per PSEB Services (Premature Retirement Regulations, 1982(Reg.4) **(As clarified vide F. Circular No.1/2014)**

Total qualifying Service 21+5 = 26-years

(i) **Basic Pension**

Full Pension(50% of Pay)is admissible after 25-years of qualifying service(F.Circular-4/2012) . So his monthly **Basic Pension** will be Rs.13400/-

(ii) **D.C.R.G.**

No. of Half-years of Qualifying Service = 26 X 2 = 52

Emoluments for the purpose of D.C.R.G.=

Last Pay drawn + DA on the date of retirement i.e. 31.8.2015

= 26590+31642 (119%) = Rs. 58232/-

D.C.R.G. = Emoluments X No. of half years (Max. 66) (Restricted max. Amount Rs .10-lacs)

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= 58232 X 52 = Rs.757016/-

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(iii) Commuted value of Pension

Maximum Pension to be commuted
 = 30% of Basic Pension fixed as on 31.8.2015 i.e. Rs. 13400/- = Rs. 4020/-
 Commuted Value= Number corresponding to age next birthday i.e. 52-years=8.768

Commuted value = 4020 X 8.768 X 12
 = Rs. 4,22,968/- (15-Marks)

Answer-1 (b)

The rates of Old age allowance admissible to Pensioners w.e.f. 1.12.2011 as per Finance Circular No.5/2012 dt. 2.3.2012 are as under:-

<u>Age of Pensioner/Family Pensioner</u>	<u>Addition of quantum of Pension/Family Pension</u>
From 65-years to Less Than 70-years	= 5% of revised basic pension/Family Pension.
From 70-years to less than 75-years	= 10% of revised basic pension/Family Pension.
From 75-years to less than 80-years	= 15% of revised basic pension/Family Pension.
From 80-years to less than 85-years	=25% of revised basic pension/Family Pension.
From 85-years to less than 90-years	=35% of revised basic pension/Family Pension.
From 90-years to less than 95-years	=45% of revised basic pension/Family Pension.
From 95-years to less than 100-years	=55% of revised basic pension/Family Pension.
From 100-years or more	=100% of revised basic pension/Family Pension.

(5-marks)

Date	Journey	K.Ms by own car	Car Mileage @ Rs.6/- per K.M.	Air Fare Rs.	Taxi Charges. Rs.	Daily Allowance Rs.	Remarks
4.6.2016 to 6.6.2016	Patiala to Amritsar & Back	530	3180/-	-	-	90+90+120=300/-	75% of Daily Allowance on 4.6.2016 & 5.6.2016 is payable due to lodging in PSPCL Rest House.
11.6.2016	Patiala to Jagraon & Back	280	1680/-	-	-	120/-	
12.6.2016	Patiala to Chandigarh & Back	170	1020/-	-	-	120/-	
18.6.2016 to 21.6.2016	Patiala to Chandigarh to Kotkatta & Back	140	840/-	18500/-	1600/-	150 X 3+120 =570/-	50% Daily Allowance from 18.6.2016 to 20.6.2016 in Kolkata is payable due to free lodging & boarding (see note below car Mileage beyond 1000 KMs in a month.
25.6.2016	Patiala to Ludhiana & back	210	1260/-	-	-	120/-	(See note below Car Mileage beyond 1000 KMs in a month)
27.6.2016	Patiala (Local)	20	-	-	-	-	No. T.A. payable being local journey.
Total	If KMs beyond 1000 KMs are approved by HOD.	1350	7980/-	18500	1600	1230	G. Total:- Rs. 29310/-
Total	If KMs beyond 1000 KMs are not approved by HOD.	1350	6000/-	18500/-	1600/-	1230/-	G.Total= Rs.27330/-

Note:- As per memo No.250/950 dt. 1.1.2010 of Secretary/General Section-1, monthly limit of 1000 KMs for official journeys by own car by Additional Superintending Engineer beyond 1000 KMs in the months of 6/2016 are payable only, if approved by HOD, otherwise mileage by own car shall be restricted to 1000 KMs. in a month.

(15-Marks)

Answer-2(b)

As per Note-I(c) below Regulation-13 of PSPCL Provident Fund Regulations, 2010, when a subscriber is reported as missing, the interest shall be allowed after one year of declaration of missing i.e. registration of FIR, upto the end of the month preceding that in which payment is made or upto the end of the six months after one year of registration of FIR, whichever of these period be less.

(5-Marks)

Answer-3(a)

(i) Quarantine Leave

As per appendix 8(ii) of M.S.R. Part-2 Vol-1, Quarantine leave is leave of absence from duty necessitated by orders not to attend office in consequence of the presence of infectious diseases in the family or household of a Board employee. Such leave may be granted by the Head of the Office on the certificate of a Medical or Public Health Officer for a period not exceeding 21-days or in exceptional circumstances, 30-days. Any leave necessary for quarantine purposes in excess of this period shall be treated as ordinary leave. Quarantine leave may also be granted, when necessary, in continuation of other leave, subject to the above maximum. **(5-Marks)**

(ii) Child Care Leave

PSPCL vide memo No. 73430/73500 dated 8.10.2012 of CE/HRD, PSPCL, Patiala issued the instructions regarding Child Care Leave for female employees which are as under:-

- 1) Female employees can avail one year (365 days) Child Care Leave during whole service for minor children (Below 18-years).
- 2) This leave can be given for maximum two children for their care during examination or illness proof for illness/examinations should also be submitted by the employee.
- 3) During this leave, leave salary as admissible during earned leave is admissible.
- 4) Child care leave can be taken in more than one spell which should not be more than three in a calendar year.
- 5) This leave cannot be sanctioned less than 15-days.
- 6) This leave is not admissible to will full absent female employee.
- 7) Child Care leave account is maintained on following proforma:-

Period of child care leave taken		Balance of Child Care leave		Signature and designation of Head Office/Certifying officer.
From	To	From	To	

- 8) Before availing the Child Care leave, sanction of competent authority is required.
- 9) Competent authority can reject/cancel the Child Care leave in public interest.
- 10) Child care leave is not admissible to suspended employee,. It is also not admissible to daily wage/work charge employees. **(5-Marks)**

iii) Commutated Leave

As laid down in Regulation 8.54 (c) of M.S.R. Vol.-I Part-I-Commutated leave not exceeding half the amount of half pay leave due may be granted to a Board employee on medical certificate only subject to the following conditions:-

- i) Commuted leave during the entire service shall be limited to a maximum of 240-days.
- ii) When commuted leave is granted, twice the amount of such leave shall be debited against the half pay leave due;
- iii) Half pay leave upto a maximum of 180 days shall be allowed to be commuted during the entire service where such leave is utilized for an approved course of study certified to be in the public interest by the leave sanctioning authority:-

Provided that no commuted leave may be granted under these regulations unless the authority competent to sanction leave has reason to believe that the Board employee will return to duty on its expiry, and provided further that no commuted leave may be granted unless it has been applied for at least 15 days at a time.

(5-Marks)

iv) Study Leave

As laid down in Regulation 8.59 of M.S.R. Vol-I Part-I- Leave may be granted to Board employee on such terms as may be prescribed by general or special orders of the competent authority to enable them to study scientific, technical or similar problems or to undergo special courses of instruction. Such leave is not debited against the leave account.

(5- Marks)

Answer-4 (a)

(i) **True**-As laid down in Note 2 below Regulation 5.4 of M.S.R. Vol-1 Part-1.A Board employee on transfer shall not be allowed house rent allowance at the new station of posting in any case till official accommodation at the previous station of posting is vacated by him.

(4-Marks)

(ii) **False**-As laid down in Note 4 below regulation 7.3 (5) of M.S.R. Vol-1,Part-1. The period spent under medical treatment by a Board employee under suspension, shall be treated as period spent under suspension and the subsistence allowance as admissible under the regulations shall be given for that period. On re-instatement, it shall be specified whether, it is to be treated at 'duty' or non-duty with reference to the provisions of the above regulation unless the Board employee concerned desires that it may be converted into leave of the kind due and admissible.

(4-Marks)

(iii) **False** -As laid down in Note 4 below Regulation 2.33 of M.S.R. Vol-1 part-1. No honorarium should be granted to Gazetted Officers engaged on work in connection with the setting up of companies, corporations etc. which forms a part of their normal duties even if they work beyond office hours.

(4-Marks)

Answer-4 (b)

(i) As per provision laid down in sub-regulation 3 of Appendix-8 of M.S.R. Vol-1 Part-2, the action is not in order as it can be granted for a place upto 36-hours recall.

(4-Marks)

(ii) The GPF subscription cannot be changed during course of the year on account of any increase or decrease in pay. As such, request of the employee cannot be entertained. (Regulation 13 (4) (i) of PSPCL Provident Fund Regulations-2010.)

(4-Marks)

Answer-5(a)

As per Finance Circular No.18/2011 dt. 5.1.2011 & as amended vide Finance Circular No.16/2013 dt. 9.4.2013, categorization of PSPCL employees for the purpose of T.A. claims based on grade pay of employees is as under:-

<u>Category</u>	<u>Grade Pay</u>
I	Rs. 10000 & above
II	Rs. 7600 To 9999
III	Rs. 5400 to 7599
IV	Rs. 3800 to 5399
V	Below Rs. 3800

As per Finance Circular No.43/2010 dt. 22.2.2010, categorization of PSPCL employees for the purpose of L.T.C. claims is as under:-

<u>Category</u>	<u>Grade Pay</u>
I	Rs. 10000 & above
II	Rs. 7600 To 9999
III	Rs. 5000 to 7599
IV	Rs. 3800 to 4999
V	Below Rs. 3800

(5-Marks)**Answer 5(b)**

As per M.S.R. Part-I, Vol-I rule 9.17 & 9.18, A Board employee who does not join his post within his joining time is entitled to no pay or leave salary after the end of the joining time. Wilful absence from duty after the expiry of joining time may be treated as misbehavior.

a) A competent authority may, in any case extend the joining time admissible under these regulations.

b) Within the prescribed maximum of thirty days, the appointing authority may, in case of Board employees under their control extend necessary in the following circumstances:-

i) When the Board employee has been unable to use the ordinary mode of travelling or not withstanding due diligence on his part, has spent more time on the journey than is allowed by the regulations; or

ii) When such extension is considered necessary for the public convenience or for the saving of such public expenditure as a caused by un-necessary or purely formal transfers.

iii) When the regulations have, in any particular case operated harshly, as for example when a Board employee has through no fault on his part missed a steamer or fallen sick on the journey.

(5-Marks)**Answer 5(c)**

(i) As laid down under Provision (i) and (ii) of Reg.7.2 (1) (a), the amount of subsistence allowance may be increased by a suitable amount not exceeding 50 percent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Board employee.

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(ii) The amount of subsistence allowance may be reduced by suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged due to reasons to be recorded in writing, directly attributable to the Board employee.

Answer 5(d)

(5-Marks)

Mr. A is eligible to get Rail fare of Rs. 7000/- as L.T.C. as per Regulation-37 of T.A. Regulation-37 of T.A. Regulations, 1972 (M.S.R. Vol-III), but he is not eligible to get leave encashment of 10-days to avail LTC to his home town in the light of Finance Circular No.27/2014 dt. 1.12.2014. Therefore, he will get Rs. 7000/- only.

(5 -Marks)

Model Solution to Question No.1:-

1(a):- As per Works Regulations Schedule-C , Section-II, General Conditions of Contract no.2.28(d)

The Accepting officer without prejudice to any other right or remedy which shall accrue thereafter to pspcl shall cancel the contract in case:-

- Assigns, transfer, **sublet** or attempts to assign, transfer or sub let any portion of the work without the prior approval of the Accepting officer.
Whenever the accepting officer exercise this authority to cancel the contract under this condition, he may complete the work by any means at the contractor's risk and expense provided always that in the event of cost of completion(as certified by engineer in charge which is final and conclusive) being less then the contract cost, the advantage shall accrue to Pspcl and that if the cost of completion exceeds the moneys due to the contractor under the contract, the contractor shall either pay the excess amount ordered by the engineer in charge or the same shall be recovered from the contractor by the other means.

Engineer in charge will have powers to take possession of the site and any materials constructional plant, implements stores etc. thereon and or carry out the work by any means at the risk and cost of contractors.

In case the pspcl completes the works under the provisions of the condition, the cost of such completion to be taken into account in determining the excess cost to be charged to the contractor under this condition shall consist of the cost of the material purchased and/or labour provided by the pspcl with an addition of such percentage to cover superintendence and establishment charges as may be decided by the engineer in charge whose decision shall be final and conclusive.

If the contractor fails to pay the excess sum within a period of 30 days, the engineer in charge shall have the right to sell any or all of the unused contractor's material, constructional, plant, implements ,temporary buildings etc. and apply the proceeds of sale thereof towards the satisfaction of any sum due from the contractor under if thereafter be any balance outstanding from the contractor it shall be recovered in accordance with the provisions of the contract or by other means available.

The contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any material or entered into the commitments or made any advances on account of or with a view to the execution of the works or the performance of the contract or contractor shall not be entitled to recover or be paid any sum for any work actually performed under the contract, unless and until the engineer shall have certified the performance of such work and the value payable in respect thereof and the contractor shall only be entitled to paid the value so certified after adjusting the amount due from him.

(M-10)

1.(b) As per Accounts Service Class -III regulations Appendix-B (Referred to in Regulation 4 and 15)

Competent Authority to impose minor penalty is CAO/CA/EIC/GM/CE.

So, SE was not competent to decide to withhold one increment of Revenue Superintendent without Future effect. (M-5)

1.(c) As per employees conduct Regulations-1971 Reg-9(2)

No PSPCL employee shall except with previous sanction of PSPCL or of prescribed authority or except in bonafide discharge of his duties participate in a radio Broadcast or contribute an article or write a letter to a newspaper or periodical either in his own name or anonymously or pseudonymously or in name of any other person.

Provided that, no such sanction shall be required if such contribution, broadcast or writing is of purely literary, artistic or scientific character.

As SrXEn/IT Patiala has written editorial on software applications, which is scientific in nature so, prior approval/sanction of PSPCL or prescribed authority was not required.

(M-5)

Model Solution to Question No.2:-

2(a) As per Regulations of conduct of Business First Schedule –A-24

“Cases relating to sale of stores including sale/disposal of scrap and unserviceable material beyond the competency of Whole Time Members i.e exceeding one crore shall be referred to Board for decision.”

As the proposal for Sale of obsolete store is valuing Rs.2 crore so the proposal need to be referred to Board instead of WTDs.

(M-3)

2(b).As per Regulations of conduct of Business

“Suit means a suit by or against or affecting the PSPCL or a PSPCL employee in his official capacity or which is brought or defended by a PSPCL employee at PSPCL’s expenses and includes an appeal and application for revision or review or execution of decree and any Type of Legal Proceedings in which the PSPCL or PSPCL employee in his official capacity is a party or has any interest.”

(M-4)

2(c) As per Regulations of conduct of Business Part-III- Sr. No.28

“In the event of any material departure or deviation in the observance of these regulations the Secretary Shall personally Bring the matter to the notice of Chairman.” (M-3)

2(d) As per “Delegation of Powers” Page no.43

General Conditions Delegations for purchase of material are further subject to the following General conditions requiring careful observance.

- (a) The Powers are to be exercised in each case subject to the Annual Purchase Limit fixed by PSPCL.
- (b) Provided further that:-
 - (i) Purchases are made against Sanctioned Estimates.
 - (ii) Budget Grant for the Year is not exceeded.
 - (iii) The material procured is to be actually consumed on the works during the same financial years or at the most within the 1st quarter of the next Financial Year.
 - (iv) The annual requirement of each item is worked out in advance with a view to arrange their procurement at the level of the competent Purchasing Authority and the quantities are not split up so as to enable their purchases at lower competent Level.
- (c) The items of Stores prescribed by PSPCL to be purchased centrally are to be purchased by store purchase committee and no powers are delegated to other Authorities. Store purchase committees may however permit the field SEs to Purchase certain items

- themselves where store purchase committee consider it to be appropriate in the interest of Work.
- (d) Items Borne on PSPCL rate contract shall be purchased from the supplier against valid rate contract.
 - (e) Material Borne on Rate contract ordinarily should not be purchased from open market, but in exceptional circumstances of extreme urgency, where the firms on Rate contract unusually delay the supplies or supply the material in defective condition or not in conformity to specifications it may be treated as 'Not on Rate contract'. Provided the approval of next higher authority is obtained if the lowest rate appears to be more than rate contract Price for a particular item. This shall be applicable in case of purchases to be made by field officers only.
 - (f) Items borne on Rate contracts of Director General of Supplies and Disposal/Punjab Govt. may also be purchased under other procedure prescribed in purchase Regulations. This shall be applicable only in cases of Central Purchases only.
 - (g) Tenders/Quotations shall invariably be opened by The Tendering Officer in the presence of another officer and tenderer who present themselves on the occasion.
 - (h) Register of Tenders received shall be maintained and signed by all officers present at time of opening of tenders.
 - (i) The power of purchases against work would also be exercisable in cases where permission To take up the work in anticipation of sanction of estimate has been obtained.
 - (j) The annual purchase limit for purchases against specific works shall not be applicable in case of purchases made for the construction of Works against Projects provided that:-
 - (i) Purchases are made against Sanctioned Estimates.
 - (ii) Budget Grant for the Year is not exceeded.
 - (iii) The material procured is to be actually consumed on the works during the same financial years or at the most within the 1st quarter of the next Financial Year.
 - (iv) The annual requirement of each item is worked out in advance with a view to arrange their procurement at the level of the competent Purchasing Authority and the quantities are not split up so as to enable their purchases at lower competent Level.

Model Solution to Question No.3:-

3(a) As per memo no.21054/21754 dt.18.2.1999 of Estt. Gazzeted-2 point E

“Normally, recommendation of DPC shall be accepted by the competent Authority. However, the final authority shall remain with the appointing Authority (In case the DPC is different than the appointing Authority) who is competent to approve promotion under the service regulations.”

In view of the above provisions/regulations/instructions Appointing Authority is competent to promote the officer **inspite of the fact that DPC has not recommended the promotion.**

(M-5)

3(b) As per memo no.21054/21754 dt.18.2.1999 of Estt. Gazzeted-2 point B

“If an employee is on leave or absent, the period of which is regularised later on, the ACR of such period is not written. To evaluate this period in Promotion cases, the ACRs for this period may be taken as Average of ACRs of previous year and ensuing year.” (M-4)

3(c) As per Employees Punishment and Appeal Regulation no.6

“ When an employee is suspected of being concerned in the the embezzlement of PSPCL money and is placed under suspension, the authority competent to order his dismissal may direct that unless he furnishes security for reimbursement of said moneys to the satisfaction of his immediate official superior, the payment of any sums due to him by pspcl on the date of his suspension shall be deferred until such time as the said authority passes final orders on the charges framed against him.

Provided that such an employee shall be entitled to the payment of a subsistence allowance in respect of the period for which, the admissible emoluments, if any, are withheld.” (M-5)

3(d):- As per Employees Punishment and Appeal Regulation no.4(2):-

"Any employee shall be deemed to have been placed under suspension by an order of appointing authority:-

(a) With effect from the date of his detention, if he is detained in custody whether on a criminal charge otherwise, for a period exceeding forty eight hours.

The deemed suspension of an employee is operative for the period of custody only. Once the period of custody is over, the appointing authority should carefully consider his continued suspension even beyond the period of custody depending upon the merits of case under investigation.

(b) With effect from the date of his conviction, if in event of conviction for an offence, he is sentenced to a term of imprisonment exceeding forty eight hours and is not forthwith dismissed or removed or compulsory retired consequent to such conviction."

The period of forty eight hours referred to in clause(b) of this sub-regulation shall be computed from the commencement of imprisonment after the conviction and for this purpose, intermittent period, if any, shall be taken into account. (M-6)

Model Solution to Question No.4:-

4(a):- As per Employees Punishment and Appeal Regulation no.26(2):-

In case of an appeal against an order imposing any of penalties specified in Regulation 5 or enhancing any penalty imposed under the said regulation, the appellate authority shall **consider:-**

- (a) Whether the procedure laid down in these regulations has been complied with and if not, whether such non compliance has resulted in the violation of any provision of the constitution of India or in failure of justice;
- (b) Whether the findings of the punishing authority are warranted by the evidence of the record; and
- (c) Whether the penalty or enhanced penalty imposed is excessive, adequate, inadequate or severe;
- (d) Whether the facts on which the order was based, have been established;
- (e) Whether the facts established afford sufficient ground for taking action and pass orders;
 - (i) Confirming, enhancing, reducing, or setting aside the penalty; or
 - (ii) Remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case;

Provided that:-

- (i) If the enhanced penalty which the appellate authority proposed to impose is one of the penalties specified in clause (v) to (ix) of regulation 5 and an enquiry under regulation 8 has not already been held in the case, the appellate authority shall subject to the provisions or regulations 14 itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of regulations 8 and thereafter, on a consideration of the proceedings of such inquiry, make such orders as it may deem fit;
- (ii) If the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of regulation 5 and an inquiry under regulation 8 has already been held in the case, the appellate authority shall make such orders as it may deem fit; and
- (iii) No order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity as far as may be in accordance with provisions of Regulation 10 of making a representation against such enhanced penalty.

(M-10)

4(b):- As per "Works Regulations 1997" Reg-8(B)

Mobilisation Advance:- In case of works exceeding Rs. One crore mobilisation Advance can be considered if so requested by the contractor in his bid, on the following terms & conditions:-

- (i) Advance will be upto 7.5 % OF THE NET VALUE OF THE Work(Value after deducting the cost of material issued by pspcl) and interest bearing. Interest will be charged at principal lending rate of RBI at reducing amount of the advance.
- (ii) The advance shall be given against irrevocable bank guarantee (number to be decided by CE) valid for the period of contract. In case of extension of contract agreement period , validation of Bank Guarantee of the balance amount, one month prior to its expiry will be the sole responsibility of the contractor otherwise without referring to the contractor, the PSPCL will be within rights to encash the Bank guarantee.

(M-5)

4(c):- As per memo no.6686/7356 /IRP-35 dated 2.2.2012 SC/ST person on migration from the state of his origin to another state will not lose his status as SC/ST but he will be entitled to the concessions/benefits admissible to the SC/ST from the state of his origin and not from the state where he has migrated" In view of these instructions reservation benefits are not admissible to those SC/ST person who migrated from other state to punjab State.

(M-5)

Model Solution to Question No.5:-

5(a):- As per purchase Regulations Schedule 'E' (Referred to in Regulation-11) no.12:-

Force Majeure:- During the pendency of contract/Purchase order, if the performance in whole/part by either party or any obligation there under, is prevented/delayed by causes arising out of strikes/ lock outs etc. beyond their reasonable control, neither of the two parties shall be made liable for loss or damages due to delay or failure to perform the contract during the currency of force Majeure conditions, provided that the happening is notified in writing (with documentary proof) within 30 days from the date of the occurrence.

The supplies shall be resumed under the contract as soon as practicable after the happening (event) ceases to exist.

In view of above regulations/condition the decision of the competent Authority to cancel the PO is not correct.

(M-6)

5(b) As per Regulation 19 of Purchase Regulations:-

Processing Of Tenders:-

- (i) The tenders as are found valid at time of opening shall be studied and compared with the requirement of NIT/Tender specifications for assessing their suitability from technical and delivery angles.
- (ii) A comparative statement shall be prepared showing the quoted and comparative prices on an equitable basis as per NIT/Tender specifications.
- (iii) The scrutiny of tenders shall be done by Authorised officers/officials and comparative statements shall be prepared and signed by them.
- (iv) The comparative and other statements and proposals for acceptance of tender shall be made as per guidelines, if any, approved by the PSPCL from time to time.
- (v) The comparative statement shall be checked by another officer/official of higher Rank and countersigned by him in token of such checking. In case of CPO, procurement cell of TRW, Design Directorate etc. the comparative statement shall also be checked/Pre-Audited by an officer of Accounts organisation, wherever provided/nominated and duly signed by him as a token of check/pre-Audit.
- (vi) The proposals for acceptance of tenders shall be prescribed in noting sheets in single file system. Where the competent Authority is a committee the file shall be seen by members in circulation and the case shall be decided in a meeting. In urgent cases decision may be taken in circulation.

- (vii) **Where the competent Authority is the BOD/WTD a detailed memorandum shall be submitted by the concerned CE. All such cases shall be scrutinised by the concerned purchase committee before putting up to BOD/WTDs.**
- (viii) Names of manufacturers/suppliers to whom the tender documents were not issued shall be indicated in the purchase proposal.
- (ix) Offers which do not quote ceiling on price variation should be loaded at standard rate of 10% per Annum for the duration of the contract with proportionate percentage being determined for part of year.
- (x) The lowest rate of technically acceptable tenderer should be compared with updated rate against previous tender enquiry. In case the lowest acceptable quoted rate is higher than the updated rate then the matter should be examined thoroughly to ascertain that no pooling has been done and in such event negotiations should be done with the lowest bidder. (M-10)

5(c) As per Schedule 'C' (Referred to Regulation-11) 1.2

Tenders to be invalidated:- The tenders must be complete in all respects. Conditional, incomplete or not properly sealed tenders and tenders received late due to any reason whatsoever will be treated as invalid and will be rejected. (M-4)

EXAM

Model Solution

1/19

Departmental Examination for AM/HR

Solution of Session 12/2016

Paper-111

(ACTS AND LABOUR LAWS)

Ans 1 (a) As per Section 11 of the Right to Information Act, 2005, the provision regarding Third Party Information is as under:

(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
- (4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision

Ans. 1(b) The objectives and reasons for the introduction of Micro, Small and Medium Enterprise Development Act 2006 are as under:-

Section-9 -The Central Government may, from time to time, for the purposes of facilitating promotion and development and enhancing the competitiveness of micro, small and medium enterprises, particularly of the micro and small enterprises, by way of development of skill in the employees, management and entrepreneurs, provisioning for technological up-gradation, provide marketing assistance or infrastructure facilities and cluster development of such enterprises with view to strengthening backward and forward linkages specify, by notification, such programme guidelines or instructions, as it may deem fit.

Section-10- The policies and practices in respect of credit to the micro, small and medium enterprises, shall be progressive and such as may be specified in the guidelines or instruction, issued by the Reserve Bank, from time to time, to ensure timely and smooth flow of credit to such enterprises, minimise the incidence of sickness among and enhance the competitiveness of such enterprises.

Section-11- For facilitating promotion and development of micro and small enterprises, the central Government or the state Government may, by order notify from time to time, preference policies in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries or departments, the case may be or its aided institutions and public sector enterprises.

Section-12- There shall be constituted by notification, one or more funds to be called by such name as may be specified in the notification and there shall be credited thereto any grants made by the Central Government under section 13.

Section-13- The Central Government may after due appropriation made by Parliament by law in this behalf credit to the Fund or Funds by way of grants for the purposes of this Act, such sums of money as that Government may consider necessary to provide.

- Section-14-
- (1) The Central Government shall have the power to administer the Fund or Funds in such manner as may be prescribed.
 - 2) The Fund or Funds shall be utilised exclusively for the measures specified in sub section (1) of section 9
 - 3) The Central Government shall be responsible for the coordination and insuring timely utilisation and release of sums in accordance with such Criteria as may be prescribed.

Ans 2(a) The Consumer Protection Act provides for a three tier Consumer Disputes Redressal Agencies. These are: District Consumer Disputes Redressal Forum in the District, State Consumer Disputes Redressal Commission at the state level and the National Consumer Disputes Redressal Commission at the national level.

As per the Consumer Protection Act, 1986 a complaint can be filed in:

District Consumer Disputes Redressal Forum (DCDRF): If the value of the claim is upto ` 20 lakh

State Consumer Disputes Redressal Commission (SCDR): If the value of the claim exceeds ` 20 lakhs but is within ` one crore.

National Consumer Disputes Redressal Commission (NCDRC) If the value of the claim exceeds ` one crore.

On receipt of a complaint, a copy of the complaint is to be referred to the opposite party, directing him to give his version of the case within 30 days. This period may be extended by another 15 days. If the opposite party admits the allegations contained in the complaint, the complaint will be decided on the basis of materials on the record. Where the opposite party denies or disputes the allegations or omits or fails to take any action to represent his case within the time provided, the dispute will be settled in the following manner:-

I. In case of dispute relating to any goods : Where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, a sample of the goods shall be obtained from the complainant, sealed and authenticated in the manner prescribed for referring to the appropriate laboratory for the purpose of any analysis or test whichever may be necessary, so as to find out whether such goods suffer from any other defect. The appropriate laboratory' would be required to report its finding to the referring authority, i.e. the District Forum or the State Commission within a period of forty- five days from the receipt of the reference or within such extended period as may be granted by these agencies.

The District Forum / State Commission may require the complainant to deposit with it such amount as may be specified towards payment of fees to the appropriate laboratory for carrying out the tests. On receipt of the report, a copy thereof is to be sent by District Forum/State Commission to the opposite party along with its own remarks.

In case any of the parties disputes the correctness of the methods of analysis/test adopted by the appropriate laboratory, the concerned party

will be required to submit his objections in writing in regard to the report. After giving both the parties a reasonable opportunity of being heard and to present their objections, if any, the District Forum/Slate Commission shall pass appropriate orders.

II. In case of dispute relating to goods not requiring testing or analysis or relating to services: Where the opposite party denies or disputes the allegations contained in the complaint within the time given by the District Forum / State Commission, it shall dispose of the complaint on the basis of evidence tendered by the parties. In case of failure by the opposite party to represent his case within the prescribed time, the complaint shall be disposed of on the basis of evidence tendered by the complainant

Ans 2(b) Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed.

Provided that the State commission may entertain an appeal after expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filling it within that period.

(Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty per cent of that amount of twenty five thousand rupees, whichever is less.)

Ans 2(c)

A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by:

- a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided.
- b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;
- c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested or
- d) the Central or the State Government, as the case maybe either in its individual capacity or as a representative of interests of the consumers in general.

2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.

3) On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:

Provided that a complaint shall not be rejected under this sub-section unless an opportunity of being heard has been given to the complainant:

provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

4) Where a complaint is allowed to be proceeded with under sub-section(3) the District

Forum may proceed with the complaint in the manner provided under this Act:

Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

Ans: 2(d) As per Employee Provident Fund Act, if an employee desirous to contribute an amount higher than 12% of his salary, then he can do so but it does not become obligatory for the employer to pay anything above than 12%. So in this case, he can contribute 12% of salary as EPF contribution and 8% as voluntary contribution but cannot demand that employer shall also contribute.

Ans-3 (a) As per Section 2 (47) of the Electricity Act 2003- " Open Access" means the non-discrimination provision for the use of transmission lines or distribution system or associated facilities with lines or system by any licensee or consumer or a person engaged in generation in according with the regulations specified by the Appropriate Commission.

Ans-3(b) Cognizance of offences:- As per sec.43 of The Air Prevention and Control of Pollution Act, 1981

- (1) No court shall take cognizance of any offence under this Act except on a complaint made by-
 - (a) a Board or any officer authorized in this behalf by it: or
 - (b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Board or officer authorized as aforesaid.
and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
- (2) Where a complaint has been made under clause (b) of sub-section (1), the Board shall, on demand by such person, make available the relevant reports in its possession to that person.

Provided that the Board may refuse to make any such report available to such person if the same is, in its opinion, against the public interest.

Ans-3(c) Every person to whom consent has been granted by the State Board under sub-section (4) of the provisions of the Air (Prevention and Control of Pollution) Act, 1981 shall comply with the following conditions, namely:-

- (i) the control equipment of such specification as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on.
- (ii) the existing control equipment, if any shall be altered or replaced in accordance with the directions of the State Board.
- (iii) the control equipment referred to in clause (i) or clause (ii) shall be kept at all times in good running condition.
- (iv) chimney, wherever necessary, of such specification as the State Board may approve in this behalf shall be erected or re-erected in such premises.
- (v) such other conditions as the State Board may specify in this behalf and.
- (vi) the conditions referred to in clauses (i), (ii) and (iv) shall be complied with within such period as the State Board may specify in this behalf:

Provided that in the case of a person operating any industrial plant in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months.

Provided further that-

- (a) After the installation of any control equipment in accordance with the specifications under clause (i) or
- (b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause (ii) or
- (c) after the erection or re-erection of any chimney under clause (iv)
no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the previous approval of the State Board.

Ans-4(i) Safety Officer:- As per Factory Act 1948, under Sec 40B

- (1) In every factory-
 - (a) wherein one thousand or more workers are ordinarily employed, or
 - (b) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk or bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory, the occupier shall, if so, required by the State Government by notification in the Official Gazette, employ such number of safety Officers as may be specified in that notification.
- (2) The duties, qualifications and conditions of service of Safety Officer shall be such as may be prescribed by the State Government.

Ans-4 (ii) Occupier:- As per Factory Act, Sec 2(n)

Occupier of a factory means the person who has ultimate control over the affairs of the factory. Provided that:

- (i) In the case of a firm or other association of individuals any of the individual partners or members thereof shall be deemed to be the occupier;
- (ii) in the case of a company, any one of the directors shall be deemed to be the occupier.
- (iii) In the case of a factory owned or controlled by the Central Govt. or any State Govt. or any Local Authority, the person or persons appointed to manage the affairs of the factory by Central/State Govt. or the Local authority as the case may be shall be deemed to be the occupier.

Ans-4 (iii) Occupational diseases

The diseases specified in Section 3 (2) schedule-III of the Workmen's Compensation Act, 1923 is deemed to be an accidental injury caused by accident arising out of and in the course of the employment. These diseases are called occupational diseases, Schedule-III is divided in three parts i.e. part A, part B & part C. Section 3(4) provides that a workman would not be entitled to claim compensation in respect or diseases other than occupational disease unless the disease has arisen out of and in the course of his employment.

Ans-4 (iv) As per RTI Act, 2005 Information means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

Ans-4 (v) Record (RTI Act 2005)

As per RTI Act, 2005 record includes:-

- (a) any document, manuscript and file;
- (b) any microfilm, microfiche and facsimile copy of a document;
- (c) any reproduction of image or images embodied or any other device
- (d) any other material produced by a computer or any other device

Ans 5(a) PROVISIONS REGARDING THE WELFARE OF WORKERS

Following are the provisions under the Factories Act 1948 regarding the welfare of workers:

1. Washing. In every factory adequate and suitable facilities for washing shall be provided and maintained. They shall be conveniently accessible and shall be kept clean. There must be separate provisions for male and female workers.-Sec. 42.

2. Storing and drying. The State Government may make rules requiring the provision of suitable facilities for storing and drying clothing.-Sec. 43.

3. Sitting. Sitting facilities must be provided for workers who have to work in a standing position, so that they may take rest when possible. When work can be done in a sitting position efficiently the Chief Inspector may direct the provision of sitting arrangements. Sec. 44.

4. First aid. Every factory must provide first aid boxes or cupboard. They must contain the prescribed materials and they must be in charge of persons trained in first aid treatment. Factories employing more than 500 persons must maintain an ambulance room containing the prescribed equipment and in charge of the prescribed medical and nursing staff.-Sec. 45.

5. Canteens. Where more than 250 workers are employed, the state Government may require the opening of canteen or canteens for workers. Rules may be framed regarding the food served, its management etc.,...-Sec. 46.

6. Shelters. In every factory where more than 150 workers are employed there must be provided adequate and suitable shelters or rest rooms and a lunch room (with drinking water supply) where workers may eat meals brought by them. Such rooms must be sufficiently lighted and ventilated and must be maintained in a cool and clean condition. The standards may be fixed by the State Government. -Sec. 47,

7. Creches. In every factory where more than 30 women are employed, a room shall be provided for the use of the children (below 6 years) of such women. The room shall be adequate size, well lighted and ventilated, maintained in a clean and sanitary condition and shall be in charge of a woman trained in the care of children and infants. The standards shall be laid down by the State Government. Sec. 48.

8. Welfare officers. Welfare officers must be appointed in every factory where 500 or more workers are employed. The State Government may prescribe the duties, qualifications etc. of such officers. Sec. 49.

9. Rules. The State Government may make rules regarding the welfare of workers.-Sec. 50.

Ans-5 (b)

The various penalties imposable under The Electricity Act 2003 are as under.

Section 135. (Theft of Electricity):- Shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

Provided that in a case where the load abstract, consumed, or used or attempted abstraction or attempted consumption or attempted use-

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity.

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity.

Section 136. (Punishment for receiving stolen property):- shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Section 137 (Punishment for receiving stolen property):- shall be punishable with imprisonment of either description for a term which may extend to three years or with fine or with both.

Section-138 (Interference with meters or works of licensee):- shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a daily fine which may extend to five hundred rupees.

Section-139 (Negligently breaking or damaging works):- shall be punishable with fine which may extend to ten thousand rupees.

Section-140 (Penalty for intentionally injuring works):- shall be punishable with fine which may extend to ten thousand rupees.

Section-141 (Extinguishing public lamps): shall be punishable with fine which may extend to two thousand rupees.

Section-142 (Punishment for non- compliance of directions by Appropriate Commission):shall, pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first direction.