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JUDICIARY EXAMS QUESTION PAPER

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Haryana Judicial Service

Mains Examination, 1988

Question Paper

HARYANA CIVIL SERVICE JUDICIAL EXAMINATION, 1988

Paper I Civil Law

Time: 3 hrs.

Max. Marks: 200

Note:

(1) Attempt any eight questions.

(2) Marks carried by each question on its part are indicated as its end.

Q. 1. (a) Comment on the statement that an execution court cannot go behind the decree.

(b) A plaintiff gives notice under section 80 of the Civil Procedure Code and institutes a suit before two months but is allowed to withdraw the same with liberty to file a fresh suit. Is he entitled to file a fresh suit without a fresh notice?

(c) Notice is given by A under section 80 of the Civil Procedure Code of a proposed suit. A dies before the institution of the suit. Does the notice by A ensure for the benefit of his legal representative?

Q. 2. (a) Discuss the doctrine of constructive res judicata.

(b) A sues B to recover certain property belonging to the estate of C, alleging that his (A's) father had been adopted by C's brother D, to whom the property descended on C's death. The suit is dismissed on the ground that the adoption is not proved. A then sues B to recover the same property claiming it as C's Bandhu. Is the suit barred as res judicata?

(c) A, alleging that he is the adopted son of X sues B to recover certain property granted to him by X under a deed and forming part of the estate of X. The court finds that A is not the adopted son of X, but that he is entitled to the property under the deed and a decree is passed in favour of A. Will the finding that A is not the adopted son of X operate as res judicata in a subsequent suit between A and B in which the question of adoption is again put in issue?

Q. 3. (a) What is a suit of a civil nature? Give a few examples.

(b) A obtained a decree *ex parte* against B, and in execution of the decree brought the properties of B to sale and himself became the purchaser. On appeal by B, the appellate court set aside the decree and remanded the suit for rehearing. Then B applied for restitution. While that application was pending, the suit was heard and again decreed. A then contended that as the suit had been decreed no restitution could be granted. Is the contention tenable?

(c) An application is made to a court of first appeal to admit an appeal from the original decree after the expiration of the period of limitation. Even though the court has the power, on sufficient cause being shown, to admit the appeal, it refuses to do so holding in the exercise of its discretion that there did not exist sufficient cause for not presenting the appeal within the prescribed time. Can this be a ground for second appeal?

Q. 4. (a) Distinguish between judicial and extra-judicial confession.

(b) Discuss fully the evidentiary value of retracted confession. Illustrate your answer.

Q. 5. (a) What is dying declaration? Discuss fully its evidentiary value. Can an accused person be convicted on the basis of dying declaration alone?

(b) If a person making a dying declaration happens to live, can the declaration be admitted in evidence? If so, what will be the value of such statement in law?

Q. 6. (a) On whom does lie the burden of proof in criminal cases? Is the standard of proof in civil and criminal cases the same? Discuss.

(b) P was the wife of X. Two months after the death of X she marries Y. Five months after the marriage a son Z is born to P. Who is legally the father of Z?

Q. 7. (a) What are the principles on the basis of which specific performance of a contract is decreed or refused?

(b) State whether specific performance of the following contracts can be obtained:—

- (i) a contract to marry,
- (ii) a contract to lend money on a mortgage.

(iii) a contract by a guardian to purchase immovable property on behalf of minor.

Q. 8. (a) Distinguish between rectification and rescission of a contract.

(b) What is specific performance with a variation?

(c) Distinguish between prohibitory and mandatory injunctions. On what principles are temporary injunctions granted?

Q. 9. (a) What are the essentials of a valid offer?

(b) A makes an offer to B for sale of a radio to B for Rs. 200 only. Next day he sells the radio to C and this fact comes to the knowledge of B from his friends. Can B still accept the offer of A?

(c) A gave some gold to a goldsmith named B. The goldsmith put the gold in his safe and posted a watchman outside the room. In a raid by dacoits on the house of the goldsmith, along with his other property A's gold was also taken away by the dacoits. Is B liable to A to pay the value of the gold?

Q. 10. (a) Discuss (i) promissory estoppel and (ii) fundamental breach of contract.

(b) A person named A entered a famous shop of jewellers at Delhi. He selected a few pieces of ornaments including a diamond ring. After settling the price of the ornaments he gave a cheque of that amount to the jeweller by putting the signature of one R, a famous man of Delhi, on the cheque. Thereafter he stated to the jeweller that all the ornaments were needed to be given in present to his prospective daughter-in-law in the marriage of his son and therefore, they could be sent to him later after the jeweller had got the cheque encashed. However, he expressed the desire to take the diamond ring immediately as the same was to be given at the time of engagement on that very day. The jeweller had heard of R but had never seen him. Relying on the statement of A he let him take the diamond ring with him, A pledged that the same day for Rs. 2000 only with B. Can the jeweller claim the ring from B?

Q. 11. (a) Comment on the statement that dissolution involves a change in the relation of partners but does not end partnership.

(b) Distinguish between condition and warranty and give two illustrations of each.

(c) A contracts to sell to B all the grain that may be produced on his farm. The entire crop is lost due to failure of rains. Who shall suffer the loss?

Q. 12. (a) 'The relation of partnership arises from contract and not from status.' Discuss.

(b) A gave his new woollen trouser to a laundry for cleaning. On the laundry receipt it was written that in no circumstances the launderer would be liable for any loss beyond 5% of the cost of the clothe. Due to the negligence of the laundry people A's trouser got burnt. What is the liability of the laundry towards A? (a) A is a teacher in a degree college and B is his wife. A goes to Germany on study leave for one year. In A's absence B maintains herself with the money sent by A. On times when there is delay in the arrival of money she takes goods on credit and pays after she gets the money. Thus once she purchased on credit one maund of rice, four sarces, and one gold necklace. Fifteen days after this A came back. Of which of these goods A is bound to pay the price?

Paper II Civil Law

Time: 3 hrs.

Max. Marks: 200

Note: Answer any **Five** questions, out of which **Three** must be from Part A and **Two** from Part B.

Part - A

Q. 1. (a) Who are the persons capable of giving a child in adoption and when is the permission of the court necessary in this regard?

(b) Are the following adoptions valid?

(i) Adoption of a 9 year old Parsi girl,

(ii) Adoption of a Hindu boy aged 16 years.

Q. 2. (a) Distinguish between Divorce and Judicial separation.

(b) When can a court refuse to pass a decree of divorce despite the proof of the ground?

(c) Can an unchaste Hindu wife claim maintenance from her husband?

Q. 3. (a) Explain the gift of MUSHHA.

(b) P, a Muslim has a son S, a wife W and a grandson G from a predeceased son D. P make a will of his whole property in favour of G. Decide the validity of this bequest.

Q. 4. (a) The law of adoption is unknown to Muslim Law. In this connection explain the meaning of acknowledgement of paternity under Muslim Law.

(b) Who is entitled to guardianship of a Muslim wife who has not attained the age of puberty?

Q. 5. (a) A and his three sons, B, C, and D constituted a Mitakshra coparcenary. B gets himself separated. Then A dies leaving behind the three sons and a widow W. B demands a share in the interest of A in the coparcenary property as well as his separate property. But other heirs refuse to give him. Decide.

(b) What is a suit for restitution of conjugal rights? Does the refusal of a wife, to resign from her job amount to withdrawal of society without reasonable cause?

Q. 6. (a) Explain the widow's right of retention in lieu of her dower debt in Muslim Law.

(b) Two Muslims A and B were married on 18.6.85. It was agreed by the parties that if A took a second wife, B will have a right to pronounce divorce to herself. A took a second wife on 10.4.87. B pronounced divorce on 20.4.87. Is it a valid divorce?

Part - B

Q. 7. (a) 'Limitation bars the remedy, but does not destroy the right.' Discuss and state the exception if any.

(b) A borrowed a sum of money from B. The last date for filing the suit fell on Sunday. On Monday, the next day A gives a written acknowledgement to B. Advise B whether he should file the suit immediately or he can do so after sometime. Give reasons.

Q. 8. What is legal disability? To what extent such disability extends the period of limitation under the Indian Limitation Act?

Q. 9. (a) In what circumstances the Registrar can proceed to the re-registration of a document?

(b) Can a document, not presented for registration within time, be registered after the expiry of the prescribed period?

(c) When the document executed by several persons at different time may be presented for registration?

Q. 10. State the powers and duties of Registering officers under the Indian Registration Act.

Paper III Criminal Law

Time: 3 hrs.

Max. Marks: 200

Note:

- (1) Answer **Eight** questions.
- (2) Figures to the right indicate full marks.
- (3) Answer should be precise.
- (4) Reference of Sections and important decisions wherever relevant should be given.

Q. 1. Discuss the doctrine of Mens rea. How has it been diluted in the case of strict liability offences?

Q. 2. Distinguish between any two of the following:—

- (a) Wrongful restraint and Wrongful confinement.
- (b) Kidnapping from lawful guardianship and Abduction.
- (c) Preparation and Attempt.
- (d) Common intention and Common object.

Q. 3. Decide the following:—

(a) A and D were cousins and lived in adjacent houses. They were not pulling on well and one day they started quarrelling in front of their houses. A held a Kati (sharp-edged weapon) while D was having a stick in his hand. In the course of quarrel, N, the son of A, threw a small knife towards D. D warded off the knife with his stick and it fell down near him. D attempted to pick up the knife, A gave a stroke with his Kati on the head of D. D received a severe cut injury and fell down senseless and died after two days.

(b) A contracted to construct a house for B for Rs. 75,000 which covered cost of building materials and of labour. According to the

contract, Rs. 15,000 were to be paid to A as advance and the balance was to be paid in four equal installments at the completion of certain stages of construction. Accordingly the advance was paid to A but he did not construct the house nor did he pay back to B the amount of advance. Can A be held guilty of criminal breach of trust?

Q. 4. Decide the liability of A in the following:—

(a) A received a divine order in his sleep to sacrifice his child of five years of age. He carries on the order and kills his son.

(b) B claimed to be proof against a sharpened instrument and invited A to get the fact tested. A cut B on arm but B bled to death.

(c) A without knowledge of the guardian takes H a girl of 16 years out of the possession of her guardian on the request of the girl. He restores her after one week to her parents.

Q. 5. Point out the essentials of a 'charge'. Can there be a joinder of charges in a trial under the following circumstances?

(a) A commits thefts on four occasions in 1986, of which two are punishable under section 379 IPC and the other two under Section 380 of Indian Penal Code.

(b) A attempts to rescue B from the custody of police and while making such attempt causes grievous hurt to constable C and simple hurt to constable D.

Q. 6. Describe the procedure to be followed by a magistrate when a complaint is filed before him. When a complaint may be dismissed by a Magistrate?

Q. 7. Distinguish between any three of the following:—

- (a) Acquittal and discharge.
- (b) Reference and revision.
- (c) Compoundable and non-compoundable offences.
- (d) Cognizable and non-cognizable offences.
- (e) Inquiry and trial.

Q. 8. What is a summon case? State the procedure laid down by the Code of Criminal Procedure for trial of summon cases.

Q. 9. Explain any two of the following:—

- (a) Judicial notice.
- (b) Hostile witness.

- (c) Leading questions.
- (d) Accomplice.
- (e) Res-Gestae.
- (f) Privileged communications.
- (g) Hearsay evidence.
- (h) Relevancy of confession in criminal trials.
- (i) Estoppel.

Q. 10. Discuss the essential elements of a Dying Declaration. When is a Dying Declaration relevant?

Q. 11. 'Burden of proof loses its importance when both parties adduce evidence.' Comment.

Q. 12. Explain 'examination-in-chief', 'cross-examination' and 're-examination'.

English Composition

Time: 3 hrs.

Max. Marks: 200

Write an essay on any one of the following:—

- (a) The impact of Television on our life.
- (b) Politics and Morality.
- (c) Women's liberation.
- (d) My vision of India in the twenty-first century.

Hindi

Time: 3 hrs

Max. Marks: 100

1. किसी एक विषय पर तीन सौ शब्दों में निबन्ध लिखिए:—

- (क) राष्ट्र-निर्माण में विद्यार्थियों का योगदान
- (ख) दहेज-प्रथा
- (ग) जवानी वाह! वाह! बुढ़ापा हाय! हाय!
- (घ) राष्ट्रभाषा और राष्ट्रीय एकता
- (ङ) बेरोजगारी
- (च) मोल करो-तरवार का, पड़ा रहन दो म्यान

2. नीचे दिए गए पद्यांश की हिन्दी में व्याख्या कीजिए:—

(क) भारत माता ग्राम वासिनी।
खेतों में फैला है श्यामल,
धूल भरा मैला-सा आँचल,
गंगायमुना में आँसू जल
मिट्टी की प्रतिमा उदासिनी।
दैन्यजडित अपलक नत चितवन,
अधरों में चिर नीख रोदन
युग युग के तम से विषण्ण मन,
वह अपने घर में प्रवासिनी

अथवा

क्या कहती हो ठहरो नारी।
संकल्प अश्रु-जल से अपने,
तुम दान कर चुकी पहले ही
जीवन के सोने-से सपने।
नारी तुम केवल श्रद्धा हो
विश्वास रजत जग पदतल में।
पीयूष स्रोत-सी बहा करो
जीवन के सुन्दर समतल में।

(ख) ईर्ष्या का काम जलाना है, मगर सबसे पहले यह उसी को जलाती है जिसके हृदय में उसका जन्म होता है। आप भी ऐसे बहुत-से लोगों को जानते होंगे जो ईर्ष्या और द्वेष की साकार मूर्ति है और जा बराबर इस फिक्र में लगे रहते हैं कि कहाँ सुननेवाले मिलें कि अपने दिल का गुबार निकालने का मौका मिले। श्रोता मिलते ही उनका ग्रामोफोन बजने लगता है और वे बड़ी ही होशियारी के साथ एक-एक कांड इस ढब से सुनाते हैं, मानों विश्वकल्याण को छोड़कर उनका और कोई ध्येय नहीं हो। मगर जरा उनके अपने इतिहास को भी देखिये और समझने की कोशिश कीजिए कि जब से उन्होंने इस सुकर्म का आरंभ किया है तब से वे अपने क्षेत्र में आगे बढ़े हैं या पीछे हटे हैं। यह

भी कि अगर वे निन्दा करने में समय और शक्ति का अपव्यय नहीं करते, तो आज उनका स्थान कहाँ होता?

अथवा

भारत इस तरह का धर्म निरपेक्ष राज्य होने का दावा करता है, उसका स्वरूप क्या है? उसकी शर्त क्या है कि राजनीतिक संस्थाएँ पूरे समुदाय के आर्थिक और सामाजिक हितों पर आधारित होनी चाहिए और उनमें धर्म या जात-पात का कोई स्थान नहीं होना चाहिए। सब को समान अधिकार प्राप्त होने चाहिए। किसी वर्ग को धर्म के नाम पर कोई विशेषाधिकार परंपरागत अधिकार या विशेष स्वत्वाधिकार प्राप्त नहीं होने चाहिए। दूसरे, इसमें राज्य के भीतर धर्म या जाति के आधार पर व्यक्तियों या वर्गों के विभाजन के सारे विचार परे रख दिए जाते हैं। तीसरे, एक मिले-जुले धर्म निरपेक्ष राज्य को यह सिद्धांत अपनी नीति के आधार के रूप में स्वीकार कर लेना चाहिए और सत्ता के प्रयोग में समस्त संप्रदायों को वैसे ही हिस्सा मिलना चाहिए जैसे नागरिक के नाते कर्तव्यों और दायित्वों में उनका हिस्सा रहना चाहिए। 15

3. इस अंग्रेजी का हिन्दी में अनुवाद कीजिए:-

Men who are always grumbling about their poverty, complaining of their difficulties, winning over their troubles and thinking that their lot in this World is mean and poor, will never get any happiness out of life or achieve any success. However mean our life may be, if we face it bravely and honestly and try to make best of it, we shall find that after all it is not so bad as we thought; and we may have our times of happiness and the joys of success. There is nothing common or unclean, until we make it so by the wrong attitude we adopt towards it.

4. इन मुहावरों और कहावतों में से किन्हीं चार के अर्थ लिखिए और उन्हीं का अपने वाक्यों में प्रयोग कीजिए:-

- (क) दाने दाने को मुहताज होना।
- (ख) काला अक्षर भैंस बराबर होना।
- (ग) दूध का दूध पानी का पानी करना।
- (घ) मिट्टी में मिल जाना।

(ङ) नौ दो ग्यारह होना।

(च) टेढ़ी खीर होना।

(छ) सौ सुनार की एक लुहार की।

(ज) मान न मान मैं तेरा मेहमान।

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5. इन वाक्यों में से किन्हीं पांच को शुद्ध करके लिखिए:-

(क) सात आदमी के लिए रोटी लाओ।

(ख) प्रत्येक सदस्यों को चंदे देने होंगे।

(ग) इस मुहल्ले में कई श्रेणी के लोग रहते हैं।

(घ) हर आदमी ने कुर्ते पहन रखे थे।

(ङ) एक दिन मैंने दिल बहलाने को बाग में गया।

(च) हिन्दी में हम अनेक किताब पढ़े हैं।

(छ) दस आदमी डूब गये जब एक नाव उटल गई।

(ज) रानी की ठंड से टिटुरी दिल्ली में से ना लड़ नहीं सकी 5

6. (क) किन्हीं चार शब्दों के विपरीतार्थक शब्द लिखिए:-

- | | |
|------------|----------|
| 1. आगमन | 2. साकार |
| 3. उन्नति | 4. नूतन |
| 5. बेसरा | 6. सज्जन |
| 7. सावधानी | 8. प्रिय |

4

(ख) इन वाक्यांशों के लिए समानार्थक एक-एक शब्द लिखिए -

- 1. ग्यारह से पंद्रह वर्ष तक का बालक।
- 2. गंगा युमना सरस्वती का संगम।
- 3. रोगी का आहार।
- 4. पाँच वृक्षों का समूह।

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