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## JUDICIARY EXAMS QUESTION PAPER

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# Haryana Judicial Service

**Mains Examination, 1998**

**Question Paper**

1996

पने को  
स बारे  
प्रकार  
गों की  
विभिन्न  
दलित  
दिए पर  
वन एवं

# HARYANA CIVIL SERVICE JUDICIAL EXAMINATION, 1998

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## Paper I Civil Law

Time: 3 hrs.

Max. Marks: 200

**Note:** Attempt any eight questions

सौभाग्य  
रते तथा  
भारतीय  
ता तथा  
सी सुन्दर  
नहीं कर  
ति वर्णन

15

**Q. 1.** (a) What is the procedure regarding the settlement of disputes in connection with execution discharge or satisfaction of a decree before the execution court? Can separate suit be filed for settlement of such dispute?

(b) State the circumstances in which a person aggrieved by the judgement of the court may apply for review of its judgment?

**Q. 2.** (a) Distinguish between Res judicata and Res subjudice.

(b) When does a suit stand abated? What do you understand by complete and partial abatement?

(c) A Plaintiff who is entitled to sue for possession and damages files a suit for possession only. The suit is decreed. Can he file a suit for recovery of damages? Give reasons for your answer.

**Q. 3.** (a) Explain the provisions relating to unpaid seller's lien and stoppage in transit?

(b) (i) A purchases a hot water bottle from a chemist mentioning the specific purpose for which he requires it. The bottle, while being used by A's wife bursts and A's wife is injured. What are the remedies of A against the chemist.

(ii) A purchased rice from B being the whole content of a godown. A had paid earnest money and had taken delivery of a part of rice. Before the rest could be taken away, it was destroyed by fire. Who will bear the loss?

**Q. 4.** (a) "Acceptance is to an offer what a lighted match is to a train of gun powder". Explain with reference to its conditions and incidents as dealt within English and Indian laws.

(b) How far is it true that an agreement without consideration is void?

**Q. 5.** (a) Distinguish between the contract for indemnity and guarantee. How far do you agree with the maxim of law that you must be damnified before you can claim to be indemnified? Refer to relevant judicial pronouncements?

(b) The plaintiff handed over to the defendant certain jewels for the purpose of being melted and utilized for making new jewels. Every day as soon as the defendant's work for the day was over, the plaintiff used to receive half made jewels from the defendant and put them into a box in the defendant's room, without handing over the key to the defendant. One night the jewels were stolen from the defendant's room. Discuss the remedy available to the plaintiff if any?

**Q. 6.** (a) Sharing of the profits is only a prima facie evidence of the existence of partnership. The conclusive test is that of mutual agency. Explain the above statement and refer to decided cases?

(b) Determine the existence of partnership in the following situation and give reason in support of your answer.

A partnership firm was financially embarrassed and therefore, made a compromise with their creditors B C D & E. Under the compromise the property of the firm was assigned to all the four creditors. They were empowered to carry on business, to share the profits among themselves, till the debts have been discharged.

**Q. 7.** (a) What do you understand by the implied authority of a partner? Discuss the scope of implied authority and statutory restrictions there on?

(b) Discuss the situations in which a person who is not a partner in fact, is liable as if he were partner. Refer to statutory provisions and decided cases?

**Q. 8.** (a) "As a general rule, the court will not direct the specific performance of a part of a contract", Comment. Is there any exception to the above rule?

(b) Discuss the provisions of Specific Relief Act, relating to recovery of possession of immovable property?

(c) A, a singer contracts with B, the manager of a theatre for two nights in every week during the next two months. B agreed to pay A

Rs.500/- for every night. On the sixth night A willfully absents from the theatre and B, in consequence rescinds the contract.

Are A and B entitled to claim any compensation? If so, for what? And under what provisions of law?

**Q. 9.** (a) What do you understand by the doctrine of 'feeding the grant by estoppel'? What is the impact of the doctrine on purchaser's rights against vendor's imperfect title? Refer to statutory provisions?

(b) What do you understand by the Cancellation of instruments? When Cancellation may be ordered? What is the principle of compensation on cancellation?

**Q. 10.** (a) Discuss the object of examination-in-chief, cross examination and re-examination.

(b) What conditions must be satisfied by a person before he can raise the plea of estoppel?

**Q. 11.** (a) Define 'admission' and enumerate the persons whose admissions constitute evidence against another person. Distinguish between admission and confession?

(b) What do you mean by a dying declaration? Discuss the evidentiary value of a 'dying declaration'. Refer to decided cases?

**Q. 12.** Write short notes on the following:—

- (i) Leading question
- (ii) Evidence accomplice
- (iii) Circumstantial evidence
- (iv) Privilege Communication

## Paper II Civil Law

Time: 3 hrs.

Max. Marks: 200

**Note:** Answer any five questions. Three must be from Part A, one from Part B and one from Part C.

### Part - A

**Q. 1.** Explain whether a decree of divorce can be granted in the following cases:-

- (a) After one year of marriage the husband of wife 'W' has become impotent.
- (b) Against a Husband 'H' a decree of judicial separation was passed on 5-2-97 on the ground of adultery. Now he applies for a decree of divorce.
- (c) On 19-8-97 an order of payment of maintenance was passed against the husband H under section 125 of the Criminal Procedure Code, 1973. Since then he is paying the maintenance amount regularly to the wife. The wife now applies for a decree of divorce.
- (d) The marriage of W was solemnized when she was only 14 years old. After attaining the age of 16 years she has withdrawn her company from her husband. Now, after attaining the age of 18 years she applies for a decree of divorce.

**Q. 2.** Write short notes on any four of the following:—

- (a) Maintenance of a wife under a void marriage.
- (b) Legitimacy of children of void and voidable marriage.
- (c) Persons capable of giving a child in adoption.
- (d) Rights of female heirs in dwelling houses.
- (e) Lawful guardian of a minor widow.

**Q. 3.** (a) Who are Coparceners and what are their rights? State whether a daughter, who wants to remain unmarried, can claim partition in the Coparcenary property?

(b) A Hindu female is survived by her adopted son, natural born son and an illegitimate son. Upon whom her property will devolve and in what ratio? Cite relevant sections.

**Q. 4.** (a) The husband is not providing maintenance to his wife because of her refusal to live with him. State whether the wife can claim decree of dissolution of marriage under the Dissolution of Muslim Marriages Act, 1939. Refer to decided cases.

(b) Examine the validity of the following:—

- (i) A marriage with a woman undergoing iddat
- (ii) A marriage with a wife's sister after the death of wife,

- (iii) A gift to an unborn person.
- (iv) A gift by a mother to an infant child without delivery of possession.

**Q. 5.** Write short notes on any four of the following:—

- (a) Limit of testamentary power of a Muslim.
- (b) Gift made during Murz-ul-Maut.
- (c) Non payment of prompt dower.
- (d) Nature of Muslim Marriage.
- (e) Conditions of valid acknowledgement.

#### Part – B

**Q. 6.** (a) What is the significance of period of limitation?

(b) Whether the Limitation Act, 1962 applies to a proceeding under Article 32 and 226 of the Constitution?

**Q. 7.** What are the days which could be excluded while computing the period of limitation?

**Q. 8.** (a) Explain the doctrine of 'Sufficient Cause' for condonation of delay.

(b) What is the limitation period prescribed for filling a suit in the following cases:—

- (i) By a landlord to recover possession from a tenant,
- (ii) For compensation for false imprisonment.
- (iii) To enforce a right of pre-emption.
- (iv) For specific performance of contract.

#### Part – C

**Q. 9.** (a) What are the documents of which registration is compulsory?

(b) Who can present a document for registration?

**Q. 10.** (a) Mention the document of which registration is optional.

(b) What is the time limit for presenting a document for registration?

### Paper III Criminal Law

Time: 3 hrs.

Max. Marks: 200

**Note:** Answer any eight questions.

**Q. 1.** Compare the principles of joint liability for a criminal act committed by several persons not exceeding four with that for a criminal act committed by several persons not less than five bringing out clearly the points of distinction, if any.

**Q. 2.** (a) Discuss the law of exemption from criminal liability in the case of minors.

(b) A, an illiterate boy servant of 8 years stole a new Parker Fountain Pen, worth Rs.200/- from the Table of his employer and sold it to B, a student of law aged 21 years for Rs.10/- only. Both A and B are put on trial. The former is charged with theft and the latter for receiving stolen property. How would you, as a judge, decide the case?

**Q. 3.** (a) Describe in your own words the difference between Murder and Culpable Homicide not amounting to Murder.

(b) A has an enlarged spleen. B knows this and gives him a kick on the abdomen which ruptures the spleen. A week later A dies in consequence of the injury received. Discuss the guilt of B.

(c) A intending to kill B, shoots at him but the shot misses him and accidentally shoots C whom he never intended to injure. C dies on the spot. Discuss the guilt of A.

**Q. 4.** (a) Point out distinction between 'Kidnapping' from lawful guardianship' and 'Abduction'.

(b) Distinguish between 'Rape' and 'Adultery'.

(c) M, an unmarried daughter of A, was born at midday on 20.8.1980. She agrees to go with her paramour B without her parent's consent or knowledge between 20th August and 21st August 1998 at 3 a.m. B has sexual intercourse with her after a fortnight with her consent. What offences, if any, have M and B committed? Discuss.

**Q. 5.** (a) Discuss the powers of Magistrate to issue order in urgent cases of nuisance or apprehended danger. Refer to decided cases, if any, on the subject.

(b) How would a Magistrate deal with a situation when he finds that a dispute concerning a piece of land between the two parties is likely to cause a breach of peace?

**Q. 6.** (a) What is a charge? State its objects and particulars to be stated therein. State the law in regard to mis-joinder of charges and state what is the effect of material error in charge.

(b) A public servant was charged under section 409 I.P.C. Facts constituting the charge also made out an offence under section 420 I.P.C., but he was not charged for this offence. Support your answer by authorities, if any.

**Q. 7.** (a) How can a wife who has been abandoned by her husband compel him to maintain her? How does the criminal court enforce its maintenance?

(b) When is a wife not entitled to maintenance for her husband?

(c) How does Cr.P.C. provide for maintenance of Children and aged Parents?

**Q. 8.** (a) Give a critical appraisal of the provisions relating to anticipatory bail in the Code of Criminal Procedure, 1973.

(b) Discuss the guiding principles for the grant of bail in bailable and non-bailable offence.

**Q. 9.** (a) Under what circumstances can evidence given in a former judicial proceeding be used to prove in a subsequent proceeding the truth of facts stated therein? Discuss.

(b) At an inquiry before a committing Magistrate, an approver was examined-in-Chief. The accused were not asked to cross-examine him. The approver died before trial. Is this evidence before the committing Magistrate admissible at the trial? Give reasons for your answer.

(c) Distinguish between an Admission and a Confession.

**Q. 10.** At the trial of A for the murder of her husband, B by administering arsenic to him, evidence is offered to show that:

(a) A is in habit of Poisoning People.

(b) A had in similar circumstances administered arsenic of two of her children.

- (c) B had shortly before his death stated that he had been Poisoned by his wife, but had not complained about it.
- (d) A and B used to have frequent quarrels.
- (e) B had, three days before his death, written a letter to a friend complaining of his failing health.

Discuss fully whether the evidence offered is admissible in any of these cases?

**Q. 11.** (a). A witness for the plaintiff was asked in cross-examination whether he had demanded a sum of Rs. 10,000/- for giving evidence on behalf of the defendant. The witness denies the allegation. Can evidence be produced to contradict the denial of the witness? Give reasons.

(b) A witness is asked whether he was not dismissed from the service of the Corporation of Ambala for dishonesty. He denied. Evidence is offered to prove that he was dismissed for dishonesty. Is it admissible? Give reasons.

(c) Can a party cross-examine his own witness; if so, under what circumstances?

**Q. 12.** (a) Indian Evidence Act, 1872, declares an accomplice to be a Competent witness and a conviction is not illegal even if it is based on the uncorroborated testimony of an accomplice, while this Act also allows a court to presume an accomplice to be unworthy of credit unless he is corroborated in material particulars. Do you see any contradiction in this Act in this regard. Discuss and elaborate your views with reference of decided cases on the subject.

(b) Differentiate between the evidence given by an accomplice and a co-accused and decide upon the evidentiary value of each of them.

(c) A and B are being Jointly tried for the murder of C. A makes a confession in which he says that he alongwith B went to the room in which C was sleeping, that A stood at the door as he felt nervous and B went inside and shot C dead. How far can this confession be used against B?

## English Composition

Time: 3 hrs.

Max. Marks: 200

1. Write an essay on any one of the following:—

- (a) Right and Responsibilities of a Citizen  
(b) My idea of a Just Society  
(c) Globalisation and Media  
(d) Empowering People through Literacy

## Hindi

Time: 3 hrs

Max. Marks: 100

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

- (क) परमाणु अप्रसार संधि और भारत।  
(ख) न्यायपालिका बनाम विधायिका।  
(ग) भारत में सूचना प्रौद्योगिकी समस्याएँ और संभावनाएँ।  
(घ) 'बुरा जो देखने में चला, बुरा न दिखा कोय .....'  
(ङ) प्रजातंत्र में मीडिया की भूमिका।  
(च) मेरे सपनों का भारत।  
(छ) भ्रष्टाचार: समस्याएँ और समाधान।

25

2. किन्हीं पाँच शब्दों के विपरीतार्थक शब्द लिखिए:—

- |             |             |
|-------------|-------------|
| 1. अपमान    | 2. अनिवार्य |
| 3. अंत      | 4. अवनति    |
| 5. अर्वाचीन | 6. अनुज     |
| 7. आविर्भाव | 8. उपस्थिति |
| 9. दुष्कर्म | 10. साक्षर  |

5

3. निम्नोक्त में से किसी पाँच के अर्थ लिखकर उनका वाक्यों में प्रयोग कीजिए—

- (क) आँखें झुकाना  
(ख) गाल बजाना

- (ग) कमर कस लेना  
 (घ) पेट पालना  
 (ङ) खून सूखना  
 (च) हाथ खींच लेना  
 (छ) खग जाने खग ही-की भाषा  
 (ज) घर की मुर्गी दाल बराबर  
 (झ) आम के आम गुठलियों के दाम  
 (ञ) थोथा चना बाजे घना

10

4. निम्नोक्त में से किन्हीं पांच को शुद्ध करके लिखिए:-

- (क) कृपया मुझे यह पुस्तक देने की कृपा करें।  
 (ख) मेरे को इससे मतलब नहीं।  
 (ग) मुझे गरम भैंस का दुध चाहिए।  
 (घ) छोटों से क्रोध मत करें।  
 (ङ) मैं यह स्वीकृत करता हूँ कि मुझसे गलती हुई।  
 (च) मैं स्कूटर हाँक सकता हूँ।  
 (छ) कई ग्रामीण बस में रजाई पहन कर बैठते हैं।  
 (ज) उत्तरा विलाप करके राने लगी।  
 (झ) मैं और मेरे मित्रों का व्यापार मेले में जाना हुआ।  
 (ञ) हाथों में पराधीनता की बेड़ियाँ पड़ी हैं।

5

5. कोष्ठक में दिये गए निर्देश के अनुसार उत्तर दीजिए:-

- (क) यदि वह परिश्रम करता तो सफल हो जाता।

(काल का भेद बताइए)

- (ख) पिंड से उत्पन्न होने वाला।

(इस अर्थ को बताने वाला एक शब्द लिखिए)

- (ग) अब मुझसे तो सहा नहीं जाता।

(वाक्य बदलिए)

- (घ) तुमने कहा और सब लोग मान गए।

(संयुक्त से सरल वाक्य में बदलिए)

- (ङ) तिलक ने लम्बोदर की पूजा का श्रीगणेश कर राष्ट्र-क्रान्ति को जन्म दिया था।

(लम्बोदर में कौन-सा समास है) 5

6. इस अंग्रेजी का हिन्दी में अनुवाद कीजिए:-

Every right-minded Indian would denounce the Government of UNITED STATES OF AMERICA for Acting as a policeman of the world. It's true that terrorism is a dangerous thing for people of the world. But where was the U.S. when terrorists were killing hundreds in Punjab? where was the U.S. when terrorism destroyed Charar-e-Sharif hi Kashmir? Where was the U.S. when terrorists were killing and are killing people in Assam & Kashmir? Where was the U.S. when serbs were killing Muslims & Now Albanians in Yugoslavia? In attacking sovereign states of Sudan & Afganistan U.S. government is resorting to unconstitutional means to redress a genuine problem? Instead, it should get together with the countries which are facing terrorism, and together wage a war against it.

7. निम्नलिखित अवतरणों में से किन्हीं दो की व्याख्या कीजिए:-

- (क) धरती के भाग हरे होंगे, भारती अमृत बरसाएगी,

दिन की कराल दाहकता पर चांदनी सुशीलता छाएगी,  
 ज्वालामुखियों के कंटों में कलकंटीका आसान होगा,  
 जलदों से लदा गगन होगा, फूल से भरा भुवन होगा,  
 बेजान यंत्र विरचित, गूंगी मूर्तियाँ, एक दिन बोलेंगी,  
 मुँह खोल-खोल सबके भीतर शिल्पी। तू जीभ बिठाता चला।

अथवा

“गाओ मैथिली, स्वच्छंद, राम के रहते,  
 सुन ले कोई भी आज मुझे यह कहते-  
 निश्चिन्त रहे, जो करे भरोसा मेरा  
 बस, मिले प्रेम का मुझे परोसा मेरा

आन्नद हमारे ही अधीन रहता है-  
 तब भी विषाद नरलोक व्यर्थ सहता है,  
 करके अपना कर्तव्य रहो सन्तोषी,  
 फिर सफल हो कि तुम विफल, न होंगे दोषी।  
 निश्चित नारियाँ आत्म-समर्पण करके-  
 स्वीकृति में कृतकृत्य भाव हैं नर के।

(ख) चीनी फिलॉसफर ने चार वर्ष की निरंतर साधना के बाद अविष्कार किया कि डेमोक्रेट हँसना और मुस्कराना जानता है, पर डिक्टेटर हँसने की बात सोचते भी नहीं। उनको आप जहाँ भी देखें और जब भी देखें, उनकी भुकुटियां तनी हुई हैं, मुट्ठियाँ बंधी हुई, ललाट कुंचित है, अघरोष्ठ दाँतों की उपान्त रेखा के समान्तर जमा हुआ है—मानो ये अभी दुनिया को भस्म कर देना चाहते हैं। अगर इन शक्तिशाली डिक्टेटरों में हंसने का थोड़ी सा भी माद्दा होता तो दुनिया आज कुछ और ही हो गई होती।

### अथवा

साहित्य, कला, नृत्य, गीत, आमोद-प्रमोद अनेक रूपों में राष्ट्रीयजन अपने-अपने मानसिक भावों को प्रकट करते हैं। आत्मा का जो विश्वव्यापी आन्नद भाव है वह इन विविध रूपों में साकार होता है। यद्यपि बाह्य रूप की दृष्टि से संस्कृति के ये बाहरी लक्षण दनेक दिखाई पड़ते हैं, किंतु आंतरिक आन्नद की दृष्टि से उनमें एक सुत्रता है। जो व्यक्ति सदृश्य है, वह प्रत्येक संस्कृति के आन्नद पक्ष को स्वीकार करता है और उससे आनंदित होता है। इस प्रकार की उदार-भावना ही विविध जनों से बने हुए राष्ट्र के लिए स्वास्थ्यकर है।