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JUDICIARY EXAMS QUESTION PAPER

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Haryana Judicial Service

Mains Examination, 2009

Question Paper

HARYANA CIVIL SERVICE JUDICIAL EXAMINATION, 2009

Paper I Civil Law

Time: 3 hrs.

Max. Marks: 200

Notes: (i) Suggested time for attempting each question is 35 minutes.

(ii) All questions carry equal marks. Further details are indicated against each question.

(iii) Candidates are required to attempt all questions.

(iv) Support your answers with relevant provisions and case law.

Q. 1. (a) State the circumstances when a plaint can be rejected?

(b) In a civil suit, issues were framed and evidence was being recorded. How-ever, on a certain date, defendant's counsel pointed out that prima facie the suit was barred by limitation. The Court rejected the plaint without going into the full text of the plaint, and without hearing the plaintiffs counsel. Whether the said rejection order is legally correct? Give reasons for your answer.

(c) What do you understand by "indigent person"?

(d) How is an application for permission to sue as an indigent person filed?

Q. 2. (a) Does a fresh suit lie in respect of the same cause of action in the following cases:

(i) Where plaintiff has failed to sue for the entire claim in the previous suit.

(ii) Where a suit is dismissed for non appearance of plaintiff on a date when defendant is present in the Court.

(iii) When a suit abates on account of death of defendant where legal representatives have not been brought on record.

(b) There is an apprehension that there may not be a fair trial in the jurisdictional Court where the cause of action has arisen? Can the

place of sitting of the Court be transferred beyond the jurisdictional Court under the provisions of Punjab Courts Act, 1918?

(c) Can the following contracts be specifically enforced?

- (i) A contract to execute mortgage,
- (ii) A contract to lend money,
- (iii) A contract to construct a building,
- (iv) A contract to translate a book into other language.
- (v) Arun, the owner of the hotel, contracts with Balwant, to give him accommodation therein for the sale of his hosiery products and to furnish the accommodation with necessary furniture. Arun refuses to perform the contract.

Q. 3. (a) "A quasi-contract has no affinity with contract but rests on the equitable principle that a person shall not be allowed to enrich himself at the expense of another". Explain by giving suitable illustrations.

(b) A company agreed to supply one thousand blankets to X by a particular date. Rupees 10,000/- were paid as an advance to the company by X. Before the due date of performance of the contract, the company informed X that it would not supply blankets on due date and that he should treat the contract as repudiated. X did not accept the repudiation, and kept on demanding the supply till the last date/due date of performance of the contract. In the meantime, war between India and China broke out, and all the stocks of the company were requisitioned by Government for military purposes. X files a suit against the company for damages for breach of contract. Will he succeed? Decide by referring to the provisions of the Indian Contract Act and decided cases.

Q. 4. (a) A and B carry on motor repair business in partnership. Under the deed of partnership, A has no power of borrowing money. C a creditor, knowing nothing about restrictions on the power of A for borrowing money, lends A money for the use of the firm. Is the firm liable to C for repayment of the money lent by him to A. Refer to statutory provisions and decided cases.

(b) A and B are carrying on the business of grain merchants, in partnership. It is provided in the partnership deed that disputes relating to the affairs of the business would be referred to arbitration. A dispute

arose and the same was referred to arbitration. Arbitrators decided in favour of A. B refuses to abide by the award. A sues for enforcement of the award. Incidental the firm is not registered under the Indian Partnership Act. Decide while referring to the provisions of the Indian Partnership Act and decided cases on the point.

(c) B purchases motor car from A which he uses for some months. It turns out that the car sold by A to B was a stolen one and has to be restored to the rightful owner. B brings an action against A for the return of the price. Will he succeed. Decide giving reasons.

(d) The plaintiff, a butcher bought a carcass of a goat from the defendant, who was a meat shopkeeper in a meat market. The plaintiff in ignorance of the fact that it was exposed to tuberculosis, offered it for sale. It was seized by a Food Inspector, who adjudged the same as unfit for consumption, and condemned it to be destroyed. The plaintiff was also fined. Thereafter, the plaintiff filed a suit against the defendant to recover the amount of fine and damages for breach of warranty under the Sale of Goods Act. The defendant pleaded that by usage of trade such an implied warranty was excluded. Decide by referring to the provisions of the Sale of Goods Act and decided cases.

Q. 5. (a) Comment on the Doctrine of Promissory Estoppel with the help of suitable examples.

(b) A raised a loan by pledging a Railway Receipt of goods in transit, as security, with a money lender X. A got the Railway Receipt back from X in order to get the goods released from the Railways. Instead, A pledged the same Railway Receipt with another lender Y, to raise another loan. In a suit for recovery filed by X, Y pleads estoppel against X for not endorsing the Receipt "Under Lien Pledge" and thus, representing that the said receipt is free from lien, which facilitated A to raise a second loan against the receipt. Decide if estoppel is rightly invoked by Y against X?

(c) What do you mean by a document? Distinguish between public and private documents with suitable examples.

Paper II Civil Law

Time: 3 hrs.

Max. Marks: 200

Notes: (i) Suggested time for attempting each question is 35 minutes.

(ii) All questions carry equal marks. Further details are indicated against each question.

(iii) Candidates are required to attempt all questions.

(iv) Support your answers with relevant provisions and case law.

Q. 1. (a) On what grounds a Court can grant a decree of nullity of marriage? Critically examine the amendments made in the grounds of nullity by the Amendment Act 68 of 1976.

(b) X a Hindu male, married Y a female in the year 2009, with the written consent of his first wife P. Is X's marriage with Y valid?

(c) Discuss the law relating to natural guardian of a Hindu minor. Does the law discriminate on the basis of sex?

(d) (i) M a Hindu mother, sells a 10 marla plot of her son aged 16 years, for donation to a Medical College, for getting him admitted to M.B.B.S. Course. Is the sale valid?

(ii) F a Hindu father, in his will appointed B, his brother, as a guardian of his son aged 10 years, ignoring the mother of the child. Whether the fathers will would be effective?

Q. 2. (a) Critically evaluate the consequences of the amendments made in the Hindu Succession Act, 1956, in 2005 in relation to the concept of coparcenary and dwelling house.

(b) A male Hindu died intestate, leaving behind an adopted son, a legitimate son, a married daughter and a mother. Who and how much share, each will get in A's property?

(c) "... clear proof of usage will outweigh the written text of law? Discuss bringing out the importance of custom as a source of Hindu law.

Q. 3. (a) Mention the circumstances which led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986. Whether the objectives of passing this Act have been achieved? Discuss.

(b) Draw distinction between the following:

(i) Ahasan Talak and Hasan Talak.

(ii) Hiba and Hiba-bil-Iwaz.

(iii) Istridhan and dower.

(c) What is the difference between "Kareva" form of marriage, and "chader andazi" form of marriage? How are these marriages solemnized?

Q. 4. (a) Discuss the circumstances in which registration of a document can be refused by the Registering Authority. What is the remedy against an unjustified refusal?

(b) Can a registered document be re-registered? If so, under what circumstances?

(c) A document for sale of immovable property was executed by a widow, who sent her husband's brother for registration. Her husband's brother had no power of attorney, to sell or present the said document for registration on behalf of the widow. What right is available to the vendee?

Q. 5. (a) What do you understand by legal disability, as embodied under the Limitation Act?

(b) (i) Cause of action accrued to plaintiff's father in 1917 when he was a minor. The plaintiff was not even born at that time. After the death of the plaintiff's father, the plaintiff got the right to sue, but he was then a minor for several years. The plaintiff filed a suit on attaining majority. Would the suit be maintainable?

(ii) A had a right to sue in 2002 (limitation 3 years). He remained insane from 2004 to 2006. He instituted a suit in 2006. Would his suit be barred by limitation?

(c) What is the effect of acknowledgment as envisaged under the Limitation Act?

(d) Do the following amount to acknowledgement of a debt?

(i) "It is not that I won't pay you but that I cannot do so..."
What I wrote was not that I saw no prospect at present of being able to repay the capital but that I saw no prospect of being able to repay the capital at present.

(ii) "I owe the money, but I cannot tell when and how I will be able to pay".

(iii) "I owe the debt, but I will not pay it, unless I am compelled by law."

(iv) A sends a letter duly signed to his own son acknowledging liability for a debt due to B, a creditor. Can the creditor B rely on such acknowledgment for extension of time in his suit against A?

Paper III Criminal Law

Time: 3 hrs.

Max. Marks: 200

Notes: (i) Suggested time for attempting each question is 35 minutes.

(ii) All questions carry equal marks. Further details are indicated against each question.

(iii) Candidates are required to attempt all questions.

(iv) Support your answers with relevant provisions and case law.

Q. 1. (a) Discuss the law of "Attempt" under Indian Penal Code.

(b) A intending to murder Z, mixes poison, with the milk and then places the glass on Z's table. What offence did A commit?

(c) Had A mixed sugar, mistaking it as poison, with milk and then placed the glass on Z's table, would it make any difference in the judgement?

Q. 2. (a) "Even without a murderous intention, a person may be guilty of murder". Elucidate.

(b) A student without an excuse went on firing with his revolver at the crowd of students resulting in death of one of the students? Discuss the criminal liability of A?

(c) What should be proved by an accused to establish the defence of un-soundness of mind?

A was commanded by God in his dream to sacrifice his only son, A took his son to a mosque and killed him. A then went into hiding and surrendered to police after two days. Can A's defence of unsounded mind be accepted?

Q. 3. (a) "Person once convicted or acquitted, cannot be tried again on the same facts for the same offence". Elucidate.

(b) Examine the legality of the following trials:—

(i) A is tried and convicted for causing hurt to B. He is again charged and tried for causing grievous hurt on the same facts.

(ii) A is tried for causing grievous hurt to B and convicted.

Afterwards B dies of the same wounds. He is again tried for committing culpable homicide.

Q. 4. (a) What do you understand by "Plea Bargaining"? State the procedure for initiating "Plea Bargain" in Courts.

(b) What should a Magistrate do in a case, in which "Plea Bargain" has been initiated,

(i) but no satisfactory disposition is made out,

(ii) a satisfactory disposition is made out

(c) What is the object of Section 125 in Cr.P.C.? Can the following claim for maintenance under Section 125 Cr.P.C. and when:

(i) A Muslim wife from her husband

(ii) Mother and Father from a married daughter.

Q. 5. (a) Who is an accomplice? Can a Court base the conviction of an accused solely on the basis of the testimony of an accomplice?

(b) A is charged with murder of C. There is some evidence to show that A and B murdered C. Is B's statement "A and I murdered C" admissible against A?

(c) A kills his aunt and himself lodges an F.I.R narrating the facts at the police station. He was prosecuted for murder on the basis of the F.I.R. No other evidence was given. A subsequently did not plead guilty? Comment.

English Composition

Time: 3 hrs.

Max. Marks: 200

1. Write an essay on any of the following topics in not more than 3000 words:—

(a) Role of the media in a democracy.

(b) Effect of changing social values.

(c) Economic recession—its effect on India.

(d) Terrorism.

(e) Farmer suicides.

(f) Religion and politics.

Hindi

Time: 3 hrs

Max. Marks: 100

नोट: सभी प्रश्न अनिवार्य हैं। सभी प्रश्नों का उत्तर उसी क्रम में दे जिस क्रम में प्रश्नपत्र में दिए गए हैं।

1. इस गद्यांश का अंग्रेजी से हिन्दी में अनुवाद कीजिए:- 20

It is no doubt true that we cannot go through life without sorrow. There cannot be sunshine without shade. We should not complain that roses have thorns, but rather be grateful that thorns bear flowers. Our existence is so complex that we must expect sorrow and suffering. Many people distress themselves about the mystery of existence. But although a good man, may at times be angry with the world; it is certain that no man is over discontented with the world, who did his duty in it. World is like a looking glass; if you smile, it smiles; if you frown, it frowns back; if you look at it through a red glass, all seems red and rosy; if through a blue, all blue; if through a smoked one, all dull and dingy. Always try then, to be happy, and face each situation in life. One must have faith in one self and do his best. The result is not in one's hand. Still the 'Karma' is very important. God also helps them who help themselves.

2. (क) निम्नलिखित गद्यांश की व्याख्या हिन्दी भाषा में कीजिए: 15

हम लोग कच्ची मिट्टी की मर्ति के समान रहते हैं, जिसे जो जिस रूप का चाहे उस रूप का करे - चाहे राक्षस बनाए, चाहे देवता। ऐसे लोगों का साथ करना हमारे लिए बुरा है जो हमसे अधिक दृढ़ संकल्प के हैं, क्योंकि हमें उनकी हर एक बात बिना विरोध के मान लेनी पड़ती है। पर ऐसे लोगों का साथ करना और भी बुरा है जो हमारी ही बात को ऊपर रखते हैं, क्योंकि ऐसी दशा में न तो हमारे ऊपर कोई दबाव रहता है, और न हमारे लिए कोई सहारा रहता है। दोनों अवस्थाओं में जिस बात का भय रहता है, उसका पता युवा पुरुषों को प्रायः बहुत कम रहता है। यदि विवेक से काम लिया जाये तो यह भय नहीं रहता, पर युवा पुरुष प्रायः विवेक से कम काम लेते हैं। कैसे आश्चर्य की बात है कि लोग एक घोड़ा लेते हैं, तो उसके गुण-दोष को कितना परख कर लेते हैं, पर किसी को मित्र बनाने में उसके पूर्व आचरण

और प्रकृति आदि का कुछ विचार और अनुसंधान नहीं करते। वे उसमें सब अच्छी बातें मानकर अपना पूरा विश्वास जमा देते हैं। हँसमुख चेहरा, बातचीत का ढंग, थोड़ी चतुराई या साहस—ये ही दो चार बातें किसी में देखकर लोग झटपट से अपना बना लेते हैं। हम लोग यह नहीं सोचते कि मैत्री का उद्देश्य क्या है तथा जीवन के व्यवहार में उसका कुछ मूल्य भी है। यह बात हमें नहीं सूझती कि यह एक ऐसा साधन है, जिससे आत्मशिक्षा कार्य बहुत सुगम हो जाता है। एक प्राचीन विद्वान का वचन है—'विश्वासपात्र मित्र से बड़ी रक्षा होती है। जिसे ऐसा मित्र मिल जाए उसे समझना कि खजाना मिल गया।'

2. (ख) निम्नलिखित पद्यांश की व्याख्या कीजिए:- 15

(क) मधुवाणी में शक्ति अपरिमित, वशवर्ती श्रोता हो जाता,
नयन चमक उठते पल भर में, मधु धारा में मन खो जाता।
कुटिल शब्द अंतर-कानन में, चिरजीवी विष-बेल उगाते,
सदा-सदा के लिए हृदय में, घातक वैर-विरोध जगाते।
मीठी भाषा परम औषधि, पीड़ा-व्यथा तुरत हर लेती,
गिरे हुए बिखरे-टूटे को, दे उत्साह खड़ा कर देती।
तिमिरावृत अंतर-घाटी में शब्द-किरण आलोक जगाती,
मृत विश्वासों पर मृदु भाषा, अमृत-फुहारे झट बरसाती।

(ख) जात न पूछो साध की, पूछ लीजिए ग्यान।

मोल करो तलवार का, पड़ा रहन दो म्यान।

कस्तूरी कुंडल बसै, मृग ढूँढे बन माहि।

ऐसे घट-घट राम हैं, दुनिया जानत नाहिं।

गुरु गोविंद दोउ खड़े, काकै लागूं पाय।

बलिहारी गुरु अपने जिन गोविंद दियो मिलाय।

पानी केरा बुदबुदा, अस मानस की जात।

देखत ही छिप जाएगा, ज्यों तारा परभात।

3. (अ) निम्नलिखित अशुद्ध शब्दों को शुद्ध करके लिखिए:- 5

प्रमात्मा, उननति, सन्कलप, उजवल, प्रदुषण, संसकरतीक, परीवारिक, परउपकारी, सर्वोउदय, कलपना।

- (ब) निम्नलिखित अशुद्ध वाक्यों को शुद्ध करके लिखिए:- 5
- (क) मैंने सारी पुस्तकों का नाम लिख दिया।
- (ख) किरपया उनको संदेश देने का किरपा करें।
- (ग) समारोह में अनेकों विद्वान पधारे थे।
- (घ) मनुष्य का आत्मा बहुत प्रबल होता है।
- (ङ) हाथों में पराधीनता की बेड़ियां पड़ी है।
4. निम्नलिखित मुहावरों के अर्थ लिखकर वाक्यों में प्रयोग कीजिए: 10
- (1) अपना उल्लू सीधा करना।
- (2) चिकना घड़ा होना।
- (3) ईद का चांद होना
- (4) काला अक्षर भैंस बराबर
- (5) आस्तीन का सांप
- (6) गुलर का फूल होना
- (7) चुटिया हाथ में होना
- (8) कड़वे घूँट पीना
- (9) अंगारों पर पैर रखना
- (10) चुड़ियाँ पहनना।
5. किसी एक विषय पर तीन सौ शब्दों में निबन्ध लिखिए:- 30
- (क) राजनीति और भ्रष्टाचार
- (ख) प्राकृतिक आपदाएँ और उनका प्रबंधन
- (ग) आकांक्षाओं का असीमित विस्तार और युवा वर्ग में बढ़ता तनाव
- (घ) भारत में संसदात्मक प्रजातन्त्र।
- (ङ) क्या पाश्चात्यीकरण ही आधुनिकीकरण है?