Civil Services (Main) Examination, 1997

LAW
(Paper I)

Time Allowed : Three Hours **Maximum Marks : 300**

QUESTION PAPER SPECIFIC INSTRUCTIONS

(Please read each of the following instructions carefully before attempting questions)

There are EIGHT questions divided in two Sections.
Candidate has to attempt FIVE questions in all.
Question Nos. 1 and 5 are compulsory and out of the remaining, any THREE are to be attempted choosing at least ONE question from each Section.
The number of marks carried by a question/part is indicated against it.
Wherever any assumptions are made for answering a question, they must be clearly indicated.
Word limit in questions, wherever specified, should be adhered to.

SECTION 'A'

1. Answer any three of the following (each answer should be in about 200 words): **20×3=60**

(a) "The amending power of Parliament should not be subjected to the vague and uncertain doctrine of basic structure." Comment.

(b) "Reservations should be made only in respect of direct recruitment at any level but not in respect of promotions." Discuss.

(c) "The Writ of Habeas Corpus cannot be suspended even in an emergency." Discuss in the background of connected case law and constitutional provisions.

(d) "Indian secularism is neither anti-religious nor is it based on total neutrality towards religion but is based on equal respect for all religions." Explain and illustrate.

2. (a) "In recent times certain directive principles have been judicially enforced and made enforceable by imaginative and creative interpretation of fundamental rights." Do you agree? Give reasons. **30**

(b) "The question whether any and if so what advice was tendered by Ministers to the President shall not be inquired into in any court" – Art. 74 (2) of the Constitution. Examine the scope and ambit of the exclusion of judicial review mandated by this provision in the background of decided cases. **30**

3. (a) "The concept of instrumentality or agency of the government is not limited to a corporation by a statute but it is equally applicable to a created company or society." Discuss and state whether Article 12 also includes private persons. **30**

(b) "True our Constitution has no 'due process' clause but after Maneka Gandhi's case the consequence is the same." Discuss. **30**

4. Answer any two of the following: **30×2=60**

(a) X was sentenced to death but his death sentence was not executed for ten years, X contends that to take away his life after keeping him in jail for ten years entitles him to demand the quashing of his death sentence under Article 21 of the Constitution. Examine X's contention.

(b) X on probation in Delhi Police force was served with a notice to show cause why he should not be discharged from service for "gross neglect of duties and unsatisfactory work." X gave an explanation to appropriate authority which was not considered satisfactory. Thereafter

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the said authority passed an order discharging X from service for "unsatisfactory work and conduct". X contends that the order is invalid as he has not been given a reasonable opportunity to be heard as required by Article 311 (2) of the Constitution. Discuss X's contention and decide.

(c) Clause 3 of the Constitution 44th Amendment Act which provides for several vital safeguards in favour of persons under preventive detention has not yet come into force as the Central Government has not issued the necessary notification under Clause 2 of the Amendment. A detenue aggrieved by the Central Government's apathy and inaction moves the Supreme Court in proceedings under Art. 32 for a writ of mandamus to compel the Government to appoint and notify the date of commencement of Clause 3 forthwith. Is he entitled to seek such a direction from the court? Discuss in the background of connected case law.

SECTION 'B'

5. Answer any three of the following (each answer should be in about 200 words):

20×3=60

(a) "Before a usage may be considered as amounting to a customary rule of international law, the material and psychological aspects involved in the formation of the customary rule must be established." Discuss.

(b) "So far the municipal law effects are concerned, the judicial decisions have virtually erased a number of distinctions between de jure and de facto recognition." Examine.

(c) Is the threat or use of nuclear weapons in any circumstances permitted under international law? Answer the question in the light of the Advisory Opinion of the I.C.J. dated 8th July 1996.

(d) Can a state invoke non-compliance with its domestic constitutional law as a ground for invalidating its consent to be bound by a treaty and if so when?

6. (a) "Although there can be a Continental Shelf where there is no E.E.Z., there cannot be an E.E.Z. without a corresponding Continental Shelf. It follows that for juridical and practical reasons, the distance criterion must now apply to the Continental Shelf as well as to the E.E.Z., and this is quite apart from provision as to distance in para 1 of Art. 76 (Sea Law Convention 1982)" – I.C.J. in Libya/Malta case concerning the Continental Shelf – I.C.J. Rep. 1985 p. 13. Critically examine the above observations of the International Court and consider whether they entail any departure from the law as expounded by the court in the 1969 Continental Shelf cases. **30**

(b) "The theory of extra-territoriality is not the correct basis of the immunities and privileges which the diplomatic agents enjoy." Do you agree with this view? Give reasons. **30**

7. (a) A lieutenant of State forces in a town in Mexico was ordered by the Mayor of the town to proceed with troops to quell riots against certain American citizens. The troop on arriving at the scene of the riot, instead of dispersing the mob, opened fire on the house in which Americans were taking refuge and killed one of them. Can the Mexican government be held responsible for the wrongful acts of the soldiers, even though they had acted beyond the scope of their authority? Discuss with reference to the rule of state responsibility for international delinquencies. **20**

(b) Smith and Company registered in India was carrying on trade with Sikkim before it became part of India. The government of Sikkim confiscated a few consignments sent to the company's office in Sikkim from India. Soon thereafter Sikkim became part of India. Smith and Company claims consignments or their value from government of India. Discuss the liability of the government of India towards Smith and Company. **20**

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(c) State A received information that its neighbour, State B is preparing to invade its territory. In order to forestall the invasion State A attacks State B and disperses the troops amassed in the State B. States A and B, both are the members of the United Nations. State B brings a complaint against State A in the Security Council and contends that State A has committed aggression. State A pleads self-defence. Discuss the validity of the use of force by State A. **20**

8. Write short notes on any three of the following:

20×3=60

(a) Legal significance of the Resolutions of the General Assembly.

(b) Advisory opinion of International Court of Justice on Western Sahara I.C.J. 1975 P 12.

(c) Convention on International Liability for Damage Caused by Space Objects, 1971.

(d) Concept of opposability.

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