

Chp 1] Factories Act, 1948

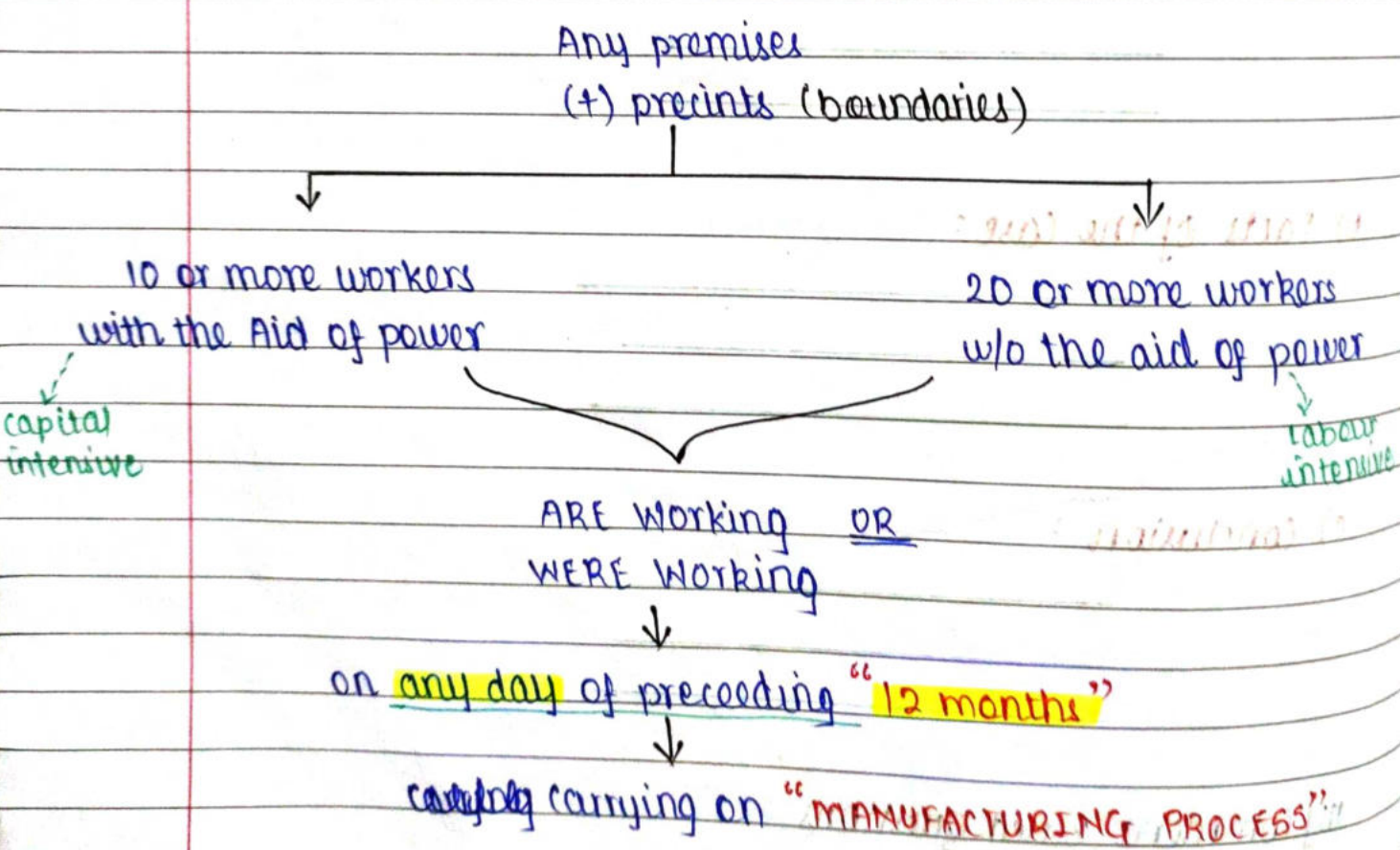
• Introduction :- This was held in Ravi Shankar Sharma

Factories Act, 1948 came into existence ~~into~~ on 1st April, 1949
It applies to whole of India. It is a social legislation which has been enacted for

- occupational safety
- health
- welfare

} of workers at work place

5] Factory = 2(m)



- (-) mines
- (-) Railway shed
- (-) Restaurants / hotel / eating places
- (-) Armed forces of union i.e Army

Case :-



Ashu baby



production \Rightarrow cheez



capital Intensive

machinery \checkmark
(automated)

less labour



labour Intensive

machinery \times
(manual)

more labour

4] Worker :

- ↳ A person EMPLOYED ↳ directly
↳ indirectly (i.e. by Agency)
- With or without the knowledge of principal employer
- Whether for Remuneration, or not
- In any 'MANUFACTURING PROCESS'
- (-) Members of Armed Forces of Union

3] Manufacturing process

- ↳ MAROD → finish for sale, use, transport or disposal
- pumping → oil / water
- generating → electricity
- composing → printing
- constructing → ship models
- Preserving → in warehouse / cold storage
- Book Binding

2] Hazardous Process

- ↳ Any process or Activity
- required special care for
 - raw material
 - Finished goods
 - waste
 - By-products

↳ if not taken care would result to

material impairment
of health of persons

OR

Pollution of general
environment

workers Public

PROCEDURE :

- ① Approval from SC → w.r.t. Location of Factory
SC → will appoint SAC (Site Appraisal Committee)
- ② SAC will examine the application and location of factory and will report to SC within 90 days from its appointment
- ③ SAC has power → to call for any information from applicant
- ④ If approved by SC, no further approvals required

Q.3) (5 marks)

i) a. Provisions:

- Factories Act, 1948; came into existence on 1st April 1949. It is applicable to the whole of India. It is a social legislation which has been enacted for occupational safety, health, welfare of the workers in the factory.

- As per section 2(m) of Factories Act, 1948 factory means any premises, including precincts where:

- 10 or more workers with the aid of power are working or were working on any day in preceding 12 months carrying on manufacturing process

- 20 or more workers without the aid of power are working or were working on any day in preceding 12 months carrying on manufacturing process

- It excludes mines, railway sheds, restaurants and armed forces of union.

b. Facts of the case:

ABC Ltd. is manufacturing company working with aid of power with 8 workers as on 31st March 2014. On 1st April 2014 additional 3 workers appointed and on 30th April and workmen left the company.

c. Conclusion:-

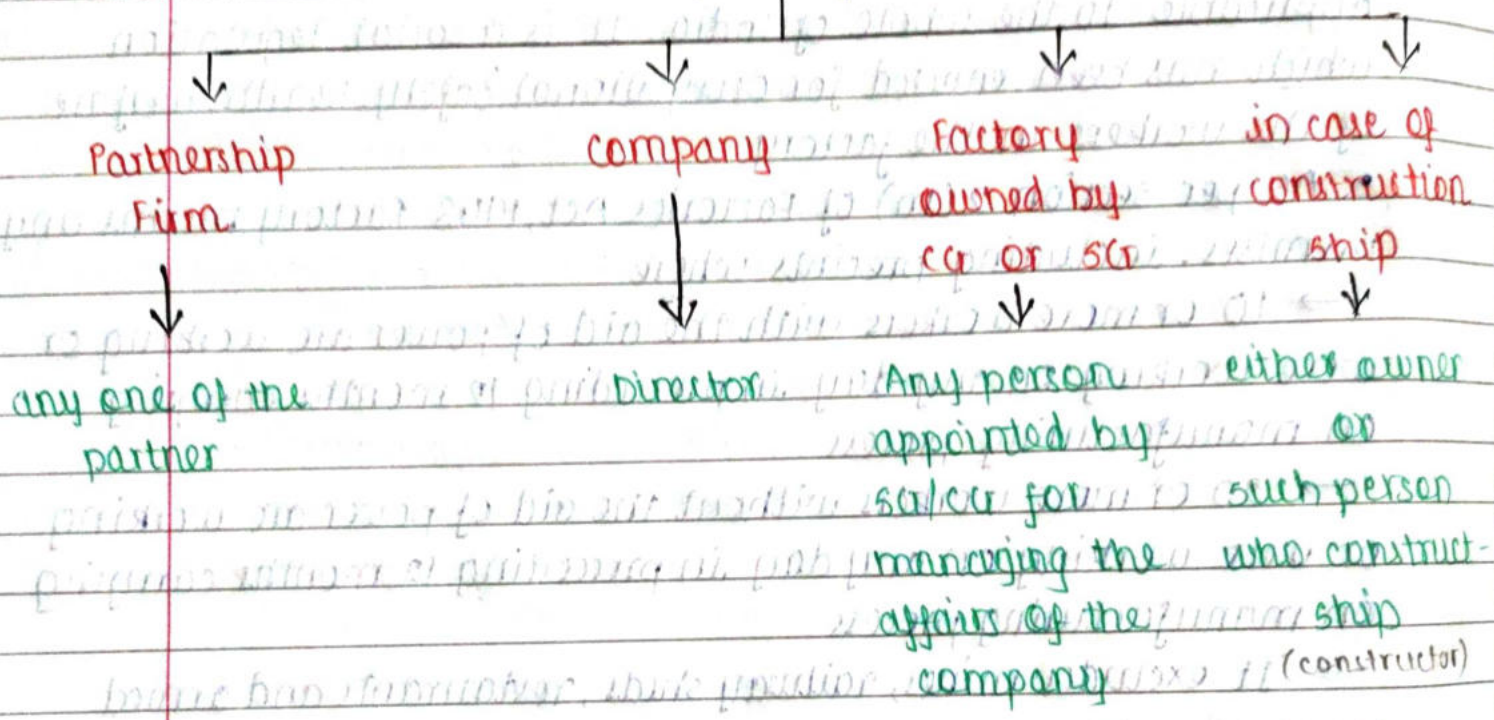
As per above provision there were 11 workers as on 1st April, 2014.

So the denial of manager is incorrect and Mr. Basant demand that Factories Act, 1948 is applicable to the company is correct.

Therefore ABC Ltd is a factory.

6. Occupier 2(n)

↳ Person having ultimate control over the affairs of the factory



(Responsibilities)
* Duties of Occupier :

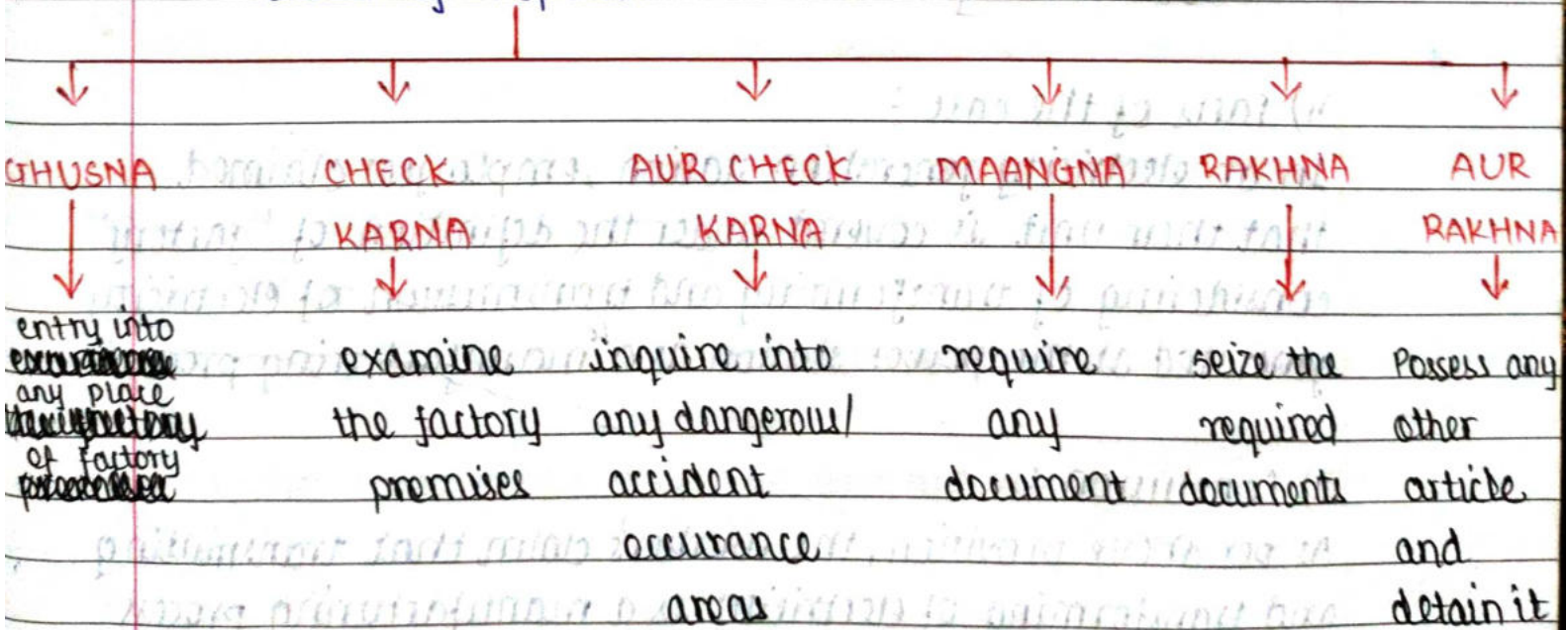
1. Lay down detailed procedure / policy.
2. Policy shall disclose all the information regarding danger and measures to overcome any upcoming hazardous.
3. Draw up an emergency plan and disaster control plan and make known to workers the safety measures required.
4. Lay down measures for the handling, transporting and storage of hazardous substances and disposal of such substance outside the factory premises.
5. Maintain health records of employees.
6. In case of hazardous ~~sub~~ substance → appoint a person having possessed qualification.

* Notice of Occupier

1. Give notice to C.I. atleast 15 days prior to occupy the factory. The notice shall include:
 - Name and Address of factory
 - Name and Address of Occupier
 - Nature of manufacturing process
 - Details of workers
2. If new manager is appointed → intimate and give notice to C.I. within 7 days of appointment of such manager.

7) Chief Inspector:

- ↳ shall be appointed by S.G.
- must possess prescribed qualification
- will be assigned → as per local limits
- Powers of Inspector



Q.3 Practical Question

viii) i) Provision :

- Factories Act, 1948 came into existence on 1st April, 1949. It applies to whole of India. It is a social legislation which has been enacted for occupational safety, health and welfare of workers at work place.
- As per section 2(k) of Factories Act 1948, manufacturing process means ^{any process of} making, altering, repairing, ornamenting, demolishing and finishing for sale, use, transport or disposal.
 - pumping oil or water
 - generating electricity
 - composing printing
 - constructing ship models
 - preserving in warehouses or cold storage
 - book binding

ii) Facts of the case :

In an electricity generation station, employees claimed that their unit is covered under the definition of "factory" considering of transforming and transmission of electricity generated at the power station as a "manufacturing process".

iii) Conclusion :

As per above provision, the worker's claim that transmitting and transforming of electricity is a manufacturing process is incorrect. As this electric generation station is just a sub station and not a power station.

Hence, Factories Act, 1948 will not be applicable on this unit.

8. certified surgeons :-

↳ Appointed by SGT

→ Must possess — medical qualification

→ Duties :

① Examine and certify — [young person (whose age is 14-17)
person engaged in dangerous occupation

② Exercise medical supervision where :

↓
Illness have
occurred

↓
Likely to injure
workers

↓
Injure to health
of young person

↓
due to nature
of manufacturing
process

* HEALTH :-

5m
* Imp
i) Cleanliness (sec 11)

i) Every factory shall be — } arising out of
↳ kept clean }
↳ Free from }
↳ effluvia } drain other nuisance

ii) Nikalo → remove dirt and ~~dispose~~ dispose them

iii) Saaf karo → clean floor of → ONCE A
every workroom WEEK

iv) Pedo → provide effective drainage → of water

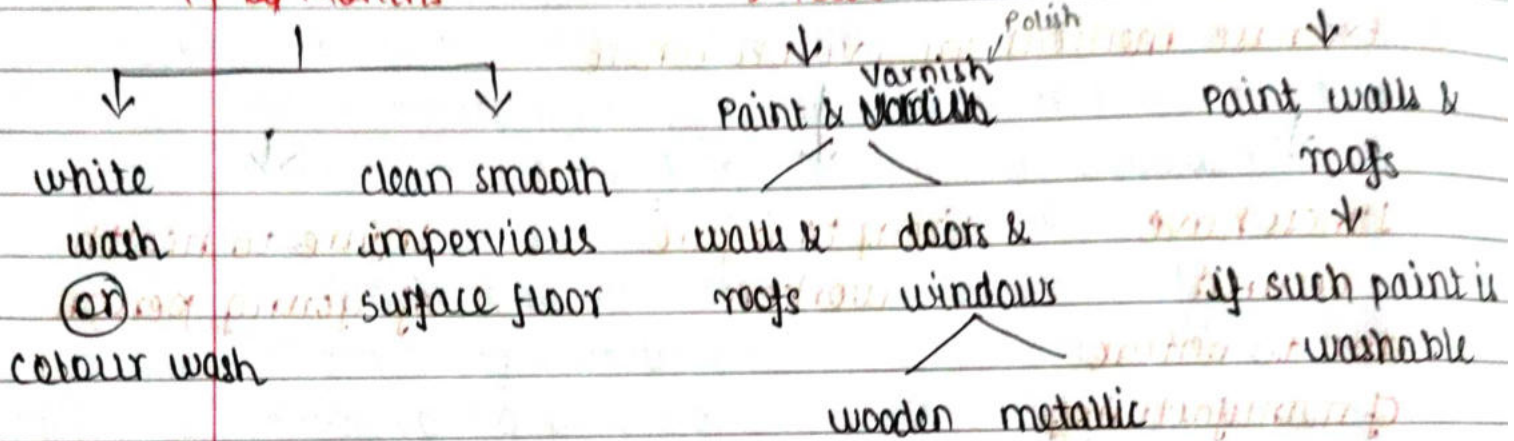
v) safai → ① interior walls } shall be kept clean
 ② roofs

vi) Once in every

14 months

5 Years

6 months



b) Disposal of wastes and effluents (Sec 12):

↳ Necessary to arrange proper and effective waste treatment and its disposal.

c) Ventilation and temperature (Sec 13):

↳ Every workroom shall be maintained with adequate ventilation by the circulation of fresh air.

→ If work involves production of excessively high temperature — adequate measures shall be taken to protect the workers.

d) Dust and fumes (Sec 14):

↳ In any factory if there is any dust and fumes or any other impurity.

- Such impurity is injurious to workers
- measures shall be taken to prevent **its inhalation & accumulation of dust in any workroom**
- eg.) Exhaust appliance shall be applied

e) Artificial Humidification (Sec 15)

↳ If humidity is artificially increased, sg may make following rules :

- ① prescribed standard
- ② regulate the method
- ③ directing tests
- ④ prescribe method for security adequate ventilation & ~~etc~~ cooling

f) Overcrowding (Sec 16)

- ↳ No room shall be overcrowded
- Every workroom - 14.2 cubic meters

g) Lighting (Sec 17)

- ↳ There must be sufficient and suitable lighting
- All gazed windows and skylights shall be kept clean
- Effective provision shall be made **prevention of glare** & **prevention of shadow**

from the surface of light **(or)** reflection from a smooth surface

h) Drinking water (Sec 18)

- ↳ sufficient supply of ^{Free from defects} wholesome drinking water
- ↳ If more than 250 workers → cool drinking water
- ↳ shall kept 6 meters away from urinals, washing place, latrine, spittoons, open drains

i) Latrines and Urinals (Sec 19)

- ↳ In every factory sufficient latrines and urinals accomodation must be there.
- ↳ seperate enclosed accomodation - for Male Female
- ↳ must be adequately lighted & ventilated
- ↳ must be maintained in clear and ~~sanitary~~ sanitary conditions
- ↳ sweepers shall be employed to keep clean latrines
- ↳ clean → ATLEAST ONCE IN 7 DAYS with detergents / disinfectants

j) Number of spittoons (Sec 20)

- ↳ There must be sufficient number of spittoons in convenient place
- maintained in a clean hygienic conditions

* Safety Measure:

The factory is to take safety measure in respect of the following:

1. fencing of machinery

2. Employment of young persons on dangerous machines
3. Revolving machinery
4. Excessive weights
5. Protection of eyes
6. Precaution against dangerous fumes, gases, etc
7. Precaution in case of fire
8. Maintenance of building
9. Prohibition of employment of women and children near cotton openers
10. Appointment of safety officers

⊛ Welfare measure = (80) *Welfare measures*

The following are the welfare measures prescribed in the Act to be provided by the factory to their workmen:

1. washing facilities
2. facilities for storing and drying clothing
3. facilities for ~~st~~ sitting
4. first aid appliances
5. canteens
6. shelters rest rooms and lunch rooms
7. crèches
8. appointment of welfare officers

1. Washing facilities (Sec. 42)

↳ facilities for washing shall be provided for the use of workers

→ facility shall be conveniently accessible and shall be kept clean

2. Facilities for storing and drying clothes (Sec 43)

- ↳ SG will prescribed rules
- regarding suitable places for keeping clothes not worn during working hours

3. Facilities for sitting (Sec. 44)

- ↳ suitable arrangements for sitting shall be provided to all the workers obliged to work in a standing position.

* 4. First aid appliances (Sec 45):

↳ During working hours $\left[\begin{array}{l} \text{First Aid Kit (OR)} \\ \text{cupboard equipped} \end{array} \right]$ shall be readily accessible

→ For each 150 workers → 1 First Aid Kit or cupboard

→ If more than 500 workers → Ambulance

5. canteens (Sec 46):

↳ If more than 250 workers → canteen $\left\{ \begin{array}{l} \text{provided} \\ \text{maintained} \end{array} \right\}$ occupier

6. Shelters, rest rooms and lunch rooms (Sec 47)

↳ If more than 150 workers are employed → adequate suitable restrooms, shelter, lunch room should be provided

7. Crèches (Sec 48): (Baby sitting / 4705011 674)

↳ If more than 30 women workers are employed then suitable rooms for the use of children under the age of 6 years

shall be maintained

→ under the charge of a trained woman

8. Welfare Officers (Sec. 49):

* ↳ If 500 or more workers are employed, the occupier shall employ a welfare officer.

Q.

- v) a. As per section 47 of Factories Act, 1948 if more than 150 workers are employed suitable adequate shelters, restrooms and lunch rooms are provided.
- b. Hence the above statement is incorrect as it is not mandatory for all the factories. Therefore I do not agree with the statement.

⊛ Employment :

1. Adults : (18 or more)

- Working hours → sec. ~~54~~ 54
 - ↳ not more than — 9 hours a day
 - Rest → of ½ hours after every 5 hours of work.
 - Overall spread → not more than 10½ hours
[working hours ⊕ ~~spread~~ rest]
 - whole week ⇒ not more than 48 hours
- Overtime → sec. 59
 - ↳ wages of ~~time~~ at the rate of twice his ordinary rates of wages
- Double Employment → sec. 60
 - ↳ No adult worker shall be required or allowed to work in a factory on any day on which he has already been working
(eg. Double shift nahi kar sakta)
- Register of adult workers → sec. 62
 - ↳ occupier shall maintain the register showing :-

- ① Name
- ② Address
- ③ Nature of work
- ④ Group
- ⑤ Health records
- ⑥ Other particulars as maybe prescribed

• Employment of women → sec. 66

Restrictions

- 1) No exemption u/s 54
- 2) shall be allowed to work between 6 am - 7 pm
- 3) Sr → may authorise to work them in between 10 pm - 5 am
- 4) No change of shifts.

⊛ Young person / children

• Prohibition of Employment of Yc :

↳ 14th year shall be allowed to work in factory ⊛*

→ Also known as Adolescent worker ⊙

→ He shall not be allowed to work, unless :

- i) certificate of fitness is granted to him → give to ^{manager or occupier}
- ii) carry this COF or token while he is at work

COF : (Sec. 69)

short note

↳ given by certified Surgeon

Application shall be made by

- ↳ Young children
- ↳ Parents
- ↳ Guardian

→ CS will certify - fit or not

- certificate will be renewed by manager after completing the age of 15 years of YC
- certificate ~~shd~~ granted shall be valid for → 12 months
- This certificate ~~shd~~ can be revoked anytime, if such person is no longer fit to work

• Working hours of YC

- ↳ shall not work more than → 4½ hours a day
- Two shifts which shall not overlap and spread over more than 5 hours
- shall be employed in only one of the relays
- (-) permission of SG
- 8 am to 7 pm ⇒ female child

• Register of child workers :

- ① Name
- ② Nature
- ③ Address
- ④ Group
- * ⑤ No. of his COF
- ⑥ Any other particulars

comment based question

- iv) a. As per factories Act, 1948 factory means any premises including precincts 10 or more workers with the aid of power or 20 or more workers without the aid of power are working or were working on any day of preceding 12 ~~more~~ months carrying out manufacturing process

b) It excludes mines, railway shed, restaurants and army.

c) Hence the above statement is correct as all the factories wherein 50 or more workers with or without the aid of power are working on any day of ~~preced~~ preceding 12 ~~month~~ months carrying out manufacturing process. Therefore Factories Act, 1948 is applicable to all these factories.

* Weekly Holidays (Sec. 52)

→ No adult worker shall be required to work on the first day of the week, unless :

(-) has a holiday on any day of the three days before OR after the said day

AND

The manager has to :

- ① give notice to the Inspector
- ② Display notice in factory
- ③ Special Reason

Compensatory Holiday (Sec. 53)

→ If worker is deprived of any of the weekly holiday
→ He can compensate within :

The said month

OR

2 months following the said month

⊛ Annual leave (sec. 79).

↳ If any worker has worked for 240 days or more in a "CALENDAR YEAR" so he shall be eligible for leave with wages in **SUBSEQUENT YEAR**.

1) Adult : **1 day** for every **20 days** worked in Previous Year

2) Child : **1 day** for every **15 days** worked in Previous Year

Following shall be the deemed working days of the worker for calculating work period of 240 days :

① lay offs (Employer's ke wajah se milne wali chhuti).

② Maternity Leave (upto 12 weeks)

③ Leave with paid wages

* Carry Forward Leaves :

↳ carry forward leaves — are allowed

→ ① max. 30 for adults

② max. 40 for children

* Encashment of leave [sec. 79(3)]

↳ If a worker is :

1. discharge or

2. dismissed or

3. quits his employment or

4. Dies

shall be entitled to the wages ^{असके अक्षरों में} in lieu of the ^{quantity} quantum of leaves shall be made before the expiry of the 2nd working day for a date of discharge

* Wages during leave period :

↳ A worker shall be entitled to wages at a rate equal to the daily average of his total full time

→ months immediately preceding his leaves

* Availing of leave :

↳ apply to manager / occupier

→ 15 days prior

* Advance Payment (sec. 81) :

↳ Yes allowed, CONDITIONS —

min. 4 days — Adult

min. 5 days — child

* Powers of Central Government :-

1. Power to inquire into standard of health
2. Provide emergency standards
3. Fixing the maximum permissible threshold limits of exposure of chemical
- * 4. Occupier → Appoint a → safety committee (s.c)

for co-ordinating
between workers
& management

↓
represents
workers

↓
represents
management

⊛ competent person - section 2(ca)

↳ A person or institution

→ recognized by C.I

→ for purpose of carrying out :

- Test
- Examination
- Inspection

→ must have possessed qualification and experience

⊛ Penalties :-

OFFENCE	Punishment	
	Imprisonment	Fine
1. Occupier & Manager (offence) • If contravention continues after conviction (Jail mai ho) • Contravention → ① Death - worker ② Heavy Bodily Injury	upto 2 years	upto 1 lac 1000 per day
2. Enhance Penalty • If same offence committed within 2 years	upto 3 years	10k - 2 lac
3. For obstructing Inspector : ① fails to produce documents ② wilfully obstructs	Max. 6 months	10k
4. Hazardous process • If contravention continues • If contravention continues for period of more than 1 year	Max. 7 years Max. 10 years	Max. → 2 lac 5,000/- per day
5. Workers		Max. 500/-
6. False Fitness certificate	Max. 2 months	Max. 1000/-
7. Double Employment of child ⊕ Punishment will be imposed on Parents Guardian		Max. 1000/-

Case studies :-

1. In 'M/s Gazi Nourul Hasan Hamid Hussain Petrol Pump v/s Deputy Director, Employees state Insurance corporation'

→ Takeaway : manufacturing process is not only but also include -

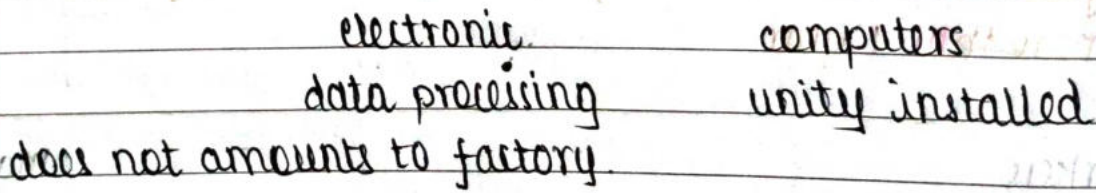
- (i) Repairs
- (ii) Oiling
- (iii) Finishing process
- (iv) cleaning process

2. In 'Lat Mohammed v/s Indian Railway construction co limited'

→ Takeaway : Workers of a constructing company would be attracted to section 2(i)

3. In 'Seelan Raj v/s Presiding officer, 1 additional Labour court, Chennai'

→ Take away : Just mere fact that



4. In 'Container Corporation of India Limited v/s Lt. Governor, Delhi'

→ Takeaway : In a company only director can be a occupier and not an employee

5. In 'Ferro Alloys Corporation Limited v/s Government of Andhra Pradesh Labor Employment and Technical Education (Labor II) Department'

→ Takeaway: If more than 250 workers → canteen is compulsory

The mode of setup of canteen →

At the discretion of establishment

↳ morzi

6. In 'Shyam Vinyals Limited v/s T. Prasad'

→ Takeaway: Assistant Personnel Officer cannot be ~~appointed~~ appointed as welfare officer

7. In 'Richa & company v/s Shri Suresh Chand'

→ OT of 15 mins → does not amounts to OT

8. In 'Motor and Machinery Manufacturers Limited v/s State of West Bengal'

→ Takeaway

- If occupier/ employer makes worker on sunday → worker will get compensatory holidays
- If wants weekly holiday, other than sunday → must have special reasons.