

**UTTARAKHAND HIGHER JUDICIAL SERVICE EXAMINATION-2012**

**Paper no. 1**

**Maximum marks-100**

**Time : 2 hours.**

- Note: (i) All questions are compulsory.  
(ii) The candidate has a choice to answer the question either in Hindi or in English except question no. 6, 7 & 9, which can only be answered in English and question no. 8, which can only be answered in Hindi.

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**PART ONE**

(Current Affairs, Indian Legal History, Legal Maxims, Medical Jurisprudence, Basic Computer Operation, Legal Phraseology)

Q.1. Explain briefly any seven of the following legal maxims/ legal phraseology:-

**7x2=14 Marks.**

- (i) Falsus in uno falsus in omnibus.
- (ii) Actus curiae neminem gravabit.
- (iii) Injuria non excusat injuriam.
- (iv) Res Ipsa loquitur.
- (v) Volenti non fit injuria.
- (vi) Pari materia.
- (vii) Mutatis mutandis.
- (viii) Non obstante clause.
- (ix) Stare decisis.
- (x) Doctrine of bias.
- (xi) Persona designata.
- (xii) Quid pro quo.

Q.2. Privy Council made significant contribution in the evolution of modern Indian Legal system. Critically analyse.

**10 Marks.**

Q.3. (a) What do you understand by booting a computer?

- (b) Distinguish between LAN and WAN.
- (c) What do you understand by URL?
- (d) What is cyber crime? Cite any two examples.

**4x2= 8 Marks.**

- Q.4. The Government is considering a number of measures to tackle corruption and has introduced the Lok Pal Bill 2011, Judicial Standards and Accountability Bill 2010 and Disclosure and Protection of Persons Making the Disclosure Bill 2010, commonly known as the Whistleblower's Bill.  
Give your opinion on the aforesaid bills. **10 Marks.**

- Q.5. Attempt any two of the following: **4x2= 8 Marks.**
- State the differences between antemortem and post mortem injuries.
  - State the types of violent asphyxia.
  - Give four medicolegal use of DNA Finger Printing.
  - Name some factors responsible for drug abuse.

PART TWO

- Q. 6. Write an essay in English on any one of the following topics :- **15 Marks.**
- No man is a judge of his own cause.
  - The need of discipline in judiciary.

- Q.7. Write a précis in English of the following passage:- **15 Marks.**

We must insist that free oratory is only the beginning of free speech; it is not the end, but a means to an end. The end is to find the truth. The practical justification of civil liberty is not that the examination of opinion is one of the necessities of man. For experience tells us that it is only when freedom of opinion becomes the compulsion to debate that the seed which our forefathers planted has produced its fruit. When that is understood, freedom will be cherished not because it is a vent for our opinions but because it is the surest method of correcting them.

The unexamined life, said Socrates, 'is unfit to be lived by man'. This is the virtue of liberty, and the ground on which we may best justify our belief in it, that it tolerates error in order to serve the truth. When more men are brought face to face with their opponents, forced to listen and learn and mend their ideas, they cease to be children and savages and begin to live like civilized men. Then only is freedom a reality, when men may voice their opinions because they must examine their opinions.

The only reason for dwelling on all this is that if we are to preserve democracy we must understand its principles. And the principle which distinguishes it from all other forms of government is that in a democracy the opposition not only is tolerated as constitutional but must be maintained because it is in fact indispensable.

The democratic system cannot be operated without effective opposition. For, in making the great experiment of governing people by consent rather than by coercion, it is not sufficient that the party in power should have a

majority. It is just a necessary that the party in power should never outrage the minority. That means that it must listen to the minority and be moved by the criticisms of the minority.

Q. 8. Translate the following passage into Hindi.

10 Marks.

**Delay in FIR**

First information report forms vital part of criminal investigation system which sets it into motion in order to detect the crime and to apprehend the offenders. Prompt registration always hold good and strengthens the complainant's version, on the other hand delay may be fatal if not properly explained. In the case in hand there is three days delay in lodging the FIR. Alleged date of incident when the deceased suffered injuries is 28.05.2007 and offence was complained on 30.05.2007. Although complainant states that since he was busy in performing last rites, thereby could not inform the matter immediately. Though delay in lodging FIR may not by itself be fatal to the case of the prosecution but that court of fact has to consider, in the light of the totality of the evidence, whether the delay adversely affects the case of the prosecution. That is a matter of appreciation of evidence. In State vs. Bhawar AIR 2004 SC 4660 the Hon'ble Apex Court held that it is true that promptness makes the FIR more dependable. But, why the Courts would be too fastidious when there is some delay in lodging FIR, especially when there is no doubt about the incident, unless of course, the delay is likely to corrode the credibility of the prosecution case.

Q. 9. Translate the following passage into English:-

10 Marks.

मैंने सम्पूर्ण परिस्थितियों और तीनों रिट याचिकाओं के अभिलेखों का विस्तार से अध्ययन किया है। मैं स्पष्ट मत का हूँ कि श्रीमती माधुरी देवी की नियुक्ति के सम्बन्ध में इस रिट याचिका की पत्रावली पर अभिलेख उपलब्ध नहीं हैं, जिसके आधार पर यह कहा जा सके कि माधुरी देवी की नियुक्ति नियमानुसार की गई थी। माधुरी देवी ने अपनी रिट याचिका और प्रति उत्तर शपथ-पत्र में कोई प्रमाण इस बात का नहीं प्रस्तुत किया है जिससे स्पष्ट हो सके कि विद्यालय में हिन्दी प्रवक्ता की रिक्ति को तदर्थ रूप से भरने का कोई प्रस्ताव क्षेत्रीय निरीक्षका बालिका विद्यालय को भेजा गया है। लेकिन उक्त रिक्ति की सूचना विद्यालय के सूचना पट पर प्रसारित की गई लेकिन किसी समाचार-पत्र में प्रसारित नहीं की गई। कितने अभ्यर्थियों ने उक्त सूचना के परिणाम स्वरूप उक्त पद हेतु आवेदन प्रस्तुत किया है अथवा अभ्यर्थियों के क्या गुणांक थे और किस आधार पर माधुरी देवी को सर्वश्रेष्ठ गुणांक वाली अध्यापिका माना गया यह भी स्पष्ट नहीं है। श्रीमती माधुरी देवी के अनुसार उनकी नियुक्ति सूचना पट पर प्रसारित करके की गई है। इस न्यायालय के पूर्ण पीठ ने कु० राधा रार जादा बनाम कमेटी आफ मैनेजमेण्ट दरबाई गर्ल्स इन्टर कालेज एवं अन्य, 1994 ए०एल०जे० पेज 1077: (1994) 3 यू०पी०एल०बी०ई०सी० 1551 (पूर्णपीठ) में यह अभिमत व्यक्त किया है कि अल्पकालीन रिक्तियाँ भी समाचार-पत्र में विज्ञापन करके नियुक्त की जानी चाहिये। उक्त सन्दर्भ में यह स्पष्ट है कि माधुरी देवी की नियुक्ति पूर्णतया विधि विपरीत थी और माधुरी देवी इस रिट याचिका में सविधान के अनुच्छेद 226 के अन्तर्गत प्रदत्त अधिकार क्षेत्र के अन्तर्गत कोई अनुतोष पाने की अधिकारिणी नहीं है। तदनुसार तीनों रिट याचिकायें निरस्त की जाती हैं।

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