

INDUSTRIAL RELATION & LABOR WELFARE

UNIT - II - INDUSTRIAL CONFLICTS

Disputes - Impact - Causes - Strikes - Prevention - Industrial Peace - Government Machinery- Conciliation - Arbitration - Adjudication.

1. INDUSTRIAL CONFLICT OR INDUSTRIAL DISPUTES

1.1 DEFINITION AND MEANING

According to industrial disputes act, 1947 “ Industrial Disputes means any disputes or difference between employers and employees, or between employers and workmen, organization or between workmen and workmen, which is connected with the employment or non - employment or with the condition of labor of any person.”

1.2 NATURE OF INDUSTRIAL DISPUTES

- **Press for higher wages and profits** :- The coming together of the workers motivated by the press of obtaining the highest possible wages and the owners of the capital motivated by profit maximization is the basic cause of industrial conflict
- **Conflict among workers and employers** :- Conflict is like the conflict between any buyer and seller. The workers are the sellers are the commodity - the labor power- and the employers by this commodity.
- **Limitation of the system** :- It is not that the employer is cruel and enjoys the view of depression, diseases of his workers. The point is that he cannot offer to be liberal and kind. He has his own limitations of the system.
- **Profit maximization** :- Workers may demand a share in the management of the enterprise, a voice in the formulation of the standing orders and scope for self expression and a respect for the dignity of their individuality.

1.3 CAUSES OF INDUSTRIAL DISPUTES

Economical factor

- **Demand for higher wages** :- Need for the money, forces the workers to demand more wages to meet their needs and increase their standards of living. This brings them into conflict with their employers who are never willing to pay more wages to workers
- **Demand for allowances and bonus** :- Increase in cost of living was the main cause of the demand of certain allowance, such as dearness allowances, house allowances, nightshift allowances by the workers
- **High industrial profits** :- In the changing world, concept of labor has changed significantly. At the present, employers considered themselves as the partner of the industry and demand their share in the profit

Non -economic factor

- **Working condition & hours** :- The working condition in Indian industries is not hygienic working hours are also greater. The demand or pleasant working conditions and shorter hours of work let to labor disputes.

- **Modernization and automation of plant & machinery:** - The attempt at modernization and introduction of automatic machinery to replace labor has been the major cause of disputes in India.
- **Personnel causes:** - Sometimes industrial disputes arise because of personal problems like dismissal, retrenchment, layoff, transfer and promotion etc.
- **Political causes:** - Various political parties control trade unions in India. In many cases, their leadership in the hands of persons who are more interested in achieving the political interest rather than the interest of the workers.
- **Indiscipline:-** Industrial disputes also take place because of indiscipline and violation on the part of the work force
- **Non-Reorganization of trade unions:** - The employers usually do not like the nosiness by trade unions. They do not recognize them. This brings the workers into conflict with their employers
- **Miscellaneous causes:-** Behaviour of supervisors, lack of proper communication between management and workers

Management practices

- **Unfair labor practices:** -. A management unwillingness to recognize a particular trade union. To show partiality to one set of workers. Failure to implement the agreement
- **Ineffective supervision** :- If the supervisors are not effective and well behaved, they treat the workers in servant relationships

Trade union practices

- **Union opposition:** - There is a problem of multiplicity of trade unions in India. The result is that any settlement arrived at between the management and a union is opposed by other unions, it leads to problems and disputes.
- **Non - cooperative approach:** - Many trade unions assume that 'what they do is right and what management does is wrong'. So they oppose all settlement

Legal and political factors

- **Multiplicity of labor laws:** - Existence of multiple labor laws creates more confusion.
- **Political interference** :- The politician politicization of trade union activities are direct interference of political parties and their workers

1.4 IMPACT OF INDUSTRIAL DISPUTES

- ⌞ **Impact on employer:** - An industrial disputes resulting in stoppage of work means a stoppage of production. It leads to Loss due to destruction of property, personal injury, and physical intimidation or inconveniences also arises
- ⌞ **Impact on employees:** - Employees also get affected with industrial disputes. They loss their wages during the period of strikes. Sometimes, they become unemployed also because of lockouts and strikes.
- ⌞ **Impact on consumers:** - Consumers get affected by the scarcity of goods and price hike. After the strike, the burden of the cost is naturally passed on to the consumer by price raise.
- ⌞ **Impact on economy:** - Long stoppage of work by labor through strikes and lockout has an ill effect on national productivity and income.

1.5 TYPES OF INDUSTRIAL DISPUTES

- └ **Interest disputes** :- It relates to determination of new wage level and other conditions of employment
- └ **Rights disputes** :- The work man has not been treated in accordance with the rules, individual contracts of employment, laws and regulation and as per collective agreements. Such disputes are also described as grievance disputes.
- └ **Recognition disputes**:- It arises when the management of the undertaking are employers organization refuses to recognize the trade union for the purpose of collective bargaining

1.6. A. STRIKES

It is a temporary end of work by a group of employees in order to express grievances or to enforce a demand concerning change in working conditions

Types of strikes

- └ **Primary Strikes**
 - **Stay away strike**:- In this strike workmen stay away the workplace. They organize rallies, etc
 - **Stay in strike or sit down strike**:- In the strike workmen come to the place and stay at the workplace but they do not work
 - **Tools down, pen-down or mouth shut strike**:- In this strike the strikers put down down the tools in case of factory workers, lay down their pens in case of office workers and shut their mouth in case of teachers
 - **Token or complain strike**:- It is a very short duration and in the nature of signal for the danger head. In this strike the workers do not work for an hour or a day.
 - **Lighting or wildcat strike**:- In this strike, the striker's strike the work without any prior notice or with the shortest notice
 - **Go slow strike**:- In this strike, the workers identically reduce the speed of worker.
 - **Work to Rule or work to resignation**:- In this strike, the strikers undertake the work according to rules or job description
 - **Boycott**:- It aims at upsetting the normal functioning of the enterprises
 - **Gherao**:- It is a physical barrier of a target either by hold, intended to block the way in from and to a particular office, workshop etc
 - **Hunger strike**:- This type of strike is way out to either by the leaders of the union or by some workers all at a time or in small batches for a limited period or Upto the period of settlement of disputes
- └ **Secondary Strike**
 - **Sympathy strikes**:- The workers have no direct interest in the advancement of the cause of the strikers. Such a strike is an unjustifiable
 - **Others**:- These strikes are in the form of general, particular, political and bandhs etc

Effects of Strikes

- └ Cuts out the creation of profit
- └ Cuts off the employer from his market
- └ It sometimes leads to damage to costly equipments and property
- └ Results in violence
- └ Loss of valuable man hours
- └ Strikes are costly to workers
- └ Strike directly suspends production
- └ Sources of materials may be lost
- └ Fixed charges such as interest, taxes and salaries for officials continue to be incurred during the strike period
- └ Depletion of trade union funds
- └ It causes emotional tensions and mental strains

Prevention of strikes

- └ It should adopt a well defined personal policies
- └ It should ensure an effective administration and timely implementation of these policies
- └ It should adopt fair and reasonable recruitment, promotion and wage policies and ensure their proper implementation.
- └ It should ensure an effective two way system of communication. This will help the management to create a favorable atmosphere of goodwill and faith in the organization
- └ It should provide just and human conditions of the work, along with suitable welfare activities for the benefit of the workers.
- └ It should give recognition to a representative union and should have practical approaches towards union activities

1.6.B.LOCKOUTS

Lockout “refers to the action of an employer in temporarily closing down or shutting down the undertaking or refusing to provide its employees with work with the intention of forcing them either to accept the demands made by the or to withdraw the demands made by them on him

Not lockouts: - Prohibiting an individual employee is an not an lock out, termination of an employment by retrenchment does not amount to a lockout

1.7 PREVENTION OF INDUSTRIAL DISPUTES

- └ **Prevention machinery:** - The prevention machinery ensures that there are no disputes. It aims at creating an environment in which the employees are allowed to participate and there are very less chances of conflicts
- └ **Negotiation:** - Negotiation is one of the most common approaches used to make decisions and manage disputes.
- └ **Trade unions:** - Strong trade unions help present industrial disputes relating to wages, benefits, job security, etc.

└ **Joint consultations:-**

- **Works Committees** :- In any industrial which consists of one hundred or more workmen are employed in the preceding twelve months, the government may, require the employer to form a works committee.

The committee shall consist of representatives of employers and workmen engaged in the establishment. The number of representatives of workmen on the committee shall not be less than the number of representatives of the employer

└ **Standing orders**: - The term “standing orders” refers to rules and regulations, which govern the condition of the employment of workers. They specify of the duties and responsibilities of both employers and employees

└ **Grievance procedure**: - Under the model grievance procedures, as suggested by the Indian labor conference, 1958, both the employer and the workers are expected to follow certain steps

└ **Code of discipline**: - The code of discipline is a set of self imposed mutually agreed voluntary principles of discipline and relations between the management and workers in the industry

└ **Mediation**: - A third party, the mediator, assist the parties to negotiate the own settlement. Where all the parties agree that the mediator may do so.

2. GOVERNMENT MACHINERY FOR SETTLEMENT OF INDUSTRIAL DISPUTES

1. Conciliation
2. Arbitration
3. Adjudication

2.1 CONCILIATION: - The workers and employers are brought together before a third person or a group of persons with a view to convince them to come to a mutually satisfying agreement

CONCILIATION MACHINERY IN INDIA

- 2.1. A. Conciliation officer
- 2.1. B. Board of conciliation
- 2.1. C. Court of inquiry

2. 1. A. Conciliation officer: - According to the industrial disputes act, 1947 (sec 4) the central and state government can appoint a conciliation officer to mediate in all disputes brought to his notice. He is expected to give judgment within 14 days of the commencement of the conciliation proceedings.

Duties of Conciliation Officer (Sec12)

- **To hold conciliation proceedings** :- Where any industrial dispute exists, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.
- **To investigate the dispute:** - The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and right settlement.
- **To send a report and memorandum of settlement to appropriate government:** - The conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.
- **Where no settlement is arrived at** :- If no such settlement is arrived at, the conciliation officer shall, close of the investigation and send a full report to Government including the steps taken by him for find out the information and circumstances relating to the dispute etc

Power of Conciliation Officer

- **Power to enter the premises:**- A conciliation officer have power to enter the premises for enquiry relate to existing industrial dispute, after giving reasonable notice.
- **Power to call for and inspect documents:** - He has power to call any person and inspect any document which he has considering being relevant to the industrial dispute. He has the same power as civil court

Role of conciliator

- Discussion leader
- Safety value
- Communication link
- Innovator
- Protector
- Advisor
- Promoter of collective bargaining

2.1. b. Board of conciliation: - A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

Quorum of board of conciliation: - The Board that the services of the chairman or of any other member have closed to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

Duties of Board

- **To bring about a settlement of dispute:** - The duty of the Board to try to bring about a settlement of the same and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof.
- **To send a report and memorandum of settlement to the appropriate government:** - If a settlement of the dispute, the Board shall send a report to the Government together with a memorandum of the settlement signed by the parties to the dispute.
- **To send a full report to the appropriate government setting forth the steps taken by the board in case :-** :- If no such settlement is arrived at, the conciliation officer shall, close of the investigation and send a full report to Government including the steps taken by him for find out the information and circumstances relating to the dispute etc
- **To submit report within 2 months :-** The Board shall submit its report under this section within two months of the date or within such shorter period as may be fixed by the appropriate Government

Power of board

- **Power to enter the premises:** - Boards have power to enter the premises for enquiry relate to existing industrial dispute, after giving reasonable notice.
- **Power to call for and inspect documents:** - They have power to call any person and inspect any document which he has considering being relevant to the industrial dispute. He has the same power as civil court

2.1. C. Court of inquiry: -

A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

- └ **Quorum of Court of Inquiry:** - A Court consists of two or more members, one of them shall be appointed as the chairman. If the appropriate Government notifies the Court that the services of the chairman have ceased (closed), the Court shall not act until a new chairman has been appointed.

Duties of Court of Inquiry (sec 14):- A court shall inquire into the matters referred to it and report there on to the appropriate government ordinarily within a period of 6 months

Power of Court of Inquiry (Sec 11)

- └ **Power to enter the premises:** - A member of the board have power to enter the premises for enquiry relate to existing industrial dispute, after giving reasonable notice.
- └ **Power to call for and inspect documents:** - They member of the board have power to call any person and inspect any document which he has considering being relevant to the industrial dispute. He has the same power as civil court
- └ **Power to appoint assessors :-** A court may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding in it

2.2 ARBITRATION

Meaning of arbitration: - When conciliation proceedings failed or settle the disputes, the conciliation officer may convince the conflicting parties to voluntarily refer the dispute to a third party known as arbitrator, appointed by the parties themselves

└ Types of arbitration

1. **Voluntary arbitration:** - The arbitrator is appointed by both the parties through mutual constant. In order to promote voluntary arbitration, government of India constituted national arbitration promotion board in 1967.
2. **Compulsory arbitration:** - When the disputing parties weaken other means of settling the disputes, the government can force the parties for compulsory arbitration.

└ Essential Elements of arbitration

- Voluntary submission of dispute to an arbitrator
- The subsequent attendance of witness and investigations
- The enforcement of an award may not be necessary

Advantages of arbitration

- ⌞ Since it is established by the parties themselves, arbitration has the particular advantages of bringing the disputes settlement procedure down to the level of the parties to the disputes.
- ⌞ Since arbitration is established by agreement, it is more flexible than other procedures can be adjusted to the views, desires and experiences of the parties and to the circumstances obtaining in the undertaking or industry.
- ⌞ The procedure is relatively speedy when compared to that in ordinary courts and labor tribunals
- ⌞ It cuts down delay and results in prompt settlement of differences

Disadvantages of arbitration

- ⌞ It removes of its right to go on a strike, for there is often a provision in the agreement that the trade unions and workers will avoid doing from a strike during the continuance of agreements
- ⌞ Judgment is often arbitrary and ill advised as the arbitrators are not well versed in the economy and technical aspects of industry.
- ⌞ Arbitrators are often biased (unfair) against labor and her award is, therefore, usually not in its favor.
- ⌞ Delay often occurs in arriving at the award and settlement of disputes. This leads to a breakdown in the morale of member

2.3. ADJUDICATION

2.3. a. Labor court

2.3. b. Industrial tribunal

2.3. c. National tribunal (sec 7b)

2.3. a. Labor Court: - Labour Courts are constituted by State Governments u/s 7. It will be presided over by Presiding Officer'.

- ⌞ **Qualification for appointment:** - Has been judge of high court
-- He has been judge of district court not less than 3 years
- ⌞ **Duties and function of labor court:** - Authority of an order of the employer
-- Application and interpretation of standing orders
-- Discharge including retrenchment

2.3. b. Industrial tribunal

- ⌞ **Appointment and constitution:** - Industrial Tribunal is constituted by State Government u/s 7A. The tribunal will be presided over by Presiding Officer. The Industrial Tribunal has powers in respect of
 - * Wages, including period and mode of payment
 - * Compensatory and other allowances
 - * Hours of work and rest intervals
 - * Leave with wages and holidays
 - * Bonus, profit-sharing, provident fund and gratuity
 - * Shift working changes
 - * Rules of discipline
 - * Rationalization and retrenchment of workmen.

2.3. C. National tribunal (sec 7b)

- **Appointment and constitution:** - National Tribunal is formed by Central Government for settlement of industrial disputes
- **Qualification of presiding officer :-** It will consist of one person only, who should be qualified for appointment as
 - ↳ Presiding officer of a national tribunal / a judge of a high court.
 - ↳ He should be an independent person and should have age of at least 65 years.
 - ↳ The government may appoint two persons to advise the National Tribunal

2.4 Difference between arbitration and adjudication

Method	Arbitration	Adjudication
Methods of resolving dispute	It is a voluntary method of resolving industrial disputes. It is resorted to before the dispute is referred to a labor court, industrial tribunal or national tribunal	It is compulsory & is the ultimate remedy for resolving industrial disputes provided by the ID act, 1947
Source of power	The power to refer an industrial dispute to an arbitrator is derived from the written agreement made by the employers and the workmen together	The power to adjudicate upon disputes is statutory in the sense that it is derived from the provision of the ID ACT, 1947
No of arbitrators / adjudicators	The numbers of arbitrators are one or more than one	The presiding officers of these adjudicatory bodies are appointed by the appropriate government only and all these consists of one person only
Appointment of assessors	No such provision for arbitration	They can appoint one or two assessors
Time	May extend over a long period if hearing protracted; it may take months or even years to conclude. Procedure and time frame to be agreed by parties	Adjudicator has 30 days to decide dispute.
Formalities	Less formal than legal action, strict rules of evidence do not apply but procedural rules may be based on Institutional rules. Otherwise parties to agree or arbitrator	Less formal than arbitration, strict rules of evidence do not apply. Procedural rules may be imposed by nominating body.

3. INDUSTRIAL PEACE

3.1. Meaning and definition of peace: - Peace describes a society or a relationship that is Operating cordially and without violent conflict.

3.2. Preconditions for industrial peace /Measures

- └ The employers should have a progressive outlook. They should recognize the rights of the workers.
- └ Both workers and management should have faith in collective bargaining other peaceful means of settling disputes.
- └ 'Workers participation 'in management should be encouraged.
- └ There should be open two way communication between the parties to industrial relations.
- └ The government should play an active role for promoting industrial peace. It should make law for the compulsory recognition of the representatives union in each industrial units
- └ Liberal and fair management policy regarding wages and other benefits
- └ Satisfactory working condition
- └ Mutually acceptable personnel policies in respect of employees, promotion, disciplinary action and dismissal
- └ Social security and labor welfare measures to provide for the lawful needs of workers and their families
- └ Effective measures and techniques for improvement of employees morale and motivation
- └ Fair treatment and discourage the impartial treatment of workers

3.3 Machinery for maintenance of industrial peace

- └ Machinery for the prevention and settlement of industrial disputes in the form of :-
 - a. Works committees
 - b. Conciliation officer and board of conciliation
 - c. Labor courts, industrial tribunals, National tribunals, courts of enquiry
- └ The creation and maintenance of implementation groups and evaluation committees which have the power to look into the implementation of agreements, settlements and judgement and also to violation of statutory provisions under various labor laws.

***** Thank you *****