

Industrial Relation and Labor Laws

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Edited by:
Dr. Mridula Mishra



LOVELY
PROFESSIONAL
UNIVERSITY



Industrial Relation and Labor Laws

**Edited By
Dr. Mridula Mishra**

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Unit 01: Introduction to Industrial Relations

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Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

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Objectives

After studying this chapter, you will be able to:

- Understand the historical overview of industrial relations in India.
- Learn about evolution of Industrial Relations in India.
- Know the objectives of Industrial Relations in India.
- Learn about the Dunlop Model of Industrial Relations.
- Learn about the ILS Model of Industrial Relations.
- Learn about the Craig's Model of Industrial Relations.
- Learn the need of different approaches to Industrial relation.
- Learn about the different approaches of Industrial Relations.

Introduction

Industrial relations deal with the relationship between labor and management and their organization. The concept of industrial relations is very broad and includes in its fold all the relationships in modern industrial society which arise out of employee-employer relationships and the role of the state in these relations. Industrial relations are multi-dimensional in nature and are influenced by the various factors. India has witnessed the growth of this field of study through three major phases namely the pre-independence period, the post-independence period, and the post globalization era.

1.1 Concept of Industrial Relation

Industrial relation means the relation between an employee and an employer in the course of running an industry and may project itself to spheres which may project itself to spheres which may transgress to the areas of quality control, marketing, price fixation and disposition of profits among others.

In simple terms,

Industrial Relations comprise of two terms:

1. Industry: It refers to any productive activity in which an individual or a group of individuals are engaged.
2. Relations: It means the relationships that exist within the industry between the employer and his workmen.

Definition of Industrial Relation

According to ILO, "Industrial Relations deal with either the relationship between the state and employers and workers organizations or the relation between the occupational organizations themselves".

According to Dale Yoder, "Industrial Relation is a relationship between management and employees or among employees and their organization that characterizes and grows out of employment"

1.2 Objectives of Industrial Relation

It is difficult to precisely lay down the objectives of industrial relations. However, various authors on the subject attempted to highlight the main objectives of industrial relations.

1. Improving the economic condition of workers in the existing state of industrial management and political government.
2. Control by the state over industries to regulate production and industrial relations.
3. Socialization or nationalization of industries by making the state itself the employer; and
4. Vesting the proprietorship of the industries in the workers.

The objectives of industrial relations require examinations of following key features:

i. Employer to individual employee relationships:

This relates to management's policies and practices that ultimately affect the productivity and well-being of their employees as individuals.

ii. Management relations with trade union or group of workers:

It covers rights and practices, regulated by law or legal machinery. It relates to:

- a. Collective agreements
- b. Settlement of industrial disputes
- c. Management's rights
- d. Formation and recognition of unions as representative body of workers

iii. Industrial peace and productivity:

One of the most important objectives of industrial relations is to maintain industrial peace and harmony and, thereby, increase productivity. It depends on the quality of union-management relations at workplaces.

1.3 Evolution of Industrial Relation

IR plays a major role in building and maintaining industrial peace and democracy. India has witnessed the growth of this field of study through three major phases namely the pre-independence period, the post-independence period and the post globalization era. Different environmental factors have had varied impact on the evolution of IR during these phases in India. The evolution of IR during these phases in India is discussed below:

A. Pre-Independence Phase of Industrial Relation:

Pre-independent India was characterized by absence of any major laws that could govern the labor and management relationship. The labor was hired as per requirement by the employer and was

asked to leave when the need ceased to exist. There were no rules to govern the hiring and firing of the workers. The employer had all the power and the workers did not enjoy any form of advantages and faculties at the hands of the owner/ employer. Various leaders did emerge during this phase, however, still much headway was not seen in the development of better industrial relations. Even till the end of the First World War, no major trade union had evolved. The Employers and Workmen (Disputes) Act, 1880 was the only act prevailing to settle wage related disputes of the workers. But the end of the world war saw immense unrest in the industry. It led to violent protests by the workers and lockouts by the employers in retaliation and that is when the government enacted the Trade Disputes Act, 1929. This was done to ensure speedy settlement of work-related disputes. But even this act was not being followed by the state or central governments. The industrial unrest continued as a result of which the Bombay Industrial Relations Act was passed in 1938. The main feature of this act was that it had an Industrial Court which was permanent machinery for the settlement of industrial disputes. By the end of World War II, India experienced grave problems such as unemployment, high population, scarcity etc. which needed to be taken care of.

B. Post-Independence Period:

Pre-independent India was characterized by absence of any major laws that could govern the labor and management relationship. The labor was hired as per requirement by the employer and was asked to leave when the need ceased to exist. There were no rules to govern the hiring and firing of the workers. The employer had all the power and the workers did not enjoy any form of advantages and faculties at the hands of the owner/ employer. Various leaders did emerge during this phase, however, still much headway was not seen in the development of better industrial relations. Even till the end of the First World War, no major trade union had evolved. The Employers and Workmen (Disputes) Act, 1880 was the only act prevailing to settle wage related disputes of the workers. But the end of the world war saw immense unrest in the industry. It led to violent protests by the workers and lockouts by the employers in retaliation and that is when the government enacted the Trade Disputes Act, 1929. This was done to ensure speedy settlement of work-related disputes. But even this act was not being followed by the state or central governments. The industrial unrest continued as a result of which the Bombay Industrial Relations Act was passed in 1938. The main feature of this act was that it had an Industrial Court which was permanent machinery for the settlement of industrial disputes. By the end of World War II, India experienced grave problems such as unemployment, high population, scarcity etc. which needed to be taken care of.

C. Industrial Relation in the post globalization era:

Under the Economic Policy of 1991, globalization made its way into India. Globalization made it easier for businesses to be conducted across national boundaries leading to organizations that are much more diverse and widely located. These organizations are purely driven by the spirit of competition and global survival. As India witnessed globalization, many foreign investors entered and set up ventures across different sectors such as information technology, hospitality, automobiles, pharmaceuticals, etc. As the Indian economy opened up to the outside world, the labor management relations are now heavily influenced by the international bodies such as international labor organization, International Monetary Fund, World Bank, World trade Organization to name a few.

1.4 Scope of Industrial Relation

There are two important aspects of such relationship:

1. Relations between individual workers and manager(s) called personnel relations
2. Collective relations between labor unions and management called labor relations or labor management relations. The pattern of labor management relations is shaped by state intervention.

Think upon

What was the condition and problems faced by Indian Labors?

Answer: Poor Wages, Poor Working Condition, Absence of Job Security, Long Working Hours, Absence of Welfare Activities, Employee's Strike, Low productivity, and Absence of Skilled Labor.



Did you know?

How was the attitude of colonial government toward industrial relation during Pre-independence phase?

Answer: Passive regulator

WHY???

Because it could provide sum of protective and regulative legal framework for industrial relations.

1.5 Model of Industrial Relations

There are three models of Industrial Relations which can be discussed:

1. Dunlop Model of Industrial Relation
2. Craig's Model of Industrial Relation
3. ILS Model of Industrial Relation

I. Dunlop's System Model

One of the significant theories of Industrial Relations was put forth by John Dunlop in 1958. Dunlop contended that Industrial Relation system was a subsystem of the wider society that existed to resolve economic conflict.

Elements of Industrial Relations

IR system comprises of for elements:

1. Actors
2. Contexts
3. A body of employment rules
4. A binding ideology

1. Actors:

The actors were identified as employers and their organizations, employees, and any representative body of workers, such as trade unions, and the government and public agencies.

The actors in the system are,

- (i) A hierarchy of managers and their representatives,
- (ii) A hierarchy of workers and their organizations, and
- (iii) Specialized governmental agencies. (Specialized private agencies created by first two actors) concerned with workers, enterprises, and their relationships.

The first two are directly related to each other in that the managers have responsibilities at varying levels to issue instructions (to manage), and the workers at each corresponding level have the duty to follow such instructions (to work). The specialized government agencies as actors may have functions in some industrial relations systems so broad and decisive as to override the hierarchies of managers and workers on almost all matters.

2. Contexts:

These three actors maintain relationships with one another within an environment made up of three tightly inter woven contexts. The main contexts that shaped the conduct of industrial relations were technology, market and budgetary constraints, and the distribution of power within the wider society. These features of the environment of an industrial relations system are determined by the larger society and its other subsystems. These contexts are decisive in shaping the rules established by the actors in industrial relations systems.

Significant aspects of the environment are

i. Technological features of work situation-

The technological features of the workplace have very far-reaching consequences for an industrial relations system, influencing the form of management and employee organization, the problems posed for supervision, many of the features of the required labor force, and potentialities of public relations.

ii. Market and Economic Context-

The product market or budget is a decisive factor in shaping the rules established by industrial relations systems. The market or budgetary context also indirectly influences the technology and other characteristics of workplace. An industrial relations system created and administered by its actors is adaptive to its market and budgetary constraints.

iii. Political Context-

The relative distribution of power among the actors in the larger society tends to a degree to be reflected within the industrial relations systems; their prestige, position and access to the ultimate's of authority within the larger society shapes and constrains an industrial –relations systems, the relative bargaining powers among the actors, or their controls over the processes of interaction or rule setting.

The distribution of power in the large society does not directly determine the interaction of the actors in the industrial relations system; rather, it is a context which helps to structure the industrial relations system itself.

3. Rules:

Within these constraints, the actors develop substantive and procedural rules by unilateral action, by joint regulation, or by tripartite action involving the state.

Types

1. Substantive Rules: concerned with terms and conditions of employment and rights and obligations of workers. (social security and welfare schemes, rules of discipline, physical working conditions...)
2. Procedural Rules: concerned with the procedures and manner in which substantive rules are framed and established.
3. Rules relating to their administration and enforcement.

4. Ideology:

A body of ideas which defines the role of each actor and the perception that each actor holds towards the place and function of others in the system. The whole system is bound together by shared understandings and beliefs, including acceptance of the main elements of the IR system itself.

Main focus of Dunlop Model

The model focuses on institutionalization of conflict and establishment of orderly industrial relations. This model is to describe national system of industrial relations.

Limitations

1. The actors in industrial relations are not only management, workers, and governments. With liberalization and growing environmental concerns, consumers and community have also come to play a critical role in industrial relations processes and outcomes.
2. Dunlop talks about roles of actors, not people. In industrial relations, relationships are established primarily by and between people. Therefore, behavioral aspects like human motivations and preferences cannot be ignored.
3. The System Model by Dunlop has described as national system of industrial relations where as the sources of power and rules are situated within national framework. Whereas after globalization, large numbers of Multinational Corporations (MNCs) are taking place in which decision- making is no longer tied to borders of national system,
4. Dunlop did not design this framework for international industrial relations whereas, in globalization, free flow of capital, labor, technology and trade/ market are taking place.

II. ILS Model

The International Institute of Labor Studies developed this model while functioning closely with ILO.

Elements/Dimensions

There are four elements in this model:

1. Parties

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2. Environment

3. Process

4. Rules

i. Parties:

Parties in industrial relations comprise the following – the state, workers’ organizations or trade unions and managerial hierarchies. The model has furnished the details in respect to the status and basic features of each party.

ii. Environment:

Environment in the model refers to the conditions under which industrial establishments operate. It may be economic, political, social or cultural in nature. The model has specified the details in each area and the manner in which they influence the role of the parties and the nature of rules framed.

iii. Processes:

Processes involved in rule-making include the following – negotiation, collaboration and resolution of conflict.

1. Negotiation: In negotiation, the workers and employers jointly deliberate over the establishment of rules. In this process, workers are generally represented by unions.

2. Collaboration: Collaboration involves joint determination of issues of common interest. This process serves as a method to prevent industrial disputes from arising.

3. Resolution of Conflict: In the process of resolution of conflict, the contentious issues are resolved, and the terms are usually recorded in the form of agreement or settlement.

4. Rules:

Rules in industrial relations relate mainly to the terms and conditions of employment. The model mentions three types of authorities involved in making them. These authorities are monopolistic, dualistic and pluralistic.

I. Monopolistic:

Under the monopolistic type of authority, rules are unilaterally laid down by the employer.

II. Dualistic:

Under the dualistic type of authority, the power of making rules vests jointly in the employer and the trade union, or in the employer and the state or in the trade union and the state.

III. Pluralistic:

Under the pluralistic type of authority, the representatives of the employer, workers and the state establish rules based on mutual discussions and consensus.

In simple terms,

1. Environment - condition under which industries or industrial establishments operate. Example: social, cultural, political etc.

2. Parties- state, workers’ organizations or trade unions, and employers or managerial hierarchies.

3. Process- negotiation, collaboration, and resolution of conflict.

i. In negotiation, the workers and employers make joint effort to make rules.

ii. Collaboration involves joint determination of issues of mutual interest in a spirit of cooperation.

iii. Resolution is decision of issues of contention between the parties in the form of award or settlement.

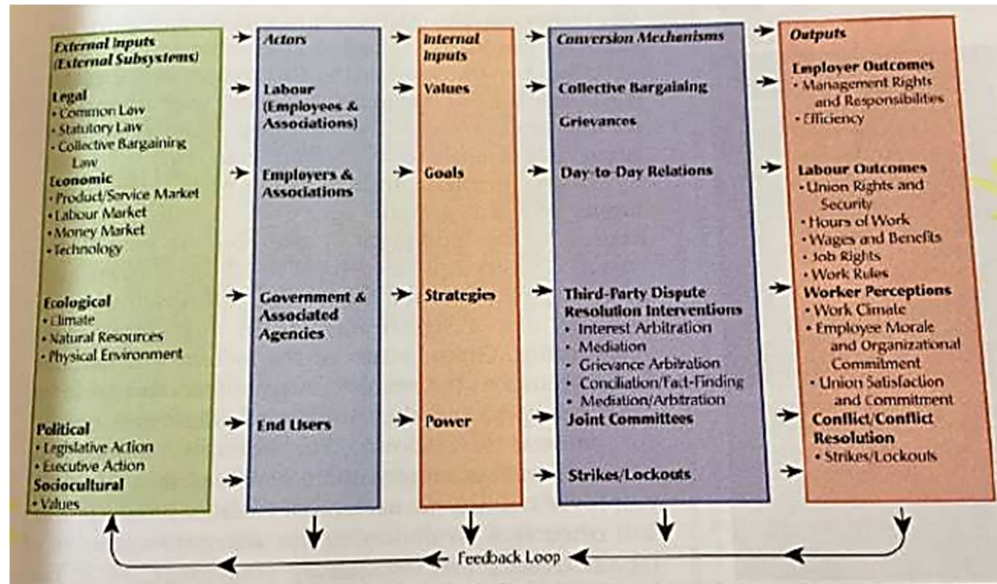
4. Rules- formed by different authorities concerning terms and condition of employment.

Criticism

i. This model doesn’t clearly explain the impact of multi-unionism and union rivalries.

- ii. This model doesn't present convincing assessment of the condition in small-sized undertaking and unorganized sector
- iii. Classification of environment is broad. This model doesn't explain impact of a particular factor operating under variable condition.
- iv. This model doesn't clearly explain the impact of extraordinary situation like war, economic crisis, political instability, downsizing etc. on the formation of rules.
- v. This model is silent about behavioral aspect of individual.

III. Craigs Model/Industrial Relations System Model



- a) **Natural systems** interact with their environments in a dynamic fashion—through feedback loops. There are five subsystems that interact in this model.
 1. Legal, which includes common law, statutory law, and collective bargaining law
 2. Economic, which includes the key elements product/service markets, labor markets, money markets, and technology
 3. Ecological, which includes the physical environment, climate, and natural resources that influence actors and the industrial relations system
 4. Political, which concerns Canada's form of democracy and its action to create and amend legislation relative to employment issues
 5. Socio cultural, which are societal values and beliefs that affect the actors

b) *Actors and Internal Inputs*

When the actors of the system are influenced by the external inputs, they provide inputs to the systems in regard to their values, goals, strategies, and power, which guide their actions.

c) *Conversion Mechanisms*

Actors use processes called conversion mechanisms to convert those internal and external inputs into outputs of the system.

Conversion methods include the following:

- Collective bargaining
- Day-to-day relations
- Conflict resolution mechanisms, such as grievances procedures
- Third-party dispute resolution interventions
- Joint committees

- Committees that handle broader issues
- Strikes and lockouts

d) Outputs or Results

The outputs, or results of the conversion methods, include the following:

- Employer outcomes, such as the rights and responsibilities of management in the employment relationship
- Labor outcomes, which are equity issues of ways to instill fairness in the workplace
- Worker perceptions, including the work climate, morale, and union satisfaction
- Conflict, which are strikes and lockouts (which are also conversion mechanisms)

1.6 Approaches to Industrial Relations

Before understanding about the different approaches to Industrial relation, let us discuss about the need of understanding these approaches.

The reason behind the same is Industrial relations can be viewed from different angles.

Example

“Industrial conflicts are the results of several socio-economic, psychological and political factors.”

Different views:

- **Economist:** An economist tries to interpret industrial conflict in terms of impersonal markets forces and laws of supply demand.
- **Politician:** To a politician, industrial conflict is a war of different ideologies – perhaps a class-war.
- **Psychologist:** To a psychologist, industrial conflict means the conflicting interests, aspirations, goals, motives and perceptions of different groups of individuals, operating within and reacting to a given socio-economic and political environment.



Did you know?

What do you believe any of the angle gives a perfect view of Industrial Relations?

Answer: No

Because

- ✓ These views add to intellectual dimension in Industrial Relation context.
- ✓ It is an eclectic system composed of group of people and organizations working with varying viewpoints.

Different approaches to Industrial Relations:

The different types of industrial relations are as under:

1. Psychological approach to Industrial relations
2. Sociological approach to Industrial Relations
3. Human relations approach to Industrial Relations
4. Socio-ethical approach to Industrial relations
5. Gandhian approach to Industrial Relations

I. Psychological approach:

The psychologist is of the view that the problem of industrial relations is deeply rooted in the perception and the attitude of focal participants. The problems of IR have their origin in the

perceptions of the management, unions and the workers. The influence of individuals perception on his behavior has been studied by Mason Harie. He studied the behavior of two different groups, namely, "Union leaders" and the "The Executives" through a test.

What has been done in a test?

A photograph open ordinary middle aged person served as input, which both the groups were expected to rate.

What is the output of the test?

Both the groups rated that photograph in different manner.

1. Union leaders referred the person in the photograph as manager
2. The group of executives saw Union Leader in the photograph

Conclusion after the test

1. The general impression about a person is radically different when he is seen as a representative of management from that of the person as a representative of labor.
2. The management and labor see each other as less dependable.
3. The management and labor see each other as deficient in thinking regarding emotional characteristics and interpersonal relations.

Think upon

What is the reason behind the variance in perception of parties?

In simple terms,

The conflicts between labor and management occur because every group negatively perceives the behavior of the other i.e. even the honest intention of the other party so looked at with suspicion. The problem is further aggravated by various factors like the income, level of education, communication, values, beliefs, customs, goals of persons and groups, prestige, power, status, recognition, security etc are host factors both economic and non-economic which influence perceptions unions and management towards each other.

II. Sociological Approach to Industrial Relations:

The industry is a social world in miniature and the workshop is in reality a community made up of various individuals and groups with different personalities, educational background, emotions and a host of other personal factors like attitude and behavior.

Think upon

Which kind of problems will emerge due to differences in individual attitudes and behavior?

Answer: problems of conflict and competition among the members of an industrial society

If we will just think upon the problems of industrial relations then what will come in our mind in terms of its reasons?

Might be wages, employment conditions, labor welfare and many more but sociological aspects of these problems are more important than any other problem. Sociological factors like value system , customs common norms commerce symbols, attitude and perception of both labor and management affect the industrial relations in different ways.

III. Human relations approach:

Do you agree that handling human resource is the most tricky and delicate as compared to the other resources?

Yes, because these are not inanimate or passive .They are composed of pulsating human beings having their own emotions, perception attitude personality etc .These characteristics make them complex individuals and when they interact with each other , their complexity further multiplies.

Does problem in industrial relations arise out of attention which is created because of the employer's pressures and workers reactions?

Answer would be yes. But we need to think about the solutions of such tensions.

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Probable solutions could be management need to realize the efforts which are required to set the right situations. These tensions cannot be removed unless the management learns about the basic needs of human being and how they can be motivated to work effectively.

IV. Socio-ethical approach:

This approach to industrial relations is not much widely accepted. This approach holds that the industrial nations besides having a sociological base do have some ethical ramifications.

How good industrial relations can be maintained?

Good Industrial relations can only be maintained when both labor and management realize their moral responsibility through Mutual Corporation and greater understanding of each other's problems.

IV. Gandhian approach:

The Gandhian approach to industrial relations was proposed by the father of our nation, Mahatma Gandhi or Mohandas Karam chand Gandhi, who was also a well-known labor leader.

Features

1. Gandhi Ji was not against strikes; instead, he gave the following conditions to carry out a favorable strike:

- The workers or labors can go on a strike only if there is a specific grievance.
- There should be complete non-violence while carrying out strikes.
- The ones who are not involved in the strikes should not be tormented.

2. Though Gandhi Ji was not against carrying out strikes, he believed that it should be the **last option** to which the labor should resort to, after the failure of all the constitutional and peaceful ways of resolving conflicts and negotiating with the employer.

3. The Gandhian approach illustrated that nature had provided us with human capabilities and different kinds of property.

Thus, such **nature's gift belongs to the whole society** and cannot be considered as of personal possession by anyone.

4. The objective of this theory is to adopt **non-violent ways** to bring in economic parity and material enhancement in a capitalist society.

5. Gandhi Ji perceived that every organization is a **joint venture**, and the labor should be treated as associates or co-partners with the shareholders. Moreover, the workers should have proper knowledge of all the business transactions as it is their right.

6. He focused on increasing the production and believed that the **gains should be shared with the employees** because of whom it has been possible.

7. He also emphasized that the industrial disputes and conflicts between the parties should be resolved **healthily through interactions**, arbitration and bilateral negotiations.

Summary

The term "industrial relations" refers to the complexity of human relationships, which emerge in work situations.

The subject of industrial relations deals with certain regulated and institutionalized relationships in industry.

The employment relationship in any work situation provides the setting for industrial relations.

With this objective, the workers as a group form trade union, the employers form their own associations, and the state provides institutions for the regulation of relations.

The field of industrial relations has a multi-disciplinary base.

Keywords

Industrial Relations, Human Relations, Dunlop , Gandhian, Pre and Post-independence.

Self Assessment

1. During which century Industrial Relations started in India?
 - A. 18th century
 - B. 19th Century**
 - C. 20th Century
 - D. 17th Century

2. Which cannot be considered as the problem faced by Indian Labors?
 - A. Poor wages
 - B. Long working Hours
 - C. High Productivity**
 - D. Absence of Job Security

3. Independent India got an opportunity to restructure the industrial relations system during post-independence.
 - A. True
 - B. False**

4. What is a reason behind having colonial model of industrial relations in practice during pre-independence phase of IR?
 - A. Social tension
 - B. Conflict
 - C. Continue industrial unrest
 - D. All of the above**

5. The Trade unions and the Industrial Disputes (Amendment) Bill, 1988 proved as a legislative disaster.
 - A. True
 - B. False**

6. Which is included as model of Industrial Relations?
 - A. Dunlop's model
 - B. Craig's Model
 - C. IILS Model
 - D. All of the above**

7. The rules which are concerned with terms and conditions of employment and rights and obligations of workers is known as Substantive rules.
 - A. True**

- B. False
8. Which is not an element of ILS model of industrial relations?
- A. Rules
 - B. Processes
 - C. Energy
 - D. Parties
9. Under which type of authority, rules are unilaterally laid down by the employer?
- A. Monopolistic
 - B. Dualistic
 - C. Pluralistic
 - D. None of the above
10. How many subsystems exist under Craigs Model of Industrial Relation?
- A. Four
 - B. Five
 - C. Three
 - D. Six
11. Industrial conflicts are the results of several socio-economic, psychological and political factors.
- A. True
 - B. False
12. There is a single angle to give a perfect view of industrial relations.
- A. True
 - B. False
13. Who has studied the influence of individuals perception on his behaviour?
- A. Dunlop
 - B. Craig
 - C. Mason Harie
 - D. Gandhi Ji
14. Which is not an approach to Industrial Relations?
- A. Human Relations
 - B. System
 - C. Socio-ethical
 - D. Sociological
15. Which approach states that Strikes should be the last resort or option for resolving conflicts?

- A. Human Relations
- B. Gandhian
- C. Socio-ethical
- D. Sociological

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. B | 2. C | 3. A | 4. D | 5. A |
| 6. D | 7. A | 8. C | 9. A | 10. B |
| 11. A | 12. B | 13. C | 14. B | 15. B |

Review Questions

1. What is Industrial Relation?
2. Discuss the Dunlop's approach to Industrial Relations.
3. What are the objectives of Industrial Relations?
4. Explain the evolution of Industrial Relations in India.
5. What are the different approaches to Industrial Relations? Explain in detail.
6. Describe the IILS model of Industrial Relations.



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2.3 Government and Industrial relations

2.4 Management and Industrial Relations

2.5 Role of three actors in Industrial Relation System

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Self Assessment

Answers for Self Assessment

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Objectives

After studying this chapter, you will be able to:

- To understand the development stages of Industrial Relations in India.
- To learn about the role of Employee in Industrial Relations.
- To learn about the role of Employer in Industrial Relations.
- To learn about the role of Management in Industrial Relations.

Introduction

The problem of industrial or labor management did not arise when business organizations were small. These developed only when elaborate organizational structures came into being during the late 19th century, when gigantic industrial empires of financial tycoons came into existence, followed by the technology of mass production in the early 20th century.

Labor management became an important subject of study only when large aggregations of people came to work together under one roof in an organization. In order to understand the issues and problems associated with industrial relations, it is desirable to study its various evolutionary phases.

2.1 Stages of Development of Industrial Relation

Let us discuss the various stages through which the industrial relations system progress can be seen. These are as under:

1. Agrarian Economy Stage
2. Handicrafts Stage
3. Cottage or Putting-out Stage
4. Factory or Industrial Capitalism Stage

1. Agrarian Economy Stage

This stage developed during the Middle Ages and brought about the change in the views on property. In tribal society, property was common and collective asset of the group but now it was identified as a personal asset of the landlord.

What happened after this?

There arose a class of propertied individuals along with a class of property less workers. The employees were treated as slaves. The employee- employer relationship was that of the master-servant/slave type.

Are people getting wages for their work or service they are providing to the owner during this stage?

No, because slaves were required to do all types of manual and other specialized work for their master and in return were paid no wages but food of the coarsest type, old clothes and a small place to live.

Features

- Slaves had to live under the absolute authority of their master till death overpowered him.
- The levels or strata of supervision were few.
- The government did not wield any power over the employment relationship.
- The political organizations that developed from alliances and conquests supported the authority of the owners.

2. Handicrafts Stage***Think upon the reasons behind the development of handicraft system.***

Handicraft system developed because of the growth of towns and cities, increase in trade and commerce and a decline in the power of feudal Lords.

Features

- There exists an innovation in the careers of workers in which they move from the rank of workers to those of employers.
- The workers own factors of production, worked with their own tools and with the help of the members of their family in their own homes and perform the hand tasks.
- They sold their products directly to the customers common there being no middleman.
- Separate Craftsman existed for separate works.
- Specialization of work was found like shoemaking, carpentry, cloth weaving etc.

Think upon

Is there any regulating authority in this stage?

Yes, the cottage workers of the master Craftsman developed a new institution known as Crafts Guilds. These regulate economic and employment conditions of the members, regulate the quality of materials and workmanship set prices and determine wages.

Many of these guilds also provided various fraternal benefits like death, disability and unemployment benefits to their members. They were akin to modern crafts union.

3. Cottage or putting - out stage

With the development of economic system and that of the steam and power some individuals became employees in the new industrial units. This resulted in both technological changes and the expansion of markets and trade. Master- Craftsman or travelling traders undertook to buy raw materials and supply these as well as finances to the Craftsman or who worked in their workshops. They also hired the Craftsman to process the raw materials and collected and sold the finished goods. This is known as cottage or putting out stage.

Features

- The Craftsman worked with the members of their family in their own home and was paid on a piece- work basis for the work.
- They delivered their products to the financiers who supplied them with necessary finance.

4. Factory or the industrial capitalism stage

With the passage of time and gaining of experience, the trader capitalist realized that economies in production can be achieved from newly performed machines, so instead of “framing out” production to numerous small cottage workers, he himself installed machinery, provided power tools and equipment and offered employment in newly built workshops or factories. The cottage workers became factory hands. In these factories, a large number of people worked under the same roof. This made it possible to supervise them more closely.

The cottage workers became factory hands in this stage. A large number of people worked under the same roof in this stage. This made it possible to supervise them more closely. The factory system came to stand on a sound footing and human labor was replaced by machines. This gave rise to a system which is known as industrial revolution. Under this system, women and child labor were employed often for long hours because machine production simplified operations and reduced skill requirements. With increased production, developed technology and science, decision-making become a more specialized task and the relation between the workers and employers became more and more impersonal.

Workers were brought together under one roof. Strict discipline was maintained during the process of production by the employers. Workers were economically dependent on the employer for their livelihood. The quality and quantity of the product was guaranteed. The employer owned all the physical means of production. The employer also owned goods which were produced. The law of supply and demand determines the price of labor and decide the level of wages in this stage. The human element in the productive process disappeared as the employer had no personal ties with the workers. The maximization of profit was the sole factor which dominated the factory system.

2.2 Actors of Industrial Relations

There are three major participants or actors of Industrial Relations:

1. Workers and their Organizations
2. The Management
3. The Government

The role of the workers and their trade unions is the supply of the skills necessary to produce goods and services while the role of the employers is the provision of the raw materials including human resources and finance for the production of goods and services. The role of the government and its agencies is the provision of an enabling environment to produce goods and services. Each of these actors performs its functions with the expectation of certain rewards for their services.

Let us discuss each participant one by one.

I. Employees and their Associations:

In an Industrial Relation system, employees may be grouped into 2 categories:

1. Those who have been defined as Workers/Workmen under The Industrial Disputes Act, 1947 and
2. Those that are not covered by this Act.

Does worker plays a crucial role in Industrial Relation?

Yes, in terms of:

1. Improve their conditions of employment.
2. Voice any grievances
3. Exchange views and ideas with management.
4. Share in decision-making.

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What are employees characteristics that determine the extent of Employees role in Industrial Relations?

There are few characteristics which reflect the extent of employee's role in Industrial Relations. Some are as under:

- Commitment to the Organization
- Level of education
- Social background
- Attitude towards Management and Organization
- Commitment to the Work

How do Workers play their role?

Workers form into their associations called "**Trade Unions**" to get their problems solved.

Role of Trade Unions in Industrial Relations

1. The trade unions work for workers economic interest through collective bargaining by bringing the pressure on the management through economic and political strategies.
2. To secure improved terms and conditions of employment for their members, and the maximum degree of security to enjoy these terms and conditions.
3. To increase the bargaining advantages of the individual workers vis-à-vis the individual employer by joint or collective action for the individual action.
4. To obtain improved status for the worker in his work.
5. To increase the extent to which unions can exercise democratic control over decisions that affect their interests by power sharing at the national, corporate, and plant levels?
6. To increase the extent to which unions can exercise democratic control over decisions that affect their interests by power sharing at the national, corporate and plant levels?



Did you know?

Do trade unions have any role and responsibility towards Organization?

Answer is yes

- Trade unions have responsibility to see that the organization do not suffer on account of their direct actions such as strikes, even for trivial reasons.
- They must be able to understand and appreciate the problems of managements and must adopt a policy of 'give and take' while bargaining with the managements.

2.3 Government and Industrial relations

Does industrial relations processes get influenced by government?

Yes, Through the government's construction, passing and implementation of relevant industrial relations law, policies and regulations. The degree of government intervention is determined by the stage of Economic Development.

Role of Government in Industrial Relations

1. The Government has enacted procedural as well as substantive laws to regulate industrial relations in India.
2. The Government can directly or indirectly be involved in the industrial relations processes when boundaries are overstepped, or negotiations go awry.

3. The government is involved in settling an industrial relations dispute in court or adjusting or amending a policy which has proven itself flawed, outdated or newly irrelevant following the outcome of a certain case or set of negotiations.

2.4 Management and Industrial Relations

Another party to Industrial Relations is Employer. In the corporate form of organization, management represents owners/employers.

Ponder upon

How management tends to see employee or industrial relations?

In terms of following activities:

1. Creating and maintaining employee motivation.
2. Obtaining commitment from the workforce.
3. Establishing mutually beneficial channels of communication throughout the organization.
4. Achieving high level of efficiency.
5. Negotiating terms and conditions of employment with employees' representatives.
6. Sharing decision making with employees.
7. Engaging in a power structure with trade unions.
8. Engaging in a power structure with trade unions.

What are the different factors which are important in context to management?

1. Attitude of management towards the employees and their unions.
2. The extent to which the management has designed the procedures for handling grievances, claims and demands of the employees.
3. The extent to which the management wants to exercise absolute authority to enforce decisions affecting the interests of the employees.
4. The extent of the effectiveness of management in dealing with the problems and disputes related to IR.
5. Managements must delegate authority to their employees commensurate with responsibility.
6. There must be a well-planned communication system in the organization to pass on information and to get feedback from the employees.

Is there any kind of associations in which management can become a part?

Yes, Employers' Associations

What are the major functions of the employers' associations in context of Industrial Relations?

Answer: To

- Represent employers in collective bargaining at the National or Industry level.
- Develop machinery for the avoidance of disputes.
- Provide information on employee relations.
- Advise member organizations on the issues related to IR.

2.5 Role of three actors in Industrial Relation System

1. Management-

The management assumes any of the following roles in different contexts:

a. The Exploitative Authoritarian system -

This style of management was introduced in India by the colonial elite who set up modern industries during the nineteenth century. To these colonial elite, labor was nothing more than a commodity. Labor was exploited ruthlessly; wages paid barely provided subsistence with no job security and no welfare amenities.

b. Benevolent Authoritarianism-

The aforesaid style of management gave place to what may be called benevolent authoritarianism. The typical Indian business magnate finds this style of management congenial to his way of thinking. This style has survived until today and it believes in labor welfare. But this style does not concede to the labor's privilege of having a say in their own affairs.

c. Consultative Style-

This is formally the prevailing management style in the public limited companies, in foreign concerns operating in India and in the public-sector enterprises.

d. Participative Style-

Under this style labor is no longer a commodity or a child or an adult employee but is a friend and ally and a partner in the joint endeavor to improve the inactive efficiency of the enterprise. This style of management is not yet well developed in India.

2. Workers' Unions

The workers' unions assume the following roles in different socio-economic systems.

a. Sectional Bargainers

This is the most widely accepted role of the trade unions. They represent the interests of the workers and bargain with the management.

b. Class Bargainers

In some countries, e.g., France, where national bargaining takes place covering all industrial occupations, trade unions and their federations play this role. In France, farmers have their own nation-wide union, so do the civil servants. The national bargaining takes place from time to time, to determine the share of each class in the GNP. In India, we have now only the beginning of this process in respect of few industries, e.g., steel, jute, engineering, etc.

c. Ascent of the State

This is the role of the trade unions in socialist countries like the USSR. Here the trade union is identified with the state apparatus and has well defined role in ensuring the fulfillment of target of production at the enterprise level. This type of identification with the state machinery is not to be found outside the socialist world. In democratic countries, at times, these unions represent the philosophy of the ruling parties. In India, major unions have political affiliations.

d. Partners in Social Control

This type is exemplified in the system of co-determination in West Germany Under this system the representatives of the workers sit on the Boards of management and participate in all kinds of decision making. There is a beginning of this in India.

e. Enemy of the System

In all democratic countries, there are unions which subscribe to the Marxist theory of class war. Trade unions are not merely a form of economic system but are designed to bring about a wholesale change in the existing economic system. Unions would encourage excessive consumption, aspirations of

workers (i.e., higher and higher wages) to bring about a state of labor unrest, contributing to the disintegration of the social order.

3. The Government

The third actor is the Government. The Government may assume any of the following roles.

a. Laissez-faire Philosophy

Under this system the Government follows a laissez-faire attitude to labor management alone to settle a dispute. In a society where labor was economically weak and did not have a strong organization of their own, meant that the Government was on the side of employers. During the 19th century, governments almost everywhere followed this attitude but with the end of laissez-faire this attitude has become outdated.

b. Paternalism

Owing to the revolutionary ideas of man like Ruskin, Owen and others in UK and agitation by social reformers in UK and India, Government assumed a paternalistic attitude towards labor. A series of protective laws were enacted regulating working conditions, payment of wages and gave them certain benefits in case of industrial injuries.

c. Tripartism

Even before India attained independence tripartite form of consultation existed before making any policy decision.

d. Voluntarism

Voluntary arbitration is officially encouraged but has not taken root in India. The Government involved a series of codes to regulate labor management relations on a voluntary basis. As a result, came the Code of Discipline, the Code of Conduct and the Code of Efficiency and Welfare.

e. Interventionism

Along with tripartism and voluntarism, Government intervened in labor disputes through the process of conciliation and adjudication. Industrial strife leads to loss of production which the Government can hardly afford to ignore and so it came forward with its legislative machinery to prevent industrial disputes.

Summary

Traditionally, industrial relations were the concern of three principal actors: workers and their unions, managers/employers, and the government. In the present scenario, there has been an advent of new players and new dynamics in the industrial relations system. Over the years, a number of changes have taken place in the industrial relations scenario. Not only have the players changed (the inclusion of consumers and community), techniques, technology and power structures have been re-examined and altered time and again. In a general way, conventional notions about industrial relations as relations between management and unions will undergo substantial changes. The changing nature of work, changing profiles of employees, and the ascendancy of managerial power through technology and market-oriented policies of the State means that trade unions have to search for a new form and structure for maintain voice and representation. The basic philosophy of industrial relations may not change with changes in industrial strategies, but the underlying strategies and tactics of the social partners will.

Keywords

Industrial Relations, Industrial Relation System, Actors in Industrial Relation, Stages in Industrial Relations

Self Assessment

1. How many stages exist in development of Industrial Relations?

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- A. Three
 - B. Four
 - C. Five
 - D. Six
-
2. People getting wages for their work or service they are providing to the owner during Agrarian stage of development of IR.
 - A. True
 - B. False
-
3. What can be a reason for the development of handicraft system of IR?
 - A. Of the growth of towns and cities
 - B. Increase in trade and commerce and
 - C. A decline in the power of feudal Lords
 - D. All of the above
-
4. Which stage of Industrial Relations development gave rise to a system which is known as Industrial Revolution?
 - A. Agrarian Economy Stage
 - B. Handicrafts Stage
 - C. Cottage or Putting-out Stage
 - D. Factory or Industrial Capitalism Stage
-
5. The human element in the productive process disappeared as the employer had no personal ties with the workers during industrial capitalism stage.
 - A. True
 - B. False
-
6. In which stage of development of Industrial Relations, workers work in their own homes and work with the help of their family members?
 - A. Handicrafts Stage
 - B. Factory Stage
 - C. Cottage or Putting-out Stage
 - D. None of the above
-
7. Who is not an actor of Industrial Relation?
 - A. The Management
 - B. The government
 - C. Workers
 - D. None of the above
-
8. Workers can play an important role in maintaining good industrial relations in terms of raising voice against any grievances.

-
- A. True
 - B. False
9. Both commitments towards the work and towards the organization is a strong characteristic of an employee which determines the role of employee in Industrial Relations.
- A. True
 - B. False
10. Trade unions do not have any role and responsibility towards organization.
- A. True
 - B. False
11. What can determine the role of government in Industrial Relations?
- A. Enact procedural as well as substantive laws
 - B. Amending a policy
 - C. Settling industrial dispute in court
 - D. All of the above
12. Management cannot become a part of employers' associations in context of Industrial Relations.
- A. True
 - B. False
13. Which is not a major function of the employers' associations in context of Industrial Relations?
- A. Represent employers in collective bargaining
 - B. Develop machinery for the avoidance of disputes.
 - C. Advice member organizations on the issues related to IR.
 - D. None of the above
14. Management should negotiate on terms and conditions of employment with employees' representatives in context of maintaining good industrial relations.
- A. True
 - B. False
15. Who is a regulating authority in handicrafts stage?
- A. Craftsmen
 - B. Crafts Guilds
 - C. Craft person
 - D. All of the above

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. B | 2. B | 3. D | 4. D | 5. B |
| 6. A | 7. D | 8. A | 9. A | 10. B |
| 11. D | 12. B | 13. D | 14. A | 15. B |

Review Questions

1. What are the different stages in Industrial relation system?
2. Describe the role of Government in Industrial relation System.
3. What is the role of and actor: Employee in Industrial Relation System?
4. Does employer also need to have a significant role in industrial relation system? Share your views.
5. Discuss the features of Agrarian stage of Industrial Relations.



Further Readings

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Unit 03: Trade Unions

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Objectives

After studying this chapter, you will be able to:

- Understand the concept of trade union.
- Learn about the features of trade unions.
- Learn about the functions of trade unions.
- Understand the principles to regulate the functions of trade unions.
- Learn about the theoretical framework of Trade Unions.
- Learn about the legal framework of Trade Unions.
- Learn about the structure of trade unions
- Learn about the management or types of trade unions.
- Learn Trade union as an Organization Structure.

Introduction

Trade union is an outcome of the factory system. It is based on labor philosophy – ‘united we stand, divided we fall.’ Industrial revolution in India has changed the traditional outlook in the labor management relationship. With the introduction of the modern factory system, personal relationship between employer and employee disappeared and gave rise to many social and economic evils which made it imperative on the part of the workers to devise an effective means to contact employers and to bargain with them. Formation of trade unions has provided an ideal solution.

3.1 Meaning of Trade Union

Trade union is a continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives.

Definition of Trade Union

As per Trade Union Act,1926, “ A trade union is any combination, whether temporary or permanent, formed primarily for the regulating the relations between workmen and employers, or between

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workmen and workmen, between employers and employees, or for imposing restrictive conditions on the conduct of any trade or business, and includes and federation of two or more trade unions.”

Features of Trade Unions

The features or characteristics of trade unions can be discussed as under:

1. The trade union is an association either of employers or employees or of independent workers. Like:
 - a. Employers’ Association
 - b. General labour unions
 - c. Friendly Societies
2. Labor unions are relatively permanent association of workers and are not temporary or casual.
3. A trade union is an association of workers who are engaged in securing economic benefits for its members.
4. Trade unions change their methods and their working to adjust themselves to changing circumstances.
5. The origin and growth of trade unions have been influenced by a number of ideologies like Socio-Economic and even political movements.

Functions of Trade Unions

To discuss the functions of trade unions, we need to divide it into two parts:

- a. Militant or Protection Function
- b. Fraternal, Ministrant or Positive Function

1. MILITANT FUNCTIONS

Aim at securing better conditions of work and employment for members through militant activities such as strikes, gherao, etc. if there is a failure of collective bargaining.

2. FRATERNAL FUNCTIONS

Provide benefits to their members and support to them during strikes/lockouts or during periods of temporary unemployment by giving them financial support out of the funds raised with their contributions.

General functions in India

There are few general functions of trade unions which can be discussed as under:

1. To achieve higher wages and better working and living conditions for the members.
2. To acquire control over running of the industry by workers.
3. To generate self-confidence among the workers.
4. To encourage sincerity and discipline among workers.
5. To minimize the helplessness of the individual workers by making them stand-up unitedly and increasing their resistance power through collective bargaining; protecting the members against the victimization and injustice by employers.
6. To raise the status of the workers as partners in industry and citizens of society by demanding an increasing share for them in the management of industrial enterprises.
7. To take up welfare measures for improving the morale of workers.

Principles to regulate trade union functions

The different five principles to regulate trade union functions which are as under:

1. The Doctrine of Vested Interest
2. The Doctrine of Supply and Demand
3. The Doctrine of Living Wage
4. The Doctrine of Partnership

1. The Doctrine of Vested Interest-

According to this, "wages and other conditions of employment hitherto enjoyed by any section of workmen and ought to under no circumstances be interfered with for the worse."

2. The Doctrine of Supply and Demand-

This doctrine relies on the method of collective bargaining and implies that because of collective action on the part of laborers, trade unions are able to attain their objectives.

3. The Doctrine of Living Wage-

This doctrine empowers the workers to maintain their right to demand living wage.

4. The Doctrine of Partnership-

This doctrine implies that every worker has a right to work, rest and leisure, maintenance in old age, sickness and disability and equal pay for equal work.

3.2 Theoretical Foundation of Trade Unions

The theoretical foundation of trade unions can be discussed with the help of 7 approaches. These approaches are as under:

1. Social-Psychological Approach
2. Scarcity Consciousness Approach of Selig Perlman
3. Sociological approach of Frank Tannenbaum
4. Kerr and Associates' General approach to Trade Unionism
5. Webbs Non-revolutionary or Industrial Democracy Approach
6. Classless Society Approach of Karl Marx
7. Gandhiji's Approach

1. Social-Psychological Approach-

This approach has been given by Robert F. Hoxie. According to him, "trade unions grew out of the socio-psychological environment of the workers and not purely because of economic reasons."

According to him, Unionism affects not only production, but also:

1. Established Rights
2. Ethical Standards
3. Distribution
4. Law and Order in the matter of legal theory
5. Exercise general power over social welfare

As per his observation

- Workers, who are economically and socially associated and not too divergent in temperament and training, will tend to develop a common interpretation of the social situation and a common solution of the problem of living.
- This may come about gradually and spontaneously, or it may be an apparently sudden outcome of some crisis in the lives of men concerned.

What is the interpretation of the Observation?

Unionism is not so much an outward organization as a like-minded group. It is the result of group psychology which grows out of its environmental conditions and the temperamental characteristics of its members. The differences in Group psychology cause different types of unions to appear.

Classification of trade unionism: Robert Hoxie

As per Robert Hoxie, trade unions can be classified as under:

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1. Business unionism
2. Friendly or Uplift Unionism
3. Revolutionary unionism
4. Predatory unionism

1. Business Unionism:

This union is also known as Bread-and-Butter unionism. It lays stress on:

1. Immediate goals
2. Improvement in wages, hours and working conditions
 - It is giving little attention on :Political and Social Action

2. Friendly or Uplift Unionism:

- It is idealistic in nature.
- It aspires chiefly to elevate the moral, intellectual and social life of the workers.
- It advocates idealistic plans for social regeneration and law-abiding.
- These unions prefer to rely on the weapons of political action, mutual insurance programmes, and profit-sharing.

3. Revolutionary Unionism:

- This unionism is: Class-conscious rather than trade-conscious”.
- It rejects private ownership of productive resources and the wage system.
- Its weapons are either political action or direct action in the form of violence and general strikes.

4. Predatory Unionism:

- This union does not subscribe to any ideology.
- It can adopt any method like business, friendly or revolutionary which will deliver the goods.

2. Sociological approach -

It has been Given by Frank Tannenbaum. His theory of trade unionism came into light in his philosophy of labor in 1921.

As per his observation

1. Workers are engaging in an unconscious rebellion against the automisation of industrial society.
2. Machine degraded the worker and made him insecure and so the trade union movement aims at control over the machine so as to overcome insecurity.
3. Trade union is not merely an economic organization, it is also a social and ethical system, and its ends are moral and not economic.

According to Frank Tannenbaum, the original organizer of the trade union movement is the shop, the factory, the mine and the industry the agitator or the labor leader merely announces the already existing fact.

What is Frank Tannenbaum viewpoint?

“Unions do not use their power to create a socialistic or a communistic state”

Because unions could not afford to create a socialistic or a communistic state because every activity of the management affects the well-being of the workers.

Think upon

What is the main reason for the success of the trade unions as per this theory?

Answer: Tannenbaum’s theory believes:

- Trade unionism gives back to the worker his society where he can live with security, justice freedom and faith.
- This stresses the fact that union gives the worker a value system and fellowship that he can share with others who are like him.

3. Scarcity Consciousness Approach:

This approach to trade union has been given by Selig Perlman.

According to his observation,

Three factors are basic in any labor situation:

1. Resistance power of capitalism
2. Degree of Dominance over the labor movement by the intellectuals' mentality which regularly underestimates it
3. Degree of Maturity of a trade union "mentality".



Did you know?

Why unionism developed according to this theory?

Reason: Because of workers' scarcity consciousness, which arose in the minds of the workers due to the fact that their economic position could not improve beyond that which was barely sufficient to cover the minimum essentials of an ordinary standard of living.

Perlman rejected the idea of class consciousness as an explanation for the origin of the trade union movement but substituted it with what he called job consciousness.

4. Kerr and Associates' General Approach to Trade Unionism:

According to them,

1. "Worker protest is inherent in industrialization"
2. Organized form of protest is in the nature of labor organization.

Just think

On what factors role of labor organizations depend?

Answer: Industrialization process, Industrializing elite and specific culture and nature of a country.

Different types of leadership of industrialization process

There are five ideal types of leadership of industrialization process. These are as under:

1. Dynastic Elite Leadership
2. Middle Class Elite
3. Revolutionary Intellectual Elite
4. Colonial Administrator Elite
5. Nationalist Elite

a. Dynastic Elite Leadership:

Under the dynastic elite leadership, the unions undertake social functions at the plant level and indulge in political activity challenging the employers. Leadership is provided by the intellectuals with a political bent of mind. Unions are ideologically class conscious and revolutionary

b. Middle class elite:

Under the middle-class elite, the union undertakes the regulation of management at the local and industry level as well as that independent political activity which does not challenge the employers. Unions are led by the workers and ideologically reformist.

c. Revolutionary intellectual elite:

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The unions' main function is to act as an instrument of the party to educate and lead workers and to stimulate production and the political activity. Ideologically unions are the followers of the ruling elite.

d. Colonial administrator elite:

Under this unions function as a part of the independence and nationalist movement. Ideologically such unions are anti colonial and fight for independence

e. Nationalist elite:

Under this, unions work for the conflicting objectives of economic development and protection of workers. Ideologically the unions are nationalist.

5. Webbs Non-revolutionary Approach:

This approach given by Sydney and Beatrice Webb.

Thought process related to trade unions:

Trade unions as "institutions for overcoming managerial dictatorship, to strengthen individual laborers and to give them some voice in the determination of the conditions under which they have to work."

According to his observation,

- Trade unionism is not an instrument for the revolutionary overthrow of the capitalist order but on the contrary is a means of equalising the bargaining power of labour and capital.
- Thus, encouraging the adoption of common rules which are practical and humane.

In simple terms,

- According to Webb, trade unionism is an extension of democracy from political sphere to industrial sphere.
- Webb agreed with Marx that trade unionism is a class struggle and modern capitalist state is a transitional phase which will lead to democratic socialism.
- He considered collective bargaining as the process which strengthens labor.

6. Classless Society Approach by Karl Marx

In Marx's view trade unions represent a prime instrument of class struggle between proletarian workers and capitalist businessman. According to him, the origin of trade unionism lies in the growth of industrial capitalism.

His belief

- Trade unions did not properly represent the workers.
- The unions have unnecessary and useful tasks to perform in protecting wages and working conditions but should not limit themselves to these narrow economic goals.
- The intellectuals must lead the struggle of the working class not only for better terms for the sale of labour power, but also for the abolition of the social system which compels the property less class to sell itself to the rich.

7. Gandhi ji's Approach:

This philosophy is based upon the "sarvodaya" principles of truth nonviolence and trusteeship in which class harmony prevails. Mahatma Gandhi considers trade union as essentially reformist organizations and economic institutions which must be organized on the basis of the assumption that capital and labor are not antagonistic but are supplementary to each other.

3.3 Legal Framework of Trade Unions

There is much legislation which governs the functioning of trade unions in India. Trade Unions play a very crucial role in maintaining Industrial Relations. These unions are also backed by prominent legislations.

There are 3 major laws that govern the functioning of trade unions in India.

1. Constitution of India
2. The Trade Unions Act, 1926
3. The Industrial Disputes Act, 1947

1. The Constitution of India-

The essence of unionism and bargaining is laid down in Article 19(1) of the Constitution of India which provides to all its citizens the fundamental right of freedom of speech. Clause (c) of Article 19(1) includes the right to form associations or unions.

2. The Trade Unions Act, 1926-

The Trade Unions Act, 1926 (the "TU Act") regulates the constitution and governance of trade unions.

Section 2(h):

The term trade unions under to mean any combination which is formed for the purpose of regulating the relations between

1. workmen and employers
2. workmen and workmen
3. employers and employers or
4. For imposing restrictive conditions on the conduct of any business or trade.

3. The Industrial Disputes Act, 1947-

The Industrial Disputes Act, 1947 (the "ID Act") essentially provides mechanisms for settlement of disputes of workmen and employers and other such related activities. Though the ID Act does not specifically provide the rights, trade unions play a significant role in resolving industrial disputes; hence they are inherently vested with inherent rights in these matters.

3.4 Structure of Trade Unions

In India, the structure of trade union consists of three levels: plant/shop or local, the state and the centre. It is from the central level that the ideology of the important central federations of labor in India percolates down to the state and local levels. Every national or central federation of labor in India has state branches, state committees or state councils, from where its organization works down to the local level.

How ideology of federations of labor in India percolates at various levels?

It is generally from the central level that the ideology of the important central federations of labour in India percolates down to the state and local levels.

Affiliation of trade unions in India

There are two types of organizations to which the trade unions in India are affiliated: i. National Federations, and ii. The Federations of Unions

Here a brief discussion of this trade union form is given:

1. National Federations:

The National Federations have all the trade unions in a given industry as their affiliated members. Every trade union, irrespective of the industry to which it belongs, can join a general national federation. Such federations are the apex of trade union policies a national character. The central union organizations are national federations of labor based on different political ideologies. Because of their political leanings, the affiliated trade unions in the field of labor relations follow either a militant policy or a policy of cooperation with the employers and the government, or a policy of continuous strife and litigation. The trade union leadership to these national organizations is generally provided by the politicians. Such leaders are found leading a dozen or more unions in a particular state. The national/central federations are empowered to decide the question of jurisdiction of the various local and national unions.

Industrial Relation and Labor Laws

A majority of these federations allow their affiliates to bargain independently with their respective employers. The federations only act as coordinating authorities for different unions under their control. They also select delegates to represent workmen in international conferences organized by the International Labor Organization or the International Confederation of Free Trade Unions. The all-India federation of trade unions has a regular structure.

Think upon

Who provide the leadership to these national organizations?

Answer: The trade union leadership to these national organizations is generally provided by the politicians.

2. Federations of Unions:

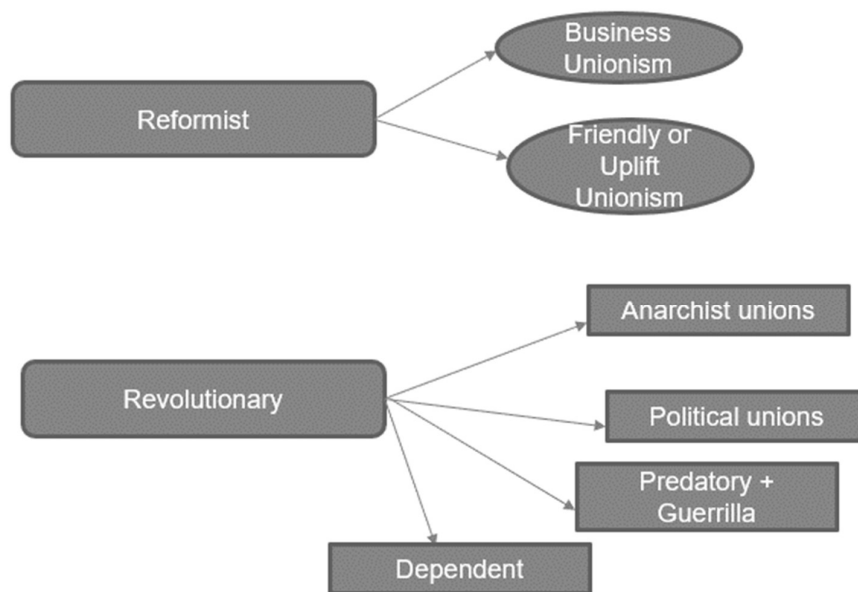
These are combinations of various unions for the purpose of gaining strength and solidarity. They can resort to concerted action, when the need for such action arises, without losing their individuality. Such federations may be local, regional, state, national and international. There are a few organizations which are local in character, such as the Bharatiya Kamgar Sena, the Labor Progressive Federation, Chennai, the National Front of Indian Trade Unions and the coordinating Committee of Free Trade Unions

Types of Trade Unions

Classification of Trade Unions is under 2 heads:

1. The purpose for which unions are formed.
2. The variation in the composition of their membership.

1. Unions classification on the basis of Purpose



I. Reformist Unions:

These unions are those which aim at the preservation of the capitalist society, the maintenance of the usual employer-employee relationship and elimination of competitive system of production.

Features-

- They neither seek comprehensive change nor wish to destroy the existing social, economic or political structure of the State.
- They desire only to modify these in accordance with what their members consider to be current modes in the society.

a. Business unionism:

It is that form of Labor Corporation in which employees enter the successful business relationships with employers. Business unions are those that are maintained primarily to represent workers in collective bargaining with their employers. They have generally been craft conscious rather than class conscious. They are distinctively reformist who tries to bring economic advantages to their members including increased wages and improved working conditions.

These unions use peaceful means to attain these ends and depend primarily upon collective bargaining for the purpose. These unions favor voluntary arbitration deprecate strikes and avoid political action but when they serve their interests they use the weapon of strike and resort to political action also.

b. Friendly or uplift unionism:

This is idealistic in nature and aspires to elevate the moral intellectual and social life of workers. It is not craft conscious but interest conscious of the workers. It is conservative and law abiding unemphoyed the method of collective bargaining but emphasizes the need of mutual insurance and "drifts easily into political action, advocacy of cooperative enterprises profit sharing and other idealistic plans."

I. Revolutionary Unions

These unions aim at destroying the present structure completely and replacing it with new and different institutions according to the ideals that are regarded as preferable.

Features

- These unions generally seeks to destroy capitalist industry, to Abolish the vet system and private property, to put an end to a society based primarily upon competition and individual rights and to substitute some other system, generally socialist and communist.
- It is extremely class conscious rather than trade conscious.

a) Anarchist Unions:

Those unions which try to destroy the existing economic system by revolutionary means are known as anarchist unions.

b) Political unions:

Those unions which gain power through political action, the enactment of laws, eliminating the power of capital and capitalists, redistributing wealth and giving effective power to workers.

c) Predatory and Guerrilla Unions:

Predatory: Does not subscribe to any ideology.

Guerrilla: Does not believe in cooperation with employers.

d) Dependent Union:

This type of union is dependent wholly or partly on the other unions or the employees.

1. On the basis of membership structure

There are 4 types of unions on the basis of membership structure:

- a. craft union
 - b. staff union
 - c. industrial union
 - d. general union
- a. **Craft Union-** It is an organization of workers employed in a particular craft or trade or in a single or 2 or 3 related trades /crafts /occupations. The craft unions are mostly found amongst non-manual employees and professional workers.



Example: The Ahmedabad weavers union, The Kanpur Suti mill mazdoor Sabha and Indian pilots Guild.

Features

- their members are generally craft conscious rather than class conscious
 - they derive their strength from the strategic position of their workers
 - Such unions are horizontal in character for the enrol workers engaged in one or a single group of processes.
- b. Staff Union-** It is an organization or rather a form of organization based on the sense of common status in common need for help. It implies commonality of outlook and presupposes some solidarity between workers of different trades.
- c. Industrial union-** It is an organization of workers which links all Craftsman and skilled workers in anyone industry regardless of the differences in craft, skill, grade, position or gender. The common bond is the industry in which the workers are employed .it is organized upon an industry wise rather than a graph wise basis .The membership is large ;and it makes workers class conscious and increases the feeling of solidarity among them .These organizations are vertical in character because they enroll all types of workers who are engaged in preparing raw materials for consumption.
- d. General union-** It is that organization which covers various industries and laborer's having different types of skills the objective of these unions are all-embracing in character. These unions have numerical superiority, because they are open to all classes of workers; and this is the source of their strength.

3.5 Trade Union as an Organization Structure

Different levels of organizational structure of trade unions are:

1. Conventions/sessions
2. General council (President, VP, Secretary-General, etc.)
3. Provincial bodies (at state level chairman, secretariats)
4. Local bodies (affiliated unions)

1. National Conventions/Sessions:

- National convention/conferences are hold at periodic intervals, say annually or bi-annually.
- This is the highest policy-making body.
- This is presided over by the president of the union attended by the delegates such as chairmen of state units, representatives of specialized services, legal experts and delegates from international bodies and special invitees.
- Office bearers are also elected by this conference.

2. General Council:

- General council consists of president, vice-president, secretary and other office bearers.
- It carries out policy decisions taken by convention.
- Various standing committees are set up on rendering study, analysis and recommendations on various aspects like legislative measure, Research and publications, international services etc.

3. Provincial Bodies:

- State units are headed by chairman of state/regional areas.
- State units also liaise with National Headquarters; keep a close watch of faithful implementation of labor legislation and practices.

- It assists/influence state government to pass labor friendly legislation and executive/administration actions
- It is also responsible for membership of various unions representing workers in industrial undertakings (units) and/or representing trade and industrial units affiliated to the central trade union.
- These state units get themselves attached to State/Provincial/HQ/Regional unions/Units.

4. Local Bodies:

Headquarters (HQ) unions are responsible for welfare of its members and membership drive. As bargaining agents, they are involved in collective bargaining with Central Government/ and or State government and assist passing legislative measures.

Summary

- Trade union is a continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives.
- Functions of trade union can be divided into Militant or Protection Function and Fraternal, Ministrant or Positive Function
- There are five principles to regulate trade union functions.
- The theoretical foundation of trade unions has been discussed with the help of seven approaches.

Keywords

Trade union, Conventions, Federations of Unions, Revolutionary Unions and Reformist Unions.

Self Assessment

1. Which can be included as function of trade union?
 - A. Militant function
 - B. Fraternal function
 - C. Protection function
 - D. All of the above

2. What is a principle to regulate trade union functions?
 - A. The Doctrine of Living Wage
 - B. The Doctrine of Vested Interest
 - C. The Doctrine of Partnership
 - D. All of the above

3. Protection function of trade union aim at securing better conditions of work and employment for members through militant activities such as strikes, gherao, etc. if there is a failure of collective bargaining.
 - A. True
 - B. False

4. Which unionism also known as bread-and-butter unionism?

Industrial Relation and Labor Laws

- A. Business Unionism
 - B. Friendly Unionism
 - C. Revolutionary Unionism
 - D. Predatory Unionism
5. Which approach of trade union has been given by Frank Tannenbaum?
- A. Gandhiji's approach
 - B. Sociological approach
 - C. Socio-Psychological approach
 - D. Scarcity Consciousness approach
6. Webb's non-revolutionary approach has been given by Selig Perlman.
- A. True
 - B. False
7. There are 3 major laws that govern the functioning of trade unions in India.
- A. True
 - B. False
8. Which law regulates the constitution and governance of trade unions?
- A. The Constitution of India
 - B. The Trade Unions Act, 1926
 - C. The Industrial Disputes Act, 1947
 - D. None of the above
9. Which law provides mechanisms for settlement of disputes of workmen and employers?
- A. The Constitution of India
 - B. The Trade Unions Act, 1926
 - C. The Industrial Disputes Act, 1947
 - D. None of the above
10. How many levels exist in the structure of trade unions?
- A. Three
 - B. Four
 - C. Five
 - D. Two
11. National federations do not allow their affiliates to bargain independently with their respective employers.
- A. True
 - B. False

12. Which is not a sub type of trade union under revolutionary union?
- A. Political
 - B. Predatory
 - C. Friendly
 - D. Guerilla
13. Which is the highest policy making body under the organizational structure of trade unions?
- A. General council
 - B. Conventions/sessions
 - C. Provincial bodies
 - D. Local bodies
14. Which level under the organization structure of trade union carries out policy decisions taken by convention?
- A. General council
 - B. Conventions/sessions
 - C. Provincial bodies
 - D. Local bodies
15. Which level under the organization structure of trade union are responsible for welfare of its members and membership drive?
- A. General council
 - B. Conventions/sessions
 - C. Provincial bodies
 - D. Local bodies

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. D | 2. D | 3. A | 4. A | 5. B |
| 6. B | 7. A | 8. B | 9. C | 10. A |
| 11. B | 12. C | 13. B | 14. A | 15. D |

Review Questions

1. What do you mean by Trade Union? What are the functions of trade union in India?
2. Discuss the theoretical foundation of trade unions.
3. Explain the different levels of organization structure of Trade union.
4. What are the different types of trade unions?
5. Discuss the Social-Psychological Approach of trade union.



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Unit 04: The Trade Union Movement

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Objectives

After studying this chapter, you will be able to:

- Learn about the development of Trade Union Movement in India
- Learn about trade union cooperation and consultative machinery.
- Learn about the measures to strengthen trade union movement in India

Introduction

The history of trade unions goes back to the 19th century. A survey of the development of trade unions in India shows that most of the unions are affiliated with either of the four central trade union federations, viz., the Indian National Trade Union Congress, All India Trade Union Congress, Hind Mazdoor Sabha and United Trade Union Congress. Besides these, some trade unions are affiliated with seven other trade union federations, viz., Bhartiya Mazdoor Sangh, Hind Mazdoor Panchayat, Centre of Indian Trade Union, National Federation of Independent Trade Unions, National Labor Organization, Trade Union Coordination Committee and United Trade Union Congress (Lenin Sarani). These trade union organizations have been patronized by different political parties in the country. Further, a survey of trade unions in India reveals that over the years, the trade union movement has undergone significant development. Both workers and non-workers have been involved. The beginnings of the movement were the outcome of the efforts made by certain social reformers and labor leaders.

4.1 Beginning of Labor Movement

The beginning of the Labor movement in the modest sense started after the outbreak of World War I in the country. Economic, Political and Social conditions influenced the growth of trade unions movement in India.

The early years of movement were generally led by philanthropists and social reformers, who organized workers and protected them against inhuman working conditions. The early years of the labor movement were often full of difficulties. Strike committees arose calling themselves trade unions and demanded the privileges of trade unions without any means of discharging the responsibilities thereof. The position of trade unions has considerably improved since then. The number of trade unions has gone up and its membership and funds have increased.

The step-by-step movement of Labor Union in India can be seen from the below listed levels.

- The First Strike
- The First Factories Act
- The First Worker's Organization in India
- Madras Labor Union
- Textile Labor Association
- Formation of AITUC
- Formation of NTUF

1. The First Strike:

The origin of the movement can be traced to sporadic labor unrest dating back to 1877 when the workers at the Empress Mills at Nagpur struck following a wage cut. In 1884, 5000 Bombay textile workers submitted a petition demanding

- I. regular payment of wages
- II. A weekly holiday
- III. amid the recess of 30 minutes

Approximately 25 strikes happened between 1882 and 1890. All these strikes were poorly organized and short-lived lead it towards failure. The oppression of employers was so severe that workers preferred to quit their jobs rather than go on strike.

In the last, Condition of workers was improved but to promote the interests of British Industry rather than Indian factory-made goods.

2. The First Factories Act:

In 1875, the first Committee appointed to inquire into the conditions of factory work favored legal restriction in the form of factory laws. The first Factories Act was adopted in 1881. The Factory Commission was appointed in 1885. There was another Factories Act in 1891, and a Royal Commission was appointed in 1892. Restrictions on hours of work and on the employment of women were the chief gains of these investigations and legislation.

3. The First Workers' Organization in India:

Narayan Lokhande, father of India's modern trade union movement, formed Bombay Mill hands' Association in 1890. It was the First Workers' Organization in India. Organizations, which may more properly be called Trade Unions, came into existence at the turn of the century. The first systematic attempt to form a trade union on permanent basis was done in 1906 in the Postal Offices at Bombay and Calcutta.

4. Madras Labor Union:

It was found in 1918. It was primarily an Association of textile workers in the European owned Buckingham and Carnatic mills, It also included workers in many other trades.

Major grievances handled by Union-

1. Harsh treatment meted out to Indian labour by the British supervisors.
2. Unduly short mid-day recess.

What steps taken to handle grievances?

- The union managed to obtain in extension of the recess from 30 to 40 minutes.
- It also opened a cheap green shop and library for its members and started some welfare activities.
- There was no legislation at this time to protect the trade unions.
- N.M Joshi introduced a bill for the rights of trade union and then the TradeUnionsAct of 1926 was enacted.

- Many strong unions were organised specially in Port Trust, Dockstaff, Bank employees , Customs, Income tax, Ministerial staff, etc.

1. Textile Labor Association:

Anusuyaben Sarabhai had begun doing social work among male workers in Ahmedabad, an activity which was eventually to lead to the founding of famous Mazdoor Mahajan Textile Labour Association in 1920. Mahatma Gandhi declared that the textile labor association was his laboratory for experimenting with his ideas on industrial relations and a model labor union.

2. Formation of AITUC:

The year 1920 witnessed the formation of All India Trade Union Congress. AITUC owes virtually to the activities of the International Labor Organization (ILO).

Reason of existence of AITUC

The AITUC Came into existence with the principal reason to decide the labor representative for ILOs first annual conference. The AITUC claimed 64 affiliated unions with a membership of 1,40,854 In 1920. Lala Lajpat Rai, the President of the Indian National Congress, became the first President of AITUC.

3. Formation of NTUF:

NTUF stands for National Trade Union Federation. The moderates, who were deeply opposed to the affiliation of the AITUC with the League against Imperialism and the Pan-Pacific Secretariat, walked out of the federation. And eventually formed the National Trade Union Federation.

What happened to AITUC due to split?

The splintering away of the NTUF had cost the AITUC 30 affiliated unions with close on a hundred thousand members.

Why NTUF merged with AITUC again?

By 1940, NTUF had dissolved itself completely and merged with AITUC because it was agreed that the AITUC would not affiliate itself with any international organization.

4.2 Six Periods of Trade Union Movement in India

The development during the span of about 145 years may be considered broadly under the following six periods: (i) pre-1918, (ii) 1918–24, (iii) 1925–34, (iv) 1935–38, (v) 1939–46 and (vi) 1947 and thereafter.

1. The Pre-1918 Period:

The earliest sign of labor agitation in India was a movement in Bengal in 1860 led by Dinbandhu Mitra, a dramatist and social reformer of Bengal, followed by some journalists to protest against the hardships of the cultivators and also the plantation workers. The government thereupon appointed an Indigo Commission. The report of the Commission reflects upon the grossest cruelties perpetrated by foreign planters with the aid and under the protection of laws framed by the British Government especially for this purpose. Thereafter, the system of indigo cultivation was abolished due to the discovery of the synthetic process.

In 1875 in Bombay Sarabji Shapuri made a protest against the poor working conditions of workers at that time. The deplorable conditions of workers were brought to the notice of the Secretary of State for India. The first Factory Commission was, therefore, appointed in 1875 and as a result the Factories Act, 1881 was enacted. This Act was, however, inadequate to meet the evil of child labor. Moreover, no provision was made to regulate the working conditions of women workers. This gave rise to great disappointment among workers. Thereupon another Factory Commission was appointed in 1884. In the same year, N.M. Lokhande organized a conference of the Bombay factory workers and drew up a memorandum signed by 5,300 workers demanding a complete day of rest on Sunday, half-an-hour recess, working hours between 6.30 a.m. to sunset, the payment of wages not later than 15th of the month, and compensation for injuries. In 1889, in Bombay, workers of spinning and weaving mills demanded Sunday as a holiday, regularity in the payment of wages and adequate compensation in case of accident.

In spite of these agitations no material change could be brought about and, therefore, another representation was made to the government in 1890. The stand of 1884 was also reiterated and this time the petition was signed by 17,000 workers. The same year, the Bombay Mill Hands Association, the first labor association was organized with Mr Lokhande as its President. It started a labor journal (Dinbandhu) in order to propagate effective views of their own. In the very same year, the Bombay Mill Hands Association placed its demand before the Factory Labor Commission (1890), with Bangalee, the great philanthropist as a member. The Commission gave due consideration to the demands of labor.

Several labor associations were formed after 1890. For instance, the Amalgamated Society of Railway Servants in India and Burma was formed in April 1897 and registered under the Indian Companies Act, the Printers Union, Calcutta, was formed in 1905, the Bombay Postal Union was formed in 1907 and the Kamgar Hityardhak Sabha and Service League was formed in 1910.

The post-1890 period was also important for the reason that several strikes occurred during this period. Instances may be quoted of two strikes which occurred in Bombay in 1894. The first big strike of mill operatives of Ahmedabad took place in the first week of February 1895. The Ahmedabad Mill Owners Association decided to substitute a fortnightly wage system for a weekly one which was in force ever since 1896. This forced over 8,000 weavers to leave work. However, the strike was unsuccessful.

There were also strikes in the jute industries in Calcutta in 1896. In 1897, after the plague epidemic, the mill workers in Bombay went on strike for payment of daily wages instead of monthly payment of wages.

In 1903, the employees of the press and machine section of the Madras Government went on strike for overtime work without payment. The strike went on for six months and after great hardship and starvation, the workers returned to work. Two years later in 1905, the workers of the Government of India Press, Calcutta, launched a strike over the question of (i) non-payment for Sunday and gazette holidays; (ii) imposition of irregular fines; (iii) low rate of overtime pay; and (iv) the refusal of the authorities to grant leave on medical grounds. The strike continued for over a month. The workers returned on the fulfillment of certain demands. In December 1907, the workers of the Eastern Railway Workshop at Samastipur went on strike on the issue of increment of wages. They went back to work after six days when they were granted extra allowance owing to famine conditions prevailing at that time in that region. In the same year, the Bombay Postal Union and Indian Telegraph Association called a strike. In 1908, workers of the textile operatives in Bombay struck work in sympathy with Bal Gangadhar Tilak who was imprisoned for sedition. The workers in Bombay went on strike in 1910 demanding reduction in working hours. As a result of this agitation, the Government of India set up a Commission to enquire into the desirability of reducing the working hours. On the basis of the recommendation, the working hours were reduced to 12 hours a day. Similar strikes continued from year to year particularly in Bengal and Bombay, demanding an increase in wages.

2. The 1918–1924 Period:

The period 1918–1924 can perhaps be best described as the era of the formation of modern trade unionism. This period witnessed the formation of a large number of trade unions. Important among these were the Madras Labor Union, Ahmedabad Textile Labor Association, Indian Seamen's Union, Calcutta Clerks's Union and the All India Postal and RMS Association. One of the significant features of this period was that the All India Trade Union Congress was started in 1920.

The growth of trade unions was accompanied by a large number of strikes. The deteriorating economic conditions of workers resulted in strikes. The wages of workers were increased but it could not keep pace with the soaring prices of commodities. Further, there was a shortage of labor in some of the industries due to the epidemic of influenza.

3. The 1925–1934 Period:

This period witnessed a split in the AITUC into leftist and rightist factions. Later in 1929, a wing of the AITUC, the All-India Trade Union Federation was formed. The main cause for the Communist influence was the economic hardship of the workers.

The period 1925–1934 saw a remarkable decrease in the intensity of industrial conflict. At least two factors were responsible for it. First, the Trade Disputes Act was passed in 1929 prohibiting strikes and lockouts. Second, the failure of strikes and lockouts resulted in industrial strife.

Another significant feature of this period was the passing of the Trade Unions Act, 1926 and the Trade Disputes Act, 1929. The former Act provides for the registration of trade unions and affords

legal protection to intervene in trade disputes. The latter Act provided for an ad hoc Conciliation Board and Court of Enquiry for the settlement of trade disputes. The Act, as already observed, prohibited strikes and lockouts in public utility services and general strikes affecting community as a whole.

4. The 1935–1938 Period:

During this period, unity was forced in trade unions. This led to the revival of trade union activity. In 1935, the All-India Red Trade Union Congress merged itself with AITUC. Again, in 1938 an agreement was arrived at between the All-India National Trade Union Federation and AITUC and consequently NTUC affiliated itself with AITUC.

Several factors led to this revival of trade unionism. First, the change in the political set-up in the country was responsible for the change. It is significant that the Congress Party which formed its government in 1937 in several provinces tried to strengthen the trade union movement and to improve the conditions of labor. Second, the working class also awakened to its rights and wanted to have better terms and conditions of service. Third, management also changed its attitude towards trade unions.

In 1938 came the most important state enactment, viz., the Bombay Industrial Disputes Act. The significant features of this Act were: (a) compulsory recognition of unions by the employer, (b) giving the right to workers to get their case represented either through a representative union or where no representative union in the industry/ centre/unit existed through elected representatives of workers or through the Government Labor Officer, (c) certification of Standing Orders which would define with sufficient precision the conditions of employment and make them known to workmen, (d) the setting up an Industrial Court, with original as well as appellate jurisdiction to which parties could go for arbitration in case their attempts to settle matters between themselves or through conciliation did not bear fruit, and (e) prohibition of strikes and lockouts under certain conditions. The scope of the Act was limited to certain industries in the province.

5. The 1939–1946 Period:

World War II, like World War I, brought chaos in industrial relations. Several reasons may be accounted for the industrial unrest and increased trade union activity. First, the rise in prices far more than the increase in wages. Second, there was a split in the AITUC due to the nationalist movement. Third, the post-World War II era witnessed retrenchment and, therefore, the problem of unemployment. During this period, the membership of registered trade unions increased from 667 in 1939–40 to 1087 in 1945–46. Further, the number of women workers in the registered trade unions increased from 18,612 in 1939–40 to 38,570 in 1945–46. Moreover, the period witnessed a large number of strikes.

During the emergency, the Defence of India Rules, 1942 remained in force. Rule 81 A of the Rules empowered the government, (i) to require employers to observe such terms and conditions of employment in their establishments as may be specified; (ii) to refer any dispute to conciliation or adjudication; (iii) to enforce the decisions of the adjudicators; and (iv) to make general or special order to prohibit strikes or lockouts in connection with any trade dispute unless reasonable notice had been given. These provisions thus permitted the government to use coercive processes for the settlement of trade disputes and to place further restrictions on the right to use instruments of economic coercion.

In 1946, another enactment of great significance in labor relations, namely, the Industrial Employment (Standing Orders) Act, 1946 was passed with a view to bring uniformity in the condition of employment of workmen in industrial establishment and thereby to minimize industrial conflict. The Act makes it compulsory for employers engaging 100 or more workmen 'to define with sufficient precision the conditions of employment' and to make those conditions known to the workmen.

Another important enactment at the state level was the Bombay Industrial Relations Act, 1946. The Act makes elaborate provisions for the recognition of trade unions and rights thereof.

6. Post 1947:

With the advent of Independence, the trade union movement in India got diversified on political considerations. The labor leaders associated with the Congress Party formed the Indian National Trade Union Congress (INTUC) in 1947. The aim of the INTUC is 'to establish an order of society which is free from hindrances in the way of an all-round development of its individual members, which fosters the growth of human personality in all its aspects and goes to the utmost limit in

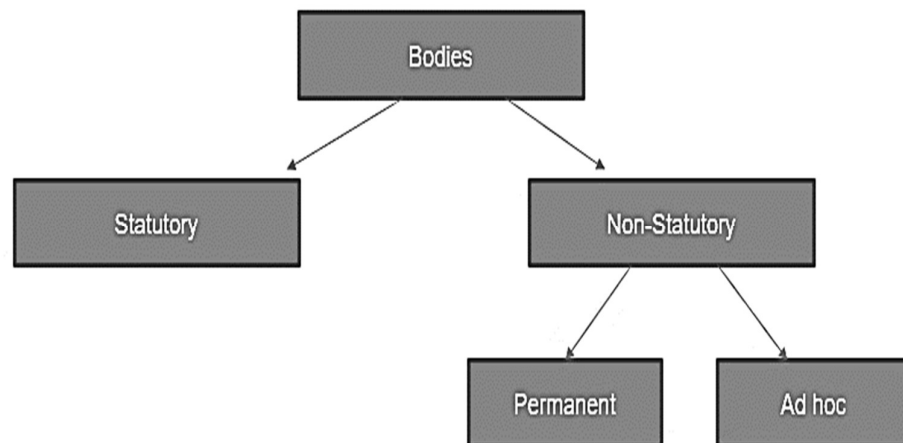
progressively eliminating social, political or economic activity and organization of society and the anti-social concentration of power in any form.'

In 1948, the Socialist Party formed an organization, the Hind Mazdoor Sabha. The aims and objectives of the Sabha were to:

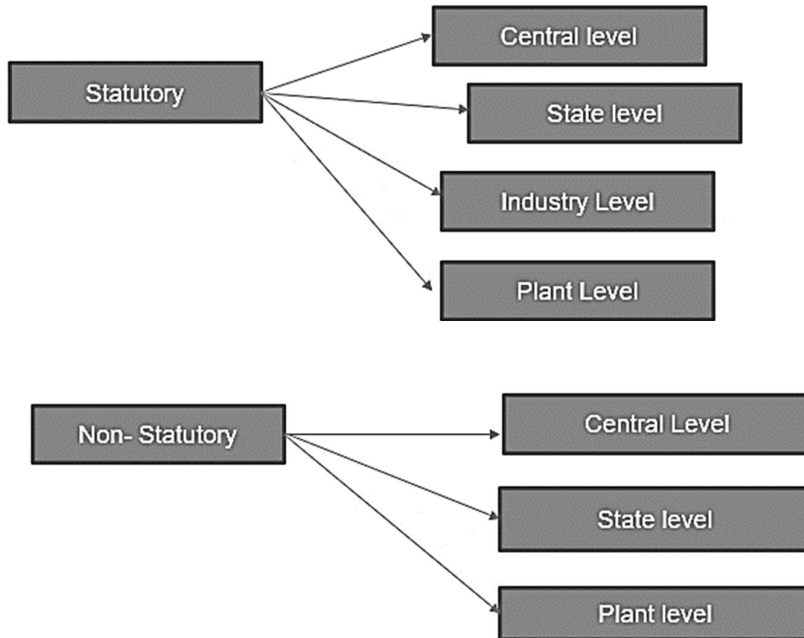
- (i) promote the economic, political, social and cultural interest of the Indian working class,
- (ii) (ii) guide and coordinate the activities of affiliated organizations and assist them in their work.
- (iii) watch, safeguard and promote the interests, rights and privileges of workers in all matters relating to their employment;
- (iv) promote the formation of federation of unions from the same industry or occupation.
- (v) secure and maintain for the workers freedom of association, freedom of speech, freedom of assembly, freedom of press, right of work or maintenance; right of social security and right to strike.
- (vi) organize and promote the establishment of a democratic socialist society in India.
- (vii) promote the formation of cooperative societies and to foster workers' education.
- (viii) cooperate with other organizations in the country and outside having similar aims and objectives.

4.3 Consultation and Cooperation Bodies

The government, employers and the trade unions have established a number of tripartite and bipartite bodies of consultation and cooperation at different levels.



Different Levels



I. Non-statutory (Permanent)

The non-statutory bodies are operating at 4 levels:

1. Central Level
2. State Level
3. Industry Level
4. Plant Level

a) Central level-

At Central Level, there are few bodies working, named as:

- i. Indian Labour Conference
- ii. Standing Labour Conference
- iii. Central Implementation and Evaluation Committee
- iv. Central Board for Worker's Association
- v. Special Tripartite Committee
- vi. Committee on Conventions

i. Indian Labor Conference:

The Indian Labor Conference (ILC) is the apex level tripartite consultative committee in the Ministry of Labor & Employment to advise the Government on the issues concerning working class of the country. The first meeting of the Indian Labor Conference (then called Tripartite National Labor Conference) was held in 1942 and so far a total of 46 Sessions have been held.

Significance:

Indian Labor Conference discusses and deliberates on significant issues aimed at improving the welfare of the workers. Notable contributions have been emanated by this forum including the Minimum wage fixing methodology and standing orders for employment.

ii. Standing Labor Committee:

The Standing Committees are those which are elected by the House or nominated by the Chairman every year or from time to time and are permanent in nature.

iii. Central Implementation and Evaluation Committee:

This is setup to ensure proper implementation of labor awards, agreements and Code of Discipline. It consists of 4 representatives each of central employers and workers organizations with union labor minister as chairman.

iv. Central Board for Workers Education:

The Central Board for Workers Education (CBWE) is an autonomous body under the Ministry of Labor & Employment, Government of India. It is registered under the Societies Registration Act, 1860. The Scheme of Workers Education aims at achieving the objectives of creating and increasing awareness and educating the workforce for their effective participation in the socio-economic development of the country.

v. Special Tripartite Committee:

A tripartite Committee Viz., "The Committee on Fair Wage" was set up in 1948 to provide guidelines for wage structures in the country. The report of this Committee was a major landmark in the history of formulation of wage policy in India. Its recommendations set out the key concepts of the 'living wage', 'minimum wages' and 'fair wage' besides setting out guidelines for wage fixation.

vi. Committee on Conventions:

Committee on Conventions is a three-man tripartite committee set up in 1954. The object was to examine the ILO conventions and recommendations which have not so far been ratified by India. To make suggestions with regard to a phased and speedy implementation of ILO standards. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labor standards.

b) State Level

- i. State Labour Advisory Boards
- ii. Standing Labour Committee
- iii. Industrial Relations Committees in some States.

i. State Labor Advisory Boards:

The State Government may constitute a board to be called the State Advisory Contract-Labor Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

State Board shall consist of:

- (a) A Chairman to be appointed by the State Government;
- (b) The Labor Commissioner, ex officio, or in his absence any other officer nominated by the State Government in that behalf;
- (c) such numbers, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

ii. Standing Labor Committee:

The Standing Labor Committee (SLC), a tripartite body is a pre-cursor to the Indian Labor Conference (ILC). As a matter of practice, and to maintain continuous dialogue with social partners, meetings of these apex bodies are convened once in a year to discuss the topical issues concerning labor.

iii. Industrial Relations Committees in some States:

Industrial Committees are tripartite bodies where the number of workers representatives are equal to the employers' representatives. These were set up to discuss various specific problems special to the industries covered by them and suggest ways to overcome them. These committees provide a forum for the discussion of proposals for legislation and other matters connected with the labor policy and administration before they brought before the legislature.

4.4 Measures to Strengthen Trade Union

The different measures to strengthen trade union are as under:

- Internal Leadership
- Free from political influence
- Education and Training to workers
- Sufficient Finance
- Welfare activities for workers
- United Labour front
- Change in Employer's view
- Formation of a Labor Party
- Membership fees

1. Internal Leadership-

This is the need of the hour. These unions should be run by internal leaders only. The outsiders and more particularly politicians should not be allowed. Their internal labor leadership must be developed. They must be educated and trained in labor leadership techniques and labor welfare activities.

2. Free from political influence-

Workers and trade unions must be kept away from political influence. According to Kith, the famous trade union leader of USA, "Trade unions should be kept a wary from politics and inception of trade union should be done on the basis of specific industries. Constructive co-operation of all classes can direct properly the trade union movement." Though labor will be at liberty to participate in the politics, but politicians should not use them to serve their purposes.

3. Education and Training to workers-

The obstacles in the development of trade unions lie in the illiteracy and ignorance of the workers should be provided education so that they can understand their own interest and extend their cooperation. Education will bring new awakening in them and they will not only think of their interest but of the industry as well Training for the organization of trade unions can also be given to them.

4. Sufficient Finance-

Worker's financial status is not good. They cannot contribute much to the unions. Hence their financial status may be improved. In this respect national workers policy Minimum Wages Act should be obeyed.

5. Welfare activities for workers-

Along with efforts to improve the financial status, the trade unions may effectively start activities such as the provision of day schools for children, creches at workplace, and night schools for adults, reading rooms, libraries, co-operative stores, gymnasium, etc.

It is gratifying that various labor organizations like the Textile Labor Association, Ahmedabad; the Hindustan Mazdoor Sewak Sangh and the INTUC have been doing some works in this direction. These efforts help make workers loyal to their unions.

6. United Labor Front-

Unions must put a joint front. Splinter groups multiple unions dissipate their energies, dilute their power and reduce their effectiveness. Trade unions should form a sort of labor party and all the trade unions in the country should be affiliated to it. It gives adequate strength to the trade unions both industry and Parliament.

7. Change in Employer's view-

Generally, employers oppose trade unions. This attitude should be changed. They should think labor are cooperative and so they should be educated as such. By this worker will cooperate with them and their expectations will be fulfilled.

8. Formation of a Labor Party-

Trade unions should form a labor party and trade union in the country should be affiliated to it will provide adequate strength to the trade unions both in the industry and parliament.

9. Membership fees-

In order to make members updated Trade unions must organize continuous training and developmental programmes. Future needs smart and responsive Trade Unions, if they have to survive and thrive.

Summary

- The beginning of the Labor movement in the modest sense started after the outbreak of World War I in the country.
- The origin of the movement can be traced to sporadic labor unrest dating back to 1877 when the workers at the Empress mills at Nagpur struck following a wage cut.
- The government, employers and the trade unions have established a number of tripartite and bipartite bodies of consultation and cooperation at different levels.
- The development during the span of about 145 years may be considered broadly under the six periods.
- There are various measures to strengthen the trade union movement in India.

Keywords

Labor union, AITUC, Strike, tripartite bodies, consultation, and co-operation.

Self Assessment

1. What influences the growth of trade union movement in India?
 - A. Economic conditions
 - B. Social conditions
 - C. Political conditions
 - D. All of the above

2. In which year the first factories act was adopted?
 - A. 1885
 - B. 1881
 - C. 1888
 - D. 1883

3. Who introduced a bill for the rights of trade union?
 - A. N.M Joshi
 - B. Narayan Lokhande
 - C. Lala Lajpat Rai
 - D. None of the above

4. NTUF stands for _____
 - A. National trade Union Federation
 - B. Nation Trade Union Federation

-
- C. National Trade Union Forum
D. None of the above
5. Who became the first president of AITUC?
A. N.M Joshi
B. Narayan Lokhande
C. Lala Lajpat Rai
D. None of the above
6. Who have established several tripartite and bipartite bodies of consultation and cooperation at different levels?
A. The government
B. Employers
C. Trade unions
D. All of the above
7. The non-statutory consultation and co-operation bodies are operating at _____ levels.
A. Central level
B. State level
C. Plant level
D. All of the above
8. Which is the apex level tripartite consultative committee in the Ministry of Labour & Employment to advise the Government on the issues concerning working class of the country?
A. Standing Labor Conference
B. Central Implementation and Evaluation Committee
C. Indian Labour Conference
D. Central Board for Worker's Association
9. Which body recommended the key concepts of the 'living wage', "minimum wages" and "fair wage" besides setting out guidelines for wage fixation?
A. Central Implementation and Evaluation Committee
B. Central Board for Worker's Association
C. Special Tripartite Committee
D. Committee on Conventions
10. Trade Union Cooperation and Consultation Machinery are needed to strengthen the Industrial Policy and Trade Union Policy.
A. True
B. False

11. Workers and trade unions are not required to be kept away from the political influence to strengthen trade union.
- A. True
B. False
12. In order to improve the worker's financial status which act should be obeyed?
- A. Minimum Wages Act
B. Factories Act
C. Standing Orders Act
D. Industrial Disputes Act
13. What can be included under the list of providing welfare activities for workers?
- A. Creches at workplace
B. Night schools for adults
C. Libraries
D. All of the above
14. Membership fees cannot be considered as the factor which can increase the strength of trade union movement in India.
- A. True
B. False
15. Internal labor leadership is going to be a great help to strengthen the trade union movement in India.
- A. True
B. False

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. D | 2. B | 3. A | 4. A | 5. C |
| 6. D | 7. D | 8. C | 9. C | 10. A |
| 11. B | 12. A | 13. D | 14. B | 15. A |

Review Questions

1. What are the different measures to strengthen the trade union movement in India?
2. Discuss the consultation and cooperation bodies of trade union at different levels.
3. What are the six periods of trade union movement in India?
4. Elaborate the step-by-step movement of labor union in India.
5. Discuss the story behind AITUC and NTUF formation.



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Unit 05: Trade Union Rivalry and Recognition

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Objectives

After studying this chapter, you will be able to:

- Learn about the meaning of Code of Conduct.
- Learn about the principles of Code of Conduct.
- Learn how code of conduct works.
- Learn about trade union rivalry
- Analyse the case for understanding inter-union rivalry.
- Learn about the recognition of trade unions in India
- Understand about the recognition of majority unions.
- Problems in recognition of unions.
- To understand the rights of minority and majority trade unions.

Introduction

For positive contribution to Industrial Relations, it is expected that a trade union should have due recognition as a collective bargaining agent, with well-defined rights and obligations. But neither the Trade Unions Act, 1926 nor the Industrial Disputes Act, 1947 has provided for the compulsory recognition of a trade union and determination of a bargaining agent. And so far, there is no Central Legislation in this regard. This article examines all the vital aspects and problems relating to recognition of trade unions and refers to various suggestions made from different quarters for evolving a satisfactory procedure for determining the representative character of a union.

5.1 What is Code of Conduct?

A code of conduct is a set of rules outlining the social norms and rules and responsibilities of, or proper practices for, an individual, party, or organization. Related concepts include ethical, honour, moral codes and religious laws.

Objectives of Code of Conduct

The major objectives of code of conduct are as under:

- To ensure that employers and employees recognize each other's rights and obligations.
- To avoid work stoppage.
- To facilitate the free growth of trade unions.
- To maintain discipline in industry.

Principles of Code of Conduct

There are some principles of code of conduct which need to be followed in general way in every organization. Let us discuss these:

1. Every employee in industry or unit shall have the freedom and right to join a union of his choice. No coercion shall be exercised in this matter.
2. There shall be no dual membership of unions.
3. There shall be regular and democratic elections of executive bodies.
4. There shall be no violence, coercion, intimidation, or personal vilification in inter - union dealings.
5. All Central unions shall combat the formation or continuance of company unions.

How code of conduct will be helpful?

A quality code of conduct can go a long way in improving a company's success. Companies that view a code merely as a way to communicate legal rules miss much of the value that a code can provide.

A well-developed code can help a company to:

1. Prevent legal and regulatory violations:

This is the first objective that most companies attach to a code of conduct. When violations do occur, a code can help to detect them and mitigate their effects.

2. Foster greater employee loyalty and retention.

When employees feel included and engaged in the company's culture and success, they feel more committed.

3. Encourage greater customer loyalty and retention.

When customers learn about and then experience in practice a company's high standards of conduct, customers are more likely to show their appreciation.

4. Build stronger relationships with suppliers and other business partners.

As with employees, the more that they understand what the company expects of them – and what they can expect from the company – the stronger the alliance.

5. Strengthen trust and respect of other stakeholders.

Strengthen trust and respect of other stakeholders, such as local communities, regulators, NGOs, even from competitors. As codes become publicly available publications, more outside stakeholders are reviewing them and setting their expectations of the company partly based on its code. The more that a company lives up to the expectations that it has established, the greater goodwill it engenders.

Working of Code of Conduct: How Code of Conduct works?

To better understand the working pattern of code of conduct, proper steps need to be followed. The steps are:

1. Articulates leadership's expectations.

Simply establishing these expectations regarding what leadership expects is worthwhile. It provides clarity and transparency so that staff does not have to guess at leadership's expectations.

2. Establishes leadership's commitment.

Much has been addressed regarding the importance of —tone at the top; regarding expectations of responsible conduct, this tone rises in importance.

3. Provides staff with a roadmap and tools for their daily work.

With clarity regarding leadership's expectations that an employee can easily and regularly reference, staff can act with consistency. Employees can turn to the code for guidance on questions or concerns. Help employees to make good decisions when they face ambiguous situations.

4. Provides staff with comfort and confidence.

A code can provide staff with comfort that the company will support them when they act according to the code and confidence that the decisions they make when they are in line with the code.

5. Encourages staff to serve the company's aspirations.

A good code can encourage employees to strive to achieve the company's mission, vision and values in a constructive way.

What are the considerations for a successful code of conduct program?

There are few considerations for a successful code of conduct program. We will discuss each one by one.

1. Leadership commitment to the program

Without senior leadership's commitment, any code initiative is unlikely to truly engage employees and demonstrate to them the —tone at the top that is so critical to any business initiative – especially one focused on doing the right thing.

2. Ethics and compliance processes

Leadership's commitment means so much more when the organization can point to procedures and processes that support a code standards and expectations. Otherwise, employees are right to wonder about how leadership expects to achieve adherence to the company's standards and address concerns.

3. Company culture

A company culture focused around an enduring mission or vision and supported by lasting values sets the best foundation for a proper focus on long-term value and success. These core foundations help a code rise about a narrow focus only on the law to other commitments, promises and aspirations that the company seeks to achieve.

4. Understanding of risk

With the hundreds of issues that a code could possibly address, a more targeted risk identification and assessment effort helps to focus the code's contents to those issues that are most important to the company's operations and that will provide it with a higher chance of success.

5. Coordination with policies

A company's policies often provide the detail underlying its expectations. Policies also can provide the initial framework for a new code of conduct and serve as additional resources to support a code's standards. Where policies exist, they provide important context for a code development or revision effort.

5.2 Union-rivalry

The state of rivalry between two groups of the same union is said to be union rivalry. The inter-union rivalry exists because of multiplicity of unions.

Outcomes of union rivalry

The outcomes of union rivalry are:

- Weakens the power of collective bargaining.
- Reduces the effectiveness of workers in securing their legitimate rights.

Case: The Paradip Port Trust

The Paradip Port enjoys the distinction as one of the deepest ports in the east coast of India with an available draft of 42 feet. Its vast hinterland covers Orissa, south Bihar and east Madhya Pradesh – a belt which abounds in metals and minerals.

Industrial Relation and Labor Laws

Five registered unions were functioning at the end of 1977.

Sl. No	Name of the union	Regd. No. and year of registration...	Affiliation	Claimed membership at the end of 1977
1. (A)	Paradip Port Workers Union- led by Nishamani Khuntia	428/1964	HMS (All India Port and Dock Workers' Federation).	2224*
(B)	Paradip Port Workers Union — led by Pradyumna Kishore Bal.	—do—		2850
2.	Paradip Port Shramik Sangh.	486/1966	AITUC (Port, Dock and Water-front Workers' Federation of India).	1721
3.	Paradip Port Shramik Congress.	604/1968	INTUC (Indian National Port and Dock Workers' Federation).	2450
4.	Paradip Port Ministerial Employees' Association (PPMEA).	665/1970		309
5.	Utkal Port and Dock Workers Union.	1090/1977		1256

PPWU (Paradip Port Workers Union): Most representative union

Recognized by the management for purposes of negotiation and settling the terms and conditions of employment of workers.

Story behind origin of PPWU

When the construction was in progress, the port workers initially, in the absence of a union were subjected to numerous hardships and serious exploitation. They were treated as cogs in the machine without showing any concern for human factor. The wages prevailing was inadequate even to maintain their families on hand to mouth. Their working conditions were miserable, and the treatment meted out to them was much to be desired. Workers, being illiterate and unorganized, were not in a position to represent their problems effectively, much less to settle them through negotiation and bargaining. There was no job security and workers who were victims of accidents received no compensation. While this was the state of affairs that characterized work-life of workers in the early years, a particular incident that took place in 1964 provided an additional prop for workers to form a union.

Incident

In July 1964, a big cyclonic storm rocked the Paradip port. In the nature's fury, five of the workers working at the breakwaters, were seriously injured and one died on the spot. Despite the accident being a major one, the management did not take notice of it and allowed the dead body to remain under the stones of breakwaters. The injured, aided by some of their fellow workers, joined the Cuttack General Hospital and narrated their tale of woes and sorrows to Nishamani Khuntia (the present President of PPWU) who was at that time M.L.A. of that area.

He was requested to take up the issue with the management and help them in the hour of sorrow. The news of the accident spread with lightning speed and the search for the missing worker was made by some of the employees. The body lying under stones, was taken out and identified by the deceased worker's relatives and co-workers.

But surprisingly the management denied having engaged such a worker. At that time the workers realized that unless they unite themselves by forming a trade union, they would be in the throes of serious exploitation.

Outcome

The first union "Work charged Employees' Union" came into existence in 1964 with the unstinted efforts of Nishamani Khuntia, K. Ch. Swain and a few workers. The union after facing some difficulties got itself registered (Regd. No. 428) under the Trade Unions Act on August 14, 1964.

Was this union effective?

No, though the union had a flying start with an initial membership of about 60, it could not make rapid strides till 1966, partly because of its narrow scope (confined to work-charged employees only) and partly because of its poor organizational ability and lack of good leadership.

What decision has been taken to increase effectiveness?

In order to make the union broad-based and representative of all categories of port workers, the union changed its name as "Paradip Port Workers' Union" on July 30, 1966. Soon its membership had increased to 800 and Nishamani Khuntia was elected as its President. With his association and the fresh label, the union turned a new leaf in its history.

Within less than six months, the management conferred recognition status on April 11, 1967. The union had grown in strength over the years in spite of the emergence of rival unions. Its membership also had increased steadily up to 1973 except for the year 1967. In the year 1974, however, there was a decline in the membership.

Start of Inter-union rivalry

The PPWU which was functioning smoothly with Nishamani Khuntia as its unrivalled leader till 1974, suddenly faced rough weather and became the seat of intra-union rivalry.

Why?

A group of workers⁴ in the union were evidently dissatisfied with the leadership of Khuntia. They felt that their problems failed to receive adequate attention.

Consequently, they approached Devendra Satpathy, who appeared on the scene and started placating a section of workers with the ultimate aim of securing control over the Port Workers' Union. Though Satpathy was a Congress leader in his own right, being a Member of Parliament at that time, he was less known in labour circles and comparatively a new figure to trade union work.

It was stated that Satpathy entered the field because a group of workers requested him to take the reins of the union. His supporters also maintained that the leadership of Khuntia was ineffective and many problems of workers remained unsolved.

After a few months of preparatory work marked by frequent visits, processions, public meetings and labour addresses, towards the end of 1975, Satpathy could gain the support of a section of PPWU. His supporters convened a delegates' meeting on November 14, 1975 to elect new office-bearers of the union.

The Khuntia group abstained from the meeting and Satpathy was elected as the President of the union. Satpathy's group claimed that the new office-bearers headed by Satpathy were elected on the basis of two-thirds majority of the delegates' votes. The delegates of the union were elected in the ratio of 1:8 of the union membership.

Conflict is visible

Two sets of office bearers came to function simultaneously, and each group claimed that it was the bona fide group of office-bearers of the union. Both the factions vied with each other to control the union office and the official records.

Problems due to conflict

This factionalism had encouraged some measures of indiscipline in workers' ranks and even led to intimidation, assaults and violence. The whole matter was intriguing even to the office of the Labour Commissioner to which two separate sets of annual returns were submitted by the rival factions. These developments have not only hampered the usual functioning of the union but also created a climate of confusion and uncertainty about the future of the union. Even the normal routine work of the union, for instance, collection of subscriptions, ventilating workers' grievances, etc., could not be continued.

What is the main genesis of inter-union rivalry in this case?

Political Reasons

On the surface: It appears that the dissatisfaction of a section of members with the leadership of Khuntia gave rise to factionalism.

Real fact: It is the political differences between Nandini Satpathy and Nishamani Khuntia that were responsible for the trouble.

5.3 Meaning of Recognition of Trade Union

Acceptance of one single union by the employers, workers and the Government which could be the mouthpiece of the workers, to take decisions on behalf of the workers and bargain with the management on all important issues affecting management and labor.

What do you think?

How can trade union play an impactful role in maintaining good industrial relations?

Answer

A trade union may be stable and strong but until it is given recognition – legally or voluntarily – it will hardly have any impact.

History of recognition of trade union

The history of recognition of trade union can be discussed under the following heads:

- Appointment of the Royal Commission
- Legislative Action on the Royal Commission's Recommendation
- International Labour Organization Convention
- Plans and Recognition of Trade Unions
- First National Commission on Labor
- Industrial Relations Bill, 1978
- The Hospital and other Institutions (Settlement of Disputes) Bill, 1982

The brief description of each stage is as under:

1. Appointment of the Royal Commission

Problems relating to recognition of trade unions attracted the attention of the Royal Commission on Labor in 1929. It made a comprehensive survey of almost all the problems relating to labour (including recognition of trade unions) and recommended that the "Government should take the lead, in case of its industrial employees, in making recognition of union easy and in encouraging them to secure recognition.'

2. Legislative Action on the Royal Commission's Recommendation

Legislative attempt was, however, not made until 1943 for compulsory recognition of trade unions by employers when the Indian Trade Unions (Amendment) Bill, 1943, was placed before the Central Legislative Assembly.

The bill was opposed by the management and, therefore, it could not be passed. The bill was revised in the light of discussion made in the assembly and a new bill, namely, the Indian Trade Unions(Amendment)Bill, was introduced three years later in 1946 in the Central Legislative Assembly.

This bill was referred to the Select Committee which suggested certain amendments. The bill was passed in November 1947 and received the assent of the Governor General on 20 December 1947. But the Trade Unions(Amendment)Act was never brought into force.

3. International Labour Organization Convention

At an international level, the concern felt by the International Labour Organization for evolving an international instrument for recognition of trade unions resulted in ILO Convention No. 87 on 'Freedom of Association and Protection of the Right to Organize in 1948 and ConventionNo.98 concerning the right to organize and bargain collectively in 1949.

4. Plans and Recognition of Trade Unions

Immediately after India became a sovereign democratic republic, the Trade Unions Bill,1950, concerning the recognition of trade unions through planning was accepted and a Planning Commission was constituted.

5. First National Commission on Labour

Another landmark in the recognition of trade unions was reached with the appointment of the National Commission on Labor in 1966. The Commission recommended, inter alia, for statutory recognition of trade unions but no concrete legislative action was taken till 1978.

6. Industrial Relations Bill, 1978

In 1978, the Industrial Relations Bill, inter alia, incorporated the provisions for recognition of trade unions. But the bill which was introduced in Lok Sabha in August 1978, lapsed after the dissolution of the sixth Lok Sabha on 30 August 1978.

7. The Hospital and other Institutions (Settlement of Disputes) Bill, 1982

The bill provides for the recognition of trade unions of workmen. A trade union will not be considered for recognition with respect to an establishment for the purposes of legislation unless it is registered under the Trade Unions Act and each of its office-bearers is a workman in such establishment or any other establishment.

In order to be entitled for recognition, such a trade union must have the support of the majority of workmen in the establishment. The representatives of workmen on the Grievance Settlement Committee, Local Consultative Council and Consultative Council would be nominees of recognized trade unions.

Is the right to grant recognition to trade unions a fundamental right within the meaning of Article 19 (1) (c) of the Constitution?

No, because the right to form an association does not carry with it the concomitant right that the association should be recognized by the employers.

Laws related to Recognition of Trade Unions

There are laws related to recognition of trade unions:

1. Trade Unions (Amendment) Act, 1947
2. The Trade Unions Bill, 1950
3. State legislation

1. Trade unions (Amendment) Act, 1947:

In India, it has been observed earlier, that there is no Central enactment governing recognition of trade unions. The Trade Unions (Amendment) Act, 1947, however, provided for recognition of unions,

- (i) by agreements, and
- (ii) by order of the Court

2. The Trade Unions Bill, 1950:

In 1950 the Trade Unions Bill, 1950 was introduced in the Parliament. The Bill also provided for recognition of trade union where application for recognition was made by more than one union. The trade union having the largest membership gets preference over others.

The recognized unions are given rights such as collecting subscriptions, holding meetings on employer's premises and of collective bargaining. The Labor Court is empowered under the Bill to order for recognition of unions.

3. State Legislation:

In some states there are legislations on the recognition of trade unions. These legislations are:

1. Maharashtra
2. Madhya Pradesh
3. C.P. and Berar

Maharashtra:

The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1972, provides for the recognition of trade union for facilitating collective bargaining for certain

undertakings and confers certain rights and obligations upon recognized trade unions and also confers certain powers on unrecognized trade unions.

Madhya Pradesh:

The Madhya Pradesh Industrial Relations Act, 1960, provides that a union for the purpose of recognition shall have not less than 25 per cent of the total number of employees employed in the industry in such local area.

C.P. and Berar:

The C.P. and Berar Act, 1947 lays down the following conditions for recognition of unions:

- i. The membership of union is open to all employees irrespective of caste, creed or color;
- ii. The union has for the whole of the period of six months preceding the date of application, membership of not less than between 15 and 20 per cent as the State Government may prescribe for that local area, of the employees in the industry in that area;
- iii. The constitution of the union shall be such as may be provided under this Act.



Did You Know?

Is right of collective bargaining provided to all trade unions?

No,

The right of collective bargaining is not provided for all trade unions that exists but is provided for those trade unions which are recognized.



Example:

In *Kalindi and Others v. Tata Locomotive and Engineering Co. Ltd.* the Supreme Court held that there is no right to representation as such unless the company, by its standing orders, recognizes such right. The decision was reiterated in *Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamgar Union & Ors.*

Advantage of recognized Trade Union

1. The executive of the trade union is entitled to negotiate with employer regarding employment, non-employment, terms of employment or conditions of labour of any person or of all, if any dispute arises between the executive and the employer on these issues it must be referred to then registrar whose decision is final.
2. The executive of the recognized trade union is entitled to display the notices of the trade union in the premises where the employees are employed, and the employer must make necessary arrangements
3. To collect some payable by the members to the union on the premises where wages are being paid.
4. To appear behalf of any employee or employees in any domestic or departmental enquiry
5. The recognized union alone is given the right to appoint its nominee to represent its workman in the works commission under the industrial dispute act 1947
6. A Trade Union being the sole bargaining agent or a principal bargaining agent.

Recognition as a majority Union

A union can claim to be recognized as a majority union in an establishment if:

1. It has been functioning for a period of one year after registration under the Trade Unions Act.
 - The requirement need not be fulfilled if it is the only union functioning in the establishment.
 - In case of branches of a union recognized under the Code as a representative union for the industry, the qualifying period of one year is not to be insisted upon for granting recognition

to the branch union at the unit level provided it satisfies the prescribed membership qualification and is operating in the same local industry as the representative union.

2. It considers that it commands a majority of membership-in any case not less than 15%- of the workers of that establishment.
3. It has not been found responsible for a breach of the Code within one year immediately before claiming recognition.
4. The existing recognized union, if any, the establishment has completed a period of two years after recognition under the Code.

Problems in recognition of trade union

Recognition is one of the basic issues of industrial relation between employer and employee as the employer has no obligation to give recognition to any union, in the earlier times the attitude of the employer towards trade union has been hostile.

2 major problems in union recognition

1. All registered union in India seem to have been enjoying industrial relation rights either de facto or de jure though they happen to be craft, caste or category-based union.
2. Politicization of trade union is one of the basic reason mainly in CTUO that one party supports secret ballot system and other support check off system due to which there is repeated coalition management in several states have refused to recognize a trade union mainly on five grounds:
 - (i) most of the office bearers of the union were outsiders,
 - (ii) and sometimes, those disapproved by management, particularly politicians and ex-employees.
 - (iii) the union consisted of only minimum number of employees.
 - (iv) there were many rival unions in existence; and
 - (v) the trade union was not registered under the Trade Unions Act, 1926

Meaning of Minority Unionism

These are also known as members-only unionism. It is a model for trade unions in which local unions represent and organize workers who voluntarily join (and pay dues) rather than the entire workforce of a place of employment.

Feature:

In such a model, a union election is not held by the entire workforce to determine whether a majority wishes for the workforce to be represented by a local branch of a national union, but a union can nonetheless exist to support members who pay dues.

Advantages:

1. Members-only unionism allows members and organizers to operate under the radar of management, especially in regions rife with anti-union sentiment.
2. It also allows for other activist and organizing models to be tried by a minority local union.

Disadvantages:

1. A disadvantage of this model is that businesses may not recognize a minority union as a collective bargaining agent for employees who are members.
2. Strikes and pickets are likely not possible for minority unions, meaning that answers to grievances filed by members rely entirely upon the discretion and timing of management.



Did You Know?

Do recognized majority unions and unrecognized minority unions can be treated on the same footing in law?

No, if an employer recognizes a particular union as representing the majority of its work force such recognition confers certain special rights on the recognized union which right is not available to an unrecognized union.

Does unrecognized union have no right at all in law?

No, due to multiple trade unions coming into existence in the industry, provisions have been made in the Rules conceding certain rights to non-recognized unions.



Example:

- Non-recognized unions may not have the right to participate in the process of collective bargaining with the management/employer over issues concerning the workmen in general,
- They have the right to meet and discuss with the employer or any person appointed by him on issues relating to grievances of any individual member regarding his service conditions and
- To appear on behalf of their members in any domestic or department enquiry held by the employer or before the conciliation officer or labor Court or industrial tribunal.

Case: Bharat Forge Limited vs Maharashtra General Kamgar on 14 June, 2010

The Petitioner is a company incorporated under the Companies Act, 1956, having one of its factories at Mundhwa, Pune. It is engaged in the activity of manufacture of forgings and employs about 800 permanent workmen on its rolls in the said factory.

The said workmen are stated to be members of Bharat Forge Sangh, which is the union duly recognized in respect of the petitioner company's aforesaid factory (hereinafter referred to as "the recognized union"), under the provisions of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labor Practices Act, 1971.

Respondent No.1- Maharashtra General Kamgar

Mahasangh is a Trade Union which is an unrecognized union (hereinafter referred as Respondent No.1-union) which represents contract labor workmen, who are engaged in petitioner undertaking through various contractors under the provisions of the Contract Labor (Regulation and Abolition) Act, 1970.

Learned Senior Counsel Mr. Rele then referred to Section 36(1) of the I. D. Act, the proviso of which lays down that where there is a recognized union for any undertaking, no workman in such undertaking shall be entitled to be represented in any such proceeding not being a proceeding in which the legality or propriety of an order of dismissal, discharge, removal, retrenchment, termination of service, or suspension of an employee is under consideration, except by such recognized union.

He contended that since the recognized union in the petitioner company was Bharat Forge Kamgar Sangh, that union alone has exclusive right to represent workmen in an industrial dispute under the Act.

Thus, in the submission of the Learned Senior Counsel, the respondent No.1 union which is an unrecognized union, had no locus to raise any demand and respondent Nos. 2 and 3 ought not to have entertained the demand and made a reference.

The Learned Senior Counsel, therefore, urged that the impugned order of reference is required to be set aside. Mr. Rele also placed reliance on the following decisions of the Hon'ble Supreme Court -

1. Rashtriya Chemicals & Fertilizers Ltd. & Anr. v/s General Employees' Association and Ors. (2007) 5 SCC 273;
2. Steel Authority of India Limited v/s Union of India and Ors., (2006) 12 SCC 233;
3. Nedungadi Bank Ltd. v/s K. P. Madhavankutty & Ors., 2000 I CLR 671 and
4. National Engineering Industries Ltd. v/s State of Rajasthan & Ors., 2000 I CLR 389.

At the time of making a reference, the appropriate Government is not required to look into the issue as to who is to ultimately represent the workmen in the adjudication before the Industrial

Adjudicator. In each case, though the dispute may have been raised by an unrecognized union for reference, at the time of adjudication before the Industrial Adjudicator, the possibility that the recognized union may be persuaded to espouse the cause of the workmen owing allegiance to an unrecognized union cannot be ruled out.

Summary

A code of conduct is a set of rules outlining the social norms and rules and responsibilities of, or proper practices for, an individual, party, or organization. Related concepts include ethical, honor, moral codes and religious laws.

Acceptance of one single union by the employers, workers and the Government which could be the mouthpiece of the workers, to take decisions on behalf of the workers and bargain with the management on all important issues affecting management and labor.

The state of rivalry between two groups of the same union is said to be union rivalry. The inter-union rivalry exists because of multiplicity of unions.

Minority unionism is a model for trade unions in which local unions represent and organize workers who voluntarily join (and pay dues) rather than the entire workforce of a place of employment.

Keywords

Trade Union, Code of Conduct, Union Rivalry, Minority Union, Recognition of Trade Union, Registration of Trade Union.

Self Assessment

1. Which is not an objective of code of conduct?
 - A. To avoid work stoppage.
 - B. To maintain discipline in industry.
 - C. To cease the free growth of trade unions
 - D. To ensure that employers and employees recognize each other's rights and obligations.

2. A well-developed code can help a company to prevent legal and regulatory violations.
 - A. True
 - B. False

3. Which is not a consideration for a successful code of conduct program?
 - A. Ethics and compliance processes
 - B. Company Culture
 - C. Lack of co-ordination with policies
 - D. Understanding of risk

4. Multiplicity of unions is not the reason of inter-union rivalry?
 - A. True
 - B. False

5. Reducing the effectiveness of workers in securing their legitimate rights is the outcome of union rivalry.

- A. True
 - B. False
6. The state of rivalry between two groups of the same union is said to be union rivalry.
- A. True
 - B. False
7. Which law is not related to Recognition of Trade Unions?
- A. Trade Unions (Amendment) Act, 1947
 - B. The Trade Unions Bill, 1950
 - C. State legislation
 - D. None of the above
8. While discussing the history of recognition of trade union, The Hospital and other Institutions (Settlement of Disputes) Bill, 1982 shall be discussed.
- A. True
 - B. False
9. "Government should take the lead, in case of its industrial employees, in making recognition of union easy and in encouraging them to secure recognition.' This is a recommendation of which commission related to recognition of trade union.
- A. Legislative Action on the Royal Commission's Recommendation
 - B. Appointment of the Royal Commission
 - C. First National Commission on Labour
 - D. International Labour Organization Convention
10. Right of collective bargaining is provided to all trade unions.
- A. True
 - B. False
11. A union can claim to be recognized as a majority union in an establishment if it has been functioning for a period of how many years after registration under the Trade Unions Act.
- A. Three
 - B. Four
 - C. One
 - D. Five
12. Politicization of trade union cannot be considered as a problem in union recognition.
- A. True
 - B. False
13. What cannot be included as disadvantage of Minority Unionism?
- A. Strikes and pickets are likely not possible for minority unions

- B. Businesses may not recognize a minority union as a collective bargaining agent for employees.
- C. Answers to grievances filed by members rely entirely upon the discretion and timing of management.
- D. None of the above
14. Unrecognized union has no right at all in law.
- A. True
- B. False
15. Due to multiple trade unions coming into existence in the industry, provisions have been made in the Rules conceding certain rights to non-recognized unions.
- A. True
- B. False

Answers for Self Assessment

1. C 2. B 3. C 4. B 5. A
6. A 7. D 8. A 9. B 10. B
11. C 12. B 13. D 14. B 15. A

Review Questions

1. What is union rivalry? How it affects union's strength?
2. What do you mean by registration of Trade Unions? What are the advantages of registration?
3. Give suggestions to minimize Trade Union Rivalry.
4. Discuss the laws related to recognition of Trade Union in India.
5. What are the considerations for a successful code of conduct program?



Further Readings

- I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
- V.V. Giri, Labor Problems in India.
- Pigou A.C., Economics of Welfare.
- Mamoria C.B., Dynamics of Industrial Relation in India.

Unit 06: Size and Finance of Indian Trade Unions

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Objectives

After this lecture, you will be able to:

- learn about the factors responsible for small size unions.
- learn about the consequences of small size unions.
- understand the different funds of trade union.
- learn about the challenges faced by trade union in terms of financing.
- learn the ways of solving financial crunch of trade unions.

Introduction

Are trade unions experiencing difficulties in retention of quality membership in particular?

The answer is yes, there has been substantial erosion in membership of unions.

6.1 Membership in India

Indian trade union is deeply fragmented along many lines.

1. At one level, the movement is divided along political lines with each political party having its own trade union wing.
2. At another level, the movement is conditioned because of the growth of enterprise level unions.

What is the impact of changes in the business scenario in industrial sector on unionization?

The answer is Unionization increases.

Reasons for Eroding Base of Unions at the Enterprise Level

Let us discuss the answers from leaders of companies:

<ul style="list-style-type: none"> • Colgate workers' union; Colgate Palmolive 	<ul style="list-style-type: none"> • Souring relations between union and management causing fear to join union • Alienation of workers from unions
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	<ul style="list-style-type: none"> • Politicization of unions
<ul style="list-style-type: none"> • Bhartiya kamgar sena, Crompton greaves 	<ul style="list-style-type: none"> • Trade union leaders are not serious about future of workers. • Workers are not interested in unions • Mixing political ideology with union ideology
<ul style="list-style-type: none"> • Sharmik utkarsha Sabha, Asian paints 	<ul style="list-style-type: none"> • No change in the mindset of unions according to market realities • Lack of communication between union and workers • Non-cooperation amongst actors of Industrial Relations.
<ul style="list-style-type: none"> • Association of chemical workers, Cadbury 	<ul style="list-style-type: none"> • Disunity amongst unions • Self-centered unions • Less awareness amongst workers about benefits of unions
<ul style="list-style-type: none"> • Voltas employees' union, Voltas 	<ul style="list-style-type: none"> • Anti-labor policies of Government • Relocation of manufacturing operation to far-off places • Outsourcing non-core activities

What are the reasons for declining influence of trade unions?

- The volatile market, increasing competition and emerging business compulsions have diluted the needs of unions.
- Direct dialogue between employees and management has further weakened the position of unions.
- Relocation of manufacturing operations to non-unionized sites and outsourcing of non-core activities has marginalized unions to a great extent. Union seem helpless to evolve suitable counter strategies to ward off side effects of restructuring.
- The profile vis-à-vis aspirations of new generation of workforce have changed drastically and there exists a mismatch between agenda of unions and expectations of new workers.
- The existing union leadership seems neither interested in the future of workers nor development of quality inside leadership.
- Non-adherence to the democratic values within a union, resulting in growing alienation of the rank and file.
- Changing attitude of government in granting permission to closure and or retrenchment has adversely impacted on union development.

What can be the reasons behind reduction in membership or of small size unions?

Factors

(Responsible For Small Size of Unions)

1. The requirement of the Trade Union Act 1926 is that any seven workers may form a union and get it registered. This give rise to a large number of small unions.
2. Unionization in India started mainly with the big employers and gradually it spread to small units. This process is still continuing. Thus, the number of unions and union membership are increasing, but the average membership is declining.

3. The trade union generally exists in a factory or the unit of employment. In India, every factory does not have a trade union.

Whenever the employees in a particular factory are organized a new union comes into existence.

4. Rivalry among the leaders and the Central organizations resulted in multiplicity of trade unions, thereby reducing the average number of membership.

If rival unions could be stopped from being evolved, the average size of unions could definitely go up.

Words of Leaders

Colgate Workers' Union, Colgate Palmolive	<ul style="list-style-type: none"> * Familial relations with the company and management * Proper advice to workers * Keep politics outside the company and union
Bhartiya Kamgar Sena, Crompton Greaves	<ul style="list-style-type: none"> * One union in one factory * Common agenda for all unions * Union leaders of all unions should come at one forum and meet at least once in a month
Sharamik Utkarsha Sabha, Asian Paints	<ul style="list-style-type: none"> * Changing mind set of workers as per changing requirements * Co-operating to management * Controlling the cost of production to save workers from being rendered surplus
Association Of Chemical Workers, Cadbury	<ul style="list-style-type: none"> * Organise the unorganised workers deployed in non-core activities * Raise burning problems of workers * Get a good deal for workers both monetary and non-monetary
Voltas Employees Union, Voltas	<ul style="list-style-type: none"> * Co-ordination amongst all unions * Organising the unorganised workers * Product base federations

What are the best strategies adopted by leaders?

1. Profit-center Mind Set and Performance based Work Culture-

Unions have now started understanding and accepting the importance of business realities like profitability and productivity to be seen as a part of package deal with the management. Unions, accordingly, have started supporting performance-based rewards.

2. Decent Work and Work Life Balance

In the era of multi-tasking vis-a-vis increasing workload, unions have started projecting aspects like flexible work schedule and work-life balance. The quality of work life and decent treatment to employees are being reworked at workplaces.

3. Adopting Familial Approach in Order to get Good Deals

The changing posture of union and management has also helped in evolving a familial approach both by management and workers. The good results of such arrangements are being reflected in the behavior as well as work of employees.

4. One Union in One Company

Unions, after weakening their power due to multiplicity, are now developing an arrangement that supports not only "one union in one company" formula but also independence from any outside leadership. Unions are now actively working to develop and support inside leadership.

What are the consequences of small size unions?

- Increase in the number of small unions is not a healthy development.
- Small unions cannot face the challenge of employers for long because of the weak bargaining power.
- They are short of funds and are helpless to engage the services of experts in times of emergency.
- Moreover, they cannot undertake the mutual benefit schemes.
- Small unions aggravate their helplessness in collective bargaining and fail in pressurizing the Government and the employers in pursuit of meeting workers' demands.
- They depend thoroughly on the political parties or on such outside personalities who happen to command political influence on the employers and the Government machinery.

6.2 Funds of Trade Union

A registered trade union is entitled to maintain two kinds of funds.

1. General Fund and
2. Political Fund

Is there any condition on the Trade Union to spend/utilize the fund?

The Trade Unions Act, 1926 imposes certain conditions on the Trade Unions to spend/utilize the funds only for some specific purposes as stated under Section 15 (General Fund) and Section 16 (Political Fund) of the act.

Are there any Sections in the Trade union act which create and regulate these funds?

Section 15 and Section 16

1. GENERAL FUND:

According to Section 15 of the Act

- A registered trade union can create a general fund.
- Members of the registered trade union have to contribute to the general fund.
- The fund can be spent for the purposes as specifically stated in the Section 15 of the act.

Purposes for which the General Fund can be Utilized:

1. The payment of salaries, allowances and expenses to office bearers of the trade union.
2. The payment of expenses for the administration of the trade union including an audit of accounts of the general fund.
3. The expenses in connection with prosecution or defense undertaken for the purpose of securing or protecting any rights of the trade union.
4. The conduct of trade disputes on behalf of the union or any member.

2. POLITICAL FUND:

Origin

In 1946, based on the ideology that development of a group need involvement or support of political party directly or indirectly, concept of trade election and collection of political fund started.

- Aim for use of this fund for political agenda like election expenses, campaigning and strengthen TU

Political fund deposition was made compulsory for all TU members to get related benefits.

Aim regarding Political Fund

- Under section 16(1) trade union for the purpose of spending on political cause must create a separate political fund. Contributions to such political funds should be collected separately.
- In Trade Union Amendment 2019, deposition of political fund was made voluntary under section 16 clause 3
- Reason To release pressure in labors politic. Moreover, politics is a matter of interest, and it need not be compelled to all labors for participation.

Procedure for contribution in political fund- Notice Check-in Check-out process:

1. Notice:

TU issue/publish application or notice for call for deposition of political fund.

2. Check in:

Interested Trade union members having capacity to pay, fill check-in form and monthly amount on the name of political fund will be deducted from their salary account.

3. Filled Check

in form remains valid for 6 months, after which members need to fill new check-in form and enroll again for political fund.

4. Check-out application:

After lapse of check-in form, those members who wish to discontinue this deposition may fill check-out applications.

5. Time span for check-in

form is only 6 months, the reason being financial situation of labor may change and may want to opt out of such deposition

According to Section 16

- The trade union must create a separate political fund for the purpose of spending it for political cause.
- Contributions to such political funds should be collected separately.
- Contribution to the political fund cannot be compelled or made as compulsory or condition to admit a person as member of the trade union.
- However, the control and management of the political fund can be vested exclusively to those members who contributed to the political fund.

Purpose of Political Fund

Section 16(2) specifically states the purposes for which the political fund may be utilized.

1. The payment of any expenses incurred by a candidate or prospective candidate for election as a member of any legislative body or any local authority. The expenses includes the expenses incurred before, during and after the election in connecting with such candidature;
2. Conducting any meeting or distribution of any literature or documents in support of such candidate or prospective candidate;
3. Maintenance of any person who is a member of any legislative body or local authority.
4. Registration of electors or the selection of a candidate for any legislative body or local authority.
5. Conducting of political meetings or distribution of political literature and documents to the members of the trade union or to the general public.

Why trade unions require financial resources?

Industrial Relation and Labor Laws

- To function effectively trade unions require sufficient financial resources.
- A variety of programs, events and functions have to be organized by the unions for rendering the services expected of them or for fulfilling their goals.
- Unions must strengthen their financial position to organize such events and programs.

Is there any financial crunch faced by trade unions?

Yes, Trade unions have to struggle hard to balance their income and expenditure.

Source and Expenditure

SOURCE	EXPENDITURE
Primary source is the membership subscription.	Salaries to office staff, allowances to office bearers, annual meeting/convention expenses, rents, printing, stationery and many more.

Main Challenges of Finance

1. The workers are apathetic towards trade unions and do not want to contribute a part of their hard-earned money.
2. Members, instead of making regular payments to the union, make ad-hoc payments if a dispute arises, which shows "a lack of commitment to the union".
3. Under conditions of multiplicity of unions, a union is increasing its membership figures usually keeps the subscription rate unduly low and does not collect even that subscription regularly.

Ways of Improving Finance

1. National Commission on Labour recommended that minimum subscription should be raised.
2. Introduction of the "Check-off" system: Under this an employer undertakes, on the basis of collective agreement, to deduct union dues from the worker's pay and transfer the same to the union.
3. Eliminate trade union rivalry by strictly adhering to the principle of "One union in one Industry".

Summary

- The volatile market, increasing competition and emerging business compulsions have diluted the needs of unions.
- Direct dialogue between employees and management has further weakened the position of unions.
- Relocation of manufacturing operations to non-unionized sites and outsourcing of non-core activities has marginalized unions to a great extent. Union seem helpless to evolve suitable counter strategies to ward off side effects of restructuring.
- The profile vis-à-vis aspirations of new generation of workforce have changed drastically and there exists a mismatch between agenda of unions and expectations of new workers.
- The existing union leadership seems neither interested in the future of workers nor development of quality inside leadership.
- Non-adherence to the democratic values within a union, resulting in growing alienation of the rank and file.
- Changing attitude of government in granting permission to closure and or retrenchment has adversely impacted on union development.

Keywords

Trade Union - an organization for people who all do the same type of work. Trade unions try to get better pay and working conditions for their members

General Fund - General fund refers to revenues accruing to the state from taxes, fees, interest earnings, and other sources which can be used for the general operation of state government.

Political Fund - political fund may be utilized with an aim to promote civic and political interests of its members.

Self Assessment

1. Are trade unions experiencing difficulties in retention of quality membership in particular?
 - A. Yes
 - B. No
 - C. Maybe
 - D. Sometimes

2. What is the average membership per union in India as compared to other countries?
 - A. The average membership per union in India is less than 800, as compared with the U.K (17,600) the USA (9,500).
 - B. The average membership per union in India is less than 700, as compared with the U.K (17,600) the USA (9,500).
 - C. The average membership per union in India is less than 600, as compared with the U.K (17,600) the USA (9,500).
 - D. The average membership per union in India is less than 500, as compared with the U.K (17,600) the USA (9,500).

3. Indian trade union is deeply fragmented along _____ lines.
 - A. Zero
 - B. One
 - C. Two
 - D. Many

4. At one level, the movement is divided along _____ lines with each political party having its own trade union wing.
 - A. Economical
 - B. Political
 - C. Technological
 - D. Ecological

5. What is the impact of changes in the business scenario in industrial sector on unionization?
 - A. Unionization decreases
 - B. Unionization inflates
 - C. Unionization increases
 - D. Unionization has no effect

6. What are the reasons for declining influence of trade unions?

- A. The volatile market, increasing competition and emerging business compulsions have not diluted the needs of unions.
- B. Direct dialogue between employees and management has further strengthened the position of unions.
- C. Relocation of manufacturing operations to non-unionized sites and outsourcing of non-core activities has marginalized unions to a great extent. Union seem helpless to evolve suitable counter strategies to ward off side effects of restructuring.
- D. The profile vis-à-vis aspirations of new generation of workforce have remained consistent and there exists a mismatch between agenda of unions and expectations of new workers.
7. The existing union leadership seems _____ interested in the future of workers _____ development of quality inside leadership.
- A. And, or
- B. Neither, nor
- C. Either, or
- D. None of the above
8. Non-adherence to the democratic values within a union, resulting in growing alienation of the_____.
- A. rank and file
- B. rank
- C. file
- D. None of the above
9. The requirement of the Trade Union Act _____ is that any seven workers may form a union and get it registered. This give rise to a large number of small unions.
- A. 1934
- B. 1926
- C. 1946
- D. 1987
10. Unions have started supporting performance-based rewards.
- A. True
- B. False
- C. Depends
- D. None of the above
11. Is there any condition on the Trade Union to spend/utilize the fund?
- A. True
- B. False
- C. Depends
- D. None of the above
12. Are there any Sections in the Trade union act which create and regulate these funds?
- A. Section 16 and Section 17
- B. Section 15 and Section 20

- C. Section 15 and Section 19
D. Section 15 and Section 16
13. _____ specifically states the purposes for which the political fund may be utilized.
A. Section 16(3)
B. Section 16(1)
C. Section 16(2)
D. Section 16(4)
14. Why trade unions require financial resources?
A. To function effectively trade unions require sufficient financial resources.
B. A variety of programs, events and functions have to be organized by the unions for rendering the services expected of them or for fulfilling their goals.
C. All of the above
D. None of the above
15. Is there any financial crunch faced by trade unions?
A. True
B. False
C. Depends
D. None of the above

Answers for Self Assessment

1. A 2. A 3. D 4. B 5. C
6. C 7. B 8. A 9. B 10. A
11. A 12. D 13. C 14. C 15. A

Review Questions

1. A registered trade union is entitled to maintain two kinds of funds. General Fund and Political Fund. Explain both in detail.
2. Is there any condition on the Trade Union to spend/utilize the fund? Elaborate.
3. Enumerate the purposes for which the General Fund can be utilized?
4. Enumerate the purposes for which the Political Fund can be utilized?
5. Why trade unions require financial resources?
6. What are the Main Challenges of Finance and ways to improve the same?
7. What are the reasons for Eroding Base of Unions at the Enterprise Level?
8. What can be the reasons behind reduction in membership or of small size unions?
9. What are the best strategies adopted by leaders?



Further Readings

- I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.

Industrial Relation and Labor Laws

- V.V. Giri, Labor Problems in India.
- Pigou A.C., Economics of Welfare.
- Mamoria C.B., Dynamics of Industrial Relation in India.

Unit 07: Collective Bargaining

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Objectives

After studying this chapter, you will be able to:

- Learn about the concept of collective bargaining.
- Understand the significance of collective bargaining.
- Become aware about the types of collective bargaining.
- Understand the process of collective bargaining.
- Learn about the Pre-requisites for Collective Bargaining.
- Learn about challenges involved in Collective Bargaining.
- Learn about Legal framework in Collective Bargaining.

Introduction

The prime objective of the industrial relations is to regulate the power of managements and organized labor and to provide a mechanism is reconciled thereto. It presupposes equal status before law of labor and management and acts as countervailing force to reduce the inherent inequality in the collective power of the two parties. In the world of industry and commerce a process has been evolving in the past century for the regulation between management and workers of terms and conditions of service and the establishment of peaceful, orderly relations at the place of work through mutual settlement of differences and cooperation of all those engaged in the enterprise. The process is known as Collective Bargaining.

7.1 Meaning of Collective Bargaining

It is that arrangement whereby, the wages components of remuneration and conditions of employment of workmen are settled through a bargain between the employer and the workmen collectively whether, represented through their union or by some of them on behalf of all of them.

In simple terms, collective bargaining means bargaining between an employer or group of employers and a bona fide Labour Union.

Definition by Encyclopaedia Britannica

Collective Bargaining is a negotiation between an employer or group of employers and a group of working people to reach an agreement on working conditions.



Did You Know?

From where the concept of collective bargaining has emerged?

Answer

The concept of collective bargaining is the offshoot of Trade Union activity. With the emergence of unions in the country, the collective bargaining became a rule and the employer found necessary and convenient to deal with the representatives of workers.

So, with the growth of unionism and consciousness of the work class, the trade agreements on the collective basis have become a rule rather than exception.

Characteristics of Collective Bargaining

1. *It is a group action as opposed to individual action and is initiated through the representatives of workers:*

On the management side are its delegates at the bargaining table and on the side of the workers is their trade union, which may represent the local plant, the city membership or nationwide membership.

2. *It is flexible and mobile, and not fixed or static:*

It has fluidity and scope for compromise, for a mutual give and take before the final agreement is reached or the final settlement is arrived at. The parties normally ask for more or offer less than they ultimately accept or give.

3. *It is a two-party process:*

It is a mutual give and take rather than a take it or leave it method of arriving at the settlement of a dispute. Both parties are involved in it. In this connection, Clark Kerr observes Collective bargaining can work only with the acceptance by labour and management of their appropriate responsibilities. It can succeed only when both labour and management want it to succeed. It can flourish only in an atmosphere which is free from animosity and reprisal. There must be a mutual eagerness to develop the collective bargaining procedure and there must be attitudes which will result in harmony and progress.

4. *It is a continuous process:*

It provides a mechanism for continuing and organized relationships between the management and trade unions. The heart of collective bargaining is the process for a continuing joint consideration and adjustment of plant problems. It does not end with negotiation, but as Glen Gardiner puts it, "it begins and ends with the writing of a contract. Actually, it is only the beginning of collective bargaining.

5. *It is dynamic and not static:*

In the past, it used to be emotional, turbulent and sentimental but now it is scientific, factual and systematic. Its coverage and style have changed.

6. *It is industrial democracy at work:*

Industrial democracy is the government of labour with the consent of the governed the workers. Collective bargaining is not a mere signing of an agreement granting seniority, vacations, and wage increases. It is not a mere sitting around a table, discussing grievances. Basically, it is democratic, and it is a joint formulation of company policy on all matters which directly affect the workers in a plant. It is self-government in action. It is the projection of a management policy which gives the workers the right to be heard. It is the establishment of factory law based on common interest.

7. *Collective bargaining is not a competitive process, but it is essentially a complementary process:*

Each party needs something that the other party has, namely, labour can make a greater productive effort and management has the capacity to pay for that effort and to organize and guide it for achieving its objectives.

8. *It is an art, an advanced form of human relations:*

To substantiate this, one need only witness the bluffing, the oratory, dramatics and coyness mixed in an inexplicable fashion which may characterize a bargaining session.

Types of Collective Bargaining

There are majorly five types of collective bargaining:

1. Distributive Bargaining
2. Integrative Bargaining
3. Productivity Bargaining
4. Composite Bargaining
5. Concessionary Bargaining

1. *Distributive Bargaining:*

In this type of negotiation process, one party benefits at the expense of others. It discusses redistribution of profit sharing to increase wages, bonuses, or financial benefits.

2. *Integrative Bargaining:*

In this type of bargaining, the agreement is reached so that both the participating sides tend to benefit – a win-win situation. In other words, both parties consider each other's needs and concerns.

3. *Productivity Bargaining:*

In this type of bargaining, the negotiations revolve around productivity and pay. The two parties agree to certain changes that promise to boost productivity in exchange for higher wages.

4. *Composite Bargaining:*

This type of negotiation emphasizes various factors not directly related to pay but rather focused on employee welfare and job security. It ensures the long-term relationship between employer and employee that is mutually beneficial.

5. *Concessionary Bargaining:*

In this type of bargaining, the union sacrifices some benefits to bail out the employer during the stressed economic situation, which benefits the employees in the long run.

Significance of Collective Bargaining

The importance of collective bargaining can be ascertained from the point of view of – management, trade union, and government.

1. *Management:*

The primary objective of the management is to make maximum utilization of the workforce and earn higher profits. It can only be achieved if the workforce co-operates, where collective bargaining comes into play.

2. *Trade Union:*

Each labour at the individual level has poor bargaining power against the management. Hence, the working class united to form a powerful union and protect their interests through collective bargaining.

3. *Government:*

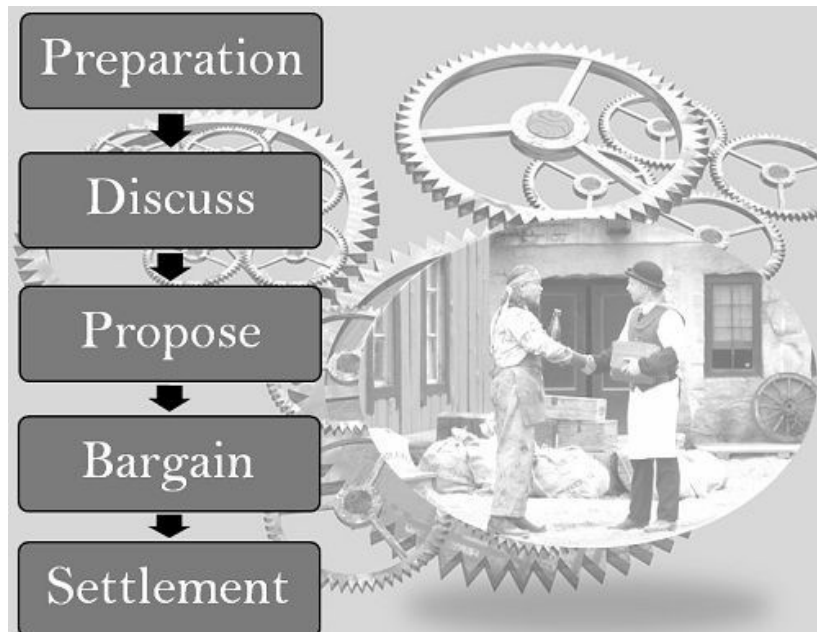
Typically, collective bargaining keeps the Government at bay, and they are not required to employ force to resolve disputes.

Let us discuss in general as well.

1. Increase the economic strength of unions and management.
2. Establish uniform conditions of employment with a view to avoid industrial disputes and maintaining stable peace in the industry.
3. Secure a prompt and fair redressal of grievances
4. Avoid interruptions in work which follow strikes, go slow tactics and similar coercive activities.
5. Lay down fair rates of wages and norms of working conditions.
6. Achieve an efficient operation of the plant.
7. Promote the stability and prosperity of the industry.
8. It provides a method for the regulation of the conditions of employment of those who are directly concerned about them.
9. It provides a solution to the problem of sickness in the industry and ensure old age pension benefits and other fringe benefits.

Process of Collective Bargaining

There are few steps in collective bargaining. Let us discuss these steps one by one:

**1. Preparation:**

At the very first step, both the representatives of each party prepare the negotiations to be carried out during the meeting. Each member should be well versed with the issues to be raised at the meeting and should have adequate knowledge of the labour laws. The management should be well prepared with the proposals of change required in the employment terms and be ready with the statistical figures to justify its stand. On the other hand, the union must gather adequate information regarding the financial position of the business along with its ability to pay and prepare a detailed report on the issues and the desires of the workers.

2. Discuss:

Here, both the parties decide the ground rules that will guide the negotiations and the prime negotiator is from the management team who will lead the discussion. Also, the issues for which the meeting is held, are identified at this stage. The issues could be related to the wages, supplementary economic benefits (pension plans, health insurance, paid holidays, etc.), Institutional issues (rights and duties, ESOP plan), Administrative issues (health and safety, technological changes, job security, working conditions).

3. *Propose:*

At this stage, the chief negotiator begins the conversation with an opening statement and then both the parties put forth their initial demands. This session can be called as a brainstorming, where each party gives their opinion that leads to arguments and counter arguments.

4. *Bargain:*

The negotiation begins at this stage, where each party tries to win over the other. The negotiation can go for days until a final agreement is reached. Sometimes, both the parties reach an amicable solution soon, but at times to settle down the dispute the third party intervenes into the negotiation in the form of arbitration or adjudication.

5. *Settlement:*

This is the final stage of the collective bargaining process, where both the parties agree on a common solution to the problem discussed so far. Hence, a mutual agreement is formed between the employee and the employer which is to be signed by each party to give the decision a universal acceptance.

7.2 Pre-requisites for Collective Bargaining

There are some pre-requisites for collective bargaining:

1. Existence of a strong representative trade union in the industry that believes in constitutional means for settling the disputes.
2. Existence of a strong and enlightened management which may integrate the different parties, i.e., employees, owners, consumers and society or Government.
3. Agreement on basic objectives of the organization between the employer and the employees and on mutual rights and liabilities.
4. Existence of a fact finding approach and willingness to use new methods and roles for the solution of industrial problems. The negotiation should be based on facts and figures and both the parties should adopt constructive approach.
5. Proper records for the problem should be maintained.
6. Collective bargaining should be best at plant level. If there are more than one plant of the firm, the local management should be delegated proper authority to negotiate with the local trade union.
7. In order that collective bargaining functions properly, unfair labor practices must be avoided by both the parties.
8. The contract must include arbitration clause in case there is a dispute. The institution of collective bargaining represents a fair and democratic attempt at resolving mutual disputes. Wherever it becomes the normal mode of settling outstanding issues, industrial unrest with all its unpleasant consequences is minimized.

Challenges

1. *Multiple Unions:*

There is a problem of the multiplicity of unions in the past of the industrial establishments. No union enjoys the support of most workers in the plant. Moreover, rivalry among the trade unions does not allow to create the proper atmosphere for collective bargaining.

2. *Non-recognition:*

There is a lack of definite procedure to determine which union is to be recognized to serve as a bargaining agent on behalf of the workers.

3. *Political Domination:*

There has been a very close association between the trade unions and political parties. As a result, the trade union movement has not encouraged collective bargaining but has learned towards postictal orientations.

4. *Weak Trade Union Movement:*

The trade union movement still covers only a small portion of the total industrial employment. Besides, the unions are too weak to bargain collectively on account of their small membership, poor financial resources, multiplicity, inter-union and intra union rivalry, politicization, poor leadership, and absence of suitable legislative provisions for recognizing them as bargaining agents.

5. *Excessive Dependence on Adjudication:*

A large number of organizations and trade unions like to use the devices of compulsory adjudication for the settlement of their industrial disputes.

6. *Reduction in the Area of Collective Bargaining:*

The area of collective bargaining has gradually receded in recent years due to the emergence of several new institutions and modes such as wage boards, statutory fixation of minimum wages and payment of bonus, regulation of fines and deductions, working hours, overtime payment, holidayed, welfare and social security measures.

7. *Little Government Support:*

The government has shown little interest in ion collective bargaining because:

- It does not have confidence in the bargaining strength of our trade unions,
- It has fear of stickers and lockouts,
- It has fear of the communists gaining in strength.

8. *Interference by Political Leaders:*

More often, industrial disputes are sought to be settled by inviting the political leaders to mediate and help the parties agree. This inhibits the growth of collective bargaining.

Legal framework

The IDA oversees the rights of employers and employees in the investigation and settlement of industrial disputes, which includes trade unions. It allows for collective bargaining through discussion and mediation, or, if that fails, voluntary arbitration or compulsory adjudication with trade union involvement. A settlement reached through collective bargaining is legally binding.

According to the IDA, there are two types of settlements recognised:

1. Those agreed via conciliation processes before the authority, which bind members of the signatory union as well as non-members and all current and future management workers.
2. This settlement is one achieved outside of conciliation but signed independently by the parties to the agreement - such agreements bind just the parties to the agreement.

Even after all the indirect provisions for collective bargaining are there, the workers or the trade union still faces backlash.

There are some legal boundaries which causes this. Some are:

1. There is no ratification of ILO Convention, C-98 and C-87.
2. There is a very limited scope collective bargaining under the ambit of Trade Union Act and Industrial Dispute Act. Both statutes are silent on the recognition of trade unions, which has serious implications for workers' rights.
3. One of the major backlashes is that the right to strike is a legal right controlled by the Industrial Dispute Act of 1947, rather than a fundamental right. Strikes or lockouts can be prohibited under Section 10K of Industrial Disputes Act.
4. Section 22 of the IDA states that there must be at least 6 weeks' notice before a strike in public utility services.
5. Strikes are prohibited during the pendency of conciliation, arbitration, and judicial processes under Section 23 of the IDA.
6. The CRPC does not apply to trade union activity, although it does in the case of illegal strikes.

Case Laws Related to Collective Bargaining

MRF United Workers Union V State of Tamil Nadu, 2009

Two criteria should be utilized to assess if an organization has the competence to be the sole signatory to collective agreements: representativeness and independence.

- a. The decision of whether organisations fit these requirements should be carried out by a body that provides every assurance of objectivity and independence.
- b. As a result, it was argued on their behalf that it was an international standard that the trade union serving as the sole collective bargaining agent must be representative and independent.

Summary

Collective bargaining may take place at various levels, for instance, plant, locality, employer, area or region, company, industry and national levels.

Even at a particular level, a number of situations may be envisaged. For example, at the plant or establishment level, collective bargaining may take place between the employer, on the one side and one or more industrial unions or one or more craft unions or one or more general unions separately or in combination, on the other.

At the industry level there may be various units of bargaining, for example, one or more employers or a company corporation or one or more employers' associations on the one side, and one or more trade unions established at the industry, region, plant or national level, on the other.

The term 'bargaining unit' refers to the parties, that is, employers and workers/trade unions represented in negotiations, and to whom the resulting collective agreement applies.

The 'level of bargaining' is a broad term denoting the nature of ownership of undertakings, the geographical area, the industry, the jurisdictions of employers and trade union, or the layer where collective bargaining takes place.

Keywords

Collective Bargaining, Legal Framework, Distributive, Integrative, Bargain, Negotiation.

Self Assessment

1. The prerequisite of Collective Bargaining includes willingness to adopt a 'give and take' approach.
 - A. True
 - B. b. False

2. Integrative bargaining is a process where both parties can win.
 - A. True
 - B. b. False

3. Collective bargaining is not a process of bargaining between employees and employer.
 - A. True
 - B. b. False

4. Collective bargaining can be carried on individually.
 - A. True
 - B. False

5. From where the concept of collective bargaining has emerged?
 - A. Conflict
 - B. Dispute
 - C. Offshoot of Trade union activity
 - D. None of the above

6. Collective bargaining is an individual action instead of group action.
 - A. True
 - B. False

7. Collective bargaining has a scope for compromise and has fluidity.
 - A. True
 - B. False

8. Collective Bargaining is democratic, and it is a joint formulation of company policy on all matters which directly affect the workers.
 - A. True
 - B. False

9. Which is not a type of collective bargaining?
 - A. Non-composite Bargaining
 - B. Distributive Bargaining
 - C. Integrative Bargaining
 - D. Productivity Bargaining

10. In which type of bargaining, the union sacrifices some benefits to bail out the employer during the stressed economic situation, which benefits the employees in the long run?
 - A. Composite Bargaining

- B. Concessionary Bargaining
- C. Integrative Bargaining
- D. Productivity Bargaining

11. The significance of collective bargaining can be seen from the point of view of :

- A. Government
- B. Management
- C. Trade Union
- D. All of the above

12. Which cannot be considered as a pre-requisite for collective bargaining?

- A. Existence of a strong representative trade union in the industry
- B. Existence of a strong and enlightened management
- C. No need of proper records maintenance.
- D. Agreement on basic objectives of the organization between the employer and the employees and on mutual rights and liabilities.

13. Lack of definite procedure to determine which union is to be recognized to serve as a bargaining agent on behalf of the workers is one of the challenges in collective bargaining.

- A. True
- B. False

14. Strikes are prohibited during the pendency of conciliation, arbitration, and judicial processes under which section of IDA?

- A. Section 24
- B. Section 25
- C. Section 23
- D. Section 22

15. The IDA oversees the rights of employers and employees in the investigation and settlement of industrial disputes, which includes trade unions.

- A. True
- B. False

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. A | 2. A | 3. B | 4. B | 5. C |
| 6. B | 7. A | 8. A | 9. A | 10. B |
| 11. D | 12. C | 13. A | 14. C | 15. A |

Review Questions

- Q1. Discuss the concept of collective bargaining with relevant example.
- Q2. Critically examine the pre-requisites of collective bargaining.
- Q3. Analyze the importance of Collective Bargaining with reference to “Employees” and “Employer”.
- Q4. Narrate the role of collective bargaining in India with preview of industrial relations.
- Q5. What are the challenges of Collective Bargaining?
- Q6. Explain the process of Collective Bargaining with specific examples.



Further Readings

- I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
- V.V. Giri, Labor Problems in India.
- Pigou A.C., Economics of Welfare.
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Unit 08: Grievances

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Objectives

After this unit, would be able to

- understand the concept of Grievance.
- learn about the nature of grievance.
- identify the causes of grievance.
- grievance procedure
- managing Employee Grievance
- learn about the grievance redressal machinery
- learn about the setting of grievance settlement authorities.
- learn about the authorities under the Act for settlement of disputes.

Introduction

Are Dissatisfaction, Complaint and Grievance same?

1. Dissatisfaction is anything that disturbs an employee, whether the unrest is expressed in words.
2. Complaint is a spoken or written dissatisfaction brought to the attention of the supervisor or the shop steward.
3. Grievance is a complaint that has been formally presented to a management representative or to a union official.

8.1 Grievance

What do you mean by grievance?

- Grievance means any type of dissatisfaction or discontentment arising out of factors related to an employee's job which he thinks is unfair.
- A grievance is a sign of an employee's discontentment with his job or his relationship with his colleagues.
- Grievances generally arise out of the day-to-day working relations in an organization.
- According to Dale Yoder, "Grievance is a written complaint filed by an employee claiming unfair treatment".
- According to Keith Davis, "Grievance is any real or imagined feeling of personal injustice which an employee has, concerning his employment relationship".

Features of Grievance

1. A grievance refers to any form of discontent or dissatisfaction with any aspect of the organization.
2. The dissatisfaction must arise out of employment and not due to personal or family problems.
3. The discontent can arise out of real or imaginary reasons. When employees feel that injustice has been done to them, they have a grievance. The reason for such a feeling may be valid or invalid, legitimate or irrational, justifiable or ridiculous.
4. The discontent may be voiced or unvoiced, but it must find expression in some form.
5. However, discontent per se is not a grievance. Initially, the employee may complain orally or in writing.
6. If this is not looked into promptly, the employee feels a sense of lack of justice.
7. The discontent grows and takes the shape of a grievance.
8. Broadly speaking, thus, a grievance is traceable to be perceived as non-fulfillment of one's expectations from the organization

Types of Grievances

There are mainly three types of grievances:

1. Factual
2. Imaginary
3. Disguised

1. Factual Grievance:

- The relationship between employer and employee is based on the organization's employment contract.
- It is the employment contract that specifies the norms that define the limits of an employee's expectation from the organization to meet his requirements and expectations.
- When these expectations are not met by the organization, the employee gets disappointed with his job.
- This type of disappointment is known as a factual grievance.
- These grievances are due to faulty implementation of organizational policies.
- For example, a salary hike is promised to employees after one year but not given.

2. Imaginary Grievance:

- Imaginary grievance arises when an employee is dissatisfied due to his wrong perception, negative attitude, and incorrect information.
- This wrong perception can have a long-term impact on the organization.
- It may develop a negative image of the organization in front of its employees which may decrease their work efficiency.
- Therefore, this type of grievance should be dealt with immediately.

3. Disguised Grievance:

- When an employee is not aware of the reasons for his dissatisfaction, then he has a disguised grievance.
- Generally, employees' psychological needs like the need for appreciation, friendliness, authority, success, etc, are not met.
- For example, an employee who is dissatisfied with the work conditions of the company may desire some appreciation and praise from his co-workers.
- Hence, the disguised grievances must also be given due consideration because if they are neglected, they can have harmful consequences.

What can be the factors that arise grievances in any organization?

1. Violation of management's responsibility such as poor working conditions.
2. Violation of company's rules and regulations.
3. Violation of labor laws.
4. Violation of natural rules of justice such as unfair treatment in promotion, etc.

What can be the probable outcomes of grievances in any organization?

- Low morale,
- Unhappiness,
- Frustration and
- Discontent in the employees

which ultimately

- ✓ affects the concentration,
- ✓ efficiency and
- ✓ productivity of the employees.

Causes of Grievance

The main causes of grievances are:

I. Management Practices:

Grievances can arise from the following management practices:

1. Management Style

The autocratic style of management at one end and participative style at the other may cause grievance among the workforce in an organization.



Example:

Industrial Relations and Labour Laws

- The workforce composed of extremely qualified people may not appreciate an autocratic style as in the present scenario, participative style is more appreciated.
- Thus, the style and practices would need to be adapted according to the current situation.

2. Social Distance

- The relationship between the workers and the manager is characterised by social distance.
- This is because there may be class differences and cultural orientations between management and workers.
- Managers view the workers as someone who is on a much lower social scale.
- In such circumstances, the grievance system would not work effectively as the workers are hesitant with their grievances.

3. Implementation of Personnel Policies

- If the personnel policies do not serve the purpose for which they are formed, it may be a reason for grievance.
- There may be several contradictions in personnel policies that may lead to grievances, e.g., matters related to employee remuneration, seniority, overtime, assignment of personnel to shifts, etc.

4. Communication Gap

- Lack of communication between the employees and management can also cause grievance.
- Matters that concern the employees or group of employees should be informed to them.

5. Supervisory Practices

- Faulty supervisory style, such as lack of consistent application of personnel policies, biasness in applying rules and decisions, etc. can create pressure on employees and could lead to grievances.
- For example, setting-up up challenging individual or group tasks without consulting the staff members can build pressure and cause grievance.

II. Grievances Resulting from Personal Maladjustment:

- **Employee Attitude** - It has been observed that employees having a negative attitude complain frequently and are careless, casual and inconsiderate of others. They provoke others to join them and give rise to unnecessary grievances.
- **Health Problems** - Employees suffering from health issues like depression, mental tension may find an outlet by airing their grievances. When a person is already tensed due to ill health, minor concerns take the form of grievances.
- **Impractical Expectations** - In any organization, employees having high esteem often develop overconfidence and are over-ambitious. These traits are the main causes of grievances.

III. Working Conditions

Employees may be distressed due to the following reasons:

- I. Rigid production standards.

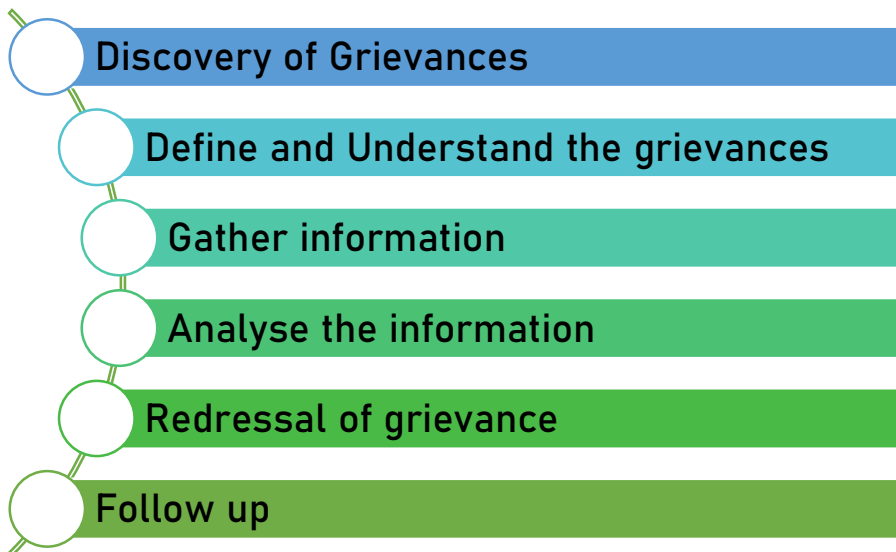
- II. Mismatch of the skills of the worker and the requirement of the job.
- III. Lack of adequate tools, machines and types of equipment to successfully complete a given task.
- IV. Changes in work-hours or techniques.
- V. Poor rapport with the supervisors.
- VI. Bad conditions of the workplace like sanitation facilities, etc., and unavailability of drinking water, damaged workstations, inadequate.
- VII. Poor disciplinary system (too much or too less discipline, both are equally harmful).

8.2 Why there is a need for a grievance handling procedure?

Reasons for Having Formal Procedure

1. It gives reassurance to the employees that they have a mechanism available that they can rely upon in case they experience any grievance.
2. The grievance handling procedure is a mechanism through which the organization can come to know about the problems and issues faced by the employees. It further helps to identify the problems and lacunas in the policies and practices of the organization, which is of utmost importance for fine-tuning these policies.
3. A formal grievance handling procedure helps the employee to bring out their hidden feelings, problems and perceptions in the open. Once they are expressed before the grievance mechanism, they can be handled and resolved rather than letting them simmer in the minds of employees
4. A formal grievance handling mechanism keeps a check on the supervisor, his attitude and behavior towards his subordinates. This is because the supervisor will be aware that if he does not manage the subordinates appropriately, they may refer the matter to the grievance redressal mechanism.
5. A grievance handling procedure helps the employees to sort out their problems through a well-established mechanism than through infighting amongst themselves.

8.3 Grievance Handling Procedure



1. Discovery of Grievances

Industrial Relations and Labour Laws

It is utmost important that the management tries to identify the employee grievances and issues of discontentment.

Not all grievances will be openly expressed in the organization.

The management needs to use different ways to identify the unexpressed and latent grievances amongst employees as well.

This can be done by observing the behaviour of the employees with their supervisors, peers and subordinates.

The organization can put suggestion box/ complaint boxes where employees can write down their problems if any.

Open discussion forums with employees on a regular basis also help identify the grievances.

The organization may also conduct employee surveys where the employees can express their concerns.

2. Define and Understand the Grievances

Once these grievances are identified, the management needs to understand and define them correctly.

Further action can only be taken appropriately, if these problems are well understood and defined in the right perspective.

3. Gather Information

The next step is to gather information such as facts, opinions and data, about the grievance from all the parties concerned.

This is important because it will help us reach the real cause of the grievance and thus redress it more appropriately.

It will also be helpful in differentiating between real and imaginary grievances.

4. Analyse the Information

Once the information is obtained, the next step is to analyze the information and use it to make the right decision to redress the grievance.

5. Redressal of Grievance

It is utmost important that the decision should be taken as quickly as possible for the immediate redressal of the grievance.

Speedy redressal helps build trust amongst the employees towards the organization and its grievance redressal mechanism.

6. Follow up

Even though the grievance has been redressed, the management needs to check repeatedly that the decision has been implemented and also to ensure that the grievance has finally been resolved through the decision taken.

8.4 Model Grievance Procedure

The National Commission on Labor has suggested a model grievance procedure which has six steps each limited by a time frame.

The aggrieved employee can refer his grievance from one stage to the other, if dissatisfied, after the time limit at each stage exhausts.

Procedure	Time Frame
Appeal against within a week	
Manager	3 days
Grievance Committee	7 days unanimous
HOD	3 days
Supervisor	48 hours
Foreman	
Worker	

1. The employee experiencing the grievance will first approach the foreman for grievance redressal.
2. If the foreman is unable to resolve the grievance, the employee can refer his complaint to the departmental representative/ supervisor who has 48 hours to redress the employee's grievance to his satisfaction
3. If the employee still feels aggrieved, he can move his grievance to the next level that is the Head of the department. At this level, the grievance needs to be resolved within 3 days to the satisfaction of the employee.
4. If the employee is still not satisfied with the decision, he can report to the grievance committee which has representatives of the employees as well as the employer.
5. This committee has to reach a unanimous decision on the grievance, only then can it be implemented. In the absence of a unanimous decision, the suggestions/decision of this committee has to be communicated to the Chief Manager/ chief executive within 7 days from the day the grievance was referred to it.
6. The manager has to take a final decision within 3 days and communicate to the aggrieved employee. If the employee is still not satisfied, he can appeal against the decision for voluntary arbitration within a week's time of the manager's decision being communicated to him

Case Study: Grievance Investigation

1. Matilda - employee and complainant
2. Sheila - colleague of Matilda
3. Gertrude - manager of Matilda and Sheila
4. John - another manager in the firm

Background to the Company:

The company is a major construction organization Relevant Policies and procedures are in place but not effectively being utilized.

The Allegation:

- Matilda (the employee) complains that Sheila (a colleague) is trying to get her to leave the organization so that Sheila's friend can be employed in Matilda's job.
- Matilda alleged that Sheila has been making her life difficult at work and she has experienced bullying and harassment.

Industrial Relations and Labour Laws

- Matilda says that Sheila complains about anything that Matilda does and constantly tells her to leave the organization because no one wants her there.
- Matilda alleges that Sheila deliberately does not pass on crucial information about day-to-day work, which then creates the impression that Matilda is underperforming in her role.
- Matilda also alleges that Sheila is very friendly with their manager, Gertrude. She alleges that they often socialize outside of work.
- Matilda has raised concerns about her treatment from Sheila on many occasions with Gertrude, who had simply told her to deal with the matter herself.
- Matilda says she is stressed out and alleges that things came to a head when Sheila had spent the whole day picking on Matilda, making her cry.
- Sheila finds her in the toilets there and tells her that she should realise she is not wanted in the team and should leave.
- Matilda cannot afford to be without a job and does not see why she should be forced out of her job.
- Matilda goes home and decides that she is too upset to go to work the following day. She rings another manager, John, to say that she is frightened to go to work because she would be picked on.
- John says he is aware of what has been alleged and thought it had been dealt with by Gertrude months ago.
- He advises her that she should not go to work and the he would speak to Gertrude.
- Matilda does as she has been instructed, but returns to work after a few days, of instructed.
- Gertrude calls her into the office to ask why she was not at work and why she had not rung the office to speak to her and tell her that she would not be in.
- Matilda is told that because she has not complied with the sickness reporting requirements, she will not be paid for her time off.
- Matilda explained that she rang John, who was aware of what had happened and had advised her not to go to work.
- Gertrude laughs and tells Matilda and that the office had bets on whether she would be in work the day after she had been crying and that because of her failure to attend, Gertrude had won £50.
- Matilda tells Gertrude that she is going to raise a grievance because she does not think the way she has been treated is right.
- She says she will write to senior management about the way she has been treated.
- Gertrude tells Matilda that she cannot register a grievance and that she should just knuckle down and get on with things for the sake of the team.
- Gertrude says that Matilda is the problem, not anyone else.
- John was not going to do anything to help either, because they had discussed it and senior management wouldn't want to deal with someone at her low level in the organization.
- Matilda is vey upset and decides that enough is enough. She writes to the CEO to ask for help and formally registers a grievance against Sheila and Gertrude.

Summary:

- The manager has been complained about
- An employee has been complained about
- An independent manager has done nothing to resolve the issue

An Initial Risk Assessment Reveals the Problem Areas

- Work-related stress
- Breach of duty of care for health, safety and well-being of Matilda
- Bullying and harassment claim

Unit 08: Grievances

- If proven, the case has the potential to have media interest and a significant cost implication for the organization.
 - Bearing all this in mind, the CEO appoints a manager to oversee the case and calls in an independent investigator.
1. Investigation by Jay Webb
 - Meeting key players and establishing facts:
 - Once assigned to the case, Jay meets with each of the employees to investigate the facts and to identify possible solutions.
 - The case was further complicated by Matilda going off sick with work-related stress.
 - However, contact was made with Matilda, and she agrees to attend an investigation meeting provided that it was not in her current work location.
 - With Matilda's agreement, the interview was held at her home with her representative present.
 2. Report writing and suggestions for progress
 - Upon discussion with all relevant parties, it was decided that the allegations raised by Matilda were sufficient to arrange a separate disciplinary investigation involving Gertrude and Sheila.
 - Both were told that they faced disciplinary action in line with the firm's disciplinary policy and procedures.
 3. Feedback for John

John did ask Gertrude to deal with the situation after Matilda contacted him, but after the facts of the case were established, he was given coaching by Jay on how to deal with a grievance where the complainant is not your direct employee.
 4. Support for Matilda

Matilda was given counselling and the option of being re-deployed to another team or back to her old job. She decided to stay in her job.
 5. Step 5

The firm was advised and encouraged by Jay to undertake team-building exercises to strengthen the sense of workplace cohesion.

8.5 Grievance Redressal Machinery

- I. Setting up of Grievance Redressal Machinery
 - Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.
 - The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.
 - The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.
 - The total number of members of the Grievance Redressal Committee shall not exceed more than six:
 - Provided that there shall be, as far as practicable, one-woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

Industrial Relations and Labour Laws

- The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.
 - The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.
 - Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment.
- II. Setting up of Grievance Settlement Authorities
- The employer in relation to every industrial establishment in which fifty or more workmen are employed or have been employed on any day in the preceding twelve months, shall provide for, in accordance with the rules made in that behalf under this Act, a Grievance Settlement Authority for the settlement of industrial disputes connected with an individual workman employed in the establishment.
 - Where an industrial dispute connected with an individual workman arises in an establishment referred to in sub- section (1), a workman or any trade union of workmen of which such workman is a member, refer, in such manner as may be prescribed such dispute to the Grievance Settlement Authority provided for by the employer under that sub- section for settlement.
 - The Grievance Settlement Authority referred to in sub- section (1) shall follow such procedure and complete its proceedings within such period as may be prescribed.
 - No reference shall be made under Chapter III with respect to any dispute referred to in this section unless such dispute has been referred to the Grievance Settlement Authority concerned, and the decision of the Grievance Settlement Authority is not acceptable to any of the parties to the dispute.

Authorities under the Act for settlement of disputes

There are various authorities to set up as a part of dispute settlement machinery, which are mainly divided into three stages –

1. Conciliation,
2. Arbitration and
3. Adjudication.

Works Committee

- Section 3 of the ID act provides for setting up of such committees mainly in factories with 100 or more workers.
- The formation of the committee is bi-partite with equal representation from employers and employees.
- Worker representatives should be elected departmentally from various groups and categories of workmen in consultation with the registered trade unions.
- The main objectives of such committees are to secure and promote healthy relations between the employer and workmen, have a say in matters of common interest and to cool down any material difference arising from such matters.

Grievance Redressal Committee

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- As per amended provisions of the ID Act in 2010 and Section 9C, it is mandatory for every industrial establishment to have such a committee internally for resolution of disputes.
- Total members of such a committee to be restricted at six (with an equal number of members from the employer and workmen) while the position of the chairperson to be rotated alternatively on yearly basis between the committee members.
- Any proceedings to be completed by the committee within a month.
- Workman aggrieved by the decision of the committee can appeal to the employer, who upon receiving such a complaint need to dispose of it within a month from its receipt and send the copy of his decision to the workman.
- However, it is important to note that the provisions of this section do not affect the right of a workmen to raise an industrial dispute as per the act.

Conciliation Officer

- He is basically a mediator appointed by the appropriate government, i.e. either central or state, usually an officer of the rank of assistant labor commissioner in every district.
- They call both parties to the dispute to a table to discuss and come to a common consensus to resolve the issue. The aim is to come to an amicable “settlement” of dispute.

Duties of conciliation officer

- To investigate and settle the dispute in a fair and amicable way without delay
- Prepare a memorandum of settlement with signs from both the parties and send it to the government along with his report.

Board of Conciliation

- Any matter not resolved at the above stage can be referred to the board. It includes an independent chairman (mostly a conciliation officer), two to four members representing both the disputed parties in equal numbers.
- Upon failure to solve the dispute, the appropriate government may refer the matter for adjudication.
- Duties of the board are similar to the conciliation officer. Board requires to submit its report to the government maximum within two months from the date the matter refer to them.

Arbitrator

- Although the ID act does not define arbitrator, but it includes umpires.
- There is a separate act called “The Arbitration Act, 1940” in India.
- An arbitrator is an independent person appointed by both parties to dispute, usually well in advance for amicable settlement of disputes.
- The award is recognised as per the act and binding on both the parties.
- Appointing an arbitrator is a voluntary act and not binding to the parties as per Section 10A of the ID act. Arbitrators are required to submit a signed copy of the arbitration award to the government post their investigation.

Court of Inquiry

- Not in every case court orders an enquiry, unless it feels it necessary to do so. In exceptional cases, if there is an enquiry, then a report of enquiry (usually held by the senior judge of court) to be submitted within a period of six months from the date of enquiry.

Industrial Relations and Labour Laws

Labour Court (LC)

- Matters mentioned in Schedule II of the ID act are generally notified to the labor courts by the government.
- Labor courts are run by the presiding officer equivalent to the senior level district judge.
- Matters such as strikes & lay-off, dismissal or discharge of workmen, validating standing orders etc. are referred and heard by the labor court.
- "Award" given by the labor court is final and binding to the parties of the dispute.

Industrial Tribunal

- Even though industrial tribunals have more power as compared to labor courts.
- Schedule II and Schedule III are the subject matters of industrial tribunals. Its presiding officer is equivalent to a high court judge.
- Subject matters of industrial tribunals are retrenchment, any closure of the establishment, profit sharing, wage-related matters including those related to PF & gratuity etc.

National Tribunal

- Even though matters heard at the National tribunal are of the same subjects as those of labour courts and industrial tribunals, they are being adjudicated at the national tribunal when the impact of the matter is on a large number of population as well as matters impacting more than one state.
- The judge of a national tribunal is a "presiding officer" equivalent to a Chief Justice of High Court judge.

Summary

- Grievance is Dissatisfaction is anything that disturbs an employee, whether the unrest is expressed in words.
- According to Keith Davis, "Grievance is any real or imagined feeling of personal injustice which an employee has, concerning his employment relationship".
- The grievance handling procedure is a mechanism through which the organization can come to know about the problems and issues faced by the employees. It further helps to identify the problems and lacunas in the policies and practices of the organization, which is of utmost importance for fine-tuning these policies.
- Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

Keywords

- Labour Court - A labor court (or labour court or industrial tribunal) is a governmental judiciary body which rules on labor or employment-related matters and disputes.
- National Tribunal - It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues.
- Industrial Tribunal - The Industrial Tribunal is a juridical Tribunal made up of a Chairman and two members (one representing Workers' interests and the other Employers' interests) drawn

up from separate panels in the case of an Industrial Dispute whilst of a chairman alone in the case of alleged unfair dismissal.

- Arbitrator - An arbitrator is an independent, impartial third party that works to settle a dispute between two opposing sides, often by making a decision that they both agree to. This process is called arbitration.

Self Assessment

1. Every industrial establishment employing _____ workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.
 - A. twenty or more
 - B. thirty or more
 - C. forty or more
 - D. fifty or more
2. The Grievance Redressal Committee shall consist of _____ number of members from the employer and the workmen.
 - A. Equal
 - B. More
 - C. Less
 - D. None of the above
3. The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis ____ year.
 - A. Twice a
 - B. Every
 - C. Thrice a
 - D. None of the above
4. The total number of members of the Grievance Redressal Committee shall not exceed more than _____.
 - A. Three
 - B. Four
 - C. Five
 - D. Six
5. The Grievance Redressal Committee may complete its proceedings within __ days on receipt of a written application by or on behalf of the aggrieved party.
 - A. 20
 - B. 40
 - C. 30
 - D. 50
6. The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and

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- the employer shall, within __ month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.
- A. Two
 - B. One
 - C. Three
 - D. Four
7. The employer in relation to every industrial establishment in which _____ workmen are employed or have been employed on any day in the preceding twelve months, shall provide for, in accordance with the rules made in that behalf under this Act, a Grievance Settlement Authority for the settlement of industrial disputes connected with an individual workman employed in the establishment.
- A. Twenty or more
 - B. Thirty or more
 - C. Forty or more
 - D. fifty or more
8. Total members of such a committee to be restricted at ____ (with an equal number of members from the employer and workmen) while the position of the chairperson to be rotated alternatively on yearly basis between the committee members.
- A. Two
 - B. One
 - C. Three
 - D. Six
9. Any proceedings of Grievance Redressal Committee to be completed by the committee within a month.
- A. Week
 - B. Month
 - C. Quarter
 - D. Year
10. Conciliation Officer is basically a mediator appointed by the appropriate government, i.e. either central or state, usually an officer of the rank of assistant labor commissioner in every district.
- A. True
 - B. False
11. Duties of the board are similar to the conciliation officer.
- A. True
 - B. False
12. An arbitrator is an independent person appointed by both parties to dispute, usually well in advance for amicable settlement of disputes.
- A. Conciliator
 - B. Arbitrator
 - C. Both of the above

D. None of the above

13. Schedule __ and Schedule __ are the subject matters of industrial tribunals. Its presiding officer is equivalent to a high court judge.

A. I, II

B. I, III

C. II,III

D. None of the above

14. There are mainly five types of grievances.

A. True

B. False

15. When an employee is not aware of the reasons for his dissatisfaction, then he has a _____ grievance.

A. Disguised

B. Factual

C. Imaginary

D. None of the above

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. A | 2. A | 3. B | 4. D | 5. C |
| 6. B | 7. D | 8. D | 9. B | 10. A |
| 11. A | 12. B | 13. C | 14. B | 15. A |

Review Questions

- 1) Are Dissatisfaction, Complaint and Grievance same?
- 2) What do you understand by grievance? Enlist its features.
- 3) What can be the factors that arise grievances in any organization?
- 4) What can be the probable outcomes of grievances in any organization?
- 5) In detail discuss Grievance Redressal Machinery.



Further Readings

- I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
- V.V. Giri, Labor Problems in India.
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Unit 09: Discipline

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Summary

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Objectives

After studying this chapter, you will be able to:

- Learn about the concept of discipline.
- Learn about the types of discipline.
- Learn about the significance of discipline.
- Learn how to manage discipline in organization.
- Understand the causes of indiscipline.
- Understand the types of indiscipline.
- Understand the disciplinary action levels.
- Learn about the concept of Domestic Enquiry

Introduction

In any organization, when employees from different regions, culture and age group start working together then they make a team. Out of them, some employees comes under the category of disciplined employees who believe in compliance of organizational policies, rules and regulations. On the other hand, there are few employees who have some behavioural issues related to discipline in an organization. They are the indiscipline creators and employer have to tackle such employees. In legal terms, policies have been framed to control indiscipline in any organization.

9.1 Meaning of Discipline

Discipline is working, co-operating, and behaving in a normal and orderly way, as any responsible person would expect an employee to do.

According to Weber's Dictionary:

1. It is the training that corrects, moulds, strengthens, or perfects individual behavior.
2. It is control gained by enforcing obedience.
3. It is punishment or chastisement.

According to Bremblett:

- Discipline does not mean a strict and technical observance of rigid rules and regulations.
- It simply means working, co-operating and behaving in a normal and orderly way, as any responsible person would expect an employee to do.

In simple terms, discipline is employee self-control which prompts him to willingly cooperate with the organizational standards, rules, objectives, etc.

9.2 Aspects of Discipline

There are two aspects of discipline:

1. Positive Discipline
2. Negative Discipline

1. Positive Discipline:

- Employees believe in and support discipline and adhere to the rules, regulations, and desired standards of behavior.
- Discipline takes the form of positive support and reinforcement for approved actions.
- Its aim is to help the individual in moulding his behavior and developing him in a corrective and supportive manner.
- It is called positive approach or constructive discipline or self-discipline.

Positive discipline takes place whenever the organizational climate is marked by aspects such as

- i. payment of adequate remuneration and incentives.
- ii. Appropriate avenues for career advancement.
- iii. Appreciation of poor performance and reinforcement of approved personnel behaviour or exercise self-control.

2. Negative Discipline:

- Employees sometimes do not believe in and support discipline.
- They do not adhere to rules, regulations, and desired standard of behaviour.
- Disciplinary programme forces and constraint the employees to obey orders and function in accordance with set rules and regulations through warnings, penalties, and other forms of punishment.
- This approach to discipline is called negative approach, corrective approach, or punitive approach.
- This approach is also called autocratic approach as the subordinates are given no role in formulating the rules and they are not told why they are punished.
- Negative or enforced discipline connotes that personnel are forced to observe rules and regulations on account of fear or reprimand, fine, demotion or transfer.
- But these are helpful in extracting just minimum standard of work from the employees since they work on account of fear they've got.

- In fact, punishment, penalties, emotions and transfers provide or establish a climate which demotivate its employees.

Objectives of Discipline

The objectives of discipline are:

1. To obtain a willing acceptance of the rules and regulations or procedures of an organization so that organizational goals may be attained.
2. To develop among the employee a spirit of tolerance and a desire to make adjustments.
3. To increase the working efficiency or morale of the employees so that their productivity is stepped up and the cost of production brought down and the quality of production improved.
4. To give direction or responsibility.
5. To create an atmosphere of respect for the human personality or human relations.

9.3 Principles for Maintenance of Discipline

The principles of discipline are as under:

1. All the rules should be formed in cooperation or collaboration with the representatives of employees.
2. All the rules should be appraised at frequent or regular intervals to ensure that they are and continue to be, appropriate, sensible and useful.
3. Rules should be uniformly enforced if they are to be effective. They must be applied without exception.
4. Penalties for any violation of any rule should be clearly stated in advance.
5. Extreme caution should be exercised to ensure that infringements are not encouraged.
6. If violations of a particular rule are fairly frequent; the circumstances surrounding them should be carefully investigated and studied in order to discover the cause or causes of such violation.
7. Define or precise provisions for appeal or review of all disciplinary actions should be expressly mentioned in the employee's handbook.

Significance of Employee Discipline

- Orderly behavior is necessary for achieving the organization's objective.
- In the absence of discipline, no enterprise would prosper.



Did you Know?

How can you define whether a discipline is good or bad?

Answer:

- Discipline is said to be good when employees follow willingly the instructions of their supervisors and the various rules of the company.
- Discipline is bad when employees either follow rules and regulations unwillingly or actually disobey them.

From the Point of View of an Individual:

- (i) Discipline provides self-safety to an individual.

- (ii) It enhances an individual's progress.
- (iii) An individual needs it for his own satisfaction

From the Point of View of a Work Group:

- (i) Discipline ensures better teamwork and cohesive.
- (ii) A disciplined atmosphere is the key to the progress of the group.
- (iii) Discipline ensures higher productivity.
- (iv) Discipline enhances morale and motivation of employees.

From the Point of View of an Organization:

- (i) Discipline ensures higher productivity and quality.
- (ii) Discipline helps an organization in attaining maximum profit.
- (iii) It is essential better all-round benefits.
- (iv) It helps in keeping a check on wastage and costs.
- (v) It helps in developing a sense of belonging.

9.4 Types of Employee Discipline

There are mainly 5 types of Employee Discipline.

- Positive Discipline,
- Negative Discipline,
- Self-Discipline and Control,
- Progressive Discipline and
- The Red-Hot Stove Rule

1. *Positive Discipline:*

Positive discipline in a business is an atmosphere of mutual trust and common purpose in which all employees understand the company rules as well as the objectives and do everything possible to support them.

Discipline takes the form of positive support and reinforcement for approved actions and its aim is to help the individual in moulding his behavior and developing him in a corrective and supportive manner. Once the standards and rules are known by all employees, discipline can be enforced equitably and fairly.

Guidelines for establishing a climate of positive discipline.

- i. There must be rules and standards, which are communicated clearly and administered fairly.
- ii. Rules and standards must be reasonable and should be communicated so that they are known and understood by all employees. An employee manual can help with communicating rules.
- iii. While a rule or a standard is in force, employees are expected to adhere to it.
- iv. Even though rules exist, people should know that if a personal problem or a unique situation makes the rule exceptionally harsh, the rule may be modified, or an exception be granted.
- v. There should no favorites and privileges be granted only when they can also be granted to other employees in similar circumstances.
- vi. Employees must be aware that they can and should voice dissatisfaction with any rules or standards they consider unreasonable as well as with working conditions they feel hazardous, discomforting or burdensome.
- vii. Employees should understand the consequences of breaking a rule without permission.
- viii. Employees should be consulted when rules are set.

2. *Negative Discipline:*

Negative discipline is interpreted as a sort of check or restraint on the freedom of a person. Discipline is used to refer to the act of imposing penalties for wrong behaviour. If employees fail to observe rules, they are punished. The fear of punishment puts the employee back on track.

3. *Self-Discipline and Control:*

Behavioural scientists view discipline as self-control to meet organizational objectives. Megginson clarified the term thus- "By self-discipline we mean the training that corrects moulds and strengthens. It refers to one's efforts at self-control for the purpose of adjusting oneself to certain needs and demands.

This form of discipline is raised on two psychological principles:

- First, punishment seldom produces the desired results. Often, it produces undesirable results.
- Second, a self-respecting person tends to be a better worker than one who is not".

4. *Progressive Discipline:*

The concept of progressive discipline states that penalties must be appropriate to the violation. If inappropriate behavior is minor in nature and has not previously occurred, an oral warning may be sufficient. If the violation requires a written warning, it must be done according to a procedure. After written warnings, if the conduct of the employee is still not along desired lines, serious punitive steps could be initiated.

5. *The Red-Hot Stove Rule:*

Without the continual support of the subordinates, no manager can get things done. But disciplinary action against a delinquent employee is painful and generates resentment on his part. Hence, a question arises as to how to impose discipline without generating resentment? This is possible through what Douglas McGregor called the "Red Hot Stove Rule", which draws an analogy between touching a hot stove and undergoing discipline.

Consequences of disciplinary action:

Disciplinary action should have the following consequences:

(i) **Burns Immediately:**

If disciplinary action is to be taken, it must occur immediately so the individual will understand the reason for it. With the passage of time, people have the tendency to convince themselves that they are not at fault.

(ii) **Provides Warning:**

It is very important to provide advance warning that punishment will follow unacceptable behaviour. As you move closer to hot stove, you are warned by its heat that you will be burned if you touch it.

(iii) **Gives Consistent Punishment:**

Disciplinary action should also be consistent in that everyone who performs the same act will be punished accordingly. As with a hot stove, each person who touches it is burned the same way.

(iv) **Burns Impersonally:**

Disciplinary action should be impersonal. There are no favourites when this approach is followed.

What is the major outcome of having discipline in organization?

Employee discipline enables a positive and healthy work environment and ensures smooth functioning of the organization.

Who is responsible for ensuring employee discipline?

The primary responsibilities of HR to evolve relevant disciplinary policies and ensure their adherence.

9.5 What are the Common Issues Related to Employee Discipline?

The common issues related to employee discipline are:

I. Compliance issues:

1. Providing wrong information or hiding factual personal data during recruitment
2. Non-compliance with the terms of employment contract, for example an employee takes up additional job while still working in your organization.
3. Violation of company policies, rules & regulations.
4. Non-adherence to workplace safety instructions
5. Indulgence in theft and fraud in the company
6. Absconding without resignation
7. False medical, travel and expense claims

II. Behavioral issues:

1. Exhibiting misconduct towards manager, leadership and co-workers
2. Reporting late to work or team meetings
3. Frequent leave without intimation and approvals
4. Indulging in political activities and anti-social activities
5. Not completing work assignments on time or repeatedly not meeting goals
6. Refusal to attend training programs
7. Not marking attendance
8. Wasting time on social media and other web-sites that are not related to work
9. Bullying other colleagues

9.6 Disciplinary Procedure

Before starting the process of discipline, it is essential to hold a preliminary inquiry to know if a prima facie case of indiscipline and misconduct exist.

After this, the following steps should be followed:

1. Issue of charge sheet
2. Consideration of Explanation
3. Suspension pending Enquiry
4. Holding of Enquiry
5. Order of punishment

I. Issue of Charge Sheet:

Once the prima facie case of misconduct is established, the management should proceed to issue a charge sheet to the employee. Charge sheet is merely a notice of the charge and provides the employee an opportunity to explain his conduct.

Therefore, charge sheet is generally known as a show cause notice. In the charge sheet, each charge should be clearly specified. There should be a separate charge for each allegation and charge should not relate to any matter, which has already been decided upon.

II. Consideration of Explanation:

On getting the answer for the charge sheet served, the explanation furnished should be considered and if it is satisfactory, no disciplinary action needs to be taken. On the contrary when the management is not satisfied with the employee's explanation, it can proceed with full-fledged enquiry.

III. Suspension pending Enquiry:

Passing of suspension order is of an administrative nature and suspension is not a punishment. Its purpose is to only forbid the delinquent to work in the office and it is in the exclusive domain of the employer to revoke the suspension order. In case the charge is grave that is serious, a suspension order may be served on the employee along with the charge sheet.

According to the Industrial Employment (Standing Order) Act, 1946:

The suspended worker is to be paid a subsistence allowance equal to one-half of his wages for the first ninety days of suspension and three-fourths of wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings is not due to the worker's conduct.

When can court to interfere in the order of suspension of an employee?

The scope of interference by the Court with the order of suspension has been examined by the Court in a large number of cases.

- wherein it has been observed that even if a criminal trial or enquiry takes a long-time,
- it is ordinarily not open to the court to interfere in case of suspension as it is in the exclusive domain of the competent authority who can always review its order of suspension being an inherent power conferred upon them by the provisions of Article 21 of the General Clauses Act, 1897
- and while exercising such a power, the authority can consider the case of an employee for revoking the suspension order, if satisfied that the criminal case pending would be concluded after an unusual delay for no fault of the employee concerned.

IV. Holding of Enquiry:

An enquiry officer should be appointed to hold the enquiry and a notice to this effect should be given to the concerned worker. Principle of natural justice must be followed. The worker should not be denied the chance of explaining himself. The enquiry officer should give sufficient notice to the worker so that he may prepare to represent his case and make submission in his defence.

The enquiry officer should proceed in a proper manner and examine witnesses. Fair opportunity should be given to the worker to cross-examine the management witnesses.

Principle of Natural Justice

- Tell the person what he has done.
- Hear Him
- Give Him a Chance to defend himself.
- On the conclusion of the enquiry, the enquiry officer should record his findings and the reasons thereof.
- He should refrain from recommending punishment and leave it to the decision of the appropriate authority.

V. Order of Punishment:

Disciplinary action can be taken when the misconduct of the employee is proved. While deciding the nature of disciplinary action, the employee's previous record, precedents, effects of the action on other employees, etc, have to be considered.

When the employee feels that the enquiry conducted was not proper and the action taken unjustified, he must be given a chance to make appeal.

9.7 Indiscipline

Indiscipline means disorderliness, insubordination and not following the rules and regulations of an organization.

Types of Indiscipline:

1. Direct Types of Indiscipline in the Workplace
2. Indirect Types of Indiscipline in the Workplace
3. Unwitting Indiscipline in the Workplace
4. Approved Indiscipline in the Workplace

1. Direct Types of Indiscipline in the Workplace:

Indiscipline in the workplace can be direct and noticeable, causing discomfort to managers and co-workers because of its sometimes confrontational or aggressive nature.



Example

- Employees may make loud, disparaging remarks about supervisors, or saunter into work half an hour late.
- Using profane language, behaving unprofessionally with customers or blatantly defying orders from employers.

Impact of Direct Types of Indiscipline

- These behaviors set a bad example to other workers, undermine the authority of supervisors and create a sometimes-scary work environment.
- Don't be drawn into confrontations with aggressive employees; document behaviors and then dismiss these problematic workers if appropriate.
- Chances are, you don't want them around.

2. Indirect Types of Indiscipline in the Workplace:

Indiscipline in the workplace can also be more indirect and less noticeable but still problematic.



Example:

- Working sluggishly to avoid taking on new assignments,
- Encouraging coworker misconduct with laughter, or
- Agreeing with constructive criticism but then not applying suggestions to work quality or productivity.
- Indirect discipline can be tricky in that it's harder to pinpoint and managers may be reluctant to intervene for seemingly small problems.
- These can grow into bigger problems, however. Managers can avoid ungrounded accusations by first asking employees to explain behaviors.

3. Unwitting Indiscipline in the Workplace:

Workplace indiscipline can also be unwitting in that employees don't know or haven't been informed of expectations and professional standards.



Example:

Employees routinely take personal calls or update social networking accounts on company time because other workers appear to be doing the same thing.

- Unless your company handbook prohibits such activities, it may not be clear to workers that you view this as misconduct.

- Provide employees with detailed handbooks outlining discipline expectations, including consequences for infractions.
- Employee training and workshops can also emphasize expectations.

4. Approved Indiscipline in the Workplace:

Another type of workplace indiscipline includes unwanted activities and behaviours that aren't commented upon by managers or supervisors, sending mixed messages to employees about expectations.

For Example:

The company handbook clearly states that profane language and discriminatory comments are prohibited in the workplace.

But managers may look the other way or even participate in conversations grounded in foul language, letting employees know that this type of misconduct is acceptable in the workplace despite stated company rules.

9.8 Causes of Indiscipline

The important causes of indiscipline are analyzed under three heads:

1. Organizational Factors
2. Individual Factors
3. Environmental Factors.

I. Organizational Factors:

- Where the organization, while hiring the employees, fail to assess the traits of individuals like attitude, obedience, tolerance and inquisitiveness, it may end up hiring employees who challenge any decision made by the management. This may breed indiscipline.
- Lack of code of conduct for employees has potential to disorient them thereby sowing seeds of indiscipline.
- Where an employee hired for a job for which he has neither aptitude nor attitude, he is sure to develop ill-feelings. He may find the job uninteresting and do everything to evade responsibility.
- Ineffective leadership characterized by authoritarianism and incompetency, and distrustful relations with employees fuel indiscipline among the employees.
- Indiscriminate use of penal provisions triggers reactionary group indiscipline.
- Favoritism and nepotism practiced by supervisors vitiate discipline.
- Divisive policies pursued by management and instituting unofficial spy network spoils the work atmosphere thereby engendering indiscipline.
- Biased performance evaluation on considerations of caste, creed, colour, gender, religion and region promotes ill-feeling and a sense of injustice among employees which culminate in indiscipline.
- Absence of grievance redressal mechanism frustrates employees thereby breeding indiscipline among them.

II. Individual Factors:

Individuals with non-conformist values tend to engage in indiscipline behavior. Every individual perceives reward and punishment differently and react to it accordingly. When the reward is not commensurate with his expectation, he may feel frustrated and indulge in indiscipline.

Individuals differ in work ethics. Those with high ethical values tend to be committed and involved in the jobs while those with low ethical values show alienation to their jobs and exhibit negative behavior.

III.Environmental Factors:

Since an organization is also one of the members of the society, discipline observed by the society manifests in organizations. Indiscipline prevailing in family, educational institutions, political system, religious institutions, break- down of social control mechanism, etc., casts its ugly shadow on the organizational climate.

9.9 Disciplinary Action levels

There are various disciplinary actions as per level of indiscipline and generally they follow a typical sequence of steps as per seriousness – verbal warning, written warning, suspension, and dismissal.

1. *Written verbal warning:*

The mildest form of discipline is the written verbal warning. It is a temporary record of a reprimand which is then placed in the manager's file of the employee. This warning remains in the hands of the manager.

It is not forwarded to the personnel department for inclusion in the employee's personnel file. The written verbal reprimand is best achieved if completed in a private and informal environment. The manager should begin by clearly informing the employee of the rule that has been violated and the problem that this infraction has caused.

If the written verbal warning is effective, further disciplinary action can be avoided. If the employee fails to improve, the managers need to consider more severe action.

2. *Written warning:*

The second step in the progressive discipline process is the written warning. In effect, it is the first formal stage of the disciplinary procedure. This is so because the written warning becomes part of the employee's official personnel file.

This is achieved by not only giving the warning to the employee but sending a copy to the personnel department to be inserted in the employee's permanent record.

3. *Suspension:*

A suspension or lay-off would be the next disciplinary step, usually taken if the prior steps have been implemented without the desired outcome. If the infraction is of a serious nature, suspension is ordered without any prior verbal or written warning.

A suspension may be for one day or several weeks; disciplinary lay offs in excess of a month are rare. A short lay-off, without pay, is potentially a rude awakening to problem-employees. It may convince them that management is serious and force them into accepting responsibility for following the organisation's rules.

4. *Demotion:*

If suspension has not been effective and management wants to avoid dismissing the problem-employee, demotion may be an alternative. Demotion is a disciplinary action whereby an individual is sent back to a lower position in the company.

However, it tends to demoralize not only the employee but the co-workers (peers) as well. Moreover, it is not a temporary action. It is a constant punishment to the demoted employee and hence has broad motivational implication.

5. *Paycut:*

Another alternative, also rarely applied in practice, is cutting the problem-employee's pay. The pay cut usually has a demoralizing effect on the employee and is suggested as a rational action by management if the only other alternative is dismissal.

6. *Dismissal:*

Management's ultimate disciplinary punishment is dismissing the problem employee. Dismissal should be used only for the most serious offences. Yet it may be the only feasible alternative when an employee's behaviour is so bad as to seriously interfere with a departments or the whole organisation's operation.

9.10 Domestic Enquiry: Meaning

Domestic enquiry is conducted for offences against the establishment for misconduct punishable under the Standing Orders/Companies' Rules and Regulations, etc., applicable to the establishment where the worker is employed.

Domestic enquiry is conducted in terms of what is called 'Natural Justice'. The enquiry officer while examining the evidence and pronouncing on the guilt is not supposed to award penalty which is left to a superior officer who is the employer or the appointing authority.

Domestic enquiry is not a legal requirement under the Industrial Disputes Act or other substantive laws such as the Factories Act, Mines Act, etc. but has been provided under the standing orders to the framed under the Industrial Employment (Standing Orders) Act.

Dismissal or any major notice against an employee without holding a fair and just domestic enquiry amounts to violation of principles of natural justice and is frowned upon by the Labor Courts/Industrial Tribunals; so much so, dismissal without holding regular enquiry is deemed an illegality.

Principles of Domestic Enquiry

The principles of domestic enquiry are as under:

1. Rule of Natural Justice must be observed.
2. The delinquent is entitled to a just hearing.
3. He can call for his own evidence.
4. Cross-examine any witness called by the prosecution.
5. Where rules are laid down, the procedure of such rules must be followed.
6. Disclose to the employee concerned, the documents of records and offer him an opportunity to deal with it.
7. Do not examine any witness in the absence of the employee.
8. The enquiry officer is at liberty to disallow any evidence after recording the reasons in writing.

Process of Domestic Enquiry

There are mainly four steps in the process of domestic enquiry.

1. Preliminary Enquiry
2. Framing of Charges
3. Services of Charge-sheet
4. Reply to the Charge-sheet.

1. Preliminary Enquiry:

After a report about the misconduct committed by the delinquent\workman is received by the employer, he is required to decide whether a prima facie case exists for a formal enquiry.

For this purpose, he may hold a preliminary enquiry of an informal nature. Such an enquiry is purely informal and does not call for the observance of any specific rules of natural justice and can be held ex-parte i.e., the workman need not be questioned or otherwise asked to take part in it.

Statements taken in the preliminary enquiry cannot be used as evidence in the formal inquiry. In fact the preliminary enquiry is intended only for the disciplinary authority to satisfy himself whether

departmental action is called for or not. Hence, there may not be any formal report about the preliminary enquiry and no reference is to be made to it in the subsequent enquiry.

2. Framing of Charges:

This is easily the most important and perhaps, the most crucial stage in the entire proceedings, because the success of any disciplinary case depends primarily on the soundness of the charges. The charges are, in turn, based on imputations so that if the imputations or allegations are based on solid evidence, the chances of successful conclusion of the domestic enquiry are gratefully enhanced.

The chargesheet should contain the following, in clear, simple and cogent language.

1. The alleged facts and circumstances (with date, time, place and words, if relevant) in specific terms with surrounding accentuating factors (if any alleged), which if proved would constitute "misconduct".
2. Previous record (punishment including) if relevant to the facts and circumstances alleged or if they aggravate or accentuate the charge or if the same is going to be considered by punishing authority at the time of considering punishment (previous record for period beyond certain time becomes meaningless if there is specific provision in standing orders or in the circumstances of the case).
3. Charges levelled against in specific terms (to be quoted from the Standing Orders, if applicable, otherwise in language borrowed from industrial law), of which the charge sheeted workman would be guilty, if the facts and circumstances alleged against him be proved.
4. Proposed punishment that may ensue if guilt be established.

3. Services of Charge-sheet:

Once chargesheet is prepared, it is required to be served on the workman concerned and proof of its service obtained. If the workman is present, service may be affected by personal service, obtaining acknowledgment of its receipt either on a copy of the chargesheet or in a dak book or on a separate piece of paper.

At the time of service of chargesheet it is advisable (necessary) to have at least two witnesses, so that in case of refusal to accept chargesheet, the fact is recorded by the person serving the chargesheet and signature of witnesses obtained.

4. Reply to the Charge-sheet:

After the chargesheet is received by the workman he may:

- i) ask for further details or for inspection of documents referred to in chargesheet
- ii) accept the accusations, plead guilty of the -charges and tender apologies
- iii) may ask for time to submit explanation
- iv) may explain away the accusation and deny the charges
- v) may not submit any explanation

Summary

- Discipline simply means working, co-operating, and behaving in a normal and orderly way, as any responsible person would expect an employee to do.
- Domestic enquiry is conducted for offences against the establishment for misconduct punishable under the Standing Orders/Companies' Rules and Regulations, etc., applicable to the establishment where the worker is employed.
- There are various disciplinary actions as per level of indiscipline and generally they follow a typical sequence of steps as per seriousness - verbal warning, written warning, suspension, and dismissal.
- Indiscipline means disorderliness, insubordination and not following the rules and regulations of an organization.

Keywords

- Discipline
- Domestic Enquiry
- Disciplinary Action
- Indiscipline

Self Assessment

Q1. Which cannot be considered discipline from the point of view of an individual?

- A. Discipline provides self-safety to an individual.
- B. Discipline enhances an individual's Progress.
- C. An individual needs it for his own satisfaction.
- D. Discipline does not ensure higher productivity.

Q2. How many types of employee discipline exist?

- A. Four
- B. Five
- C. Six
- D. Seven

Q3. Which type of discipline is used to refer to the act of imposing penalties for wrong behavior?

- A. Positive Discipline
- B. Self-Discipline
- C. Negative Discipline
- D. Progressive Discipline

Q4. Which type of discipline refers to one's efforts at self-control for the purpose of adjusting oneself to certain needs and demands?

- A. Positive Discipline
- B. Self-Discipline
- C. Negative Discipline
- D. Progressive Discipline

Q5. _____ discipline connotes that personnel are forced to observe rules and regulations on account of fear or reprimand, fine, demotion or transfer.

- A. Negative Discipline
- B. Positive Discipline
- C. Self-discipline
- D. None of the above

Q6. Which cannot be included under behavioral issues related to employee discipline?

- A. Frequent leave without intimation and approvals
- B. Indulging in political activities and anti-social activities

- C. Exhibiting misconduct towards manager, leadership and co-workers
- D. Providing wrong information or hiding factual personal data during recruitment

Q7. Which cannot be included under compliance issues related to employee discipline?

- A. Violation of company policies, rules & regulations
- B. Absconding without resignation
- C. Non-adherence to workplace safety instructions
- D. Reporting late to work or team meetings

Q8. Is it necessary to hold a preliminary inquiry before starting the process of discipline to know if a prima facie case of indiscipline and misconduct exist?

- A. True
- B. b. False

Q9. How many steps are in holding disciplinary procedure?

- A. Five
- B. Four
- C. Six
- D. Seven

Q10. Which is generally known as show cause notice under disciplinary procedure?

- A. Charge sheet
- B. Order of punishment
- C. Holding of enquiry
- D. Suspension

Q11. Which cannot be included as a type of indiscipline?

- A. Direct Types of Indiscipline in the Workplace
- B. Indirect Types of Indiscipline in the Workplace
- C. Unwitting Indiscipline in the Workplace
- D. Disapproved Indiscipline in the Workplace

Q12. "Employees may make loud, disparaging remarks about supervisors, or saunter into work half an hour late." This is _____ type of indiscipline.

- A. Direct Types Of Indiscipline In The Workplace
- B. Indirect Types Of Indiscipline In The Workplace
- C. Unwitting Indiscipline In The Workplace
- D. Disapproved Indiscipline In The Workplace

Q13. "Encouraging coworker misconduct with laughter." This is _____ type of indiscipline.

- A. Direct Types of Indiscipline in the Workplace
- B. Indirect Types of Indiscipline in the Workplace

- C. Unwitting Indiscipline in the Workplace
- D. Disapproved Indiscipline in the Workplace

Q14. "Employees routinely take personal calls or update social networking accounts on company time because other workers appear to be doing the same thing" is an example of _____ indiscipline.

- A. Direct Types of Indiscipline in the Workplace
- B. Indirect Types of Indiscipline in the Workplace
- C. Unwitting Indiscipline in the Workplace
- D. Disapproved Indiscipline in the Workplace

Q15. The causes of indiscipline can be analyzed under which heads?

- A. Organizational Factors
- B. Individual Factors
- C. Environmental Factors.
- D. All of the above

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. D | 2. B | 3. C | 4. B | 5. A |
| 6. D | 7. D | 8. A | 9. A | 10. A |
| 11. D | 12. A | 13. B | 14. C | 15. D |

Review Questions

- Q1. What do you mean by domestic enquiry? What are the principles of domestic enquiry?
- Q2. What are the different causes of indiscipline?
- Q3. What are the different levels of disciplinary action levels?
- Q4. What are the different steps of disciplinary procedure?
- Q5. What do you mean by discipline? What are the common issues related to employee discipline?



Further Readings

1. I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
2. V.V. Giri, Labor Problems in India.
3. Pigou A.C., Economics of Welfare.
4. Mamoria C.B., Dynamics of Industrial Relation in India.

Unit 10: Worker Participation in Management

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Objectives

After this unit, you will be able to

- understand the concept of Workers' Participation in Management.
- learn about the need of Workers' Participation in Management.
- learn about the objectives of Workers' Participation in Management.
- learn about the Worker's participation in Management in India.
- learn about the role of government in Worker's Participation in Management.
- learn about the forms of Workers' Participation in Management.
- learn about the levels of Workers' Participation in Management.

Introduction

Worker participation is a mental and emotional involvement of a person in a group situation which encourages him to contribute to goals and share responsibilities with them.

Why should an employer encourage Workers' participation in management?

To build his employees into a team which works towards the realization of a common objective.

10.1 Concept of Worker Participation

- The participation enhances employees' ability to influence, decision making at different tiers of the organizational hierarchy with concomitant assumption of responsibility.
- The participation has to be at different levels of management :
 - i. at the shop level

ii.at the department level and

iii.at the board level

- The participation incorporates the willing acceptance of responsibilities by the body of workers . As they become a party to decision making , they have to commit themselves to the implementation of the decisions made.
- The participation is conducted through the mechanism of forums and practices which provide for the association of workers’ representatives.
- The broad goal of participation is to change basically the organizational aspect of production and transfer the management function entirely to the workers so that, they can experience “auto management” structure.

Do you agree?

“ Employees are no longer servants but are equal partners with their employers in their efforts to attain the goals of the enterprise.”

Need for worker’s participation

1. The increased use of technology in industry has necessitated the growing corporation of workers because of the complex operations of production
2. The changed view that employees are no longer servants but are equal partners with their employers in their efforts to attain the goals of the enterprise
3. The growth of trade unions which safeguard the interests of workers and protect them against possible exploitation by their employers.
4. The growing interest of the government in the development of industries and the welfare of workers
5. The need for increased and uninterrupted production which can be achieved only when there is a contented labour class .

Objectives of Workers’ participation in Management

- An Instrument for improving the efficiency of enterprises and establishing harmonious industrial relations.
- A device for developing social education for the purpose of promoting solidarity among the working community and for tapping latent human resources.
- A means for attaining industrial peace and harmony which lead to higher productivity and increased production.
- A humanitarian act, giving the worker an acceptable status within the working community and a sense of purpose in his activity.
- An ideological point of view to develop self-management in industry.

10.2 Forms of Workers’ Participation

1. Collective Bargaining:

- Collective bargaining is done periodically or on a continuing basis between management and workers’ representatives on issues over which the interests of both parties are competitive, such as wage rates, bonus rates, working hours and number of holidays.
- The agreements arrived at are normally binding on both parties.

- The system of collective bargaining depends on the principle of balance of power, managements and the unions representing the workers are regarded as two separate power blocks that jointly negotiate the varied terms of employment with each other.
- 2. Works Committees:**
- Under the Industrial Disputes Act 1947, every establishment employing 100 or more workers is required to constitute a works committee.
 - Such a committee consists of equal number of representatives of employer and workers.
 - The main purpose of works committees is to provide measures for securing and preserving amity and good relations between the employer and employees.
- 3. Joint Management Councils:**
- These are joint bodies consisting of the representatives of management and employees.
 - The functions of JMCs may range from decision-making on some issues to simply advising the management as consultative bodies.
 - The decisions of these councils are advisory in nature through employers often implement the unanimous decisions of them.
 - Working conditions, accident, prevention, indiscipline, absenteeism, training are the important matters before joint management councils.
- 4. Board Level:**
- The basic function of the board is to ensure the growth of enterprise capital.
 - If there is workers representative in the board, the capital formation and growth will be of secondary importance to him.
 - His pre-occupation will be one of the negotiating workers special interest with the other members of the board.
 - In India in Port Trust, Dock labour Boards etc, have workers representatives.
 - His pre-occupation will be one of the negotiating workers special interest with the other members of the board.
 - In India in Port Trust, Dock labour Boards etc, have workers representatives.
 - The effectiveness of workers representatives at the Board depends upon his ability to participate in decision-making and his knowledge of the company affairs.
- 5. Workers' Ownership in Enterprise**
- This method refers to complete control of management by workers through an elected Board and Workers' Council.
 - This system prevails in Yugoslavia.
 - In this system two different sets of persons perform two distinct managerial and operative functions.
 - Though workers have the option of influencing the decisions taken at the top level, yet, in actual practice, the Board and the top management team assume independent role in taking major policy decisions for the enterprises.
- 6. Suggestions Scheme:**
- Under this method, workers' are invited and encouraged to offer suggestions for improving the working of the enterprise.

- A suggestion box is installed in the organization.
- Workers can write their suggestions and put into the box.
- Periodically all the suggestions and put into the box.
- Periodically all the suggestions are scrutinized by the suggestion committee and good suggestions are accepted for implementation and suitable rewards are given to the concerned workers.

10.3 Importance of Worker's Participation

- It will facilitate better understanding and mutual trust between employer and workers.
- Through participation, workers learn the problems of the industry and they can better understand their role. Participation results into better employee satisfaction and motivation.
- It helps to reduce industrial disputes and promotes peace in industry.
- People in general express resistance to change. It is due to fear of economic and social loss. But workers' participation in management is a good to convince people about the need for change and get their acceptance for change.
- Participation of workers in management helps to promote industrial democracy, which is necessary for political democracy.
- Participation in decision making helps the workers to think and take initiative. Worker's talent and ability can be identified. Worker's urge for self-expression is satisfied.

10.4 Levels of Participation

1. Informative Participation:

This refers to the management's sharing of information with the workers on matters related to workers such as balance sheet, production, and the financial health of the company.

2. Consultative participation:

In this type of participation, workers can give their views on the matters related to them, but acceptance or non-acceptance of their opinion depends on the employers. Here, the role of the employee is limited to giving opinion only.

3. Associative participation:

This is an improved form of consultative participation. Here, it is considered that this is the moral duty of the employer to acknowledge and accept and implement the unanimous decisions of employees.

4. Administrative participation:

In this type of participation, the decision is already taken and implemented by the worker. Here the degree of sharing power and responsibility by the worker is more as compared to other levels of participation.

5. Decisive Participation:

Here decisions on matters like production, employee welfare, etc. are taken by the worker and management jointly after a discussion.

10.5 Workers' Participation in Management Before Independence

The workers' participation in management is not a novel and imported idea from outside.

Unit 10: Worker Participation in Management

It can be dated as far back as 1920 when Mahatma Gandhi suggested participation of workers in management on the ground that workers contributed labor and brains while shareholders contributed money to the enterprise and that both should, therefore, share in its property.

He said that there should be a perfect relationship of friendship and cooperation among them.

For the unions, he said that the aim should be to raise the morale and intellectual height of labour and, thus, by sheer merit, make labour master of the means of production instead of the slave that it is.

In 1920, the workers and the employers in Ahmedabad Textile Industry agreed to settle their disputes through joint discussions and consultations.

Therefore, the Ahmedabad Agreement may be regarded as a milestone in the history of joint consultation i.e., participative management in India.

Following this, some works committees were also set up in the Government Printing Presses and Railways.

During the same period, such committees were also set up in the Tata Iron and Steel Company, Jamshedpur.

Since then, there is no looking back in this direction.

While supporting the need for works committees, the Royal Commission on Labor suggested that to promote industrial harmony and to avoid misunderstanding and settle disputes, not only works committees be set up, but strong trade unions are developed, and labour officers are appointed.

Along with the works committee, the Commission also suggested the establishment of a joint machinery to deal with the more general questions, and also to act as an advisory appellate body in respect of disputes which were confined to a single establishment.

These recommendations of the Commission bore fruits with the provision of formal statutory machinery under the Bombay Industrial Relations Act, 1946 and the Industrial Disputes Act, 1947.

In fact, the first major step in the direction of workers' participation in management in India was the enactment of the Industrial Disputes Act, 1947 with the dual purpose of prevention and settlement of industrial disputes.

The Industrial Policy Resolution, 1948 advocated WPM by suggesting that labor should be in all matters concerning industrial production.

Article 43 A of the Constitution of India has provided for WPM in these words:

"The State shall take steps, by suitable legislation, or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in an industry".

The First Five-Year Plan and the successive plans emphasised the need for workers' participation in management.

For example, the Second Five-Year Plan' stressed the need for WPM in the following words:

"It is necessary in this context that the worker should be made to feel that in his own way he is helping build a progressive state. The creation of industrial democracy, therefore, is a prerequisite for the establishment of a socialist society".

The Government of India set up a 'Study Group on Workers' Participation in Management', in 1956, consisting of representatives of the government, employers, and workers to examine the system of WPM in the UK, Sweden, France, Belgium, West Germany and Yugoslavia and make recommendations for the Indian case.

The Group submitted its report in May 1957 with the following recommendations:

1. WPM schemes should be introduced in selected undertakings on a voluntary basis.
2. A sub-committee consisting of representatives of workers, employers and government should be set up for considering the WPM in India.
 - The above recommendations, among other things, were accepted by 15th Indian Labour Conference held in July 1957.

- The Conference appointed a 12-member sub-committee to look into further details of the scheme.
- The recommendations made by the sub-committee were discussed in a “Seminar on Labour-Management Co-operation” held in New Delhi on January 31 and February 1, 1958.
- It drew up a “Draft Model Agreement” between labour and management for the establishment of the Joint Management Councils (JMCs) which would have three sets of functions:

1. To fulfill its functions as an advisory body.

2. To receive information on certain matters.

3. To fulfill administrative responsibilities.

- Besides, the Seminar on Labour Management Co-operation also took the size of the Councils, its office bearers, term of office, etc.
- Thus, the Joint Management Councils (JMCs) were set up in 1958.

Role of Government of India

Following the recommendations of the Administrative Reforms Commission, the Government of India accepted the inclusion of the representatives of workers on the Board of Directors of public sector undertakings.

- Following this, the Nationalised Banks (Management and Miscellaneous Provisions) Scheme 1970 also provided for the appointment of worker director to their Board.
- One director was from among employees (who are workmen) and another from among officers for tenure of 3 years.
- Thus up to July 1975, there had been three forms of workers’ participation in management introduced in India: Works Committees, Joint Management Councils and Workers-Directors (public sector) on Boards of Directors.
- Under the Government of India’s 20-Point Economic Programmes, a new scheme of shops and plant councils was introduced in 1975 after the emergency was declared in June 1975.
- In the following year 1976, the Government of India amended the constitution to incorporate workers’ participation in management as one of the Directive Principles of State Policy.

Summary

- Worker participation is a mental and emotional involvement of a person in a group situation which encourages him to contribute to goals and share responsibilities with them.
- The participation enhances employees’ ability to influence, decision making at different tiers of the organizational hierarchy with concomitant assumption of responsibility.

Unit 10: Worker Participation in Management

- The broad goal of participation is to change basically the organizational aspect of production and transfer the management function entirely to the workers so that, they can experience “auto management” structure.
- Collective bargaining is done periodically or on a continuing basis between management and workers’ representatives on issues over which the interests of both parties are competitive, such as wage rates, bonus rates, working hours and number of holidays.
- WPM can be dated as far back as 1920 when Mahatma Gandhi suggested participation of workers in management on the ground that workers contributed labor and brains while shareholders contributed money to the enterprise and that both should, therefore, share in its property.
- It will facilitate better understanding and mutual trust between employer and workers.

Keywords

- **Informative Participation:** This refers to the management’s sharing of information with the workers on matters related to workers such as balance sheet, production, and the financial health of the company.
- **Consultative participation:** In this type of participation, workers can give their views on the matters related to them, but acceptance or non-acceptance of their opinion depends on the employers. Here, the role of the employee is limited to giving opinion only.
- **Associative participation:** This is an improved form of consultative participation. Here, it is considered that this is the moral duty of the employer to acknowledge and accept and implement the unanimous decisions of employees.
- **Administrative participation:** In this type of participation, the decision is already taken and implemented by the worker. Here the degree of sharing power and responsibility by the worker is more as compared to other levels of participation.
- **Decisive Participation:** Here decisions on matters like production, employee welfare, etc. are taken by the worker and management jointly after a discussion.

Self Assessment

1. The participation has to be at different levels of management :
 - A. at the shop level
 - B. at the department level and
 - C. at the board level
 - D. All of the above

2. The participation enhances employees’ ability to influence, decision making at different tiers of the organizational hierarchy with concomitant assumption of _____.
 - A. Authority
 - B. Responsibility
 - C. Both of the above
 - D. None of the above

3. Worker participation is a _____ involvement of a person in a group situation which encourages him to contribute to goals and share responsibilities with them.

- A. Mental
 - B. Emotional
 - C. Both of the above
 - D. None of the above
4. The broad goal of participation is to change basically the organizational aspect of production and transfer the management function entirely to the _____ so that, they can experience “auto management” structure.
- A. Workers
 - B. Employer
 - C. Both of the above
 - D. None of the above
5. Participation results into _____ employee satisfaction and motivation.
- A. Reduced
 - B. Better
 - C. Consistent
 - D. None of the above
6. _____ participation refers to the management’s sharing of information with the workers on matters related to workers such as balance sheet, production, and the financial health of the company.
- A. Informative
 - B. Consultative
 - C. Associative
 - D. Administrative
7. _____ participation refers to when workers can give their views on the matters related to them, but acceptance or non-acceptance of their opinion depends on the employers. Here, the role of the employee is limited to giving opinion only.
- A. Informative
 - B. Consultative
 - C. Associative
 - D. Administrative
8. _____ participation is an improved form of consultative participation. Here, it is considered that this is the moral duty of the employer to acknowledge and accept and implement the unanimous decisions of employees.
- A. Informative
 - B. Consultative
 - C. Associative
 - D. Administrative
9. _____ participation refers to when the decision is already taken and implemented by the worker. Here the degree of sharing power and responsibility by the worker is more as compared to other levels of participation.

Unit 10: Worker Participation in Management

- A. Informative
 - B. Consultative
 - C. Associative
 - D. Administrative
10. In _____ participation, decisions on matters like production, employee welfare, etc. are taken by the worker and management jointly after a discussion.
- A. Decisive
 - B. Informative
 - C. Consultative
 - D. Associative
11. Article ____ of the Constitution of India has provided for WPM in these words:
“The State shall take steps, by suitable legislation, or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in an industry”.
- A. 43A
 - B. 44A
 - C. 45B
 - D. 43B
12. In _____, the workers and the employers in Ahmedabad Textile Industry agreed to settle their disputes through joint discussions and consultations.
- A. 1920
 - B. 1958
 - C. 1947
 - D. 1956
13. Joint Management Councils (JMCs) were set up in 1958.
- A. 1920
 - B. 1958
 - C. 1947
 - D. 1956
14. Under the Industrial Disputes Act 1947, every establishment employing 100 or more workers is required to constitute a works committee.
- A. 1920
 - B. 1958
 - C. 1947
 - D. 1956
15. The Government of India set up a ‘Study Group on Workers’ Participation in Management’, in 1956.
- A. 1920
 - B. 1958

C. 1947

D. 1956

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. D | 2. B | 3. C | 4. A | 5. B |
| 6. A | 7. B | 8. C | 9. D | 10. A |
| 11. A | 12. A | 13. B | 14. C | 15. D |

Review Questions

- 1) What is the need for worker's participation?
- 2) Enlist the different objectives of worker's participation.
- 3) What are the different forms of workers' participation?
- 4) What is the importance of worker's participation?
- 5) What are the various levels of worker participation?



Further Readings

- I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
- V.V. Giri, Labor Problems in India.
- Pigou A.C., Economics of Welfare.
- Mamoria C.B., Dynamics of Industrial Relation in India.

Unit 11: Industrial Disputes

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Introduction

11.1 Meaning of Industrial Dispute

11.2 Preventive Mechanisms Used for Handling Industrial Disputes in India

11.3 Grievance Settlement Authority

Summary

Keywords

Self Assessment

Answers for Self Assessment

Review Questions

Further Readings

Objectives

After studying this chapter, you will be able to:

- Understand the concept of Industrial Dispute
- Understand the different types of Industrial Dispute
- Understand the causes of Industrial dispute
- Learn about the impact of industrial dispute
- Learn about the preventive measures of managing industrial disputes.
- Understand the settlement of industrial disputes in India.

Introduction

Industrialization in a country has always contributed to employment, contribution to national income, per capita income, exports, and economic development on one side and industrial disputes on the other. It has always been the case of mixed blessing. The conflict of interest between management and labor is what leads to industrial disputes.

The management has a goal of profit maximization and on the other hand the workers expect rise in income, security of job, protection of their skills, improvement in their status and in the working conditions. Those who control the factors of production require strict administration, closer supervision, and maintenance of strict discipline and implementation of rules, code of conduct and code of discipline.

Whereas the workers demand a share in capital, voice in management, freedom of expression, participation in management and dignity of employees. So the people that control the factors of production and people that produce always have different or conflicting interest which gives birth to industrial disputes.

11.1 Meaning of Industrial Dispute

Industrial dispute is any dispute or difference between employees and employees, or between employers and employees, which relates to the employment or non-employment, or the terms of employment or with the conditions of work of any person.

Types of Industrial Dispute

There are mainly three types of industrial dispute. These are as under:

1. Perceived Conflict:

Perceived conflict is one which people perceive that conflicting conditions exist in the work-organization. The perceived conflict may be true or otherwise. But there is a potential ground for perceived conflict to turn into real conflict.

2. Latent Conflict:

Latent conflict is one which does not emerge in open. Although parties to the conflict realise the fact of conflict for various reasons, they do not show it openly. Such a conflict is termed as latent conflict.

3. Manifest Conflict:

Manifest conflict is one which is not only recognition of conflict, but also expressing it explicitly or openly. This is a stage of open conflict.

Causes of Industrial Dispute

Causes of industrial disputes can be broadly classified into two categories: economic and non-economic causes.

1. Economic Causes:

The economic causes will include issues relating to compensation like wages, bonus, allowances, and conditions for work, working hours, leave and holidays without pay, unjust layoffs and retrenchments.

2. Non-Economic Causes/Managerial Causes:

- The non-economic factors will include victimization of workers, ill treatment by staff members, sympathetic strikes, political factors, indiscipline etc.
- The Industrial Disputes Act, 1947 governs rules for the settlement of disputes between the management of industrial establishments and workmen.

Categories of causes:

There are mainly two categories of causes of Industrial Disputes.

1. Economic Causes**2. Managerial Causes****I. Economic Causes:****1. Wages-**

- ✓ The demand for wage increase is the prime-most cause of the industrial disputes.
- ✓ A large number of strikes are being organized to raise a voice against the rise in prices and cost of living.

2. Dearness Allowance and Bonus-

- ✓ Increase in cost of living was the main cause of the demand of dearness allowance by the workers to equate their wages with the rise in prices.
- ✓ Bonus also plays an important role as a cause of industrial dispute.

3. Working Condition and Working Hours-

- ✓ The working conditions in Indian industries are not hygienic.
- ✓ There is not ample provision of water, heating, lighting, safety etc. Working hours are also greater.

- ✓ The demand of palatable working conditions and shorter hours of work are also responsible for labor disputes.

4. Modernization and Automation of Plant and Machinery-

- The attempt at modernization and introduction of automatic machinery to replace labor has been the major cause of disputes in India.
- Workers go on strike, off and on, to resist rationalization and automation.

5. High Industrial Profits-

- Whenever the prices of the commodities went up and the industrialists earned huge profits.
- In order to get share in the prosperity of the industry, it naturally led to the resentment on their part.
- The increased profits also led to the demands of higher wages and bonus.
- Now in the changing world, concept of labor has changed considerably.
- They think themselves as a partner of the industry and demand their share in the profits.

6. Demand for Other Facilities-

Demand for other facilities for meeting out their basic needs such as medical, education, housing, etc., encourage the workers to resort to direct action because such facilities were denied by the employers.

II. Managerial Causes:

These causes include autocratic managerial attitude and defective labor policies etc.

1. Denial of Recognition to Trade Unions-

Failure on the part of the employer to recognize the trade unions or to recognize the rival union for representation, insult of trade union leaders by the employers are some of the examples of autocratic managerial attitude worth mentioning as the causes of industrial disputes.

2. Defective Recruitment Policies-

- The recruitment practices in Indian industries are defective.
- Recruitment is generally made by the contractors who exploit the workers and suppress their individuality.
- The defective promotion, demotion, transfer and placement policies encourage dissatisfaction among workers.

3. Irregular Lay-Off and Retrenchment-

- Lay-off and retrenchment are reasons to be mentioned for encouraging industrial disputes.
- Indian employers follow the policy of 'Hire and Fire'.
- As a matter of practice, workers are not made permanent for a long time to deprive them of their legitimate rights.

4. Defiance of Agreements and Codes-

The employers regularly defy the provisions of collective bargaining agreements and code of conduct and code of discipline with a view to harass or exploit the employees and just encourage strife.

5. Defective Leadership-

- Inefficient leadership is also one of the causes of disputes.
- Leadership from the management and from the workers is quite incompetent to induce the workers to get them worked.
- The employers' representatives are not delegated sufficient authority to negotiate with the workers.

- Defective management leadership ignored the labor problems and inefficient labor leadership could not coordinate the efforts of their fellow members, so disputes arise.

Impact of Industrial Disputes

1. Disturbance of Industrial Peace:

- Tense industrial relations resulting in disputes lead to a fall in the normal tempo of work in the factory.
- Plant capacity utilization falls below the optimum level, costs go up, absenteeism and labor turnover increase.
- Industrial Discipline breaks down and production suffers both quantitatively as well as qualitatively.

2. Resistance to change:

- To be successful in business, innovations are a must.
- Innovations involve changes which can be introduced with the co-operation of employees only.
- In an environment of poor industrial relations, employees lose faith in the management, and therefore, they not only indulge in non-cooperation with the management, but also resist all changes necessary for the survival and growth of the enterprise.

3. Frustration among employees:

- Employees work in a particular organization for the satisfaction of their physical, social, and egoistic needs.
- In an environment with uncomfortable industrial relations, they find it difficult to satisfy their needs, particularly social and psychological needs.
- This obviously leads to frustration and alienation among them.



Did you know?

Is it possible to prevent the industrial dispute?

Answer: Yes

Disputes can be prevented if there is equitable arrangement and adjustment between the management and workers.

11.2 Preventive Machineries Used for Handling Industrial Disputes in India

The preventive machinery has been set up with a view to creating harmonious relations between labour and management so that disputes do not arise. But if preventive machinery fails, then the industrial dispute settlement machinery should be activated by the Government because non-settlement of disputes will prove to be very costly to the workers, management and the society as a whole.

Major preventive machinery for handling industrial disputes

- I. Worker's Participation in Management
- II. Collective Bargaining
- III. Grievance Procedure
- IV. Tripartite Bodies
- V. Code of Discipline

VI. Standing Orders

I. Worker's Participation in Management:

Workers' participation in management is an essential ingredient of Industrial democracy. The concept of workers' participation in management is based on Human Relations approach to Management which brought about a new set of values to labour and management.

Workers' participation in management implies mental and emotional involvement of workers in the management of Enterprise. It is considered as a mechanism where workers have a say in the decision.

Philosophy underlying workers' participation

1. Democratic participation in decision-making.
2. Maximum employer-employee collaboration.
3. Minimum state intervention.
4. Realization of a greater measure of social justice.
5. Greater industrial efficiency; and
6. Higher level of organizational health and effectiveness.

Schemes of workers' participation

- Works committee,
- Joint management council (JMC),
- Shop council and Joint council.

II. Collective Bargaining:

"Collective Bargaining" is the process of negotiating terms of employment and other conditions of work between the representatives of management and organized labour.

Labor Contract-

- When it is free of intimidation and coercion and is conducted in good faith, collective bargaining culminates in a workable contract i.e., labor contract.
- A labor contract is a collective agreement between the representatives of labor and management for the sale of labor services at designated wage rates, hours of work, and other terms of employment and conditions of work for a stated period of time.
- The contract usually calls for joint enforcement and administration of the agreement.
- Responsible labor leaders and employers are increasingly settling their differences around the conference table rather than through industrial warfare.
- The process of bargaining the settlement of disputes is often facilitated through outside assistance in the form of conciliation, mediation, or arbitration.

Bargaining Strategies Needed for Resolving Industrial Dispute-

The four bargaining strategies needed for resolving industrial dispute are as follows:

1. Distributive Bargaining
2. Integrative Bargaining
3. Attitudinal Bargaining
4. Intra-organizational Bargaining.

1. Distributive Bargaining:

Distributive bargaining, perhaps the most common form of bargaining, takes place when labor and management are in disagree over the issues in the proposed contract, such as wages, bonus, benefits, work rules, and so on. It involves haggling over the distribution of surplus.

2. Integrative Bargaining:

The purpose of integrative bargaining is to create a cooperative negotiating relationship that benefits both parties. In such bargaining, both labour and management win or gain or at least neither party loses. The issues of bargaining involved in such strategy may be such as better job evaluation process, better training programmes, better working conditions, etc.

3. Attitudinal Structuring:

Such a bargaining involves shaping and reshaping of attitudes to positive and cooperative. Examples of attitudinal structuring and shaping may be from hostile to friendly, from non-cooperative to cooperative, from un-trust to trust, and so on.

4. Intra-organizational Bargaining:

In practice, there are different groups in an organization by department-wise and level - wise. At times, different groups may perceive the outcomes of collective bargaining process differently.

While personnel manager may support increase in wages, the finance manager may oppose the same on the ground that it will disturb the company's financial position. Given such situation, intra-organizational consensus is required for the smooth acceptance of the agreements arrived at collective bargaining.

III. Grievance Procedure:

A grievance procedure specifies the steps involved, the persons to be associated at each step and the method of their selection, the manner in which grievances are to be placed, the extent of authority vested at each level, the sanction behind decisions and the rights and obligations of the parties.

Why to establish grievance procedure?

1. It does away with the uncertainty involved in locating the authority or person to be approached for the redressal of the grievance.
2. Both the workers and the management are relieved of the tension and worry, which might otherwise, would have resulted from haphazard handling of grievances.
3. A grievance procedure also contains elements of fairness and objectivity.
4. The procedure ensures uniformity in the handling of grievances.
5. Grievance procedure also minimizes the time and effort in the processing of grievances.

IV. Tripartite Bodies:

The purpose of tripartite consultative machinery is to bring the parties together for mutual settlement of differences in a spirit of cooperation and goodwill. These committees have been constituted to suggest ways and means to prevent disputes.

It includes Indian Labour Conference, Standing Labour Committee, Industrial Committees and Tripartite Committee on International Labour Organization Conventions.

Purpose of Tripartite Body

- a. Bring the aggravated parties together for mutual settlement of differences and encourage a spirit of cooperation and goodwill.
- b. Promote uniformity in labor laws and legislation.
- c. Discuss all matters of All India importance as between employers and employees.
- d. Determine a plan for settlement for all disputes.

V. Code of Discipline:

According to the Code of Discipline, both employees and employers voluntarily agree to maintain and create an atmosphere of mutual trust and co-operation in the industry.

The code of Discipline provides for that:


1. Strikes and lockouts cannot be declared without prior notice.
2. No party should take any direct action without consulting the other.
3. The existing machinery for the settlement of disputes should be followed.

VI. Standing Orders:

'Standing Orders' refers to the rules and regulations which govern the conditions of employment of workers. These standing orders are binding on the employer and the employees.

Recognizing the need for the standardised conditions of employment in factories to develop industrial peace in the country, the Industrial Employment (Standing Orders) Act was passed in 1946. This Act provides for the framing of standing orders in all industrial undertakings employing 100 or more workers. Once the Standing Orders are certified, it is binding on the employees and the employers to abide by these Orders.

The Standing Orders regulate the conditions of employment from the stage of entry in the organization of the stage of exits from the organization.

	<p>Did you know?</p> <p>What are the legal conditions to have grievance settlement authority for the settlement of industrial disputes?</p>
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11.3 Grievance Settlement Authority

According to Section 9C of Industrial Dispute Act, 1982:

1. The employer in relation to every industrial establishment in which fifty or more workmen are employed or have been employed on any day in the proceeding twelve months, shall provide for, in accordance with the rules made in that behalf under the Act, a Grievance Settlement Authority for the settlement of industrial dispute connected with an individual workman employed the establishment.
2. Where an industrial dispute connected with an individual work man arises in an establishment referred to in sub-section (1), workman or any trade union of workman of which such workman is a member, refer, in such manner as may be prescribed such dispute to the Grievance Settlement Authority provided for by the employer under that sub-section for settlement.

Settlement of Industrial Disputes

1. Works committees
2. Conciliation officers
3. Boards of conciliation
4. Court of enquiry
5. Labor courts
6. Industrial Tribunals
7. National Tribunal
8. Arbitration.

1. Works committees:

Under the Industrial Disputes Act 1947, works committees exist in industrial establishments in which one hundred or more workmen are employed during the previous year. It is the duty of the works Committee to promote measures for securing and preserving amity and good relations between the employers and workers.

Objectives of works committees

1. Remove the causes of friction in the day-to-day work situation.
2. Foster amity and harmonious relationship between the parties.
3. Create an atmosphere for voluntary settlement of disputes and frictions.

2. Conciliation Authorities:

One of the authorities under the Act is the conciliation officer. The law provides for the appointment of Conciliation Officer by the Government to conciliate between the parties to the industrial dispute.

Under section 4 the appropriate Government is empowered to appoint conciliation officers for promoting settlement of industrial disputes. The Conciliation Officer is given the powers of a civil court, whereby he is authorized to call the witness.

On receiving information about a dispute, the conciliation officer should give formal intimation in writing to the parties concerned of his intention to commence conciliation proceedings from a specified date.

The conciliation officer is required to submit his report to the appropriate government along with the copy of the settlement arrived at in relation to the dispute or in case conciliation has failed, he has to send a detailed report giving out the reasons for failure of conciliation.

The report in either case must be submitted within 14 days of the commencement of conciliation proceedings or earlier.

3. Boards of Conciliation:

In case Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a Board of Conciliation. The Board is tripartite and ad hoc body. It consists of a chairman and two or four other members.

Duties of the board

A Board to which a dispute is referred must investigate the dispute and all matters affecting the merits and the right settlement thereof and do all things for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute without delay.

If settlement is arrived,

- The Board should send a report to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

If no settlement is reached,

- The Board must send a full report together with its recommendation for the determination of the dispute.

4. Court of Enquiry:

- Court of Inquiry may be constituted is “for enquiring into any matter appearing to be connected with or relevant to an industrial dispute”.
- The court of enquiry is required to submit its report within a period of six months from the commencement of enquiry. This report is subsequently published by the government within 30 days of its receipt.

5. Labor Courts:

The appropriate government may, by notification in the official gazette constitute one or more labor courts for adjudication of Industrial disputes relating to any matters specified in the second schedule of Industrial Disputes Act.

They are:

- Dismissal or discharge or grant of relief to workmen wrongfully dismissed.
- Illegality or otherwise of a strike or lockout.
- Withdrawal of any customary concession or privileges.
- Where an Industrial dispute has been referred to a labor court for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring such a dispute, submit its report to the appropriate government.

Deal with matters like:

- The propriety or legality of an order passed by an employer under the standing orders.
- The application and interpretation of standing orders passed.
- Discharge or dismissal of workmen including reinstatement, grant of relief to workers who are wrongfully dismissed.
- Withdrawal of any customary concession of privilege
- Illegality or otherwise of a strike or lockout, and all other matters not specified in the third schedule.

6. Industrial Tribunals:

The appropriate government may, by notification in the official gazette, constitute one or more Industrial Tribunals for the adjudication of Industrial disputes relating to the following matters:

- Wages
- Compensatory and other allowances
- Hours of work and rest intervals
- Leave with wages and holidays
- Bonus, profit-sharing, PF etc.
- Rules of discipline
- Retrenchment of workmen
- Working shifts other than in accordance with standing order

7. National Tribunal:

A National tribunal is constituted by the Central government for Industrial Disputes involving question of national importance. The Central Government may appoint two assessors to assist the national tribunal. The award of the tribunal is to be submitted to the Central Government which has the power to modify or reject it if it considers it necessary in public interest.

8. Arbitration:

The employer and employees may agree to settle the dispute by appointing an independent and impartial person called Arbitrator. Arbitration provides justice at minimum cost.

Arbitration is a process in which a neutral third party listens to the disputing parties, gathers information about the dispute, and then takes a decision which is binding on both the parties.

Types of Arbitration-

1. **Voluntary Arbitration:** In voluntary arbitration the arbitrator is appointed by both the parties through mutual consent and the arbitrator acts only when the dispute is referred to him.
2. **Compulsory Arbitration:** Implies that the parties are required to refer the dispute to the arbitrator whether they like him or not. Usually, when the parties fail to arrive at a settlement voluntarily, or when there is some other strong reason, the appropriate government can force the parties to refer the dispute to an arbitrator.

Summary

- Industrial dispute is any dispute or difference between employees and employees, or between employers and employers, which relates to the employment or non-employment, or the terms of employment or with the conditions of work of any person.
- There are mainly two categories of causes of Industrial Disputes: 1. Economic Causes and 2. Managerial Causes
- Arbitration is a process in which a neutral third-party listens to the disputing parties, gathers information about the dispute, and then takes a decision which is binding on both the parties.
- 'Standing Orders' refers to the rules and regulations which govern the conditions of employment of workers. These standing orders are binding on the employer and the employees.
- A grievance procedure specifies the steps involved, the persons to be associated at each step and the method of their selection, the manner in which grievances are to be placed, the extent of authority vested at each level, the sanction behind decisions and the rights and obligations of the parties.
- Causes of industrial disputes can be broadly classified into two categories: economic and non-economic causes.

Keywords

- Grievance procedure
- Industrial Disputes
- Arbitration
- Board of Conciliation
- Tripartite Body
- Worker's participation.

Self Assessment

- Q1. _____ is one which is not only recognition of conflict, but also expressing it explicitly or openly.
- A. Manifest Conflict
 - B. Latent Conflict
 - C. Perceived Conflict
 - D. All of the above
- Q2. Which is an economic cause of industrial disputes?
- A. Victimization of workers
 - B. Ill treatment by staff members
 - C. Indiscipline
 - D. Issues related to compensation
- Q3. Is inefficient leadership one of the causes of disputes?
- A. True
 - B. b. False
- Q4. Which can be included as an impact of industrial disputes?
- A. Disturbance of Industrial Peace
 - B. Resistance to change
 - C. Frustration among employees
 - D. All of the above
- Q5. Is the attempt at modernization and introduction of automatic machinery to replace labor has been the major cause of disputes in India?
- A. True
 - B. b. False
- Q6. The prevention of disputes is not an option or not possible.
- A. True
 - B. b. False
- Q7. How many preventive machinery for handling industrial disputes exist?
- A. Four
 - B. Five
 - C. Six
 - D. Seven
- Q8. What included under the schemes of worker's participation concept?
- A. Works committee

- B. Joint management council (JMC)
- C. Shop council and Joint council
- D. All of the above

Q9. _____ is the process of negotiating terms of employment and other conditions of work between the representatives of management and organized labor.

- A. Collective Bargaining
- B. Tripartite Bodies
- C. Code of Discipline
- D. Standing Orders

Q10. _____ refers to the rules and regulations which govern the conditions of employment of workers.

- A. Collective Bargaining
- B. Tripartite Bodies
- C. Code of Discipline
- D. Standing Orders

Q11. Which section of Industrial Disputes Act deals with grievance handling procedure?

- A. Section 9 (c)
- B. Section 10 (a)
- C. Section 11(b)
- D. Section 12 (c)

Q12. Under the Industrial Disputes Act 1947, works committees exist in industrial establishments in which _____ workmen are employed during the previous year.

- A. one hundred or more
- B. two hundred or more
- C. Two hundred fifty and more
- D. None of the above

Q13. Which is not an objective of works committees?

- A. Remove the causes of friction in the day-to-day work situation.
- B. Foster amity and harmonious relationship between the parties.
- C. Create an atmosphere for voluntary settlement of disputes and frictions.
- D. None of the above

Q14. In case Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a _____.

- A. Board of Directors
- B. Board of Conciliation
- C. Work Committees
- D. Labour Courts

Q15. _____ is a process in which a neutral third party listens to the disputing parties, gathers information about the dispute, and then takes a decision which is binding on both the parties.

- A. Conciliation
- B. Arbitration
- C. Adjudication
- D. Mediation

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. A | 2. D | 3. A | 4. D | 5. A |
| 6. B | 7. C | 8. D | 9. A | 10. D |
| 11. A | 12. A | 13. D | 14. B | 15. B |

Review Questions

- Q1. Discuss grievance settlement procedure in detail.
- Q2. What do you mean by Industrial Dispute? What are the different types of industrial disputes?
- Q3. Explain the preventive machinery for settling industrial disputes in India.
- Q4. What are the different causes of Industrial Disputes?
- Q5. Discuss the impact of Industrial Dispute in India.



Further Readings

1. I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
2. V.V. Giri, Labor Problems in India.
3. Pigou A.C., Economics of Welfare.
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Unit 12: The Industrial Disputes Act, 1947

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Objectives

After this unit, you will be able to:

- aware about the authorities under Industrial Disputes Act, 1947.
- become aware about the Powers and Duties of Authorities under Industrial Dispute Act.
- difference between Strikes and Lockout.
- understand the different provisions of Strikes and Lock-out.
- understand the provisions related to retrenchment in Industrial Disputes Act.
- understand the provisions related to closure in Industrial Disputes Act.
- understand the unfair labour practices on the part of employers.
- understand the unfair labour practices on the part of employees.

Introduction

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes. WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing.

The Industrial Disputes Act, 1947 extended to the whole of India and regulated Indian labour law so far as that concerns trade unions as well as Individual workman employed in any Industry within the territory of Indian mainland. Enacted on 11 March 1947 and It came into force 1 April 1947. It was replaced by the Industrial Relations Code, 2020.

12.1 Industrial Disputes Act, 1947

An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

WHEREAS it is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

Authorities under the Act:



1. Works Committee

- In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate government may by general or special order require the employer to constitute in the prescribed manner a Works Committee.
- Works Committee consisting of representatives of employers and workmen engaged in the establishment, so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer.
- The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (16 of 1926).
- It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavor to compose any material difference of opinion in respect of such matters.

2. Conciliation Officers

- The appropriate government may, by notification in the Official Gazette, appoint such number of persons, as it thinks fit to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.
- A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more.
- Specified industries and either permanently or for a limited period.

3. Boards of Conciliation

- The appropriate government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.
- A Board shall consist of a Chairman and two or four other members, as the appropriate government thinks fit.
- The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:
- PROVIDED that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate government shall appoint such persons as it thinks fit to represent that party.
- A Board, having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number
- PROVIDED that, if the appropriate government notifies the Board that the services of the Chairman or of any other member have ceased to be available, the Board shall not act until a new Chairman or member, as the case may be, has been appointed.

4. Courts of Inquiry

- The appropriate government may, as occasion arises by notification in the Official Gazette, constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.
- A court may consist of one independent person or of such number of independent persons as the appropriate government may think fit and where a court consists of two or more members, one of them shall be appointed as the Chairman.
- A court, having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number:
- PROVIDED that, if the appropriate government notifies the court that the services of the Chairman have ceased to be available, the court shall not act until a new Chairman has been appointed.

5. Labor Courts

- The appropriate government may, by notification in the Official Gazette, constitute one or more Labor Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.
- A Labor Court shall consist of one person only to be appointed by the appropriate government.
- A person shall not be, qualified for appointment as the presiding officer of a Labor Court, unless-
- (a) he is, or has been, a judge of a High Court; or
- (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or
- (c) he has held any judicial office in India for not less than seven years; or
- (d) he has been the presiding officer of a Labor Court constituted under any Provincial Act or State Act for not less than five years.

6. Tribunals

- The appropriate government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule
- A Tribunal shall consist of one person only to be appointed by the appropriate government.
- The appropriate government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.
- A person shall not be qualified for appointment as the presiding officer of a Tribunal unless-
 - (a) he is, or has been, a Judge of a High Court; or
 - (b) he has, for a period of not less than three-years, been a District judge or an Additional District Judge

7. National tribunals

- The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.
- A National Tribunal shall consist of one person only to be appointed by the Central Government.
- A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless he is, or has been, a Judge of a High Court.
- The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

12.2 Powers and Duties

Who are the different authorities in Industrial Disputes Act?



Power of Authorities

1. A conciliation officer or a member of a Board, or Court or the presiding officer of a Labor Court, Tribunal or National Tribunal may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.
2. Every Board, Labor Court, Tribunal and National Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the different matters.

Different matters are:

- a) enforcing the attendance of any person and examining him on oath;
- b) compelling the production of documents and material objects;
- c) issuing commissions for the examination of witnesses;
- d) in respect of such other matters as may be prescribed.

Every inquiry or investigation by a Board, Court, [Labor Court, Tribunal or National Tribunal], shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

3. A conciliation officer may enforce the attendance of any person for the purpose of examination of such person
 - A conciliation officer may inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act.
 - The conciliation officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.
4. A Court, Labor Court, Tribunal or National Tribunal 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 before it.
5. Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labor Court, Tribunal or National Tribunal shall be in the discretion of that Labor Court, Tribunal or National Tribunal and the Labor Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.]
6. Every award made, order issued, or settlement arrived at by or before Labor Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908.
7. Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labor Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labor Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including

the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

- Provided that in any proceeding under this section the Labor Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

1. Duties of conciliation officers

- Where any industrial dispute exists or is apprehended, 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.
- 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 the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.
- If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the conciliation officer shall send a report thereof to the appropriate Government [or an officer authorized in this behalf by the appropriate Government] together with a memorandum of the settlement signed by the parties to the dispute.
- If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.
- If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board, [Labor Court, Tribunal or National Tribunal], it may make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons therefor.
- A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

Provided that, [subject to the approval of the conciliation officer,] the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.

2. Duties of Board

- Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.
- If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate

Government together with a memorandum of the settlement signed by the parties to the dispute.

- If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.
 - If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a [Labor Court, Tribunal or National Tribunal] under section 10, it shall record and communicate to the parties concerned its reasons therefor.
 - The Board shall submit its report under this section within two months of the date 4 [on which the dispute was referred to it] or within such shorter period as may be fixed by the appropriate Government:
 - Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate:
 - Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.
3. Duties of Courts
- 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.
4. Duties of Labor Courts, Tribunals and National Tribunals
- Where an industrial dispute has been referred to a Labor Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, [within the period specified in the order referring such industrial dispute or the further period extended under the second proviso to sub-section (2A) of section 10], submit its award to the appropriate Government.

12.3 Strikes and Lockouts

Section 2(g) of Industrial Dispute Act defines strike :

“Strike means a cessation of work by a body of persons employed in any Industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment.”

Section 2(l) of the Industrial Disputes Act, 1947 define Lock-out:

“lock-out” means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him

Strike vs Lockout

- Strike is a democratic weapon used by workmen to ventilate their grievances and safeguard their interest.
- Lockouts are democratic weapons used by employers to ventilate their grievances and safeguard their interest.
- The strike is a weapon available to employees for enforcing their individual demands
- The lockout is a weapon available to the employer to persuade workmen by the coercive process to accept his point of view.

Provisions related to strikes and lockouts

- 1) Provisions for Prohibition of strikes and lock-outs
- 2) General prohibition of strikes and Lockouts
- 3) Illegal strikes and lock-outs
- 4) Prohibition of financial aid to illegal strikes and lock-out

1. Provisions for Prohibition of strikes and lock-outs

- (1) No person employed in a public utility service shall go on strike in breach of contract –
 - (a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or
 - (b) within fourteen days of giving such notice; or
 - (c) before the expiry of the date of strike specified in any such notice as aforesaid; or
 - (d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- (2) No employer carrying on any public utility service shall lock-out any of his workmen –
 - a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or
 - b) within fourteen days of giving such notice; or
 - c) before the expiry the date of lock-out specified in any such notice as aforesaid; or
 - d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- (3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.
- (4) The notice of strike referred to in sub-section(1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.
- (5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.
- (6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

2. General prohibition of strikes and Lockouts

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out –

- a. during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;
- b. during the pendency of proceedings before 1 [a Labor Court, Tribunal or National Tribunal] and two months after the conclusion of such proceedings.

- c. during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

3. Illegal strikes and lock-outs

- (1) A strike or a lock-out shall be illegal if—
- (i) it is commenced or declared in contravention of section 22 or section 23; or
 - (ii) it is continued in contravention of an order made under sub-section (3) of section 10 1 [or sub-section (4A) of section 10A].
- (2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, an arbitrator, a Labor Court, Tribunal or National Tribunal,
- the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10 or sub-section (4A) of section 10A.
 - (3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

4. Prohibition of financial aid to illegal strikes and lock-out

No person shall knowingly expend or apply any money in direct furtherance of support of any illegal strike or lock-out.

12.4 Provisions Related To Retrenchment And Closure

There are 2 chapters in Industrial Disputes Act, 1947 i.e. Chapter VA and Chapter VB which describes the provisions related to Retrenchment and Layoff.

CHAPTER VA

Application of sections 25C to 25E

(1) Sections 25C to 25E inclusive 125[shall not apply to Industrial Establishments to which Chapter VB applies, or]-

- a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month; or
- b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate government thereon shall be final.

Conditions precedent to retrenchment of workmen

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and

- c) notice in the prescribed manner is served on the appropriate government [for such authority as may be specified by the appropriate government. by notification in the Official Gazette].

Procedure for retrenchment

- Where any workman in an industrial establishment who is a citizen of India, is to be retrenched and
- he belongs to a particular category of workmen in that establishment,
- in the absence of any agreement between the employer and the workman inthis behalf,
- the employer shall ordinarily retrench the workman who was the last person to be employed in that category,
- unless for reasons to be recorded the employer retrenches any other workman.

Re-employment of retrenched workmen

- Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity...
- ...[to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

CHAPTER VB**Application of Chapter V-B**

1. The provisions shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than one hundred workmen were employed on an average per working day for the preceding twelve months.
2. If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

Conditions precedent to retrenchment of workmen

(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until, ...

- a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and
- b) the prior permission of the appropriate government or such authority as may be specified by that government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section(1) has been made, the appropriate government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication: PROVIDED that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4) every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

CLOSURE

Procedure for closing down an undertaking

- (1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner: PROVIDED that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.
- (2) Where an application for permission has been made under sub-section (1), the appropriate government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regards to the, genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order, and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.
- (3) Where an application has been made under sub-section (1) and the appropriate government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

- (4) An order of the appropriate government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.
- (5) The appropriate government may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication: PROVIDED that where a reference has been made to a Tribunal under this sub-section , it shall pass an award within a period of thirty days from the date of such reference.
- (6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.
- (7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.
- (8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

Special provision as to restarting of undertakings closed down before commencement of the Industrial Disputes (Amendment) Act, 1976

If the appropriate government is of opinion in respect of any undertaking of an industrial establishment to which this Chapter applies and which closed down before the commencement of the Industrial Disputes (Amendment) Act, 1976 (32 of 1976),-

- a) that such undertaking was closed down otherwise than on account of unavoidable circumstances beyond the control of the employer;
- b) that there are possibilities of restarting the undertaking;
- c) that is necessary for the rehabilitation of the workmen employed in such undertaking before its closure or for the maintenance of supplies and services essential to the life of the community to restart the undertaking or both; and...
- d) that the restarting of the undertaking will not result in hardship to the employer in relation to the undertaking, it may, after giving an opportunity to such employer and workmen, direct by order published in the Official Gazette, that the undertaking shall be restarted within such time (not being less than one month from the date of the order) as may be specified in the order.

12.5 Unfair Labour Practices

Industrial Dispute Act 1947 (amended in 1982) specifies what are unfair labor practices on the part of employers and on the part of employees.

The fifth schedule of the act consist of list of unfair labor practices on the part of employers and trade unions of employers and unfair labor practices on the part of workmen and trade unions of workmen.

- Every employer and workmen are entitled to join a trade union and participate in its lawful activities.
- Anyone who engages in any prohibited conduct is said to have committed an unfair labor practice.

Section 25-T: Prohibition of unfair labor practice:- No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926, or not, shall commit any unfair labor practice.

Section 25-U: Penalty for committing unfair labor practices:- Any person who commits any unfair labor practice shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to one thousand rupees or with both.

Unfair labor practices on the part of employers and trade unions of employers

1. To interfere with, restrain from, or coerce, workmen in the exercise of their rights to organize, form, join, or assist a Trade Union or to engage in concerted activities for collective bargaining or other mutual aid or protection, that is to say:
 - a. Threatening workmen with discharge or dismissal, if they join a trade union;
 - b. Threatening a lock-out or closure, if a trade union is organized;
 - c. Granting wage increases to workmen at crucial periods of the union organizations, undermines the efforts of the trade union at the organization.
2. To dominate, interfere with or contribute support, financial, or otherwise, to any trade union, that is to say:
 - An employer taking an active interest in organizing a trade union of his workmen; and
 - An employer showing partiality or granting favor to one of several trade unions attempting to organize his workmen or to its members where such a trade union is not a recognized trade union.
3. To establish employer-sponsored trade unions of workmen
4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say:
 - a. Discharging or punishing a workman, because he urged other workmen to join or organize a trade union;
 - b. Discharging or dismissing a workman for taking part in the strike (not being a strike which is deemed to be an illegal strike under this act);
 - c. Changing seniority rating of workmen because of trade union activities;
5. To discharge or dismiss workmen
 - a. By way of victimization;
 - b. Not in good faith, but the colorable exercise of the employer's rights;
 - c. By falsely implicating a workman in a criminal case on false evidence or concocted evidence;
 - d. For patently false reasons;
 - e. On untrue or trumped-up allegations of absence without leave;
 - f. In utter disregard of the principles of natural justice in the conduct of a domestic inquiry or with undue haste;
 - g. For misconduct of a minor technical character, without having any regard to the nature of the particular misconduct or the record or service of the workman, thereby leading to disproportionate punishment.
6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.
7. To transfer a workman mala fide from one place to another, under the guise of following management policy.

8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.
9. To show favoritism or partiality to one set of workers regardless of merit.
10. To employ workmen as "badlis", casuals or temporaries, and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.
11. To discharge or discriminate against any workman for filing charges or testifying against an employer in any inquiry or proceeding relating to any industrial dispute.
12. To recruit workmen during a strike that is not illegal.
13. Failure to implement award, settlement, or agreement.
14. To indulge in acts of force or violence.
15. To refuse to bargain collectively, in good faith with the recognized trade unions.
16. Proposing or continuing a lock-out deemed to be illegal under this Act.

Unfair labor practices on the part of workmen and trade unions of workmen

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.
2. For a recognized union to refuse to bargain collectively in good faith with the employer.
3. To indulge in coercive activities against the certification of a bargaining representative.
4. To coerce workmen in the exercise of their right to self-organization or to join a trade union or refrain from, joining any trade union, that is to say:
 - a. For a trade union or its members to picket in such a manner that non-striking workmen are physically debarred from entering the workplaces;
 - b. To indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or managerial staff.
5. To stage, encourage, or instigate such forms of coercive actions as willful, "go-slow", squatting on the work premises after working hours, or "gherao" of any of the members of the managerial or other staff.
6. To stage demonstrations at the residence of the employers or the managerial staff members.
7. To incite or indulge in willful damage to employer's property connected with the industry.
8. To indulge in acts of force or violence or to hold out threats of intimidation against any workman to prevent him from attending work.



Case Study 01:

- In *Devendra Kumar C. Solanki v. State of Gujarat and Others*, Gujarat High Court has held that the work done by the concerned workmen was the same as that of permanent workmen and they also worked for a similar number of hours.
- But, the discrepancy in payment of wages between permanent and non-permanent workmen is alarming, same to be construed as unfair labor practices as defined under section 2(ra) of the Act.



Case Study 02:

- In *Eveready Flash Light Company v. Labour Court Bareilly*, the company appointed a workman on a daily rate basis on 18th January 1958 after trying him for four days.

- On 12th April 1958, he was appointed on probation for 6 months which could be further extended by the company at its discretion.
- He was elected as a member of the working committee of the union on September 9, 1958.
- On 10th September, the management served him with a notice of warning that despite repeated warnings he had shown no improvement in his work.
- The warning was repeated on 11th October. On 21st November 1958, his services were terminated.
- The union raised an industrial dispute and the Labor Court found no justification for putting the workman on probation after he had been tried and that the condition of putting him on probation as communicated by letter of 12th April was just to delay making him a permanent employee.

The company preferred a petition in the Allahabad High Court. It was held that:

- A condition of employment which is designed to invest the employer with arbitrary power to keep the workmen at his mercy as regards his chance of being made permanent and to eventually lead to depriving him of such chance would amount to unfair labor practice.
- It was further observed that it is not necessary that there must be numerous transactions before the employer could be branded guilty of unfair labor practice and that he could be held guilty of such practice in respect of one contract of employment only.

Summary

- **Industrial Disputes Act, 1947** - An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.
- **Conciliation Officer** - The Conciliation Officer makes efforts to resolve the dispute through settlement between the workmen and the management. The duties of Conciliation Officers have been laid down under Section 12 of the Industrial Disputes Act
- **Board of Conciliation** - The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute. (2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.
- **Labour Court** - The Labour Court is not a court of law. It operates as an industrial relations tribunal, hearing both sides in a case and then issuing a Recommendation (or Determination/Decision/Order, depending on the type of case) setting out its opinion on the dispute and the terms on which it should be settled.
- **Industrial Tribunal** - The Industrial Tribunal is a juridical Tribunal made up of a chairman and two members (one representing Workers' interests and the other Employers' interests) drawn up from separate panels in the case of an Industrial Dispute whilst of a chairman alone in the case of alleged unfair dismissal.
- **National Tribunal** - National Tribunal means the tribunal of RSL National established to hear and determine appeals from State Branch Tribunal and other disciplinary matters in accordance with the National Constitution.

Keywords

Industrial Disputes Act, 1947 - An Act to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

Conciliation Officer - The Conciliation Officer makes efforts to resolve the dispute through settlement between the workmen and the management. The duties of Conciliation Officers have been laid down under Section 12 of the Industrial Disputes Act

Board of Conciliation - The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute. (2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

Labour Court - The Labour Court is not a court of law. It operates as an industrial relations tribunal, hearing both sides in a case and then issuing a Recommendation (or Determination/Decision/Order, depending on the type of case) setting out its opinion on the dispute and the terms on which it should be settled.

Industrial Tribunal - The Industrial Tribunal is a juridical Tribunal made up of a Chairman and two members (one representing Workers' interests and the other Employers' interests) drawn up from separate panels in the case of an Industrial Dispute whilst of a chairman alone in the case of alleged unfair dismissal.

National Tribunal - National Tribunal means the tribunal of RSL National established to hear and determine appeals from State Branch Tribunal and other disciplinary matters in accordance with the National Constitution.

Self Assessment

1. In which year did the act come into operation?
 - A. 1947
 - B. 1949
 - C. 1953
 - D. 1963

2. To which settlement machinery can the central government refer the disputes under rule 81 - A?
 - A. Conciliation
 - B. Arbitration
 - C. Adjudicator
 - D. Supreme Court

3. Before the industrial disputes act was implemented in the year 1947, which act took care of the industrial disputes?
 - A. Trade Disputes Act, 1929
 - B. Royal Commission on Labour, 1934
 - C. Labour Management Relations Act, 1947
 - D. None of the above

4. Choose the correct option that correctly states out the defect in the Trade Disputes Act, 1929.
 - A. Restraints imposed on the rights of strike
 - B. To render the proceedings unstatutable under the Act for the settlement of an industrial dispute
 - C. Solution to industrial unrest
 - D. All of the above

5. The bill passing rule 81A has made two new institutions for the prevention and settlement of industrial disputes, i.e. Work Committees and _____
- A. Industrial Tribunal
 - B. Commission on Labour
 - C. Arbitration
 - D. Adjudication
6. The industrial peace is secured through voluntary _____ and compulsory _____
- A. Compromise and Arbitration
 - B. Adjudication and Arbitration
 - C. Work Committee and Industrial Tribunal
 - D. Negotiation and Adjudication
7. Choose the correct objective of the Industrial Disputes Act.
- A. To prevent illegal strikes
 - B. To promote measures for securing and preserving good relations between the employers and the employees
 - C. To provide relief to workmen in matters of lay - offs, retrenchment, wrongful dismissals
 - D. All of the above
8. State true or false
- i. Industrial disputes act can be described as the milestone in the historical development of industrial law in India.
- A. True
 - B. False
9. The act was first amended in the year _____
- A. 1929
 - B. 1946
 - C. 1947
 - D. 1949
10. Power has been given to _____ to require Works Committee to be constituted in every industrial establishment employing 100 workmen or more.
- A. Appropriate Government
 - B. State Government
 - C. High Court
 - D. Board of Conciliation
11. When did the Industrial Disputes Act, come into force?
- A. 01 April 1949
 - B. 01 March 1948

Industrial Relation and Labour Laws

- C. 01 May 1947
D. 01 April 1947

12. Which section of the Industrial Disputes Act, 1947 deals with the finality of orders constituting Boards, etc?

- A. Section 12 of the Industrial Disputes Act, 1947
B. Section 9 of the Industrial Disputes Act, 1947
C. Section 14 of the Industrial Disputes Act, 1947
D. None of these

13. Which section of the Industrial Disputes Act, 1947 deals with “Labour Courts”_?

- A. Section 7 of the Industrial Disputes Act, 1947
B. Section 4 of the Industrial Disputes Act, 1947
C. Section 3 of the Industrial Disputes Act, 1947
D. Section 8 of the Industrial Disputes Act, 1947

14. Section 28 of the Industrial Disputes Act, 1947 deals with_____?

- A. Power to make rules.
B. Penalty for giving financial aid to illegal strikes and lock-outs.
C. Delegation of powers.
D. Courts of Inquiry

15. Illegal strikes and lock-outs., is provided in section____ of the Industrial Disputes Act, 1947

- A. Section 34 of the Industrial Disputes Act, 1947
B. Section 22 of the Industrial Disputes Act, 1947
C. Section 24 of the Industrial Disputes Act, 1947
D. Section 28 of the Industrial Disputes Act, 1947

Answers for Self Assessment

1.	A	2.	C	3.	A	4.	B	5.	A
6.	D	7.	D	8.	A	9.	D	10.	A
11.	D	12.	B	13.	A	14.	B	15.	C

Review Questions

- Are you aware about the authorities under Industrial Disputes Act, 1947. Enlist them.
- What is the difference between Strikes and Lockout?
- Enumerate the different provisions of Strikes and Lock-out.
- Enumerate the provisions related to retrenchment in Industrial Disputes Act.
- Enlist the provisions related to closure in Industrial Disputes Act.

6. What do you understand by the unfair labour practices on the part of employers.
7. What do you understand by the unfair labour practices on the part of employees.



Further Readings

- I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
- V.V. Giri, Labor Problems in India.
- Pigou A.C., Economics of Welfare.
- Mamoria C.B., Dynamics of Industrial Relation in India.

Unit 13: Industrial Employment (Standing Orders) Act, 1946

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Objectives

After studying this chapter, you will be able to:

- Understand the context of The Industrial Employment (Standing Orders) Act, 1946.
- Get an awareness about Industrial Relations Code 2020

Introduction

A contract of employment is a category of contract used in labor law to attribute right and responsibilities between parties to a bargain. On the one end stands an "employee" who is "employed" by an "employer". It has arisen out of the old master-servant law, used before the 20th century.

The terms and conditions of an Employment contract signify the working style and culture of an organization. While employing a person in your organization or commercial set up, you need to define the relationship in a fair and unambiguous manner. Our Employment contract helps you protect the interests of the organization while being fair to the employee.

13.1 Industrial Employment (Standing Orders) Act, 1946

An Act require employers in industrial establishments formally to define Conditions of employment under them:

Whereas it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them.

It is hereby enacted as follow:

1. Short title, Extent and Application:

- (1) This act may be called the Industrial Employment (Standing Orders) Act, 1946.
- (2) It extends to the whole of India.
- (3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any industrial establishment employing such number of number of persons less than one hundred as may be specified in the notification.

(4) Nothing in this Act shall apply to:

(i) Any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946, apply; or

(ii) Any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 apply:

Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.

History of the Act:

The Act has been amended by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1943; The A.O. 1950; Act 3 of 1951; Act 36 of 1956; Act 16 of 1961; Act 39 of 1963; 51 of 1970 and 18 of 1982.

Object of the Act:

That the object of the Act is to have uniform Standing Orders providing for the matters enumerated in the Schedule to the Act, that it was not intended that there should be different conditions of service for those who are employed before and those employed after the Standing Orders came into force and finally, once the Standing Orders come into the force, they bind all those presently in the employment of the concerned establishment as well as those who are appointed thereafter. *Agra Electric Supply Co. Ltd. v. Aladdin*, (1969) 2 SCC 598; *U.P. Electric Supply Co. Ltd. v. Their Workman*, (1972) 2 SEC 54.

2. Interpretation:

In this Act, unless there is anything repugnant in the subject or context:

(a) "**appellate authority**" means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act:

[Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that Court or authority shall be deemed to be the appellate authority]

b) "**appropriate Government**" means in respect of industrial establishments under the control of the Central Government or a [Railway administration] or in a major Port, mine or oil field, the Central Government, and in all other in all other cases the State Government]

[Provided that where question arises as to whether any industrial establishment is under the control of the Central industrial establishment is under the control of the Central Government that Government may, either on a reference made to it by the employer or the workman or a trade union or other representative body of the workmen, or on its own motion and after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties]

(c) "**Certifying Officer**" means a Labour Commissioner or a Regional Labour Notes Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act:

(d) "**employer**" means the owner of an industrial establishment to which this Act for the time being applies, and includes:

Unit 13: Industrial Employment (Standing Orders) Act, 1946

(i) In a factory, any person named under [clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948], as manager of the factory;

(ii) In any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;

(iii) In any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means

(i) An industrial establishment as defined in clause (ii) of Section 2 of the Payment of Wages Act, 1936, or

(ii) A factory as defined in clause (m) of Section 2 of the Factories Act, 1948, or

(iii) A railway as defined in clause (4) of Section 2 of the Indian Railway Act, 1890, or

(iv) The establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

(f) "**Prescribed**" means prescribed by rules made by the appropriate Government under this Act;

(g) "**Standing orders**" means rules relating to matters set out in the Schedule;

(h) "**Trade union**" means a trade union for the time being registered under the Indian Trade Union Act, 1926;

(i) "**wages**" and "**workman**" have the meanings respectively assigned to them in clauses (rr) and (s) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947).

3. Submission of draft standing orders

(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in this industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where Model standing orders have been prescribed shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitting under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

4. Conditions for certification of standing orders

Standing orders shall be certifiable under this Act if-

(a) Provision is made therein for every matter set out in the Schedule, which is applicable to the industrial establishment, and

(b) The standing orders are otherwise in conformity with the provisions of this Act;

and it [shall be the function] of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

5. Certification of standing orders:

(1) On receipt of the draft under Section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, if any, of the workmen or where there is no trade union, to the workmen in such manner as may be prescribed, together with

a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications there in which his order under sub-section (2) may require and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

6. Appeals

1) [Any employer, workmen, trade union or other prescribed representatives of the workmen] aggrieved by the order of the Certifying Officer under sub-section (2) of Section 5 may, within [thirty days] from the date on which copies are sent under subsection (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions there to as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1) send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

7. Date of operation of standing orders

Standing orders shall, unless an appeal is preferred under Section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of Section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of Section 6.

8. Register of standing orders

A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

9. Posting of standing orders

The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

10. Duration and modification of standing orders

(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen [or a trade union or other representative body of the workmen] be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

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(2) Subject to the provisions of sub-section (1), an employer or workman [or a trade union or other representative body of the workmen] may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five copies of the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen 19 [or a trade union or other representative body of the workmen], a certified copy of that agreement shall be filed along with the application.

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.

10A. Payment of subsistence allowance

(1) Where any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance—

(i) At the rate of fifty per cent of the wages which workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and

(ii) At the rate of seventy-five per cent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If any dispute arises regarding the subsistence allowance payable to a workman under sub-section (1), the workman or the employer concerned may refer the dispute to the Labor Court, constituted under the Industrial Disputes Act, 1947 (14 of 1947), within the local limits of whose jurisdiction the industrial establishment wherein such workman is employed is situate and the Labor Court to which the dispute is so referred shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties.

(3) Notwithstanding anything contained in the foregoing provisions of this section, where provisions relating to payment of subsistence allowance under any other law for the time being in force in any State are more beneficial than the provisions of this section, the provisions of such other law shall be applicable to the payment of subsistence allowance in that State.

11. Certifying officers and appellate authorities to have powers of Civil Court

(1) Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of [Sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)]

(2) Clerical or arithmetical mistakes in any order passed by a Certifying officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that Officer or authority or the successor in office of such officer or authority, as the case may be.

12. Oral evidence in contradiction of standing orders not admissible

No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders finally certified under this Act shall be admitted in any Court.

12A. Temporary application of model standing orders

(1) Notwithstanding anything contained in Sections 1 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Act come into operation under Section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that

establishment, and the provisions of Section 9, sub-section (2) of Section 13 and Section 13-A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.

Section 12-A.—Where there are two categories of workmen, one in respect of the daily rated workmen and the other in respect of the monthly rated workmen, if there are certified standing orders in respect of the daily rated workers only, the prescribed model standing orders should be deemed to have been adopted for those who are employed on the monthly basis until such categories have their own certified standing orders.

13. Penalties and Procedure

(1) An employer who fails to submit draft standing orders as required by Section 3 or who modifies his standing orders otherwise than in accordance with Section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of [a Metropolitan or Judicial Magistrate of the second class] shall try any offence under this section.

13A. Interpretation, etc., of standing orders

If any question arises as to the application or interpretation of a standing order certified under this Act, any Employer or workman [or a trade union or other representative body of the workmen] may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947, and specified for the disposal of such proceeding by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall, after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.

13B. Act not to apply to certain industrial establishments.

Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defense Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations than may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

14. Power of exempt

The appropriate Government may by notification in the Official Gazette exempt, conditionally or unconditionally any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

14A. Delegation of powers

The appropriate Government may by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

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(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government, as may be specified in the notification.

15. Power to make rules

(1) The appropriate Government may after previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may:

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;

(b) set out model standing orders for the purposes of this Act;

(c) prescribe the procedure of Certifying Officers and appellate authorities;

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(e) provide for any other matter which is to be or may be prescribed;

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13.2 Industrial Relations Code, 2020

The Industrial Relations Code, 2020 provides a broader framework to protect the rights of workers to make unions, to reduce the friction between the employers, and workers and to provide regulations for settlement of industrial disputes.

The Code is prepared after amalgamating, simplifying and repealing following 3 central labor acts:

- i. The Trade Unions Act, 1926
- ii. The Industrial Employment (Standing Orders) Act, 1946
- iii. The Industrial Disputes Act, 1947

13.3 Scope & Applicability

The Code is designed to consolidate & amend the laws regarding Trade Unions, conditions of employment in Industrial establishment or undertaking, and sleek settlement of industrial disputes.

The code regulates the subsequent areas:

- Registration of Trade Union
- Cancellation of Trade Union
- Alteration of Name of Trade Union
- Formation of Work Committee
- Incorporation of a Registered Trade Union

- Recognition of Negotiating Union
- Preparation of Standing Order
- Register of Standing Order
- Constitution of Industrial Tribunal
- Illegal Strikes and Lock-outs
- Procedure for Retrenchment and Re-employment of Retrenched Worker
- Compensation to Workers in case of Transfer of Establishment
- Prohibition of Lay-off
- Closure of an Industrial Establishment

Objective

- The Code designated to safeguard the rights of employers and employees by providing easy labor reforms and to facilitate ease of Doing Business.
- The object of the Code is to realize industrial peace and harmony as the ultimate pursuit in resolving industrial disputes and to advance the progress of industry by bringing about the existence of harmony and cordial relationship between the employers and workers.

Key Definitions

1. Industry means any systematic activity carried on by co-operation between an employer and for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes, whether or not:

I. any capital has been invested for the purpose of carrying on such activity.

II. such activity is carried on with a motive to make any gain or profit, but does not include:

III. institutions owned or managed by organizations wholly or substantially engaged in any charitable, social or philanthropic service

IV. any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defense research, atomic energy and space any domestic service.

V. any other activity as may be notified by the Central Government.

2. **Employer means** a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employee or worker in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified by the head of the department in this behalf or where no authority is so specified, the head of the department, and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes:

I. in relation to an establishment which is a factory, the occupier of the factory,

II. where a person has been named as a manager of the factory

III. in relation to any other establishment, the person who, or the authority which has ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager or managing director, such manager or managing director; contractor and legal representative of a deceased employer.

3. **Employee means** any person other than an apprentice engaged under Apprentices Act, 1961 employed by an industrial establishment to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government, but does not include any member of the Armed Forces of the Union.

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4. **Worker means** any person except an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied and includes working journalists, and includes any such person who has been, dismissed, discharged or retrenched or otherwise terminated in connection with or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person:

I. who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957

II. who is employed in the police service or as an officer or other employee of a prison; or

III. who is employed mainly in a managerial or administrative capacity

IV. who is employed in a supervisory capacity drawing wage of exceeding eighteen thousand rupees (INR 18,000) per month or an amount as may be notified by the Central Government from time to time.

5. **Trade Union means** any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.

6. **Retrenchment means** termination by the employer of the service of a worker for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include: I. voluntary retirement of the worker II. retirement of the worker on reaching the age of superannuation III. termination of the service of the worker as a result of the non-renewal of the contract of employment between the employer.

7. **Standing orders means** orders relating to matters set out in the First Schedule.

Registration Of Trade Union

Any seven or more members of a trade union by subscribing to their names, apply for registration to the Authority according to Rules of the Trade Union.

At least ten percent of the workers or 100 workers, whichever is less, must be the members of the Trade Union on the date of making an application for registration.

Registered Trade Union shall continue to have at least ten percent of the workers or one hundred workers, whichever is less.

If the name of the Trade Union proposed to be registered is identical with an existing registered Trade Union, alteration of the name is required as asked by the Registrar of Trade Union.

Registered Trade Union shall be a body incorporate by the registered name, having a common seal and perpetual succession with the power to hold property.

Constitution of Work Committee

Industrial Establishment having or employed 100 or more workers during a period of 12 months, may be required to constitute a Work Committee to promote protective measures for securing and preserving sensible relations between the employer and workers.

Recognition of Negotiating Trade Union

- For a Registered trade union, there shall be a negotiating union or council to negotiate with the employer of the Industrial Establishment.

- If only one Trade Union of workers registered in an industrial establishment then the employer of such industrial establishment shall recognize such Trade Union as the sole negotiating union of the workers.

- If more than one Trade Union of registered workers in an Industrial Establishment then at least fifty-one percent or more of workers on the muster roll of that Industrial Establishment will be recognized as the sole negotiating union by the employer.

Grievance Redressal Committee

Industrial Establishment having 20 or more workers shall constitute one or more Grievance Redressal Committees with the maximum 10 members for resolution of disputes arising out of individual grievances.

Standing Orders

Industrial Establishment having or employed 300 or more workers on any day of during the period of 12 months, must prepare the standing orders on the following matters:

- Classification of workers
- Manner of intimating to workers for hours of work holidays, pay-days and wage rates
- Shift Working
- Attendance
- Conditions and procedure of leave and holidays
- Requirement to enter premises by certain gates, and liability to search.

Strikes and Lock-Outs

Every person employed in an Industrial Establishment is prohibited for strikes and lock-out, in breach of contract:

- without giving 60 days advance notice of strikes and lock-out to the employer
- within fourteen days of giving such notice; or
- before the expiry of the date of strikes and lock-out specified in any such notice; or
- during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings; or
- during the pendency of arbitration proceedings before an arbitrator & 60 days after conclusion of such proceedings

Change in the Conditions of Service

The employer is required to send a notice of change in the conditions of service in the following matters, to the workers being affected:

- wages, compensatory and other allowances
- contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of workers under any law for the time being in force
- hours of work and rest intervals
- leave with wages and holidays
- starting, alteration, or ending of shift operating otherwise than in accordance with standing orders
- classification by grades
- withdrawal of any customary concession or privilege or modification in usage
- introduction of recent provisions for discipline, or alteration of existing rules, except in so far as they are provided in standing orders
- rationalization, standardization, or improvement of plant or technique that is likely to lead to retrenchment of workers any increase or reduction in the no of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control.

Retrenchment

- Provides procedures for the retrenchment of workers and the re-employment of the retrenched worker.
- For the retrenchment, the employer must either give three months' notice or pay the retrenched worker in lieu of the notice period.
- Where any worker is retrenched and the employer proposes to take into his employment any person within one year of such retrenchment, an opportunity will be given to the retrenched workers who are citizens of India to offer themselves for re-employment.

Lay-Off

Lay-off is the inability of an employer from giving employment to a worker due to multiple factors such as shortage of coal, power, or breakdown of machinery. Non-seasonal industrial establishment (i.e. mines, factories, and plantations) with 50 to 300 workers is required to:

- pay 50% of basic wages and dearness allowance to a worker who has been laid off
- give one month's notice or wages for the notice period to the retrenched worker.
- non-seasonal industrial establishments with at least 300 workers is required to take prior approval from central or state government before lay-off, retrenchment or closure
- prior approval before lay-off, retrenchment or closure is required by the non-seasonal Industrial Establishments with at least 300 workers, from central or state government.

Closure

- Employer intending closure of an Industrial Establishment is required to serve 60 days advance notice to the Government.
- Provision for compensation in case of Closure to those workers who are in a continuous period of service not less than one year.

Exemptions

The Code provides that the central or state government may exempt any new establishment or a class of new establishment from all or any provisions of the Code in the public interest.

Summary

- The terms and conditions of an Employment contract signify the working style and culture of an organization.
- The Industrial Relations Code, 2020 provides a broader framework to protect the rights of workers to make unions, to reduce the friction between the employers, and workers and to provide regulations for settlement of industrial disputes.
- Industrial Employment (Standing Orders) Act, 1946 extends to the whole of India It applies to every industrial establishment wherein one hundred or more workmen are employed or were employed on any day of the preceding twelve months.

Keywords

- Industrial Relations

- Layoff, Retrenchment
- Closure
- Standing Orders
- Trade Union

Self Assessment

Q1. Is the Industrial Employment (Standing Orders) Act, 1946 extends to whole of India?

- A. True
- B. False

Q2. The Industrial Employment (Standing Orders) Act, 1946 applies to every industrial establishment wherein _____ workmen are employed.

- A. 250 or more workmen
- B. 100 or more workmen
- C. 150 or more workmen
- D. 200 or more workmen

Q3. Within six months from the date on which The Industrial Employment (Standing Orders) Act, 1946 becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer _____ copies of the draft standing orders proposed by him for adoption in his industrial establishment.

- A. Four
- B. Six
- C. Five
- D. Seven

Q4. The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English language only.

- A. True
- B. False

Q5. A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose.

- A. True
- B. False

Q6. The Industrial Relations Code-2020 has been passed by Lok Sabha on _____

- A. September 19, 2020
- B. September 22, 2020
- C. September 29, 2020
- D. September 28, 2020

Q7. The Industrial Relations Code-2020 has been passed by Rajya Sabha on _____

Unit 13: Industrial Employment (Standing Orders) Act, 1946

- A. September 19, 2020
- B. September 22, 2020
- C. September 23, 2020
- D. September 28, 2020

Q8. The Industrial Relations Code-2020 has increased the threshold for standing order from 100 to _____ workers.

- A. 200
- B. 300
- C. 400
- D. 500

Q9. The Industrial Relations Code-2020 is prepared after amalgamating, simplifying and repealing how many acts?

- A. Four
- B. Five
- C. Two
- D. Three

Q10. For a Registered trade union, there shall be a negotiating union or council to negotiate with the employer of the Industrial Establishment.

- A. True
- B. False

Q11. Standing orders will be prepared on which matter as per The Industrial Relations Code-2020?

- A. Classification of workers
- B. Shift Working
- C. Attendance
- D. All of the above

Q12. The employer is required to send a notice of change in the conditions of service in the following matters, to the workers being affected _____

- A. wages, compensatory and other allowances
- B. contribution paid, or payable, by the employer to any provident fund or pension fund
- C. hours of work and rest intervals
- D. All of the above

Q13. On receipt of the draft under Section 3, the shall forward a copy thereof to the trade union.

- A. Appropriate Government
- B. Certifying Officer
- C. Appellate Authority
- D. Employer

Q14. _____ means termination by the employer of the service of a worker for any reason.

- A. Retrenchment
- B. Closure
- C. Layoff
- D. None of the above

Q15. The Industrial Relations Code, 2020 provides a broader framework to:

- A. protect the rights of workers to make unions.
- B. reduce the friction between the employers.
- C. provide regulations for settlement of industrial disputes
- D. All of the above

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. A | 2. B | 3. C | 4. B | 5. A |
| 6. B | 7. C | 8. B | 9. D | 10. A |
| 11. D | 12. D | 13. A | 14. A | 15. D |

Review Questions

- Q1. State the facts about Industrial Employment (Standing Orders) Act, 1946 with relevant situations.
- Q2. Discuss the scope & applicability of Industrial Relations Code 2020.
- Q3. What are the different conditions of Certification of Standing Orders. Discuss the Certification of Standing Orders.
- Q4. Discuss the scope & applicability of 13.1 Industrial Employment (Standing Orders) Act, 1946



Further Readings

1. I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
2. V.V. Giri, Labor Problems in India.
3. Pigou A.C., Economics of Welfare.
4. Mamoria C.B., Dynamics of Industrial Relation in India.

Unit 14: Wage Legislation

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Objectives

After this unit, you will be able to:

- understand about the different sections under Equal Remuneration Act, 1976.
- understand the meaning of Wage Board.
- become aware about the composition of wage boards
- learn about the objectives of Wage Boards
- become aware about the criticisms of Wage Boards.
- become aware about the different sections of the Code on Wages, 2019.

Introduction

Equal pay for equal work is the concept of labour rights that individuals in the same workplace be given equal pay. It is most commonly used in the context of sexual discrimination, in relation to the gender pay gap. Equal pay relates to the full range of payments and benefits, including basic pay, non-salary payments, bonuses and allowances. Some countries have moved faster than others in addressing equal pay.

In 1976, the Equal Remuneration Act was passed with the aim of providing equal remuneration to men and women workers and to prevent discrimination on the basis of gender in all matters relating to employment and employment opportunities. This legislation not only provides women with a right to demand equal pay, but any inequality with respect to recruitment processes, job training, promotions, and transfers within the organization can also be challenged under this Act.

14.1 Introduction to Equal Remuneration Act, 1976

Applicability

Applicable to whole of India.

Overriding Effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement, or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.

Equal Remuneration

- Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.
- No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favorable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.
- No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.
- Where, in an establishment or employment, the rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are more than two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers.

No Discrimination

- No discrimination to be made while recruiting men and women workers.
- Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.
- On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, [or in any condition of service subsequent to recruitment such as promotions, training or transfer,] make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.
- Provided that the provisions of this section shall not affect any priority or reservation for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

Advisory Committee

- For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf.
- Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.
- In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment, and such other relevant factors as the Committee may think fit.
- The Advisory Committee shall regulate its own procedure.
- The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or

employment an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.

Maintaining Registers

- On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

Inspectors

- The appropriate Government may, by notification, appoint such persons as it may think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.
- Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

An Inspector may, at any place within the local limits of his jurisdiction,--

- enter, at any reasonable time, with such assistance as he thinks fit, any building, factory, premises or vessel;
- require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;
- take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with;
- examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been a worker in the establishment;
- make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

Penalties

If after the commencement of this Act, any employer, being required by or under the Act, so to do-

- omits or fails to maintain any register or other document in relation to workers employed by him, or
- omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or
- omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or
- omits or refuses to give any information, he shall be punishable [with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both].

If, after the commencement of this Act, any employer-

- makes any recruitment in contravention of the provisions of this Act, or
- makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or
- makes any discrimination between men and women workers in contravention of the provisions of this Act, or
- omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of section 6.

He shall be punishable

- with fine which shall not be less than ten thousand rupees, but which may extend to twenty thousand rupees or
- with imprisonment for a term which shall be not less than three months but which may extend to one year or
- with both for the first offence, and with imprisonment which may extend to two years for the second and subsequent offences
- If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

Cognizance and Trial of Offences

- No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
- No court shall take cognizance of an offence punishable under this Act except upon-
 - (a) its own knowledge or upon a complaint made by the appropriate Government or an officer authorized by it in this behalf, or
 - (b) a complaint made by the person aggrieved by the offence or by any recognised welfare institution or organization.

Power to Make Rules

- The Central Government may, by notification, make rules for carrying out the provisions of this Act.
- In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--
 - (a) the manner in which complaint or claim referred to in sub-section (1) of section 7 shall be made;
 - (b) registers and other documents which an employer is required under section 8 to maintain in relation to the workers employed by him;
 - (c) any other matter which is required to be, or may be, prescribed.

Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Give Directions

- The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

Certain Special Cases

Nothing in this Act shall apply--

- a) to cases affecting the terms and conditions of a woman's employment in complying with the requirements of any law giving special treatment to women, or
- b) to any special treatment accorded to women in connection with--
 - i. the birth or expected birth of a child, or
 - ii. the terms and conditions relating to retirement, marriage or death or to any provision made in connection with the retirement, marriage or death.

Power to make declaration

Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the differences in regard to the remuneration, or a particular species of remuneration, of men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Act.

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification, make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

Repeal and saving

- The Equal Remuneration Ordinance, 1975 (12 of 1975) is hereby repealed.
- Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force when such thing was done or action was taken.

14.2 Wage Board

- Wage board is a tripartite body with representatives of management, and workmen, presided over by an independent person nominated by the Government.
- The board is required to fix wages in accordance with the principles of wage fixation.
- The Wage Boards help to resolve the disputes in a democratic manner by bringing the parties together, without compulsion on either side.
- It may, however, be pointed out that a Wage Board can only make recommendations, as there is no legal sanction behind it.
- But for all practical purposes, a Board's recommendations are regarded as awards, and if unanimous, are made binding on the parties.

When was the first wage board set up?

The first wage board was set up in 1957 in the Cotton Textile Industry.

Composition of Wage Boards

Tripartite, i.e., it comprises of the representatives from industry, trade unions and the Government.

A wage board is a non-statutory body comprising of equal number of representatives of the employers and the employees or their trade unions who are appointed by the Government and it is chaired by a serving or retired judge who is a Government nominee.

Objectives of Wage Board

1. To align the wage settlements with the social and economic policies of the Government.
2. To represent consumers/public the interests.
3. To standardize wage structure throughout the industry concerned.
4. To provide better climate for industrial relations.
5. To work out wage structure based on the principles of fair wages as formulated by the Committee on Fair Wages.
6. To work out a system of payment by results.
7. To evolve a wage structure based on the requirements of social justice.
8. To evolve a wage structure based on the need for adjusting wage differentials in a manner to provide incentives to workers for advancing their skill.

Working of Wage Boards

1. The first step is to prepare a comprehensive questionnaire designed to collect information on the prevailing wage rates and skill differentials, means of assessing an industry paying capacity and workloads, prospects for industry in the immediate future, and regional variations in the prices of widely consumed consumer goods.

The questionnaire is sent out to labour unions, employers associations, interested individuals, academic organizations and government agencies.

2. The second step is to give a public hearing at which leaders of labor unions and employers associations, not represented on the board, as well as others interested in the industry in question are given a verbal or oral bearing on issues dealing with wages, working conditions and other items.
3. The third step is to convene secret sessions at which members of the board make proposals and counter - proposals regarding the items covered under the terms of reference. In the case of failure to reach a unanimous decision on issues, each party has the right to veto the others decision.

Criticism of Wage Board

1. The recommendations of the Boards have no legal sanction so that the parties are not bound to accept them.
2. Very often the recommendations of the Boards are results of compromise decisions and cannot therefore become consistent long range wage policy.
3. When the Government has to legislate for giving effect to the recommendations of a Board, as it happened in the case of the Textile Board award, the element of compulsion is brought back, and that militates against the very spirit of such boards.
4. Since the members of the Boards are not always the true representatives of the employers and workers, individual units are led to doubt the bona fides of the members.
5. The Boards often make recommendations on all-India basis, with the result that at times the special problems relating to any particular region may be ignored.
6. The time lag between the making of the recommendations and their implementation is generally very great.

14.3 Code on Wages, 2019

Prohibition of Discrimination on Grounds of Gender

1. There shall be no discrimination in an establishment or any unit thereof among employees on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee.
2. No employer shall, --
 - I. for the purposes of complying with the provisions of sub-section (1), reduce the rate of wages of any employee; and
 - II. make any discrimination on the ground of sex while recruiting any employee for the same work or work of similar nature and in the conditions of employment, except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

The decision as to Disputes With Regard to Same or Similar Nature of Work.

- Where there is any dispute as to whether a work is of the same or similar nature for the purposes of section 3, the dispute shall be decided by such authority as may be notified by the appropriate Government.

Payment of Minimum Rate of Wages.

- No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government.

Fixation of Minimum Wages

1. Subject to the provisions of section 9, the appropriate Government shall fix the minimum rate of wages payable to employees in accordance with the provisions of section 8.
2. For the purposes of subsection (1), the appropriate Government shall fix a minimum rate of wages--
 - a) for time work; or
 - b) for piece work.
3. Where employees are employed on piece work, for the purpose of subsection (1), the appropriate Government shall fix a minimum rate of wages for securing such employees a minimum rate of wages on a time work basis.
4. The minimum rate of wages on a time work basis may be fixed in accordance with any one or more of the following wage periods, namely:--
 - a) by the hour; or
 - b) by the day; or
 - c) by the month.
5. Where the rates of wages are fixed by the hour, day, or month, the manner of calculating the wages shall be such, as may be prescribed.
6. For the purpose of fixation of the minimum rate of wages under this section, the appropriate Government,-
 - a) shall primarily take into account the skill of workers required for working under the categories of unskilled, skilled, semi-skilled and highly-skilled or geographical area or both; and
 - b) may, in addition to such minimum rate of wages for a certain category of workers, take into account their arduousness of work like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work as may be prescribed by that Government; and
 - c) The norms of such fixation of the minimum rate of wages shall be such as may be prescribed.
7. The number of minimum rates of wages referred to in subsection (6) may, as far as possible, be kept at a minimum by the appropriate Government.

Components of Minimum Wages

1. Any minimum rate of wages fixed or revised by the appropriate Government under section 8 may consist of—
 - a) a basic rate of wages and an allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost-of-living index number applicable to such workers (hereinafter referred to as "cost of living allowance");
 - b) a basic rate of wages with or without the cost-of-living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorized; or
 - c) an all-inclusive rate allowing for the basic rate, the cost-of-living allowance and the cash value of the concessions, if any.
2. The cost-of-living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rate shall be computed by such authority, as the appropriate Government may by notification, appoint, at such intervals and in accordance

with such directions as may be specified or given by the appropriate Government from time to time.

Procedure for Fixing and Revising Minimum Wages

1. In fixing minimum rates of wages for the first time or in revising minimum rates of wages under this Code, the appropriate Government shall either –
 - a) appoint as many committees as it considers necessary to hold enquiries and recommend in respect of such fixation or revision, as the case may be; or
 - b) by notification publish its proposals for the information of persons likely to be affected thereby and specify a date not less than two months from the date of the notification on which the proposals shall be taken into consideration.
2. Every committee appointed by the appropriate Government under clause (a) of sub-section (1) shall consist of persons--
 - a) representing employers;
 - b) representing employees which shall be equal in number of the members specified in clause (a); and
 - c) independent persons, not exceeding one-third of the total members of the committee.
3. After considering the recommendation of the committee appointed under clause (a) of sub-section (1) **or**,
 - as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section,
 - the appropriate Government shall by notification fix, **or**
 - as the case may be, revise the minimum rates of wages **and**
 - unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:
 - Provided that where the appropriate Government proposes to revise the minimum rates of wages in the manner specified in clause (b) of sub-section (1), it shall also consult the concerned Advisory Board constituted under section 42.

Power of Central Government to Fix Floor Wage

1. The Central Government shall fix floor wage taking into account minimum living standards of a worker in such manner as may be prescribed:

Provided that different floor wages may be fixed for different geographical areas.

2. The minimum rates of wages fixed by the appropriate Government under section 6 shall not be less than the floor wage

and

if the minimum rates of wages fixed by the appropriate Government earlier are more than the floor wage,

then,

the appropriate Government shall not reduce such minimum rates of wages fixed by it earlier.

3. The Central Government may, before fixing the floor wage under sub-section (1), obtain the advice of the Central Advisory Board constituted under sub-section (1) of section 42 and consult State Governments in such manner as may be prescribed.

Wages of Employee Who Works for Less Than Normal Working Day

- If an employee whose minimum rate of wages has been fixed under this Code by the day works on any day on which he was employed for a period of less than the requisite number of hours constituting a normal working day, he shall, save as otherwise hereinafter

provided, be entitled to receive wages in respect of work done on that day, as if he had worked for a full normal working day:

Provided that he shall not be entitled to receive wages for a full normal working day-

- I. in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work; and
- II. in such other cases and circumstances, as may be prescribed.

Summary

- It is the duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.
- No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favorable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.
- No discrimination to be made while recruiting men and women workers.

Keywords

- Remuneration - Remuneration is the pay or other financial compensation provided in exchange for an employee's services performed.
- Wage - A wage is payment made by an employer to an employee for work done in a specific period of time.
- Cognizance - to take notice of and consider something, especially when judging
- Trial - the formal examination before a competent tribunal of the matter in issue in a civil or criminal cause in order to determine such issue.
- Floor wage - A floor wage is a minimum wage established by law. It functions as a benchmark for wages to ensure that the wages do not fall below the set limit.
- Minimum wage - As per International Labour Organisation (ILO), minimum wages have been defined as the minimum remuneration that an employer is required to pay wage earners for the work performed during a given period. It cannot be less than the floor wage established by the law. It varies across different categories of workers.

Self Assessment

1. Duty of employer to pay _____ remuneration to men and women workers for same work or work of a similar nature.
 - A. equal
 - B. unequal
 - C. different
 - D. comparative
2. No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates _____ than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

- A. less favorable
 - B. more favorable
 - C. none of these
 - D. all of these
3. _____ discrimination to be made while recruiting men and women workers.
- A. some
 - B. No
 - C. none of these
 - D. all of these
4. Every Advisory Committee (Equal Compensation Act, 1976) shall consist of not less than ___ persons, to be nominated by the appropriate Government, of which one-half shall be women.
- A. Eight
 - B. Seven
 - C. Six
 - D. Ten
5. Every Inspector (Equal Compensation Act, 1976) shall be deemed to be a public servant within the meaning of section ___ of the Indian Penal Code (45 of 1860).
- A. 20
 - B. 21
 - C. 22
 - D. 23
6. The Central Government may give directions to a _____ as to the carrying into execution of this Act(Equal Compensation Act, 1976) in the State.
- A. State Government
 - B. Central Government
 - C. none of these
 - D. all of these
7. Wage board is a _____ body with representatives of management, and workmen, presided over by an independent person nominated by the Government.
- A. Tripartite
 - B. Bipartite
 - C. none of these
 - D. all of these
8. The Wage board is required to fix wages in accordance with the principles of wage fixation.
- A. True
 - B. False

9. The Wage Boards help to resolve the disputes in a _____ manner by bringing the parties together, without compulsion on either side.
- A. autocratic
 - B. bureaucratic
 - C. democratic
 - D. none of these
10. No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government.
- A. True
 - B. False
11. For the purposes of subsection (1), the appropriate Government shall fix a minimum rate of wages--
- i. for time work; or
 - ii. for piece work.
- A. i
 - B. ii
 - C. i and ii
 - D. none of these
12. For the purpose of fixation of the minimum rate of wages under this section, the appropriate Government,-
- i. shall primarily take into account the skill of workers required for working under the categories of unskilled, skilled, semi-skilled and highly-skilled or geographical area or both; and
 - ii. may, in addition to such minimum rate of wages for a certain category of workers, take into account their arduousness of work like temperature or humidity normally difficult to bear, hazardous occupations or processes or underground work as may be prescribed by that Government; and
 - iii. The norms of such fixation of the minimum rate of wages shall be such as may be prescribed.
- A. i
 - B. ii
 - C. i and ii
 - D. i, ii, and iii
13. Remuneration is the pay or other financial compensation provided in exchange for an employee's services performed.
- A. True
 - B. False
14. A wage is payment made by an employer to an employee for work done in a specific period of time.

- A. True
- B. False

15. As per _____, minimum wages have been defined as the minimum remuneration that an employer is required to pay wage earners for the work performed during a given period. It cannot be less than the floor wage established by the law. It varies across different categories of workers.
- A. WTO
 - B. ILO
 - C. IMF
 - D. none of these

Answers for Self Assessment

- | | | | | |
|-------|-------|-------|-------|-------|
| 1. A | 2. A | 3. B | 4. D | 5. B |
| 6. A | 7. A | 8. A | 9. C | 10. A |
| 11. C | 12. D | 13. A | 14. A | 15. B |

Review Questions

1. What do you understand about the different sections under Equal Remuneration Act, 1976?
2. What do you understand by Wage Board?
3. Elaborate composition of wage boards.
4. What do you about the objectives of Wage Boards?
5. What are the different sections of the Code on Wages, 2019?



Further Readings

1. I.S. Ghosh, Trade Unionism in the Underdeveloped Countries.
2. V.V. Giri, Labor Problems in India.
3. Pigou A.C., Economics of Welfare.
4. Mamoria C.B., Dynamics of Industrial Relation in India.

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