



RAMA
UNIVERSITY

w w w . r a m a u n i v e r s i t y . a c . i n

**FACULTY OF COMMERCE &
MANAGEMENT**

COURSE: MBA 3rd SEMESTER

SUBJECT: LABOUR LEGISLATIONS

SUBJECT CODE: MBAHR01

LECTURE: 14

NAME OF FACULTY: DR. H. L. BHASKAR

Lecture-14



Legislations concerning settlement of disputes: Industrial Disputes Act, 1947; Trade Unions Act, 1926

Industrial Disputes Act, 1947 - About industrial disputes

The objective of the Industrial Disputes Act 1947 is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations. This act deals with the retrenchment process of the employees, procedure for layoff, procedure and rules for strikes and lockouts of the company.

What is an industrial dispute?

According to Section 2A: Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

Industrial Disputes have adverse effects on industrial production, efficiency, costs, quality, human satisfaction, discipline, technological and economic progress and finally on the welfare of the society. A discontent labour force, nursing in its heart mute grievances and resentments, cannot be efficient and will not possess a high degree of industrial morale. Hence, the Industrial Dispute Act of 1947, was passed as a preventive and curative measure.

SCOPE AND OBJECT

The Industrial Dispute Act of 1947, came into force on the first day of April, 1947. Its aim is to protect the workmen against victimization by the employers and to ensure social justice to both employers and employees. The unique object of the Act is to promote collective bargaining and to maintain a peaceful atmosphere in industries by avoiding illegal strikes and lock outs. The Act also provides for regulation of lay off and retrenchment. The objective of the Industrial Disputes Act is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.

DEFINITIONS

Appropriate Government [Sec. 2(a)]: Appropriate Government means the Central Government in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, any industry carried on by a Railway Company, any controlled industry specified by the Central Government, The Unit Trust of India. Corporations under the Central Statutes, Banking company, Insurance company. Mines. Oil field, Cantonment board, Major ports, etc. In relation to any other industrial dispute, the appropriate Government is the State Government.

Award [Sec 2 (b)] means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under section 10A;

Industry [Sec. 2(j)]: Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

Industrial Dispute [Sec. 2(k)]: means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

PUBLIC UTILITY SERVICES

FIRST SCHEDULE

INDUSTRIES WHICH MAY BE DECLARED TO BE PUBLIC UTILITY SERVICES UNDER SUB-CLAUSE (VI) OF CLAUSE (N) OF SECTION 2

1. Transport (other than railways) for the carriage of passengers or goods by land or water.
2. Ports or Docks
3. any postal, telegraph or telephone service;
4. any industry which supplies power, light or water to the public
5. any system of public conservancy or sanitation;
6. Banking.
7. Cement.
8. Coal.
9. Cotton textiles.
10. Foodstuffs.
11. Iron and steel.
12. Defence establishments.
13. Service in hospitals and dispensaries.
14. Fire brigade service.
15. India Government Mints.
16. India Security Press.
17. Copper Mining.
18. Lead Mining.
19. Zinc Mining.
20. Iron Ore Mining.
21. Service in any oil field.
22. Omitted
23. Service in uranium industry.
24. Pyrites mining industry.
25. Security Paper Mill, Hoshangabad.

26. Services in Bank Note Press, Dewas.
27. Phosphorite mining.
28. Magnesite Mining.
29. Currency Note Press.
30. Manufacture or production of mineral oil (crude oil), motor and aviation spirit, diesel oil, kerosene oil, fuel oil, diverse hydrocarbon oils and their blends including synthetic fuels, lubricating oils and the like.
31. Service in the International Airports Authority of India.
32. Industrial establishments manufacturing or producing Nuclear Fuel and Components, Heavy Water and Allied Chemicals & Atomic Energy.

2(k) "industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

Settlement [Sec. 2(p)]: Settlement means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between an employer and a workman arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised by the Appropriate Government and the Conciliation Officer.

Wages [Sec. 2(rr)]: Wages mean all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied were fulfilled, be payable to a workman in respect of his employment or of the work done in such an employment and includes:

- (i) such allowances (including dearness allowance) as the workman is for the time being entitled to;
- (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;
- (iii) Any traveling concession. But the following are excluded:
 - (a) Any bonus.
 - (b) Any contribution paid or payable to any pension fund or provident fund, or for the benefit of the workman under any law for the time being in force.
 - (c) Any gratuity payable on the termination of his service.

2(n) "Public utility service" means -

- (i) any railway service or any transport service for the carriage of passengers or goods by air;
- (ia) any service in, or in connection with the working of, any major port or dock;

- (ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;
- (iii) any postal, telegraph or telephone service;
- (iv) any industry which supplies power, light or water to the public;
- (v) any system of public conservancy or sanitation;
- (vi) any industry specified in the First Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act, for such period as may be specified in the notification

DISPUTE SETTLEMENT AUTHORITIES UNDER THE ACT

The I.D. Act provides elaborate and effective machinery for the investigation and amicable settlement of industrial disputes by setting up the various authorities. These are:

1. Works Committee;
2. Conciliation Officer;
3. Conciliation Board;
4. Court of Enquiry;
5. Labour Court;
6. Industrial Tribunal;
7. National Tribunal;
8. Arbitrators;
9. Grievances Settlement Authority.

DISMISSAL, ETC., OF AN INDIVIDUAL WORKMAN TO BE DEEMED TO BE AN INDUSTRIAL DISPUTE. [Sec 2A]

Difference in between the workman and his employer connected arising out of following activities shall be deemed to the industrial dispute.

- Dismissal of workman
- Discharge of workman
- Retrenchment of the workman
- Termination of workman from his services

[Sec 2A (2)]

Workman having the disputes can make a application to the conciliation officer to settle the dispute. After the expiry of 3 months of time conciliation officer fails to settle the dispute, workman can make a direct application to labour courts or tribunals for adjudication.

[Sec 2A (3)]

Workman should make an application to labour courts or tribunals for adjudication before the expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination of service of workman,

WORKS COMMITTEE [Sec. 3]: In the case of an industrial establishment in which 100 or more workmen are employed, the appropriate Government may require the employer to constitute a 'Work Committee'. It consists of equal number of representatives of employers and workmen engaged in the establishment. The representatives of the workmen shall be chosen from amongst the workmen engaged in the establishment and in consultation with the registered trade union, if any. Works committee deals with the workers problem arising day to day in the industrial establishment.

CONCILIATION OFFICER [Sec. 4]: The appropriate Government is empowered to appoint any number of persons, as it thinks fit, to be conciliation officers. The conciliation officer having duty of mediating and acts as the mediators in between the parties to resolve the dispute.

In the case of public utility services matters like strikes and lockouts the conciliation officer can initiate the conciliation proceeding and tries to settle the dispute in between the parties.

If the conciliation officer fails to resolve the dispute between the parties, he should report to the appropriate government. If necessary the dispute shall be referred to the Board, Labour Court, Tribunal or National Tribunal, by the appropriate government. [Sec 12 (5)]

Duties of conciliation officers. [Sec 12]

- Hold conciliation proceedings relating to Strikes and lockouts procedural matters of public utility services.
- Investigate the matters of the disputes.
- Conciliation officers shall induce the parties to come to a fair and amicable settlement of the dispute.
- Duty to send the report of settlement of dispute and memorandum of the settlement signed by the parties to the dispute to the government or his superior.
- In case of failure of settlement of dispute in between parties, duty to send them to the government or his superior, report of facts and circumstances relating to the disputes and in his opinion, a settlement could not be arrived at,
- Duty to send the report to the government or his superior within 14 days from the commencement of the proceeding. or within such shorter period as may be fixed by the appropriate Government .

CONCILIATION BOARD [Sec. 5]: as occasion arises appropriate Government is also authorised to constitute a Board of conciliation for promoting the settlement of an industrial dispute. It consists of a chairman who shall be an independent person, and two or four other members. The members appointed shall be in equal numbers to represent the parties to the dispute. On the dispute being referred to the Board it is the duty of the Board to do all things as it thinks fit for the purpose of inducing the parties to come to fair and amicable settlement.

If there are many parties relating to or in the dispute the government may appoint the conciliation board consisting of the above said members

According to [Sec 10 (2)] when parties in the industrial dispute apply to the government to refer dispute to the Conciliation Board and if government satisfies it shall make the reference to the Conciliation Board.

Duties of board. [Sec 13]

- it shall be the duty of the Board to endeavor to bring about a settlement of dispute.
- Investigate the matters relating to the dispute between parties and inducing the parties to come to a fair and amicable settlement of the dispute.
- In case of failure of settlement of dispute in between parties, duty to send to the government the report of facts and circumstances relating to the disputes and board opinion, a settlement could not be arrived at,
- The Board shall submit its report under this section within 2 months of the date on which the dispute was referred to it or within such shorter period as may be fixed by the appropriate Government.

COURT OF ENQUIRY [Sec. 6]: as occasion arises, Government can initiate a Court of Inquiry. This Court of Inquiry was to find out matters connected with or relevant to an industrial dispute. Where a Court consists of two or more members, one of them shall be appointed as the chairman.

A Court of Inquiry looks into only matters which are referred to it by Government and submits its report to the Government ordinarily within certain period from the date of reference.

ADJUDICATION

Labour Court [Sec. 7]: The appropriate Government is empowered to constitute one or more Labour Courts. Its function is the adjudication of industrial disputes relating to any matter specified in the Second Schedule.

A Labour Court consists of one person only. A person is qualified to be appointed as presiding officer of a Labour Court, if:

- (a) he is, or has been a judge of a High Court, or
- (b) he has been a District judge or an Additional District judge for at least three years, or

(c) he has held the office of the chairman or any other member of the Labour Appellate Tribunal or of any Tribunal for at least two years, or

(d) he has held any judicial office in India for not less than seven years, or

(e) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for at least five years.

(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least 7 years' experience in the labour department after having acquired degree in law including three years of experience as Conciliation Officer:

(g) as the case may be, before being appointed as the presiding officer; or (g) he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.”

MATTERS WITHIN THE JURISDICTION OF LABOUR COURTS.

SECOND SCHEDULE

1. The propriety or legality of an order passed by an employer under the standing orders;
 2. The application and interpretation of standing orders;
 3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
 4. Withdrawal of any customary concession or privilege;
 5. Illegality or otherwise of a strike or lock-out; and
- According to [Sec 10 (1) (c)] matters specified in THIRD SCHEDULE, dispute not effecting more than 100 workers can be referred to labour court.
 - According to [Sec 10 (2)] when parties in the industrial dispute apply to the government to refer dispute to the labour court and if government satisfies it shall make the reference to the labour courts.
 - According to [Sec 10 (6)] no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal.

Industrial Tribunal [Sec. 7A]: 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 and for performing such other functions as may be assigned to them under this Act.

A Tribunal consists of one person only.

For appointment as the presiding officer of a Tribunal

- he is, or has been, a Judge of a High Court; or
- he has, for a period of not less than 3 years, been a District Judge or an Additional District Judge;
- he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at 7 seven years' experience in the labour department after having acquired degree in law including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or he is an officer of Indian Legal Service in Grade III with three years' experience in the grade.”

Matters with in The Jurisdiction of Industrial Tribunals

THIRD SCHEDULE

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed.

- According to [Sec 10 (2)] when parties in the industrial dispute apply to the government to refer dispute to the industrial tribunal and if government satisfies it shall make the reference to the industrial tribunal.
- According to [Sec 10 (6)] no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal