



RAMA UNIVERSITY

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FACULTY OF COMMERCE & MANAGEMENT

COURSE: MBA 3rd SEMESTER

SUBJECT: LABOUR LEGISLATIONS

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LECTURE: 16

NAME OF FACULTY: DR. H. L. BHASKAR

Lecture-16



Continue.....

Industrial Disputes Act, 1947

Prohibition of unfair labor practice

According to [section 25T]

No employer or workman or a trade union, whether registered under the [Trade Unions Act, 1926](#) (16 of 1926), or not, shall commit any unfair labor practice.

Penalty for committing unfair labor practices

According to [section 25U]

Any person who commits any unfair labor practice shall be punishable with imprisonment for a term which may extend to 6 months or with fine which may extend to Rs.1000/- or with both.

PENALTIES

Sec	Reasons	Punishment
25U	unfair labour practice	punishable with imprisonment for a term which may extend to 6 months or with fine which may extend to 1000/- rupees or with both.
26	Illegal Strikes	punishable with imprisonment for a term which may extend to one month, or with fine which may extend to 50/- rupees, or with both.
26	Illegal Lock-Outs	punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one 1000/- rupees, or with both.
27	Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act,	punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to one 1000/- rupees, or with both.
28	Giving Financial Aid To Illegal Strikes And Lock-Outs	punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to 1000/- rupees, or with both.

30	Disclosing Confidential Information	Punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to 1000/- rupees, or with both.
30A	Closure of establishment Without Notice	punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to 5000/- rupees, or with both.
31	contravenes the provisions of section 33	Punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to 1000/- rupees, or with both.

Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings [Section 33]

(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before [an arbitrator or] a Labor Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall-

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending;

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with standing orders applicable to a workman concerned in such dispute [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman]-

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

PROVIDED that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to

the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2) no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute-

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation: For the purposes of this sub-section a "protected workman" in relation to an establishment, means a workman who, being ¹⁵⁰[a member of the executive or other office bearer] of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to conciliation officer , Board, ¹⁰⁷[an arbitrator, a Labor Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, ¹⁰²[within a period of three months from the date of receipt of such application], such order in relation thereto as it deems fit:]

PROVIDED that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further periods as it may think fit:

PROVIDED FURTHER that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.]

Section 33(2)(b) ID Act- SC Explains Scope Of Enquiry By Labour Court While Granting/Refusing Approval For Discharge/Dismissal Of Workman [\[Read Judgment\]](#)

The Supreme Court has observed that a Labour Court or Tribunal while holding enquiry under Section 33(2)(b) of the Industrial Disputes Act cannot invoke the adjudicatory powers vested in them under Section 10(i)(c) and (d) of the Act.

They also cannot dwell upon the proportionality of punishment in the process of formation of their prima facie view under Section 33(2)(b), the bench comprising Justice Sanjay Kishan Kaul and Justice Surya Kant observed.

Firstly, the Labour Court/Tribunal will consider as to whether or not a prima facie case for discharge or dismissal is made out on the basis of the domestic enquiry if such enquiry does not suffer from any defect, namely, it has not been held in violation of principles of natural justice and the conclusion arrived at by the employer is bona fide or that there was no unfair labour practice or victimisation of the workman. This entire exercise has to be undertaken by the Labour Court/Tribunal on examination of the record of enquiry and nothing more. In the event where no defect is detected, the approval must follow. The second stage comes when the Labour Court/Tribunal finds that the domestic enquiry suffers from one or the other legal ailment. In that case, the Labour Court/Tribunal shall permit the parties to adduce their respective evidence and on appraisal thereof the Labour Court/Tribunal shall conclude its enquiry whether the discharge or any other punishment including dismissal was justified.

Though the Labour Court or the Tribunal while exercising their jurisdiction under Section 33(2)(b) are empowered to permit the parties to lead evidence in respect of the legality and propriety of the domestic enquiry held into the misconduct of a workman, such evidence would be taken into consideration by the Labour Court or the Tribunal only if it is found that the domestic enquiry conducted by the Management on the scale that the standard of proof required therein can be 'preponderance of probability' and not a 'proof beyond all reasonable doubts' suffers from inherent defects or is violative of principles of natural justice. In other words, the Labour Court or the Tribunal cannot without first examining the material led in the domestic enquiry jump to a conclusion and mechanically permit the parties to lead evidence as if it is an essential procedural part of the enquiry to be held under Section 33(2)(b) of the Act.

Special provision for adjudication as to whether conditions of service, etc, changed during pendency of proceedings [Section 33A]

Where an employer contravenes the provisions of section 33 during the pendency of proceedings ¹⁰²[before a conciliation officer, Board, an arbitrator, Labor Court, Tribunal or National Tribunal] any employee aggrieved by such contravention, may make a complaint in writing ¹⁵²[in the prescribed manner-

(a) to such conciliation officer or Board, and the conciliation officer or Board shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Labor Court, Tribunal or National Tribunal and on receipt of such complaint, the arbitrator, Labor Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate government and the provisions of this Act shall apply accordingly.

Power to transfer certain proceedings [Section 33B.]

(1) The appropriate government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labor Court, Tribunal or National Tribunal and transfer the same to another Labor Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labor Court, Tribunal or National Tribunal to which the proceedings is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred:

PROVIDED that where a proceeding under section 33 or section 33A is pending before a Tribunal or National Tribunal, the proceeding may also be transferred to a Labor Court.

(2) Without prejudice to the provisions of sub-section (1), any Tribunal or National Tribunal, if so authorized by the appropriate government, may transfer any proceeding under section 33 or section 33A pending before it to any one of the Labor Courts specified for the disposal of such proceedings by the appropriate government by notification in the Official Gazette and the Labor Court to which the proceedings is so transferred shall dispose of the same.

Recovery of money due from an employer [Section 33C]

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of [Chapter VA or Chapter VB] the workman himself or any other person authorized by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate government for the recovery of the money due to him, and if the appropriate government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

PROVIDED that every such application shall be made within one year from the date on which the money became due to the workman from the employer:

PROVIDED FURTHER that any such application may be entertained after the expiry of the said period of one year, if the appropriate government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labor Court as may be specified in this behalf by the appropriate government [within a period not exceeding three months:]

[PROVIDED that where the presiding officer of a Labor Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.]

(3) For the purposes of computing the money value of a benefit, the Labor Court may, if it so thinks fit, appoint a Commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labor Court and the Labor Court shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(4) The decision of the Labor Court shall be forwarded by it to the appropriate government and any amount found due by the Labor Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation: In this section "Labor Court" includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.]