

INDUSTRIAL DISPUTE ACT, 1947.

WHAT IS INDUSTRIAL DISPUTE?

Industrial disputes may be said to be disagreement or controversy between management and labour with respect to wages, working conditions, other employment matters or union recognition.

INDUSTRIAL CONFLICT: FORMS AND CAUSES

Industrial conflicts constitute militant and organized protests against existing industrial conditions. They are symptoms of industrial unrest. The term 'industrial dispute' as described in the Industrial Disputes Act, 1947 is characterized by the following features

FEATURES OF THE TERM 'INDUSTRIAL DISPUTE'

- There should be a difference or dispute
- The dispute could be between employer-employer, employee-employee or employer-employee
- The dispute must pertain to some work-related issue
- The dispute must be raised by a group or class of workers. For example the dispute between one or two workers and the respective employer is not an industrial dispute

METHODS OF SETTling INDUSTRIAL DISPUTES

Without state intervention

1. Collective bargaining
 - I. Without conciliation
 - II. With conciliation

2. voluntary arbitration

METHODS OF SETTling INDUSTRIAL DISPUTES

With state intervention

1. Compulsory establishment of bipartite committees
2. Establishment of Compulsory collective bargaining
3. Compulsory investigation
4. Compulsory conciliation and mediation
5. Compulsory arbitration or adjudication

**What is
Collective
Bargaining?**



DEFINITION

- Collective bargaining is a type of negotiation used by employees to work with their employers.
- During a collective bargaining period, workers' representatives approach the employer and attempt to negotiate a contract which both sides can agree with.
- Typical issues covered in a labor contract are hours, wages, benefits, working conditions, and the rules of the workplace.
- Once both sides have reached a contract that they find agreeable, it is signed and kept in place for a set period of time, most commonly three years.
- The final contract is called a collective bargaining agreement, to reflect the fact that it is the result of a collective bargaining effort.
- The parties often refer to the result of negotiation as a *Collective Bargaining Agreement (CBA)* / as a *Collective Employment Agreement (CEA)*.



COLLECTIVE BARGAINING IMPLIES THE FOLLOWING MAIN STEPS:

- a) Presentation in a collective manner, to the employer, their demands and grievances by the employees;
- b) Discussions and negotiations on the basis of mutual give and take for settling the grievances and fulfilling the demands;
- c) Signing of a formal agreement or an informal understanding when negotiations result in mutual satisfaction; and

COLLECTIVE BARGAINING IMPLIES THE FOLLOWING MAIN STEPS:

- a) In the event of failure of negotiations, a likely resort to strike or lock-out to force the recalcitrant party to come to terms.
 - ⦿ When collective negotiations reach a deadlock, the parties themselves may call in third persons to help them settle their disputes.
 - ⦿ The role of this third person is to break the deadlock, to interpret the view point of one to the other, and thereby to help the parties arrive at an agreement.

VOLUNTARY ARBITRATION

- ◉ It is the process in which the disputing parties show willingness to go to an arbitrator (a third party) and submit to his decision voluntarily.
- ◉ agreement between workman and management, Send copy to the Government and conciliation officer, publication of agreement

VOLUNTARY ARBITRATION

- ◉ In many cases an argument simply cannot be settled as both parties disagree on their own grounds. They therefore enter into Voluntary Arbitration, which involves appointing an independent party to assess the situation and then make a decision based on the facts presented to them.
- ◉ It is commonly viewed as less expensive and faster than resolving a dispute in court.
- ◉ An arbitrator may be a single person or a panel.

VOLUNTARY ARBITRATION

- ◉ At the time of submitting a dispute to arbitration, the parties may agree in advance, to abide by the award of the arbitrator and thus industrial peace is maintained and the dispute is resolved.
- ◉ Sometimes, however, the parties may agree to submit the dispute to an arbitrator but at the same time, reserve their right to accept or reject the award when it comes.

FACTORS HAMPERING THE ADOPTION OF VOLUNTARY ARBITRATION IN INDIA:

- i. Easy availability of adjudication in case of failure of negotiations;
- ii. Dearth of suitable arbitrators who command the confidence of both parties;
- iii. Absence of recognized union which could bind the workers to common agreements;
- iv. Legal obstacles;
- v. The fact that in law no appeal was competent against an arbitrator's award;
- vi. Absence of a simplified procedure to be followed in voluntary arbitration.
- vii. cost to the parties, particularly workers.

COMPULSORY ESTABLISHMENT OF BIPARTITE COMMITTEES

- ◉ The state has passed enactments requiring the establishment of bipartite committees consisting of the representatives of workers and their employer at the plant or industrial level.
- ◉ These bipartite committees are given the power to settle differences between the workers and the employers as soon as they appear, and thereby they prevent them from growing into big conflagrations.

COMPULSORY ESTABLISHMENT OF BIPARTITE COMMITTEES

- ◉ The primary ideas behind the establishment of such bipartite committees are:
 1. Giving encouragement to the parties concerned to settle and compose their differences by themselves in order to avoid the direct intervention of a third agency.
 2. Facilitating the composition of the differences at their embryonic stages without causing work stoppage.

ESTABLISHMENT OF COMPULSORY COLLECTIVE BARGAINING

- ◉ The idea behind such a policy is to force the parties to seek to settle their differences through mutual negotiations and discussions before they decide to resort strikes or lock-out.
- ◉ Where the parties themselves have set up a machinery for collective bargaining and negotiation, the imposition of collective bargaining by the state becomes unnecessary.
- ◉ But, if either or both the parties resist the establishment of collective bargaining and the state feels that collective bargaining helps the peaceful and democratic conduct of industrial relations, it may impose collective bargaining compulsory.

ESTABLISHMENT OF COMPULSORY COLLECTIVE BARGAINING

- ◉ State may encourage, and if necessary, force workers and employers to enter into formal collective bargaining through their representatives.
- ◉ In India, refusal to bargain collectively in good faith by the employer and the recognized union, has been included in the list of unfair labour practices by an amendment of the Industrial Disputes Act in 1982.

ESTABLISHMENT OF COMPULSORY COLLECTIVE BARGAINING

- ◉ However, in absence of making recognition of representative union by the employer statutorily compulsory, this provision of the Industrial Disputes Act, 1947 does not have much significance.

COMPULSORY INVESTIGATION

- ◉ Many government have assumed power under laws relating to industrial relation, to set up machinery to investigate into any dispute.
- ◉ The purpose behind the appointment of a court of inquiry is necessary to find out the relevant facts and issues involved and to give them wide publicity so that the pressure of public opinion may force the recalcitrant party to give up its obstinate attitude.

CONCILIATION AND MEDIATION

- ⦿ This is where the two parties in a dispute are brought together and suggestions made, as to how the dispute can be settled.
- ⦿ Impartial third party helps the two parties to reach a mutually acceptable settlement.
- ⦿ Conciliator meets parties separately or together to exchange information, clarify issues and settle misunderstanding.
- ⦿ Conciliator does not impose a solution but works with the parties to enable them to come to an agreement.
- ⦿ It is facilitated negotiation, essential in public utility services, Binding on parties to the disputes.

CONCILIATION AND MEDIATION

- A. Voluntary conciliation and mediation
- B. Compulsory conciliation and mediation

COMPULSORY ARBITRATION OR ADJUDICATION

- ⦿ Although the state has devised methods for the peaceful settlement of industrial disputes, it is clear that these do not guarantee a smooth end to disputes.
- ⦿ The main idea behind the imposition of compulsory arbitration is to maintain industrial peace by requiring the parties to refrain from causing work-stoppages and providing a way for settling the disputes.

COMPULSORY ARBITRATION OR ADJUDICATION

The two principal forms of compulsory arbitration based upon the nature of reference and nature of award:

1. Compulsory reference but voluntary acceptance of the award
2. Compulsory reference and compulsory acceptance of the award

MACHINERY FOR THE SETTLEMENT OF INDUSTRIAL DISPUTES IN INDIA

- ◉ **Standing orders:** These are the rules and regulations which govern the conditions of employment of workers. The Industrial Employment (standing orders) Act of 1946 provides for the framing of standing orders in all industrial undertakings employing 100 or more workers.
- ◉ **Grievance procedure:** A model grievance procedure as suggested by the Indian Labour Conference, 1958 has more or less been widely accepted in India now.
- ◉ **Code of discipline:** It consists of a set of self-imposed obligations voluntarily formulated by the central organization of workers and employers.

MACHINERY FOR THE SETTLEMENT OF INDUSTRIAL DISPUTES IN INDIA

- ◉ **Conciliation:** The practice by which the services of a neutral third party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement or agreed solution.

Conciliation officer: an authority appointed by the government to mediate disputes between parties brought to his notice; enjoying the powers of a civil court. He is supposed to give judgment within 14 days of the commencement of the conciliation proceedings.

Board of conciliation: The Board is an adhoc, tripartite body having the powers of a civil court created for a specific dispute (when the conciliation officer fails to resolve disputes within a time frame, the board is appointed)

Court of enquiry: In case the conciliation proceedings fail to resolve a dispute, a court of enquiry is constituted by the government to investigate the dispute and submit the report within six months.

MACHINERY FOR THE SETTLEMENT OF INDUSTRIAL DISPUTES IN INDIA

- ◉ **Voluntary arbitration:** It is the process in which the disputing parties show willingness to go to an arbitrator (a third party) and submit to his decision voluntarily.
- ◉ **Adjudication:** It is the process of settling disputes compulsorily through the intervention of a third party appointed by the Government. The Industrial Disputes Act provides a three-tier adjudication machinery consisting of:
 1. Labour court
 2. Industrial tribunal
 3. National tribunal

