

# INDUSTRIAL DISPUTES

In common parlance, dispute means difference or disagreement of strife over some issues between the parties. As regards industrial dispute, since its settlement proceeds as per the legal provisions contained in the 'Industrial Disputes' Act, 1947, hence it seems pertinent to study the concept of industrial disputes from a legalistic angle.

According to Section 2 (k) of the Industrial Disputes Act, 1947, the term 'industrial dispute' means "any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment and conditions of employment of any person".

The above definition is too broad and includes differences even between groups of workmen and employers engaged in an industry. However, in practice, industrial disputes mainly relate to the difference between the workmen and the employers.

Dispute differs from discipline and grievance. While discipline and grievance focus on individuals, dispute focuses on collectivity of individuals. In other words, the test of industrial dispute is that the interest of all or majority of workmen is involved in it.

## **The following principles judge the nature of an industrial dispute:**

1. The dispute must affect a large number of workmen who have a community of interest and the rights of these workmen must be affected as a class.
2. The dispute must be taken up either by the industry union or by a substantial number of workmen.
3. The grievance turns from individual complaint into a general complaint.
4. There must be some nexus between the union and the dispute.
5. According to Section 2A of the Industrial Disputes Act, 1947, a workman has a right to raise an industrial dispute with regard to termination, discharge, dismissal, or retrenchment of his or her service, even though no other workman or any trade union of workman or any trade union of workmen raises it or is a party to the dispute.

## **Definition**

An industrial dispute can be viewed as friction or disagreement between two or more parties involved, due to the difference in their perceptions, opinions, mindsets, attitudes and values. In an organization, the parties engage in such disputes can be:

- Employer and employee;

- employee and employee or;
- employer and employer.

## Forms of Industrial Disputes

### Strikes:

Strike is the most important form of industrial disputes. A strike is a spontaneous and concerted withdrawal of labour from production. The Industrial Disputes Act, 1947 defines a strike as “suspension or cessation of work by a group 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 accept employment”.

According to Patterson “Strikes constitute militant and organised protest against existing industrial relations. They are symptoms of industrial unrest in the same way that boils symptoms of disordered system”.

Depending on the purpose, **strikes are classified into two types:**

### 1. Primary Strikes:

These strikes are generally aimed against the employers with whom the dispute exists. They may include the form of a stay-away strike, stay-in, sit-down, pen-down or tools- down, go-slow and work-to-rule, token or protest strike, cat-call strike, picketing or boycott.

**(i) Stay Away Strike:** In a stay-away strike, the workmen organize a protest in the form of demonstrations, marches, rallies, apart from the workplace.

**(ii) Token Strike:** A token strike is a short form of protest where the workmen stop their work for a definite period. It is usually for as short as 24 hours, to hamper a day’s production or so and get their demands fulfilled by the management.

**(iii) Sit Down Strike:** When workers do not leave their place of work, but stop work, they are said to be on sit down or stay in strike. It is also known as tools down or pen down strike. The workers remain at their work-place and also keep their control over the work facilities.

**(iv) Lightning Strike:** The lightning strike is that form of strikes where the workmen call off the work immediately without giving any prior information or warning to the management. It is also termed as a catcall strike.

**(v) Slow Down Strike:** Employees remain on their jobs under this type of strike. They do not stop work, but restrict the rate of output in an organised manner. They adopt go- slow tactics to put pressure on the employers.

(vi) **Hunger Strike:** One of the most common forms of a strike is the hunger strike. The workmen go on fasting for an indefinite period and sit nearby the workplace or the employer's house to project their demands.

## 2. Secondary Strikes:

These strikes are also called the 'sympathy strikes'. In this form of strike, the pressure is applied not against the employer with whom the workmen have a dispute, but against the third person who has good trade relations with the employer.

However, these relations are severed and the employer incurs losses. This form of strike is popular in the USA but not in India. The reason being, in India, the third person is not believed to have any locus standi so far the dispute between workers and employer is concerned.

- **General Strike:** It means a strike by members of all or most of the unions in a region or an industry. It may be a strike of all the workers in a particular region of industry to force demands common to all the workers. It may also be an extension of the sympathetic strike to express general protest by the workers.
- **Economic Strike:** Under this type of strike, members of the trade union stop work to enforce their economic demands such as wages, bonus, and other conditions of work.
- **Sympathetic Strike:** The members of a union collectively stop work to support or express their sympathy with the members of other unions who are on strike in the other undertakings.
- **Political Strike:** Any law or act proposed by the government for making changes to the working terms or conditions when unaccepted by the workers is protested through political strike on a massive level.
- **Particular Strike:** The protest against a specific issue or person within a city, state or country and take up a colossal form is termed as a particular strike.
- **Bandhs:** Bandh is adopted in countries like Nepal and India where a specific community or a political party calls for a general strike across the city or state or country. It is a form of civil disobedience and sometimes become violent, even involving stone attacks or arson attacks at times.

## Lock-Outs:

Lock-out is the counter-part of strikes. While a 'strike' is an organised or concerted withdrawal of the supply of labour, 'lock-out' is withholding demand for it. Lock-out is the weapon available to the employer to shut-down the place of work till the workers agree to resume work on the conditions laid down by the employer. The Industrial Disputes Act, 1947 defined lock-out as "the temporary shutting down or closing of a place of business by the employer".

The Industrial Disputes Act, 1947 has defined lock-out as 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. Lock-outs are declared to curb the activities of militant workers. Generally, lock-out is declared as a trial of strength between the management and its employees.

Lock-out is common in educational institutions also like a University. If the University authority finds it impossible to resolve the dispute raised by the students, it decides to close-down (or say, lockout) the University till the students agree to resume to their studies on the conditions laid down by the University authority. Recall, your own University might also have declared closure sometimes for indefinite period on the eve of some unrest / dispute erupted in the campus.

### **Gherao:**

It is a Hindi word which means to surround. The term 'Gherao' denotes a collective action initiated by a group of workers under which members of the management of an industrial establishment are prohibited from leaving the business or residential premises by the workers who block their exit through human barricade.

A human barricade is created in the form of a ring or a circle at the centre of which the persons concerned virtually remain prisoners of the persons who resort to gherao. Gheraos are quite common in India these days. Gheraos are resorted to not only in industrial organizations, but also in educational and other institutions. The persons who are gheraoed are not allowed to move nor do any work.

Sometimes, the blockade or confinements are cruel and inhuman like confinement in a small place without light or fans and for long periods without food and water. The persons confined are humiliated with abuses and are not allowed even to answer "calls of nature".

The object of gherao is to compel the gheraoed persons to accept the workers' demands without recourse to the machinery provided by law. The National Commission on Labour has refused to accept 'gherao' as a form of industrial protest on the ground that it tends to inflict physical duress (as against economic pressure) on the persons gheraoed and endangers not only industrial harmony but also creates problems of law and order.

Workmen found guilty of wrongfully restraining any person or wrongfully confining him during a gherao are guilty under Section 339 or 340 of the Indian Penal Code of having committed an offence within the jurisdiction of a court for which they would be liable to be arrested without warrant and punishable with simple imprisonment for a term which may be extended to one month or with a fine up to Rs. 500, or with both.

Gherao is a common feature even in educational institutions. You might have seen in your own University officers sometimes gheraoed by the employees / students to compel the officers to submit to their demands. Here is one such real case of gherao.

### **Gherao of the vice chancellor:**

The non-teaching employees of a Central University in the North-East India had some demands with the University authority for quite some time. Non-confirmation of some of the employees even after completion of six years service was one of the main demands. That the Vice Chancellor was to resign on 31st October was known to all in the University.

As the last pressure tactic, the employees started Vice Chancellor's gherao on 31st October at 11.00 a.m. They shut down the entrance gate of the administrative building at 3.00 p.m. to block the egress and ingress from and to the office in the administrative building.

The Vice Chancellor was kept confined in his office chamber. He was humiliated throughout the gherao by using abuses, disconnecting his telephone line, not allowing him food and water and even not allowing him to answer "calls of nature". This scene lasted for 18 hours and was over only by 5 a.m. next day when some 50 C.R.P.F jawans with local police came from the city which is about 20 kms. away from the University Campus.

They broke the entrance gate of administrative building, rescued the Vice Chancellor and arrested 117 employees confining the Vice Chancellor under Section 340 of the Indian Penal Code and kept them behind bars for a day.

On 1st November, the Vice Chancellor handed over the charge of his office to the senior most Professor of the University at his residence in the city. In the wee hours on 2nd November, he left for where he came from. The aftermath of gherao created a tuneful atmosphere in the University Campus for about two weeks.

### **Picketing and Boycott:**

When workers are dissuaded from reporting for work by stationing certain men at the factory gates, such a step is known as **picketing**. Picketing is a method designed to request workers to withdraw cooperation to the employer. In picketing, workers through display signs, banners and play-cards drew the attention of the public that there is a dispute between workers and employer.

Workers prevent their colleagues from entering the place of work and persuade them to join the strike. For this, some of the union workers are posted at the factory gate to persuade others not to enter the premises but to join the strike.

**Boycott**, on the other hand, aims at disrupting the normal functioning of the organization. The striking workers appeal to others for voluntary withdrawal of co-operation with the employer. Instances of boycotting classes and examinations are seen in the Universities also.