

NOTES ON INDUSTRIAL DISPUTE (ID)

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Concept of Industrial Dispute

- ✧ Generally, where there is an industry, there has always been a conflict of interest between the management and the workers.
- ✧ The management or administration focuses on profit maximization, whereas the workers expect healthy wages, reasonable facilities and good conditions of work. Therefore, industrial disputes are inevitable.
- ✧ Every country tries to maintain good relations between the employer and the employee as industrial peace is much needed for progress and development of the country.
- ✧ In India, these objectives were accomplished through the provisions of the Industrial Disputes Act, 1947. According to the section 2(k) of the industrial disputes act, 1947, industrial disputes refer to “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 labor, of any person.”

The industrial disputes act was enacted to provide machinery and forum for the settlement of such conflicting and seemingly irreconcilable interests without disturbing the peace and the harmony in industry. The act provides social justice to both employees and employers.

Objectives of ID

On the basis of various judgments given from time to time by the supreme court, the principal objective of the act may be stated as below:

1. To make provision for the investigation and settlement of industrial disputes and for certain other purposes.
2. To ensure social justice to both employers and employees and advance the progress of the industry by bringing about harmony and cordial relationship between the parties.
3. To provide machinery for settling disputes arising between the capital and the labour by peaceful methods and through the machinery of conciliation, arbitration and if necessary, by approaching the tribunals constituted under the act.
4. To promote measures for securing and preserving amity and good relations between the employer and workmen.
5. To enable workmen to achieve their legitimate demands by means of the legitimate weapon of strikes, and thus promote collective bargaining.
6. To prevent illegal strikes and lockouts.
7. To provide relief to workmen in cases of layoff, retrenchment, and closure.

8. To enable the state to play a constructive role in employer workmen relationship. Thus the concept of welfare state is maintained.

Causes/Reasons of Industrial Dispute

I. Economic causes

(1) Low Wages:

In industries wages are low. As a result, it becomes awfully difficult for the labourers to meet their minimum necessities. Labourers demand that wages should commensurate with the amount of work. Such a demand leads to industrial disputes. Demand for higher wage-rate is the most dominant cause leading to industrial disputes.

(2) Dearness Allowance:

Increasing cost of living is another factor responsible for industrial disputes. In order to neutralize it, workers demand additional remuneration in the form of dearness allowance. Rising prices are at the root of demand for dearness allowance and non-acceptance of this demand leads to industrial dispute.

(3) Working Hours:

Hours of work is another matter of controversy between employers and workers. Despite legislation to this effect, it is always the intention of the employers to keep the workers engaged for long hours at low wages. It is opposed tooth and nail by the workers. Result is industrial dispute.

(4) Industrial Profits:

Workers are an important part of production. Profits of the employers multiply because of the untiring labour of the workers. That they should

not be treated as a part of machine is the persistent demand of the workers, rather they be considered as partner in production. On the basis of this concept, they demand share out of the increasing profit. When this profit-sharing demand is rejected by the employers, industrial dispute crops up.

(5) Bonus:

Demand for bonus is also a cause of industrial dispute. Workers consider bonus as deferred wage. Demand for payment of bonus constitutes cause of industrial dispute.

(6) Working Conditions:

In India working conditions of the workers are not satisfactory.

Obsolescence of machines, lack of safety provisions, inadequate light arrangement, less moving space, lack of other necessary facilities, are the normal features of industrial units. Demand for better working conditions on the part of the workers also contributes to industrial disputes.

II. Managerial causes

(1) Non Recognition of Unions:

Employers' attitude towards trade unions has been antagonistic from the very beginning. They do not want that labourers should organize themselves. Hence, to prevent the workers from uniting, they refuse to recognize their unions. It leads to conflict between the employers and the workers. In order to create rift among the workers they deliberately recognize the rival union.

(2) Violation of Agreements:

Employers and workers do enter into agreements on various issues. On

many occasions, the employers do not enforce these agreements nor do they strictly adhere to them. It also accounts for dispute between the two parties.

(3) Ill-Treatment by Managers and Supervisors:

Managers and supervisors consider themselves to be superior. It is under the influence of this superiority complex that they ill-treat the workers. The same is vehemently opposed by the trade unions.

(4) Defective Recruitment Procedure and Employees Development Policies:

Defective recruitment system also gives rise to industrial disputes. Many a time, workers are recruited by the middlemen who get bribe from them. They take undue advantage of the helplessness of the workers. Defective development policies like favoritisms in promotion, unnecessary and biased transfer, casual approach towards training facilities, on the part of employers also contribute to industrial disputes.

(5) Wrongful Retrenchment, Demotion and Termination:

Sometimes on account of fall in production labourers are retrenched. Those workers who take active part in trade union activities are demoted. Sometimes employers terminate the services of the workers without assigning any reason. All these provocative acts of the employers are not only strongly opposed by the trade unions but also serve as good cause for industrial disputes.

(6) Selfish Leadership:

Lack of right and effective leadership weakens the trade unions and the employer class takes advantage of it. In order to serve their selfish ends,

these leaders enter into unholy alliance with the employers against the interests of the workers. Often this also becomes cause of dispute.

(7) Violation of Accepted Code of Conduct:

Code of conduct refers to the terms accepted by both the parties and both the parties are required to abide by it. Employers agree to all the codes on paper but fail to carry them out in practice. As a result, workers oppose it.

(8) Collective Bargaining and Workers' Participation in Management:

In the modern industrial world, labour class is seized with new awakening and is influenced by new concept of management. Trade unions, therefore, insist on workers' participation in management. By collective management they try to protect their interests to the maximum. The employers oppose it. The inevitable result is industrial dispute.

III. Political causes

(1) Influence of Politics:

In a country like India, influence of politics on trade unions is clearly visible. Political parties have been using their influence on trade unions for their selfish ends. Parties mislead the unions and instigate industrial unrest.

(2) Trade Union Movement:

Ever since trade union movement got recognition, industrial disputes have multiplied. Many a time trade unions take undue advantage of their position and this results into industrial dispute.

(3) Strikes against the Government:

During the struggle for independence labour-class had taken leading part in it. Now this class directs its struggle against the government thereby adding fuel to industrial disputes.

IV. Other causes

- (1) Government's inclination to support management.
- (2) Internal conflicts in trade unions.
- (3) Resistance to automation.
- (4) Influence of communist thinking on labourers.
- (5) Effect of non-acceptance of human relations.

After indiscipline, wages and allowances are the major factor of causing industrial disputes. Beside this charter of demand, personnel, bonus etc. are important reasons of industrial disputes.

Forms of Industrial Dispute

I. Strike

- ◆ A strike is a collective action taken by a group of workers, often organized by a labour union or worker association, to stop working in protest against their employer's policies, working conditions or other labour-related issues.
- ◆ Strikes are a way for employees to exert pressure on their employers to address their grievances, negotiate better terms and improve working conditions.
- ◆ Usually, when workers' demands are not accepted by the management of the industry, they go on strike. It is a way through which workers put pressure on the management by stopping their

work or protesting against their employers until their demands get fulfilled.

- ◆ According to *Section 2(q) of the Industrial Disputes Act, 1947*, a strike means “a cessation of work by a body of persons employed in any industry acting in combination or a concerned 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.”
- ◆ Strike is the most important form of industrial disputes. While strikes can effectively lead to better working conditions, they can also have downsides for both workers and employers. They can result in lost wages, disrupted production and harm to a company’s reputation. Employers may respond to strikes by hiring replacement workers or pursuing legal action against striking employees.

Strike is basically of two types: Primary strike and Secondary strike

Primary strike

A primary strike is a direct action against an employer to resolve a dispute or grievance, while a secondary strike is when employees of a different employer support a strike by other employees. A strike that directly addresses an employer to resolve a dispute or grievance

Secondary strike

A strike by employees of a different employer to support a strike by other employees against their employer

A secondary employer is also known as a neutral employer, unless they are an ally of the primary employer. Secondary strikes are used to put pressure on the primary employer to accept the demands of the employees. A secondary strike is permissible if it has any effect on the business of the primary employer, however slight.

Types of strikes

1.General strike: This is a strike that involves workers across all industries and sectors of the economy. The purpose of a general strike is to shut down all economic activity in the country to pressure the government or employers to meet the workers' demands.

2.Sit-down strike: This type of strike involves workers occupying the workplace premises, usually the factory or office, and refusing to work until their demands are met. Workers often barricade themselves inside the workplace, preventing management from accessing the premises. Such a strike is also known as 'pen down' or 'tool down' strike. They also refuse to leave, which makes it very difficult for employer to defy the union and take the workers' places.

3.Slowdown strike: Also known as a work-to-rule strike, this involves workers doing only the minimum amount of work required by their job description. Workers may follow all the rules and regulations to the letter but may not go above and beyond their duties until their demands are met.

4.Wildcat strike: This is a spontaneous and unauthorized strike that occurs without the approval of the union leadership. These strikes often arise due to workers' frustration with the lack of progress in collective bargaining negotiations or the union's perceived lack of action on their grievances.

5.Hunger strike: some workers may resort to fast on or near the place of work or residence of the employer.

6.Economic strike: Most of the strikes of workers are for more facilities and increase in wage levels. In economic strike, the labourers demand increase in wages, travelling allowance, house rent allowance, dearness allowance and other facilities such as increase in privilege leave and casual leave.

7.Go slow strike: In the form of strike wherein there is a deliberate delaying of production by the workmen pretending to be engaged in working. In such strikes, there is a delayed production, reduced output and many a times the machineries also kept going on a reduced speed which is extremely damaging to the machinery parts. The management does not get the quantum of production which is expected from the workers for the salaries which they get.

8.Sympathy strike: This type of strike is taken by workers in support of another group of workers who are striking for their own demands. Workers may go on strike to show solidarity with another union or group of workers.

9.Picketing: When picketing, workers often carry / display signs, banners and play cards, prevent others from entering the place of work and persuade others to join the strike. Picketing is a form of protest in which people (called pickets or picketers) congregate outside a place of work or location where an event is taking place. Often, this is done in an attempt to draw public attention to a cause. Picketers normally endeavor to be non-violent. It can have a number of aims, but is generally to put pressure on the party targeted to meet particular demands or cease operations. This pressure is achieved by harming the business through loss of customers and negative publicity.

II.Lockout

- ✓ When there is a dispute between the employer and the workers, employers often close the place of employment for a temporary period in order to put pressure on their workers to stop protests. This is called a lockout. It is the reverse of a strike, which is done by workers against employers.
- ✓ According to *Section 2(l) of the Industrial Disputes Act, 1947*, lockout “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.”
- ✓ Lock-out is the counter-part of strikes. Just as employees put pressure on the employers to fulfill their demands in strikes, but, lock-out is the weapon of the employer to lock the premises and not allow them to work.
- ✓ Lockout means temporary shutdown of the factory by the employer, but not winding up (permanent) of the factory.

Difference Between:

Strike	Lockout
Action taken by employees	Action taken by employer
Employees refuse to work	Employer prevents employees from working
Employees demand better wages, benefits, or working conditions	Employer enforces changes to wages, benefits, or working conditions
Employees may picket or protest	Employer may hire replacement workers

III.Gherao

- ✓ Gherao means to surround, it is a method in which the group of workers initiate collective action, aiming at preventing members of the management from leaving the office, the activity can be carried out outside the factory premises as well. The person who is considered as a 'gherao' are not allowed to move for a long time, sometimes they even have to go without food and water.
- ✓ Gherao means "encirclement" which is used by the activists and the union leaders in India. It usually also means that the people would surround the building of the government or a politicians until their demands are met or till when they are answered.
- ✓ Gherao is usually short and also might last for a few days, a peaceful gherao consists crimes whereas violent gherao poses a threat to the well-being and the prop. A peaceful gherao is also called as a legal gherao and a violent gherao is also called as an illegal gherao.

IV. Boycott

It is a collective refusal to buy or supply goods or services to a business or person in order to exert pressure and force a change in behavior.

Boycotts can be used to exert pressure on a third party, such as a competitor, supplier, or customer.

Boycott aims at disrupting the normal functioning of the organization.

The striking workers appeal to others(outsiders) for voluntary withdrawal of co-operation with the employer and not to use company's product.

This adversely affects the sale of company's product. To get rid of the ill effects it may think of accepting the demands of the employees.

Prevention of Industrial Dispute

1. Standing Orders: Standing orders define and regulate terms and conditions of employment and bring about uniformity in them. They also specify the duties and responsibilities of both employers and employees thereby regulating standards of their behavior. Therefore, standing orders can be a good basis for maintaining harmonious relations between employees and employers.

Under Industrial Dispute Act, 1947, every factory employing 100 workers or more is required to frame standing orders in consultation with the workers. These orders must be certified and displayed properly by the employer for the information of the workers.

It regulates conditions of employment from the entry level to exit of employees. It serves as a code of conduct for employees during their service in a given undertaking.

In case of disagreement between the employer and the employee, matter would be determined by the certifying authority i.e., Labour

Commissioner having jurisdiction. Once the standing order is passed, it is binding on the parties to dispute.

2.Tripartite and Bipartite Bodies: The government, the employees, and the employer are three parties in an industry that creates tripartite bodies to study and solve industrial disputes and other matters and reach out to the best for the industry. Bipartite institution is a forum where workers and management communicate and consult with each other regarding issues relating to industrial relations, enterprise sustainability and workers' welfare. These will help in making peace and improving relations between management and unions, and maintain smooth functioning of union management relations.

Tripartite bodies involve employee, employer and Government. Bipartite committee comprises of employer and employee. Tripartite committee includes committees on Conventions, steering committee on wages, central implementation and evaluation machinery, Central Board of Worker's Education and National Productivity Council.

3.Code of Industrial discipline: The code of Industrial discipline defines duties and responsibilities of employers and workers. The objectives of the code are:

- ✓ To secure settlement of disputes by negotiation, conciliation and voluntary arbitration.
- ✓ To eliminate all forms of coercion, intimidation and violence.
- ✓ To maintain discipline in the industry.
- ✓ To avoid work stoppage.
- ✓ To promote constructive co-operation between the parties concerned at all levels.

4.Labour welfare officer: The factories Act, 1948 provides for the appointment of a labour welfare officer in every factory employing 500 or more workers.

The officer looks after all facilities in the factory provided for the health, safety, working conditions, canteens, drinking water, legal advice and other amenities for welfare of workers as prescribed by the Government.

He maintains liaison with both the employer and the workers, thereby serving as a communication link and contributing towards healthy industrial relations through proper administration of standing orders, grievance procedure etc.

5.Work Committees:

Work Committees greatly contributed in prevention of industrial disputes in the industrial sector of many countries. In some countries like Britain and the U.S.A. Works Committees for Co-operation have been established as a result of collective agreements between labour unions and employers' associations.

In countries like India, Works Committees are to be established through legislations. The establishment of Works Committees through law has the advantage of providing a uniform system with the different undertakings covered by the legislation placed on an equal footing. Legal compulsion also gives the quality of performance to the machinery, whereas a collective agreement may remain in force for a limited period.

Works Committees are represented by an equal number of representatives of each party who will constitute the Works Committee

and the methods of their appointment are also laid down in agreements or enactments.

6.Joint Management Councils(JMC): Just to make a start in labour participation in management, the Government suggested in its Industrial Resolution 1956 to set up joint management councils. It consists of equal numbers of workers and employers (minimum 6 & maximum 12) decisions of the JMC should be unanimous and should be implemented without any delay. JMC members should be given proper training. JMC should look after areas like information sharing, consultative and administrative.

Representation of workers to the JMC's should be based on the nomination by the representation.JMC deals with matters like Employee welfare and Apprenticeship scheme.

Objectives of JMC are:

- ✓ Satisfy the psychological needs of workers
- ✓ Improve the welfare measures
- ✓ Increase workers efficiency
- ✓ Improve the relation and association between workers, managers and promoters.

7.Collective Bargaining: Collective Bargaining is a process in which the representatives of the employer and of the employees meet and attempt to negotiate a contract governing the employer-employee-union relationships. Collective Bargaining involves discussion and negotiation between two groups as to the terms and conditions of employment.

8. Grievance Committee:

Grievance committee comprising the representatives of employees and employer can be established and can periodically examine the issues and give redressal. The committee may inform the progress or status of grievance reported, in case it is felt that redressal may take time.

The committee may explain its inability to the grievant whenever it is not possible to redress the grievance within the scope of its authority. It may advise the grievant as to what may be done to further have it redressed. Thus, such a professional functioning of grievance committee can shoot trouble which may snowball into dispute at a later stage.

Settlement of Conflicts

1. Conciliation: Conciliation refers to the process by which representatives of employees and employers are brought together before a third party with a view to discuss, reconcile their differences and arrive at an agreement through mutual consent. The third party acts as a facilitator in this process. Conciliation is a type of state intervention in settling the Industrial Disputes. The Industrial Disputes Act empowers the Central & State governments to appoint conciliation officers and a Board of Conciliation as and when the situation demands.

The conciliation officer however has no power to force a settlement. He can only persuade and assist the parties to reach an agreement. The Industrial Disputes Act prohibits strikes and lockouts during that time when the conciliation proceedings are in progress.

2. Mediation:

Mediation is an attempt to settle disputes with the help of an outsider who attempts to stimulate labour and management to reach some type of agreement. The mediator, unlike an arbitrator, cannot decide the issue. He listens, suggests, communicates and persuades. He does not give any award.

3. Arbitration: 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. The conciliator simply assists the parties to come to a settlement, whereas the arbitrator listens to both the parties and then gives his judgement. Arbitration involves an independent and impartial person called an arbitrator (acting alone or chairing a panel) being appointed by the Labour Relations Agency to make a decision on a dispute. This decision is based on the evidence presented by the parties to that dispute.

Arbitration is entirely voluntary. All parties to the dispute must agree to go to arbitration. The parties should also agree in advance that they will abide by the arbitrator's decision.

There are two types of arbitration:

- ✓ **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.
- ✓ **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.

4.Adjudication: Adjudication is the ultimate legal remedy for settlement of Industrial Dispute. Adjudication means intervention of a legal authority appointed by the government to make a settlement which is binding on both the parties. In other words adjudication means a mandatory settlement of an Industrial dispute by a labor court or a tribunal. For the purpose of adjudication, the Industrial Disputes Act provides a 3-tier machinery I.e. Labor court, Industrial Tribunal and National Tribunal.

An adjudication normally represents the final judgment or pronouncement in a case that will determine the course of action taken regarding the issue that's been presented. Adjudication can also more generally refer to other formal processes of judgment or rulings that render a final decision, such as the process of validating an insurance claim.

Aspect	Arbitration	Adjudication
Nature of Initiation	Voluntary agreement between parties.	Often compulsory, initiated by government.
Decision-Maker	Arbitrator chosen by parties or agreed upon.	Judicial officer appointed by government.
Procedure and Formality	Flexible procedure, less formal than court.	Formal court procedures and legal principles.
Confidentiality	Proceedings are confidential.	Open to the public, ensuring transparency.
Finality and Enforceability	Arbitral awards are final and binding, enforceable as a decree of the court.	Decisions may be subject to appellate review.

THANK YOU

