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**SUBJECT - ASSIGNMENT ON INDUSTRIAL DISPUTES**

**1. Define industrial disputes.**

**Ans.**

Industrialization in a country has always contributed to employment, contribution to national income, per capita income, exports and economic development on one side and

industrial disputes on the other. It has always been the case of mixed blessing. The conflict of interest between management and labour is what leads to industrial disputes. The management has a goal of profit maximization and on the other hand the workers expect rise in income, security of job, protection of their skills, improvement in their status and in the working conditions. Those who control the factors of production require strict administration, closer supervision, and maintenance of strict discipline and implementation of rules, code of conduct and code of discipline. Whereas the workers demand a share in capital, voice in management, freedom of expression, participation in management and dignity of employees. So the people that control the factors of production and people that produce always have different or conflicting interest which gives birth to industrial disputes.

According to the Industrial Dispute Act, 1947. Section 2 (K) "Industrial Disputes mean 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 terms of employment or with the conditions of labour of any person".

Industrial disputes can be classified into four major types, known as interest disputes, grievance disputes, unfair labour practices disputes and recognition disputes.

**2. What are the causes of industrial disputes?**

**Ans.**

1. Wages and Allowances
2. Personnel Policies
3. Retrenchment
4. Lay off
5. Leave and hours of work
6. Bonus
7. Indiscipline

8. Violence
9. Inter Union rivalry.
10. Non-implementation of awards or agreements
11. Non-fulfillment of demands
12. Workload
13. Work standards
14. Surplus labour
15. Working conditions
16. Change of manufacturing process
17. Violation of rules or codes
18. Shift working
19. Political motives
20. Closure or lockouts
21. Inability to communicate effectively
22. Refusal to recognize unions
23. Authoritarian or autocratic attitude of management.
24. Non-implementation of labour law.

### **3. What are the forms of industrial disputes? Give examples.**

**Ans.**

**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”.

**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 draw 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.

### **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".

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:**

Gherao means to surround. It is a physical blockade of managers by encirclement aimed at preventing the egress and ingress from and to a particular office or place. This can happen outside the organisational premises too. The managers / persons who are gheraoed are not allowed to move for a long time.

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 a cognizable offence 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.**

#### **4. Detail the ways to resolve industrial disputes.**

**Ans.**

There are various methods of resolving industrial disputes like negotiations, conciliation, mediation and arbitration. Every organisation or management or the trade union has the right and freedom to choose anyone method to resolve the industrial disputes. What is important here is that Industrial disputes must be solved as early as possible, it must be settled at the level which it has occurred. Both the management and the union should change their attitude and keep their ego aside and resolve the disputes as early as possible. When disputes are not settled relations further become strained and complicated. There should be a WIN - WIN situation, if both management and unions are to be happy. If one wins and one loses relations do not and can never improve. Pending awards can lead to less productivity and losses for both employer and employees. Both the parties as far as possible should resort to negotiations instead of tribunals or conciliation.

##### **a)NEGOTIATION**

For resolving industrial disputes one of the best methods is negotiation. It is in negotiation the two parties that is the employer or management and workers or their unions depend upon themselves for the settlement of disputes. Both the parties have faith and confidence in each other and do not feel the need of a third party. This method of resolving disputes gives importance to dialogue or bipartite dialogue without the government intervention. This method of resolving disputes shows a higher level of maturity in the relationship between management and unions. This is possible when both the parties are well organized, having faith in each other, ready to recognize each other, ready to recognize each others position and dignity. Things become more easy for negotiations when both the parties are ready to adjust and accommodate each others point of view. To resolve disputes both the parties reach to a written agreement through dialogues backed by moral sanctions. The written agreement between management and the workers union gets more acceptance from both the sides, disputes are resolved and at the same time relations are intact. In the process of negotiations if the negotiation machinery breaks down the issues between the parties remain unresolved. In such

situations both the parties come to a point of deadlock and then direct confrontation between the two parties begin, definitely resulting into conflict and disharmony. Such conflict and disharmony results into loss of time, money, energy poor industrial relations, loss to the organisation and a subject of greater concern for the society and the state.

#### b) CONCILIATION

In this method of resolving disputes both the employer and the employees union take the help from outside such as the government agency. The government agency tries to bring the two parties the management and unions together for discussion and help them in their negotiations. The main objective of conciliation is to reunite the two conflicting groups in the industry to avoid further problems of production, disinterest and strained industrial relations. This method of resolving industrial disputes is adopted when the parties cannot reconcile their differences on their own and still want to avoid the problems of open conflict. Conciliation is a practice by which the services of a neutral third party are used in the dispute, to make the disputing parties come to an amicable settlement. Conciliation process takes place under the guidance of a conciliator. Conciliation machinery consists of a conciliation officer and board of conciliation.

Under section 12(2) of the Industrial Dispute Act of 1947 the conciliation officer shall be involved for the purpose of bringing about a settlement of the dispute. The conciliation officer plays the role of an innovator, protector, discussion guide, leader, advisor and communication link between the two parties. If the conciliation does not get results in the course of conciliation proceedings then the conciliation officer sends a report to the appropriate government a failure report informing that a settlement cannot be arrived at. To make conciliation more effective the National Commission on Labour has recommended that "Conciliation machinery should be a part of the Industrial Relations Commission, which will make it free from other influences. The independent character of the machinery will alone develop greater confidence and will be able to evoke more co-operations from the parties.

#### c) MEDIATION

Many times when the two parties to the dispute start making negotiations cannot come to a consensus or when they are unable to find the right solution mediation becomes an important tool. Mediation is a method of settling industrial disputes with the help of an outsider. The mediator is very positive in its approach and also plays a positive role by collecting information from both the parties the management and the union, makes a proper assessment of their views and interest and on the basis of this offers suggestions for arriving at a solution or for making a proper compromise.

Both in mediation and conciliation there is a role for an outsider and in both the cases a lot depends upon understanding between the parties involved in the dispute. In both the case conciliation and mediation a lot depends upon adjustments for common gains. Both mediation and conciliation are advisory and not judicial in nature. The mediator plays a role of a guide and shows the parties to the dispute new areas of agreement which otherwise they themselves could not have discovered.

#### d) ARBITRATION

The word arbitration means settlement of industrial disputes between two or more parties by means of a decision of an impartial body when efforts in the process of conciliation and mediation have failed. Arbitration is judicial in nature whereas conciliation is advisory in nature. Arbitration is voluntary if the parties to the dispute have failed to settle their differences by negotiation and conciliation, agree to submit them to arbitration as prescribed under Section 10A of the Industrial Disputes Act, 1947. Compulsory arbitration or adjudication, the government requires the parties to the dispute to submit their differences to an arbitration tribunal which after considering the facts and arguments submitted to it, makes an award. In case of voluntary arbitration it does not necessarily follow the procedure adopted by the courts. The essentials of voluntary arbitration is that there should be voluntary submission of dispute to an arbitrator and the enforcement of an award may not be necessary and binding because there is no compulsion.

Compulsory arbitration is used when the parties fail to arrive at a settlement through the voluntary methods. Compulsory arbitration may be at times and under certain circumstances, necessary and desirable. The objective of state intervention in the field of industrial relations should be to do social justice and make the weaker party equally strong to enable it to settle its differences through negotiations and collective bargaining. In compulsory arbitration the parties are forced to arbitration by the state when the parties to the dispute have failed to arrive at a settlement by voluntary method or when there is a situation of national emergency or when the country is passing through economic crisis or when the parties to the dispute are not well balanced or when the unions are weak and ill-organized or when the employers are very well-organized and more powerful or when industries of strategic importance are involved or when there is a general public dissatisfaction with the existing industrial relations.