

COLLECTIVE BARGAINING AND ECONOMIC REFORMS

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Industrial harmony is essential for economic progress and the concept of industrial harmony wants the existence of undertaking, co-operation and sense of partnership between employers and employees. There may be conflicting interests between employer and workmen but this attitude leads to an understanding for achieving common goals, such as production and prosperity. The phrase “collective bargaining was first coined by Sidney and Beatrice Webb. This was widely accepted, particularly in the developed countries.

Collective bargaining is a technique by which disputes as to conditions of employment, are resolved amicably, by agreement, rather than by coercion. The dispute is settled peacefully and voluntarily, although reluctantly, between labour and management, seeks to achieve social justice on the basis of collective bargaining¹.

Meaning of Collective Bargaining

As put by *Louis E. Howard*, collective bargaining means “..... To get together (right of meeting), to enter a common organization (right of association), to determine that whatever conditions of work are allotted shall be the same for all workers and to make a bargain with employers to that effect (rights of combinations and bargaining) and eventually in case the employers should refuse to enter on such a bargain or fail to honour it when entered upon, to confront them with a united refusal to go to work or to continue at work (right of strike).

Collective bargaining could be an effective instrument in the settlement of disputes and advancement of the cause of labour if certain basic conditions are fulfilled. *Firstly*, the primary

condition for the successful process of collective bargaining is the existence of well-organized and fully recognized trade unions with well-defined policies. It follows that collective bargaining is not very useful in the early stages of development when unions are not well organized. *Secondly*, collective bargaining can be an effective technique of settling industrial disputes when there is a spirit of give and take between the employers and the workers. *Thirdly*, as there is no legal sanction behind the terms and conditions voluntarily agreed upon, the parties concerned must do things and act in good faith on the basis of mutual agreement. *Fourthly*, much depends upon the moral fibre of the labour leaders as well as the employers. There should be a complete and true understanding and appreciation of each other's viewpoints. Face to face meetings between the representatives of workers and employers can serve a useful purpose only when the traditional prejudices are kept aside by both the parties. Finally, there should be no uncertainty about the fields in which the parties are legally required to bargain collectively².

Object of Collective Bargaining

The ILO also states that:

In collective bargaining, the object is to reach agreement on wages and other conditions of employment about which the parties begin with divergent viewpoints but try to reach a compromise. When a bargain is reached, the terms of the agreement are put into effect³.

Strike as a weapon of collective bargaining

The Industrial Disputes Act, 1947, under Sections 22 and 23, provides for right to strike subject to restrictions given in the above sections.

1. *Karnal Leather Karamchhari Sanghatthan v. Liberty Footwear Co.*, 1990 Lab IC 301, 307 (SC), per *Jagannatha Sbetty J.*

2. Dr. *T.N. Bhogolimal*, Economics of Labour and Social Welfare, Sahitya Bhavan Pub. Agra (1974) p.119

3. International Labour Office, Collective Bargaining (A workers education manual, Geneva (1980) p.5

Thus a strike is the antithesis of a lockout. It is regarded as a powerful weapon of collective bargaining, even though it sounds unpleasant, with all its attendant hardships and evils, the occurrence of which is regarded as one of the powerful levers to bring about agreements.

This bargaining strength would be considerably reduced if it is not permitted to demonstrate by adopting agitational methods, such as work to rule, go-slow, and absenteeism, sit-down strike and strike. This right has been recognized by almost all democratic countries⁴.

Impact of the Economic Reforms on Collective Bargaining

With introduction of economic reforms such as liberalization, privatization and globalization the revolution in information and related technologies is resulting in jobless growth. Intensity of strong unions one of the prerequisite for collective bargaining are declining in most industries. In order to increase the competitiveness employers are adopting several new moves such as re-engineering, restructuring by introducing modern machines. These measures are taking away both jobs and control of workers and unions over the existing jobs. These measures include parallel production, subcontracting, outsourcing *etc.* Closure of traditional production units and setting of modern plants results in one fourth manpower, half wages and three to four times output. Generally the workforce in these units are non-unionised therefore the process of collective bargaining broadly effected.

In the wake of the economic reforms of the 1990s, the collective bargaining in the public sector has also undergone a significant change. In 1994 the Department of Public Enterprises, which exercises control over the 240-odd Central Public Sector Undertakings in the country, issued guidelines providing for limited autonomy for decentralized bargaining and moving away from parity among the different Central Public Sector Undertakings as the Government is not able to maintain public sector enterprises. The Government

allowed public enterprises to sign fresh wage agreements only if they would meet the extra financial commitment arising out of wage revisions from their own resources and if the unit labour costs and unit sale prices did not rise as a result of wage revision. About 100 public enterprises, which became financially unviable, did not revise wages till December 1998⁵.

(a) Emerging Trends

Till the 1970s, collective bargaining showed two trends. First, as far as possible, considering the adversarial relationship in most situations, the attitude of both the managements and the trade unions was to bar the gain to the other party. Second, workers' unions served a charter of demands on managements. Managements used to bargain that it was not possible to give so much. After some negotiations, agreements were reached, with managements reluctantly giving in and workers collecting some additional benefits and healthy retentions between employer and worker get affected. In the 1980s managements began to serve counter-proposals before or after receiving the charter of demands from the unions. The idea was to give and to take in the name of 'productivity bargaining'. Trade unions used to agree to give up restrictive and wasteful practices in return for higher wages and benefits.

(b) Changes in Work Norms/Practices

Trade unions in India no longer outrightly resist changes in work practices relating to modernization, computerization, multiskilling, flexible deployment, working time norms, *etc.* The major dispute in this regard is over contract labour. Recent Court judgments have given trade unions a lever to press managements to regularize contract labour in certain areas. In January 1999, over 5000 workers belonging to several unions in one public sector oil refinery went on a day's token strike because they felt that the introduction of enterprise resource planning' (ERP) would affect their jobs adversely⁶.

4. B.R. Singh v. Union of India, 1990 Lab IC 389, 396 (SC)

5. C.S. Venkata Ratnam, D.P.A. Naidu, "Industrial Relations and Collective Bargaining in South Asia", ILO Publications, 1999, p.57.

6. C.S. Venkata Ratnam, P.A. Naidu., Industrial Relations and Collective Bargaining in South Asia, ILO Pub.1999, p.60.

(c) *Flexible wage system*

In the organized sector, wages double every six to seven years. Wage-sensitivity of firms varies because labour costs range from 2 per cent in process industries to over 100 per cent in sick units. In most cases, firms become sensitive when wage costs exceed 12 to 20 per cent.

Collective agreements have found many innovative ways of warding off temporary crisis: (a) two-tier wage system where newcomers get less pay for three years in the same or a new grade, the difference usually tapers off in three years; this is justified on the grounds that newcomers take time to become fully productive; (b) temporarily linking dearness allowance to productivity instead of cost of living during times of financial crisis in the firm or plant; (c) a wage freeze/reduction when the firm or plant becomes financially unviable/non-competitive (wages are unfrozen and previous wage levels restored depending on productivity and/or profitability); and through (d) wage-job trade-off, *etc.*

(d) *Concession Bargaining*

Due to economic recession the concession bargaining came into existence. Trade unions typically face a dilemma in decentralized bargaining where the plant firm is facing a crisis due to market failure and/or financial sickness, whether or not such problems are a product of recession. In their anxiety and in order to protect all or most jobs, in several cases they have agreed to workforce reduction and cutback or freezing of pay and benefits and even to suspension of trade union rights. The following types of drastic measures were 'mutually agreed upon' as essential for survival in most such situations:

- (a) Reduction in wages and allowances
- (b) Freeze in dearness allowance
- (c) Changes in working patterns

- (d) Stoppage or modification of incentive schemes
- (e) Early retirement
- (f) Layoff/Retrenchment
- (g) Retraining
- (h) Redeployment

Often, doubts were expressed whether such concessions by trade unions alone would ensure the firm's survival and the security of the jobs. The Board of Industrial and Financial Reconstruction, set up in 1987 with quasi-judicial powers to dispose of cases of closure or rehabilitation of sick companies, realizes that some sick units are potentially viable while others are not. Industry characteristics and firm size, technology and corporate strategy are among the major determinants of the potential, viability of a sick unit. The experiences of several companies like Jaipur Metals & Electricals Limited, Kamani Tubes, New Central Jute Mills, and Waichandnagar Industries indicate that such bargaining helped these companies to bounce back from the brink of liquidation and record impressive performance subsequently. As a result, in these and several other similar instances, employment, employee earnings and productivity have significantly increased.

Conclusion

The economic reforms in the form of liberalization, privatization, globalization brought new working groups such as home workers, part-time workers, commission paid workers, contractual workers, casual employees, disturbed the strength of trade unions not only in the developing countries but also in the developed countries. Generally these working groups are non-unionized and have no opportunity to avail the method of collective bargaining to achieve their legitimate demands. There are many apprehensions in the minds of trade union leaders and workers whether they enjoy the right to strike which is a weapon of collective bargaining or will it remain on the paper.