PG BA S4-01 (DSC) (HRM)

TWO YEAR MASTER'S DEGREE COURSE

(CBCS in Accordance with NEP 2020)

SEMESTER IV

INDUSTRIAL RELATIONS AND LABOUR LEGISLATION

BUSINESS ADMINISTRATION

Maniram Dewan School of Management
KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

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COURSE INTRODUCTION

Now-a-day, human resource management plays a very important role in organizations. Organizations whether big or small, with profit or without profit motive emphasises on human resource development. The reason is that they have realized the importance of human resource in an organization. An organization can not utilize its non- human resources without human resource. Therefore, most of the organizations have their own departments that deal with different aspects of human resource management. This course will help you in understanding the basic requirements for sound industrial relations and the causes of disputes that may arise in an industry. This course will help you in understanding the meaning of strikes, lockouts, layoffs, retrenchment etc. Again, the human resource manager has to deal with different levels of employees in an organization and no one can deny the psychological aspect in managing people. But the legal aspects also play a major role in managing human resource. It means the human resource manager must take care of the legal provisions in dealing with the human resource in an organization. The governments- central as well as state adopted various Acts giving legal protection to the employees in organizations. The Acts like, Factories Act, Payment of Bonus Act, Workmen's Compensation Act etc. have various provisions protecting the right of workers in industrial establishments and binding the employers to give a secured and hygienic working environment for the workers.

So as a future human resource manager, you must be well versed with the legal provisions and procedures. The knowledge of the legal factors will give you an added advantage in managing the human resource.

Considering these factors the course 'Industrial Relations and Labour Legislation' has been developed. The units of this course will help you in understanding the various provisions of various Acts.

Each unit of these blocks includes some along-side boxes to help you know some of the difficult, unseen terms. Some "EXERCISES" have been included to help you apply your own thoughts. You may find some boxes marked with: "LET US KNOW". These boxes will provide you with some additional interesting and relevant information. Again, you will get "CHECK YOUR PROGRESS" questions. These have been designed to self-check your progress of study. It will be helpful for you if you solve the problems put in these boxes immediately after you go through the sections of the units and then match your answers with "ANSWERS TO CHECK YOUR PROGRESS" given at the end of each unit. you in making your learning more active and efficient.

UNIT 1: INDUSTRIAL RELATIONS: AN INTRODUCTION

UNIT STRUCTURE

1.1 Learning Objectives

1.2 Introduction

1.3 Meaning and Definition of Industrial Relations (IR)

1.4 Evolution of Industrial Relations (IR)

1.5 Approaches to Industrial Relations (IR)

1.6 Trade Unionism

1.7 Bipartite and Tripartite bodies

1.8 Industrial Disputes

- 1.8.1 Causes of Industrial Disputes
- 1.8.2 Nature of Industrial Dispute
- 1.8.3 Classification of Industrial Dispute

1.9 Let us Sum Up

1.10 Further Reading

1.11 Answers to Check Your Progress

1.12 Model Questions

1.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- define the meaning of the term Industrial Relations
- phase out the evolution of the theory and practice of Industrial Relations
- learn various popular approaches to the practice of Industrial Relations
- discuss the meaning, role and need for Trade Unionism
- distinguish between Bipartite and Tripartite Bodies with regard to Industrial Disputes.

1.2 INTRODUCTION

This is the first unit of the course Industrial Relations and labour Legislations. In this unit, we are going to discuss the meaning of Industrial Relations the evolution of the theory and practice of Industrial Relations.

Basically, IR sprouts out of employment relation. It is a dynamic and developing socio-economic process. Though Independent India got an opportunity to restructure the industrial relations system the colonial model of IR remained in practice for sometimes due to various reasons like the social, political and economic implications of partition, social tension, continuing industrial unrest, communist insurgency, conflict, and competition in the trade union movement. In the process of consultation and confrontation, gradually the structure of the Industrial Relations System (IRS) evolved.

Like other behavioural subjects, both the scenario of IR and factors affecting it are perceived differently by different behavioural practitioners and theorists. For example, while some perceive IR in terms of class conflict, others view it in terms of mutual co-operation, yet others understand it related to competing interests of various groups and so.

Owing to this widening purview of Industrial Relations as a subject matter of research and study, it becomes significant to understand the subject from its basic concepts in context to realistic industrial environment. This unit, therefore, attempts to throw light upon certain very preliminary concepts of Industrial Relations intending at creation of a stronger hold on the subject.

At the end of this unit we will get a fair idea about learn various popular approaches to the practice of Industrial Relations, role and need for Trade Unionism.

1.3 MEANING AND DEFINITION OF INDUSTRIAL RELATION (IR)

Armstrong has defined IR as “IR is concerned with the systems and procedures used by unions and employers to determine the reward for effort and other conditions of employment, to protect the interests of the employed

and their employers and to regulate the ways in which employers treat their employees."

According to Dale Yoder, "IR is a designation of a whole field of relationship that exists because of the necessary collaboration of men and women in the employment processes of Industry".

In the opinion of V. B. Singh "Industrial relations are an integral aspect of social relations arising out of employer-employee interaction in modern industries which are regulated by the State in varying degrees, in conjunction with organised social forces and influenced by the existing institutions. This involves a study of the State, the legal system, and the workers' and employers' organizations at the institutional level; and of the patterns of industrial organisation (including management), capital structure (including technology), compensation of the labour force, and a study of market forces all at the economic level".

Encyclopedia of Britannica defined IR more elaborately as "The concept of industrial relations has been extended to denote the relations of the state with employers, workers, and other organisations. The subject, therefore, includes individual relations and joint consultation between employers and workers at their places of work, collective relations between employers and trade unions; and the part played by the State in regulating these relations".

1.4 EVOLUTION OF INDUSTRIAL RELATION (IR)

IR is a dynamic subject in nature. The nature of IR can be seen as an outcome of complex set of transactions among the major players such as the employers, the employees, the trade union, and the state in a given socio-economic context. In other words, a change in the nature of IR has become sine quo non with change in the socio-economic context of a country.

Keeping this fact in view, IR in India has been discussed under the following two time phases:

1. Pre- Independence Era
2. Post-Independence Era

1. Pre-Independence Era:

The structure of the colonial economy, the labour policies of colonial government, the ideological composition of the political leadership, the dynamics of political struggle for independence, and so on shaped the colonial model of industrial relations in India during the pre-independence era. At that time, even union movement was considered an important part of the independence movement.

But what became evident was that the colonial dynamics of the union movement, the ambivalence of the native capital and the experience of the outside political leadership acted as a hindrance to the process of building up of industrial relations institutions. Moreover, factors like the ideology of Gandhian class harmony, late entry of leftists and the bourgeois character of congress also weakened the class approach to the Indian society and industrial conflict. Thus, till the Second World War, the attitude of the colonial government toward industrial relations was a passive regulator only. It was the economic emergence of the Second World War that altered the colonial government's attitude towards industrial relations.

State intervention began in the form of introduction of several war time measures like the Defense of India Rules (Rule 81- A), National Service (Technical Personnel) Ordinance, and the Essential Service (Maintenance) Ordinance. As such, the colonial government imposed extensive and pervasive controls on industrial relations by the closing years of its era. The joint consultative institutions were established primarily to arrive at uniform and agreeable labour policy.

Close to India's independence, several instances that served as threshold plank for IR during post Independence era could be evidenced. To mention a few were passing of Indian Trade Unions (Amendment) Act, 1947, Industrial Employment (Standing Orders) Act 1946, Bombay Industrial Relations Act, 1946, and Industrial Disputes Act, 1947 and split in AITUC and formation of INTUC.

2. Post-Independence era:

The colonial model of IR remained in practice for sometime even

after independence due to various reasons like the social, political and economic implications of partition, social tension, continuing industrial unrest, communist insurgency, conflict, and competition in the trade union movement. However, gradually, owing to consultations and discussions, the structure of the Industrial Relations System (IRS) evolved.

State intervention in the IRS was a part of the interventionist approach to the management of industrial economy. Several considerations like unequal distribution of power in the labour market, neutrality of the state, incompatibility of free collective bargaining institution with economic planning etc. provided moral justification for retaining state intervention in the IRS. However state intervention does not mean suppression of trade unions and collective bargaining institution. In fact, state intervention and collective bargaining were considered as complementary to each other. Gradually, various tripartite and bipartite institutions were introduced to supplement the state intervention in the IRS.

The tripartite process was considered an important instrument of involving participation of pressure groups in the state managed system. Non-formal ways evolved intending to do away with the flaws of the formal system. But the political and economic forces in the mid 1960s aggravated industrial conflict and rendered non-formal system ineffective. In the process of reviewing the system, National Commission on Labour (NCL) was appointed in 1966.

Several committees were appointed to suggest measures for reforming the IRS – as a result of which tripartism was revived in the 1980s. Government passed the Trade unions and the Industrial Disputes (Amendment) Bill, 1988. But, it also proved yet another legislative disaster as it was severely criticised by the left parties.

Consequently, the tripartite deliberations held at the ILC in 1990 decided three measures to reform IR in India:

(i) To withdraw the Trade Union and the Industrial Disputes (Amendment) Bill, 1988.

(ii) To constitute a bipartite committee of employers and unions to formulate proposals for a comprehensive legislation.

(iii) To consider the possibility of formulating a bill on workers' participation in management, 1990. In the 33rd session of ILC, another bipartite committee was constituted to recommend changes in the TU and ID Acts. The government introduced a Bill on Workers, Participation in Management in Parliament in 1990.

In sum, it can be said that one of the primary features of the history of IR in India has been that it is dynamic in nature. Particularly since liberalization in 1991, IR in India has seen many new challenges like emergence of a new breed of employees (popularly termed as 'knowledge workers'), failure of trade union leadership, economic impact, and employers' insufficient response.



CHECK YOUR PROGRESS

Q 1: Define IR.

.....

.....

Q 2: What are the two time phases IR in India?

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.....

1.5 APPROACHES TO INDUSTRIAL RELATION (IR)

The IR scenario and its influencers and/or determinants are perceived differently by different behavioural practitioners and theorists. For example, while some perceive IR in terms of class conflict, others view it in terms of mutual co-operation, and yet others understand it as related to competing interests of various groups.

Based on these perceptions, the behavioural theorists have developed some approaches to explain the IR dynamics.

The popular approaches to IR are:

1. Unitary Approach
2. Pluralistic Approach
3. Marxist Approach

Let us now discuss the approaches in the following ways:

1. **Unitary Approach:** The Unitary approach to IR is based on the assumption that every one- employee, employer or government- benefits when the emphasis is on a common interest. In other words, under this approach, the foundation of IR rests on mutual co-operation, team work, shared goal, and so on.The Unitary Approach views conflict at work place as a temporary aberration resulting from poor management or mismanagement of employees. Under other conditions, it projects employees usually accepting of and cooperating with management. Conflict in the form of strikes is disregarded as it is considered destructive.

2. **Pluralistic Approach:** Pluralist Approach is, however, quite a departure from the Unitary Approach of IR. This approach was evolved and practiced in mid 1960s and early 1970s in England. A. Fox, one of the major contributors to this Approach, perceived that organisation is a coalition of competing interest groups mediated by the management. At times, it may so happen that management in its mediating role may pay insufficient attention to the needs and claims of employees.

   Employees, under such a situation, may unite in the form of trade unions to protect their needs and claims. This encouraged trade unions to become legitimate representatives of employees in an organisation. This has resulted in the system of IR beingruled by concessions and compromises between management and trade unions.

   Conflict between employees and management has been considered as not only inevitable but also necessary. Normally, employees are not found to be that forceful in the negotiation process as is the management. Therefore, there exists a tendency among employees to join trade unions so as to negotiate with management on equal terms to protect their interests.

   However, the basic assumption of this approach that, employees and management do not arrive at an acceptable agreement, do not hold good in a free society as inspite of a society being free, power distribution may not necessarily be equal among the competing forces.

3. **Marxist Approach:** Like Pluralists, Marxists also view conflict between labour and management as inevitable. But unlike pluralists, they regard conflict as a product of the capitalist society based on classes. According to Marxists conflict arises because of division within the society in terms of the 'haves' i.e., capitalists and the 'have not's i.e., labour. The main objective of capitalists has been to improve productivity by paying minimum wages to labour. On the other hand, the labour views this as their exploitation by the capitalists.

   The Marxists do not welcome state intervention as, in their view, it usually supports management's interest. They debate that the pluralistic approach is supportive of capitalism and the unitary approach is looked upon as an anathema. Hence, the labour-capital conflict, according to this approach, cannot be solved by bargaining, participation and cooperation.

   As such, the role of trade union comes in and is seen as a reaction to exploitation by capitalists along with being a weapon to bring a revolutionary social change by changing capitalistic system. So as to serve this purpose, coercive powers such as strikes, gherao, etc. are exercised by the labour against capitalists.

Apart from the above three, some other approaches to IR include the following:

1. **The Industrial Sociology Approach:** G. Margerison, an industrial sociologist, opines that the core of industrial relations is the nature and development of the conflict itself. According to him, conflict is the basic concept that should form the basis of the study of industrial relations. He critised the prevalent approach to industrial relations stating that it was more concerned with studying the resolution of industrial conflict than its generation and focused upon the consequences of industrial disputes than their causes. According to this school of thought, there are two major conceptual levels of industrial relations. The first being the intra-plant level where situational factors, such as job content, work task and technology, and interaction factors

produce three types of conflict – distributive, structural, and human relations. These types of conflicts are resolved through collective bargaining, structural analysis of the socio-technical systems and man-management analysis respectively. The second level is outside the firm and is primarily concerned with the conflicts not resolved at the intra-organisational level. This approach rejects the special emphasis given to rule determination by the "Systems and Oxford models". Rather, it suggests a method of inquiry, which attempts to develop sociological models of conflicts.

2. **The Oxford Approach:** As per this approach, the industrial relations system is a study of institutions of job regulations and the stress is on the substantive and procedural rules as in Dunlop's model. Flanders, the exponent of this approach, considers every business enterprise as a social system of production and distribution having a structured pattern of Conceptual Framework of relationships. The "institution of job regulation" is categorised by him as internal and Employment Relations as external. While the former is an internal part of the industrial relations system such as code of work rules, wage structure, internal procedure of joint consultation, and grievance procedure; trade unions are considered as an external organization.Flanders excludes collective agreements from the sphere of internal regulation. According to him, collective bargaining is central to the industrial relations system.

The "Oxford Approach" can be expressed in the form of an equation:

r = f (b) or r = f (c)

where,

r = the rules governing industrial relations

b = collective bargaining

c = conflict resolved through collective bargaining.

The "Oxford Approach" can be criticised on the ground that it is too narrow to provide a comprehensive framework for analysing industrial relations problems as it over emphasises the significance of the political process of collective bargaining and gives insufficient weight to the

role of the deeper influences in the determination of rules. While institutional and power factors are viewed as of paramount importance, variables such as technology, market, status of the parties, and ideology, are not given any prominence at all. This narrowness of approach constitutes a severe limitation.

3. **The Action Theory Approach:** The action theory approach takes the collective regulation of industrial labour as its focal point just like the systems model. The actors operate within a framework, which can at best be described as a coalition relationship. The actors, it is claimed, agree in principle to cooperate in the resolution of the conflict, their cooperation taking the form of bargaining. Thus, this theory analyses industrial relations focusing primarily on bargaining as a mechanism for the resolution of conflicts. While the systems model of industrial relations constitutes a more or lesscomprehensive approach, it is hardly possible to speak of one uniform action theory concept.

4. **The Human Relations Approach:** As stated by Keith Davies, human relations are "the integration of people into a work situation that motivates them to work together productively, cooperatively and with economic, psychological and social satisfactions." He perceives the goals of human relations are: (a) to get people to produce, (b) to cooperate through mutuality of interest, and (c) to gain satisfaction from their relationships. The human relations school founded by Elton Mayo and later propagated by Roethlisberger, Whitehead, W.F. Whyte, and Homans offers a coherent view of the nature of industrial conflict and harmony. It highlights certain policies and techniques to improve employee morale, efficiency and job satisfaction along with encouraging small work groups to exercise considerable control over the environment , thereby helping to remove a major irritant in labour-management relations. However, some of its viewswere criticised by Marxists, Pluralists, and others on the ground that it encouraged dependency and discouraged individual development, and ignored the importance of technology and culture in industry. Given these criticisms, however, it must be admitted that the human relations school has

thrown a lot of light on certain aspects such as communication, management development, acceptance of workplace as a social system, group dynamics, and participation in management.

5. **The Gandhian Approach:** Gandhiji can be called one of the greatest labour leaders of modern India. His approach to labour problems was completely new and refreshingly human. He held definite views regarding fixation and regulation of wages, organisation and functions of trade unions, necessity and desirability of collective bargaining, use and abuse of strikes, labour indiscipline, workers participation in management, conditions of work and living, and duties of workers. The Ahmedabad Textile Labour Association, a unique and successful experiment in Gandhian trade unionism, implemented many of his ideas. Gandhiji had immense faith in the goodness of man and he believed that many of the evils of the modern world have been brought about by wrong systems and not by wrong individuals. He insisted on recognising each individual worker as a human being and believed in non-violent communism. He also laid down certain conditions necessary for a successful strike like:**(a)** the cause of the strike must be just and there should be no strike without a grievance;**(b)** there should be no violence; and **(c)** non-strikers or "blacklegs" should never be molested. He was not against strikes but pleaded that they should be the last weapon in the armoury of industrial workers and hence should not be resorted to unless all peaceful and constitutional methods of negotiations, conciliation and arbitration are exhausted.

Gandhiji's concept of trusteeship is a significant contribution in the sphere of industrial relations. He stated that employers should not regard themselves as sole owners of mills and factories of which they may be the legal owners. Rather, they should regard themselves only as trustees, or co-owners. He also appealed to the workers to behave as trustees, not to regard the mill and machinery as belonging to the exploiting agents but to regard them as their own, protect them and put to the best use they can. The theory of trusteeship, can therefore, be said to be based on the view that all forms of property and human

accomplishments are gifts of nature and as such, they belong not to any one individual but to society. This approach aimed at achieving economic equality and the material advancement of the "have-nots" in a capitalist society by non-violent means.

Gandhiji realised that relations between labour and management can either be a powerful stimulus to economic and social progress or an important factor in economic and social stagnation. Industrial peace was recognized as an essential condition not only for the growth and development of the industry, but also as a great measure, for the improvement in the conditions of work and wages. At the same time, he not only endorsed the workers' right to adopt the method of collective bargaining but also actively supported it. He advocated voluntary arbitration and mutual settlement of disputes and pleaded for perfect understanding between capital and labour, mutual respect, recognition of equality, and strong labourorganisation as the essential factors for happy and constructive industrial relations.

6. **Human Resource Management Approach:** The term, Human Resource Management (HRM)finds application in a diverse range of management strategies, which includes personnel or industrial relations management. Some of the components of HRM are: (i) human resource organisation; (ii) human resource planning; (iii) human resource systems; (iv) human resource development; (v) human resource relationships; (vi) human resource utilisation;(vii) human resource accounting; and (viii) human resource audit. This approach emphasizes upon individualism and direct relationship between management and its employees. Therefore, it questions the collective regulation basis of traditional industrial relations.

1.6 TRADE UNIONISM

Labour unions or trade unions are organizations formed by workers from related fields that work for the common interest of its members. They help workers in issues like fairness of pay, good working environment, hours

of work and benefits. They represent a cluster of workers and provide a link between the management and workers.

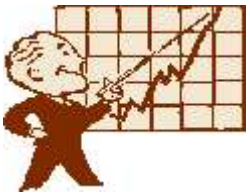
The purpose of labour unions is to look into the grievances of wagers and act as the medium of communication between the workers and management.

Regulation of relations, settlement of grievances, raising new demands on behalf of workers, collective bargaining and negotiations are the other key principle functions that these trade unions perform.

The Indian Trade Union Act, 1926, is the principle Act which controls and regulates the mechanism of trade unions. In India, political lines and ideologies influence trade union movements.

The trade unionism movement originated in the 19th century in Great Britain, continental Europe, and the United States. In many countries it is seen as synonymous with the term *labour movement*. Smaller associations of workers started appearing in Britain in the 18th century, but they remained sporadic and short-lived through most of the 19th century. This was partially due of the hostility they encountered from employers and government groups that resented this new form of political and economic activism. Unions and unionists, during those days, were regularly prosecuted under various restraint-of-trade and conspiracy statutes in both Britain and the United States.

While union organizers in both countries faced similar obstacles, their approaches evolved quite differently: while the British movement favoured political activism, which led to the formation of the Labour Party in 1906, on the other hand, American unions pursued collective bargaining as a means of winning economic gains for their workers. British unionism received its legal foundation in the Trade-Union Act of 1871. However, in the United States the same effect was achieved more slowly and uncertainly, by a series of court decisions that whittled away at the use of injunctions, conspiracy laws, and other devices against unions.



CHECK YOUR PROGRESS

Q 3: What are the popular approaches to IR ?

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Q 4: What is The Gandhian Approach ?

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Q 5: What is Trade Union ?

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1.7 BIPARTITE AND TRIPARTITE BODIES

Bipartite Bodies

Bipartism is a system of industrial relations where social and labour issues are discussed between trade unions and management, usually at the enterprise level. Bipartite machinery comprises of two important constituents - the works committees and the joint management councils. These are purely consultative, and not negotiating, joint machineries- with equal representation of the employers and the workers –set up exclusively for dealing with disputes affecting the plant or industry.

Bipartite consultative machinery was first recognized as important around 1920, when a few joint committees were set up in the presses controlled by the Government of India. These committees were also introduced in Tata Iron and Steel Company at Jamshedpur. The First-Five-Year Plan of India also highlighted the importance of bipartite bodies by specifically stating that - “There should be the closest collaboration, through the consultative committee at all levels, between employers and employees for the purpose of increasing production, improving quality, reducing cost and eliminating waste.

Below is a discussion on the two important constituents of bipartite mechanisms, as finds mention above -

a. **Works Committees:** These committees have been regarded as the most effective social institutions of industrial democracy and as a statutory body, established within the industrial units with representatives of the management and workmen, for preventing, and settling industrial disputes at the unit level. Works Committees can be formed by any enterprise, employing 100 or more workers. The objectives of such committees are: (i) To remove the causes of friction in the day-to-day work situation by providing an effective grievances-resolving machinery; (ii) To promote measures securing amity and good relationship; (iii)To serve as a useful adjunct in establishing continuing bargaining relationship; and (iv)To strengthen the spirit of voluntary settlement, rendering recourse to conciliation, arbitration and adjudication rather infrequent; for these are achieved by commenting upon matters of concern or endeavour to compose any material difference of opinion in respect of such matters.

b. **Joint Management Council:** The Joint Management Councils give labour a greater sense of participation and infuse a spirit of cooperation between the two parties without encroaching upon each other's sphere of influence, rights and prerogatives. They provide a scope for close mutual interaction between labour and management with emphasis on generating a co-operative atmosphere for negotiation and settlement. These committees also aim at making the will of the employees effective in the management; ensure the operation of the private-owned concern in conformity with national interests and provide for a popular agency for supervising the management of nationalized undertakings. In brief, such committees try to promote industrial goodwill and harmonious relations through better understanding of employees by management and of management by workers.

Tripartite Bodies

Tripartismcan be best described as a system of labour relations in which the state, employers, and workers are autonomous yet interdependent partners, pursuing common interests and participating in decisions affecting them in a binding spirit of mutuality and reciprocity. This can take place at

either or both macro and micro levels. Tripartite consultation is an important feature of India's industrial relations system. In India, the system originated way back in as 1942. The two main forums for Tripartite Consultationin the country are the Indian Labour Conference (ILC) and the Standing Labour Committee (SLC). The objectives of Tripartite Consultation include the following:

i. to promote uniformity in labour legislation.
ii. to lay down a procedure of industrial disputes.
iii. to consider matters of importance to both the managements and labour.

There are a number of tripartite bodies which operate at the Central and State levels. The Indian Labour Conference, Standing Labour Committees, Wage Boards and Industrial Committees operate at the Central level and State Labour Advisory Boards operate at the state level. All these bodies play an important role in reaching at voluntary agreements on various labour matters. Though the recommendations of these bodies are only advisory in nature they carry considerable weight with the government, workers and employers.

1.8 INDUSTRIAL DISPUTES

According to Sec. 2 of the Industrial Dispute Act, 1947, "Industrial dispute means any dispute or difference between employees 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 or with the conditions of labour of any person" Industrial disputes are of symptoms of industrial unrest in the same way that boils are symptoms of a disordered body.

Whenever an industrial dispute occurs, both management and workers try to pressurize each other. The management may resort to lock-out and the workers may resort to strike, gherao, picketing, etc.

1. **Strike:** Strike is a very powerful weapon used by a trade union to get its demands accepted. It means quitting work by a group of workers for the purpose of bringing pressure on their employer to accept their demands. According to Industrial Disputes Act, 1947, "Strike means a

cessation of work by a body 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 to accept employment."

There are many types of strikes. A few of them are discussed below:

i. **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.

ii. **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.

iii. **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

iv. **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.

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.

2. **Lock-out:** 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. It is an act on the part of the employers to close down the place of work until the workers agree to resume the work on the terms and conditions specified by the employers.

3. **Gherao:** It is a Hindi word which means 'to surround'. It implies 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.

4. **Picketing:** When workers are dissuaded from reporting for work by stationing certain men at the factory gates, such a step is known as picketing. It is basically a method of drawing the attention of public towards the fact there is a dispute between the management and the workers.

1.8.1 Causes of Industrial Disputes

The causes of Industrial Disputes may of the following reasons:

a. Economic causes, and

b. Non-economic causes.

Economic causes include the following:

(i) Wages,

(ii) Bonus,

(iii) Dearness allowance,

(iv) Conditions of work and employment,

(v) Working hours,

(vi) Leave and holidays with pay, and

(vii) Unjust dismissals or retrenchments.

Non-economic causes include the following:

(i) Recognition of trade unions,

(ii) Victimisation of workers,

(iii) Ill-treatment by supervisory staff,

(iv) Sympathetic strikes,

(v) Political causes, etc.

1.8.2 Nature of Industrial Dispute

The nature of an industrial dispute may be explained thus:

1. 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.

2. 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.
3. The dispute must be taken up either by the industry union or by a substantial number of workmen.
4. There must be some nexus between the union and the dispute.

1.8.3 Classification of Industrial Dispute

Industrial Disputes have been classified by the ILO into the following two main types:

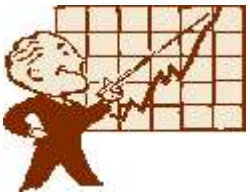
1. **Interest Disputes:** Also called 'economic disputes', they arise out of terms and conditions of employment - either out of the claims made by the employees or offers given by the employers. Such demands or offers are generally made with a view to arrive at a collective agreement. Examples of interest disputes are lay-offs, claims for wages and bonus, job security, fringe benefits, etc.
2. **Grievance or Right Disputes:** Grievance or Right disputes arise out of application or interpretation of existing agreements or contracts between the employees and the manage-ment. They relate either to individual worker or a group of workers in the same group.

Such disputes are also called 'individual disputes'. Payment of wages and other fringe benefits, working time, over-time, seniority, promotion, demotion, dismissal, discipline, transfer, etc. are the examples of grievance or right disputes.

Such grievances are often settled through laid down standard procedures like the provisions of the collective agreement, employment contract, works rule or law, or customs /usage in this regard apart from Labour Courts or Tribunals to adjudicate over them.

Although most often industrial disputes are considered as

'dysfunctional' and 'unhealthy', sometimes industrial disputes are beneficial as well. Dispute opens up the minds of employers and motivates and/or induces them to provide better working conditions and emoluments to the workers.



CHECK YOUR PROGRESS

Q 6: Name the different types of industrial disputes.

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Q 7: Define Lock out?

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1.9 LET US SUM UP

- The concept of industrial relations has been extended to denote the relations of the state with employers, workers, and other organisations. The subject, therefore, includes individual relations and joint consultation between employers and workers at their places of work, collective relations between employers and trade unions; and the part played by the State in regulating these relations".
- IR is dynamic in nature. The nature of IR can be seen as an outcome of complex set of transactions among the major players such as the employers, the employees, the trade union, and the state in a given socio-economic context. In a sense, change in the nature of IR has become sine quo non with change in the socio-economic context of a country.
- The three popular approaches to industrial relation are as follows: 1. Unitary Approach 2. Pluralistic Approach 3. Marxist Approach.

- Labour unions or trade unions are organizations formed by workers from related fields that work for the common interest of its members. They help workers in issues like fairness of pay, good working environment, hours of work and benefits. They represent a cluster of workers and provide a link between the management and workers.
- The purpose of these unions is to look into the grievances of wagers and present a collective voice in front of the management. Hence, it acts as the medium of communication between the workers and management.



1.10 FURTHER READING

1) Ratnam C S V, *Industrial Relations*, Oxford University Press, New Delhi, 2013.
2) Monappa A et al, *Industrial Relations and Labour Laws*, 2nd edition, McGraw-Hill Education, India, 2012.
3) Srivastava S C, *Industrial Relations and Labour Laws*, 6th Revised Edition, Vikash Publishing House, India, 2014.



1.11 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Armstrong has defined IR as “IR is concerned with the systems and procedures used by unions and employers to determine the reward for effort and other conditions of employment, to protect the interests of the employed and their employers and to regulate the ways in which employers treat their employees”.

Ans to Q No 2: IR in India has been discussed under two time phases: Pre-Independence Era and Post-Independence Era

Ans to Q No 3: The popular approaches to IR are: Unitary Approach, Pluralistic Approach and Marxist Approach

Ans to Q No 4: Gandhiji's concept of trusteeship is a significant contribution in the sphere of industrial relations. He stated that employers should not regard themselves as sole owners of mills and factories of which they may be the legal owners. Rather, they should regard themselves only as trustees, or co-owners. He also appealed to the workers to behave as trustees, not to regard the mill and machinery as belonging to the exploiting agents but to regard them as their own, protect them and put to the best use they can.

Ans to Q No 5: Labour unions or trade unions are organizations formed by workers from related fields that work for the common interest of its members. They help workers in issues like fairness of pay, good working environment, hours of work and benefits. They represent a cluster of workers and provide a link between the management and workers.

Ans to Q No 6: The ILO has classified the industrial disputes into two main types. They are: Interest Disputes and Grievance or Right Disputes.

Ans to Q No 7: 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.



1.12 MODEL QUESTIONS

Q 1: Define IR and emphasise upon the need to take up IR as a specialized subject of study in HRM.

Q 2: Discuss the evolution of IR in India.

Q 3: Distinguish between the pre-independence and the post-independence developments of IR in India.

Q 4: Throw light upon the Unitary, Pluralist and Marxist approaches to IR.

Q 5: Draw focus to the Human relations Approach and the Gandhian Approach to the discipline of IR.

Q 6: Create understanding about the meaning of Trade Unionism.

Q 7: Enlist and explain a few causes of Industrial disputes and state remedies to them.

Q 8: Explain the composition and functioning of Bipartite and Tripartite bodies for settlement of Industrial Disputes.

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UNIT 2: INFLUENCING FACTORS OF INDUSTRIAL RELATION (IR)

UNIT STRUCTURE

2.1 Learning Objectives

2.2 Introduction

2.3 Factors Influencing IR

2.4 Employment Structure

2.5 Social Partnership

2.5.1 Role of Social Partners

2.6 Labour Market in India

2.7 Let Us Sum Up

2.8 Further Reading

2.9 Answers To Check Your Progress

2.10 Model Questions

2.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- identify the factors that have an influence on IR practices
- learn the employment structure of industrial workers in India and have insights into the Indian Labour Market
- discuss the concept and meaning of Social Partnership, along with realizing its need and significance in the IR environment.

2.2 INTRODUCTION

A host of factors influence IR practices. These ranges from personal to organizational to cultural, political, legal and many more. Amidst these complexities, to maintain mutual objectives and goals of IR practices becomes not only challenging but also confusing at times. Without adequate knowledge about the Labour Market scenario of the functioning location, IR practices can go grossly wrong from both ways, i.e. the employers as well as the employees. Moreover, to maintain a congenial working relation and environment, it is required that various alternative partnership models are

conceptualized and adopted by the stakeholders concerned.

Hence, this unit tries to introduce the readers to some of the important influencing variables and concepts relating IR in the country and across the globe.

2.3 FACTORS INFLUENCING IR

Broadly, the factors influencing IR can be categorized into the following:

1. **External Factors:** The history of industrial relations holds evidence to instances when workers felt that employer actions or market conditions caused them to have an unequal share of power in their relationship with their employer. As such, they resorted to collective bargaining practices in the public and private sectors to get better wages and working conditions from their employer's representatives. In modern times, we find the existence of many laws ensuring that workers receive a minimum wage and safe working environments.
2. **Internal Factors:** The impact of the company's human resources practices on industrial relations cannot be overlooked. As enlisted by the International Labour Organisation, these might include low productivity, absenteeism, high employee turnover, low job security, unsatisfactory or unsafe working environments, failure to recognize performance in pay plans, and lack of motivation. Small-business owners can address these problems by updating their HR practices and firing managers who create these problems or by way of employee motivation, including rolling out more opportunities for training and advancement, pay for performance, performance incentives and worker recognition programs.
3. **Work Climate:** The company can set up HR policies based on intensive and extensive research in the firm. But employees will still judge the company by how it feels to work there. As such, leadership and management style is found to exhibit much effect on employees. If there are problems with worker performance among many workers or other indicators such as high turnover or absenteeism, it is needed

to study what is causing those conditions. Under such circumstances, introduction of a new HR goal, such as introducing flexibility and participation into the management model; giving managers and workers more authority to decide how to accomplish their goals; and so on may prove to be of much help.

4. **Employee Attitudes:** Employee surveys can be used to study the sources of conflict or dissatisfaction in employees as they will have a wide range of attitudes about working. These are indicative of good employee relations and will usually produce better performance.

2.4 EMPLOYMENT STRUCTURE

A commodity market refers to a physical place where buyers and sellers of a particular commodity gather for engaging in transactions while a labour market is viewed as a process by which supplies of a particular type of labour and demands for that type of labour are balanced, is an abstraction.

Unlike a commodity market, the relationship between a seller and a buyer in a labour market is not temporary and as such personal factors, which can be ignored in a commodity market, become important in a labour market.

Also, unlike a commodity market, there is a lack of perfect mobility in a labour market which gives rise to a diversity of wage rates for the same type of work and we do not find a normal wage rate to which the market rate naturally tends. Thus, labour market is essentially an imperfect market.

Wage fixation is an essential characteristic of the labour market, where (in the absence of unions) the buyer of labour normally sets the price but in the commodity market, it is normally the seller who sets the price.

In labour market the price that is set tends to be fixed for some length of time. Employers do not want wage rates to fluctuate with every change in demand and supply conditions.

Moreover, the labour market is far more complex than the commodity market. It makes little difference whether a potato is sold in Kolkata or in Mumbai to the seller.

In the labour market of an expanding economy, the vast majority of individuals are employees while relatively small minorities function either as employing persons or as employed managers of employing units. Due to this very reason, the labour composition is interested in short-run wage-levels, working hours and working conditions.

Owing to industrialization, the average employing unit has become larger in size along with an expansion of its bargaining power. On the other hand, the bargaining power of the individual worker has shrinked and become almost meaningless for all practical purposes.

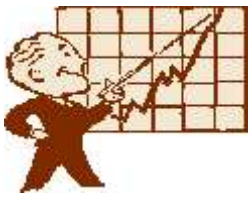
This being so, the individual worker loses control over the determination of factors quite basic to him, such as wages, his working hours etc.

It should be noted that the labour market seems to perform more adequately during periods of full employment than during periods of depression.

This is so because in periods of full employment more jobs are open than it is during the periods of widespread unemployment. This provides an explanation for the narrowing of wage differentials during periods of full employment.

Although a labour market may be viewed as definite geographic area. But it is not easy to define the boundaries of labour markets. The extent of a market depends in part upon the worker's education and skill.

Age is also an important factor in the mobility of labour. In general, young workers tend to be more mobile than their older counterparts in the labour force.



CHECK YOUR PROGRESS

Q 1: Name any two factors that influences IR

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Q 2: State one characteristic of the labour market.

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2.5 SOCIAL PARTNERSHIP

Social partners are groups that cooperate in working relationships to achieve a mutually agreed upon goal, typically to the benefit of all involved groups. Examples of social partners include employers, employees, trade unions, government, etc.

2.5.1 Role of Social Partners

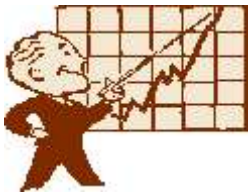
Social partners have a vital role to play in reaching out to workers and owners. With the approaching of globalization, companies must bear more pressure from the competitive environment and relationship between countries in respect of more issues coming up such as the environment issue, the society problem and the income distribution problem after globalization.

Moreover, new technology has replaced the status of traditional industries that cause structural unemployment particularly in respect of the low-skill workers.

The relationship between employee and employer is found to become more complicated as typical employment turns into mainstream in the employment market. Because of these circumstances, the relationship between labor and employer has become more like partners.

There is an inextricable connection between social partners and social dialogue:

1. Powerful and independent organization of labor and employer.
2. Both employee and employer have the willingness to talk equally.
3. Respect the freedom of association and the collective bargaining.
4. Appropriate institutional support.



CHECK YOUR PROGRESS

Q 3: State the primary role of social partners

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2.6 LABOUR MARKET IN INDIA

The Indian labor market can be categorized into three basic sectors:

- Rural workers, who constitute about 60% of the workforce;
- Organized of the formal sector, that constitutes about 8% of the workforce; and
- Urban unorganized or informal structure which represents the 32% of the workforce.

According to reports, the Indian labor force has grown from 276.3 million to 385.5 million between 1977-78 and1993-94. During the year 1999-2000, the workforce was estimated to be 407million. So far as the figures for 2004-05 are concerned, the labor market consisted of 430 million workers and has grown up to 500 million in 2006.

Two-third of India's workforce is employed in agriculture and rural industries. One-third of rural households are agricultural labor households, subsisting on wage employment. Only about 9 percent of the total workforce is in the organized sector; the remaining 91 percent are in the unorganized sector, self-employed, or employed as casual wage laborers. The labor force in year 2006 has grown up to 509.3 million out of which 60% are in agriculture, 12% are employed in industries and the residual 28% are in services.

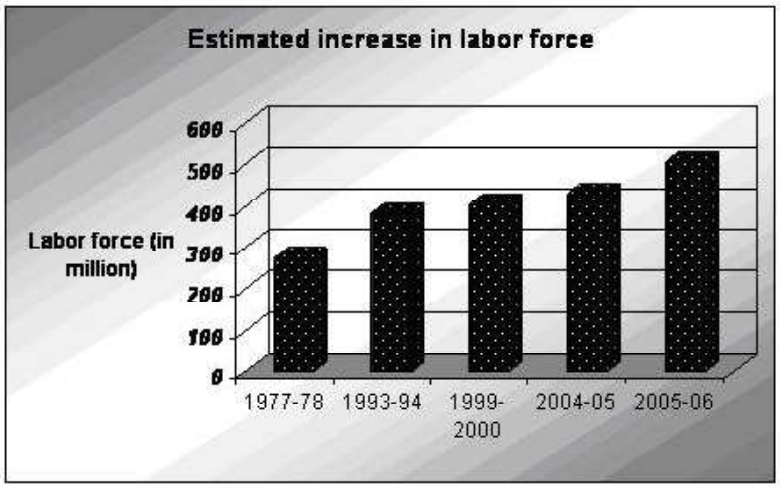


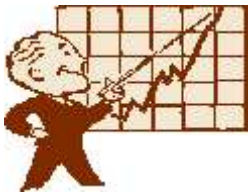
Fig 2.1 : Estimated Increase in Labour Force

The Indian labor force can be divided into four categories: self employed workers, wage and salary earners, casual workers and unemployed. Of these, self-employed are most loosely connected to labor market because of the possibilities of work-sharing and work spreading in a self-employed enterprise. On the other hand, the Non-contractual casual laborers have the closest connection to labor market on almost day-to day basis. It is the same with those unemployed who are actively seeking work. It is found that contractual and hence stable hired employment (with the same employer and/or in the same job) on a regular basis is covered in the description of wage and salary workers. Self-Employed are those who are engaged in their own farm or non- farm enterprises. The employees in an enterprise can be either regular salaried/ wage employees or casual wage employees who are normally engaged on a day-to-day basis. The casual wage workers, in public work as well as other types of work do not have any job security or social security. These workers, either in formal or informal sector or in private households, are categorized as informal workers. The regular salaried/wage employees are those working in others farm or non-farm enterprises and getting in return salary or wages on a regular basis and not on the basis of daily or periodic renewal of work contract. This category includes those getting time wage as well as those receiving piece wage or salary and paid apprentices, both full time and part time. This

category of persons may, therefore, include persons engaged regularly on an hourly basis, temporary workers, out- workers, etc.

The classification of labor force across male-female and rural-urban dimensions in India can be depicted thus:

- Self-employment and casual labor statuses are more prevalent among rural than urban labor force and among female than male workers.
- The Incidence of unemployment is higher in the urban than in the rural labor force with nearly 48 per cent of the total unemployed persons coming from aggregate urban labor force whose share in total (rural plus urban) work force is 22 per cent.
- Those reporting wage and salary earning dominate in the urban labor force, their share being around 62 per cent.



CHECK YOUR PROGRESS

Q 4: How can the Indian Labour Market be classified?

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2.7 LET US SUM UP

- Broadly, the factors influencing IR may be categorized into internal and external factors.
- In a labour market there is a lack of perfect mobility which gives rise to a diversity of wage rates for the same type of work and we do not find a normal wage rate to which the market rate naturally tends. In other words, labour market is essentially an imperfect market.
- Wage fixing is an essential characteristic of the labour market, where (in the absence of unions) the buyer of labour normally sets the price but in the commodity market, it is normally the seller who sets the price.

- Social partners are groups that cooperate in working relationships to achieve a mutually agreed upon goal, typically to the benefit of all involved groups. Examples of social partners include employers, employees, trade unions, government, etc.
- Social partners have a vital role to play in reaching out to workers and owners of enterprises and in particular those of SMEs and the informal economy, and in general, increasing the representation of their membership to ensure deeper and broader benefits of association, representation and leadership, including in the field of public policy advocacy, its formulation and implementation.
- The Indian labor market can be categorized into three sectors:
  - Rural workers , who constitute about 60% of the workforce
  - Organized of the formal sector, that constitutes about 8% of the workforce; and
  - Urban unorganized or informal structure which represents the 32% of the workforce.



2.8 FURTHER READING

1) Misra S N(2013), *Labour and Industrial Law*, Central Law Publications, India.

2) Kumar H L(2016), *Labour Problems and Remedies*, 13th Edition, Universal Law Publishing, India, 2016.



2.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: The factors influencing IR are: External Factors and Internal Factors

Ans to Q No 2: Wage fixing is an essential characteristic of the labour market, where (in the absence of unions) the buyer of labour normally

sets the price but in the commodity market, it is normally the seller who sets the price.

Ans to Q No 3: Social partners have a vital role to play in reaching out to workers and owners of enterprises and in particular those of SMEs and the informal economy, and in general, increasing the representation of their membership to ensure deeper and broader benefits of association, representation and leadership, including in the field of public policy advocacy, its formulation and implementation..

Ans to Q No 4: The Indian labor market can be categorized into three sectors:

- Rural workers , who constitute about 60% of the workforce
- Organized of the formal sector, that constitutes about 8% of the workforce; and
- Urban unorganized or informal structure which represents the 32% of the workforce.



2.10 MODEL QUESTIONS

Q 1: Bring in a discussion on the various factors that influence IR and their respective consequences.

Q 2: Throw light upon the characteristics and structure of employment in the Indian industrial sector.

Q 3: Create understanding about the concept and importance of Social Partnership in maintaining congenial Industrial Relations.

Q 4: Characterise and categorise the Indian Labour Market.

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UNIT 3: TRADE UNIONS

UNIT STRUCTURE

3.1 Learning Objectives

3.2 Introduction

3.3 Growth of Trade Union in India

3.4 Legal Framework of Trade Unions In India

- 3.4.1 Distinctive Feature of Indian Labour and Employment Laws

3.5 Trade Union Recognition

3.6 Problems of Trade Unions

3.7 Employee Association: Membership and Financial Status

3.8 Trade Union Act 1926

- 3.8.1 Objectives of Trade Union Act, 1926
- 3.8.2 Definitions from the Trade Union Act, 1926
- 3.8.2 Registration of Trade Unions
- 3.8.3 Cancellation of Registration [sec. 10] (2001 amendment)
- 3.8.4 Features of Registered Trade Union[Sec 13]

3.9 Let Us Sum Up

3.10 Further Reading

3.11 Answers to Check Your Progress

3.12 Model Questions

3.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- trace the growth and development of Trade Unions in India
- discuss the conditions required of a trade union to be recognized as one legally
- discuss the various challenges and problems relating to Trade unions
- describe the concept and features of Employee associations
- discuss the Trade union Act, 1926.

3.2 INTRODUCTION

The Trade Union Movement in India proved to be a catalyst for change in so far as the treatment of industrial workers was concerned. The formalization of a body of worker representatives gave the comparatively 'deprived' workers the much-needed forum wherein to express their opinions and put forward their demands, grievances and other issues relating to working conditions, compensation, facilities/amenities/benefits, etc. in a judicious manner. In other words, it was as if, they got a 'voice' in the industry which helped them fight against being exploited. The Trade Union Act 1926 only added weightage to their stand.

This unit, therefore, looks into the various important aspects of trade union development, formation and recognition, problems and legal framework; especially with reference to India.

3.3 GROWTH OF TRADE UNION IN INDIA

Early Growth: The Trade Union Movement began in India by the end of the First World War. The exploitation of labor caused by the exigencies of the war created unrest among the working class of people; thereby leading them to form unions that would voice their grievances, fight for their rights and ensure them better working conditions.

As their efforts and perseverance resulted in the formation of organized worker bodies, the Government was compelled to give them legal recognition by passing the Trade Union Act of 1926. Unions registered under this Act were given some valuable rights and privileges.

Since then Trade Unions have been multiplying in large numbers till they reached the total figure of 1,863 in the year of our independence. Their membership also has been increasing in the same manner.

Causes:

- The Trade Union Movement in India received a great impetus in the last war when the price of essential commodities rose abnormally high owing to the scarcity created by war conditions.

- The rise in the cost of living made industrial workers better organized than before.
- Their demand for overtime allowance, bonus, compensation, relief, etc. became more and more insistent and gathered a force which even the most resourceful of our producing concerns failed to resist.
- The principle of collective bargaining was accepted as the only means of securing better service conditions from employers.
- Public opinion was strongly in favor of workers who were considered to be mercilessly exploited by their masters. This made it easy for these representative labor unions to get many of their demands conceded by the employers of labor.

Initiatives:

The Government of India too sympathized with the fate and conditions of the labour class and consequently, passed a series of Acts for the welfare of industrial labor aimedat giving the workers security against unjust exploitation.

Trade unionism success stories in the field of industrial labor encouraged employees in other business organizations such as banking, insurance and similar other concerns to form associations of their own on trade union principles to fight for their collective rights.

Industrial Trade unions:

The primary role of Trade Unionism, however, is ordinarily associated with the corporate activities of industrial workers. It is through continuous agitations that they were able to draw a large measure of public sympathy.

A democratic government claiming to represent the interests of the common people cannot possibly remain indifferent to the just and reasonable demands of such a large section of people condemned to a life of toll, misery and insecurity. In the light of this belief, some legislative measures have been adopted by the Government in the hope that they will mark a new epoch in the history of labor movement in this country and set at rest all disaffection and unrest among industrial workers.

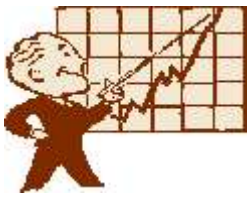
Need for discipline:

But it is a sorry fact that under the circumstances which now prevail,

it is difficult for trade unions in India to grow and develop along healthy lines and serve the cause of the members in the way they should. Rather it is desirable of such unions that they should shed all political character or affiliations and develop a sense of discipline and responsibility among the members.

Spirit of service to the nation:

Trade unions all over the country should necessarily be actuated in their activities by a spirit of service to the nation. The worker members and beneficiaries of trade unions should be made to realize that their interests are indissolubly connected with the interest of the nation at large and that their prosperityis directly related to the prosperity of the nation as a whole. So they must respond enthusiastically to the call for national reconstruction.



CHECK YOUR PROGRESS

Q 1: When did the Trade Union Movement begin in India?

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Q 2: Write the Causes of Trade Union

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3.4 LEGAL FRAMEWORK OF TRADE UNIONS IN INDIA

The gamut of Indian labour laws divide the industry into two broad categories:

1. **Factory:** Factories are regulated by the provisions of the Factories Act, 1948. All industrial establishments employing 10 or more persons and carrying manufacturing activities with the aid of power come within the definition of Factory. The Factories Act makes provisions for the health, safety, welfare, working hours and leave of workers in factories and is enforced by the State Government through their 'Factory' inspectorates. It puts special emphasis on welfare, health and safety

of workers and is instrumental in strengthening the provisions relating to safety and health at work, providing for statutory health surveys, requiring appointment of safety officers, establishment of canteen, crèches, and welfare committees etc. in large factories.

The Act also provides specific safe guards against use and handling of hazardous substance by occupiers of factories and laying down of emergency standards and measures.

2. **Shops and Commercial Establishments:** 'Shops and Commercial Establishments' are regulated by the Shops and Commercial Establishments Act. This takes the form of state statutes and respective states have their respective Shops and Commercial Establishments Acts which provide for various provisions and guidelines relating to opening and closing hour, leave, weekly off, time and mode of payment of wages, issuance of appointment letter etc.

With regard toindustrial workers, **the Trade Union Act 1926** serves as the major guide and safeguard to the very existence and functioning of workers' unions. Various rights, obligations, duties, liabilities, and other do's and don'ts of all the parties to an industrial relation find mention in this Act. Other than this Act, there are many other labour and employment laws that make for the legal framework of industrial employment and relation in India.

3.4.1 Distinctive Feature of Indian Labour and Employment Laws

Characteristically, the Indian Labour and Employment Laws in India have categorized employees into three main categories: government employees, employees in government controlled corporate bodies known as Public Sector Undertakings (PSUs) and private sector employees.

The rules and regulations governing the employment of government employees stem from the Constitution of India. Accordingly, government employees enjoy protection of tenure, statutory service contentions and automatic annually salary increases.

Public sector employees are governed by their own service regulations, which either have statutory force, in the case of statutory corporations, or are based on statutory orders.

Employees belonging to the private sector can be further classified into two broad categories: management staff and workman. Managerial, administrative or supervisory employees drawing a salary of Rs.1600/- or more per month are considered management staff.There exists no statutory provisions relating to their employment. Thus, the conditions of their employment are governed by respective contracts of employment and their services can be discharged in terms of their contract of employment. However, the worker category is covered under the provisions of the Industrial Disputes Act.

The Unorganised Sector: There are manylabour and employment laws that also apply to the unorganised sector. The unorganized sector can be defined as that part of the work force that have not been able to organize itself in pursuit of a common objective because of certain existent constraints of the respective sectors such as casual nature of employment, ignorance or illiteracy, superior strength of the employer, and the like.The laws, under this category, include the likes of the Building and Construction Workers Act 1996, the Bonded Labour System (Abolition) Act 1976, The Interstate Migrant Workers Act 1979, The Dock Workers Act 1986, The Plantation Labour Act 1951, The Transport Workers Act, The Beedi and Cigar Workers Act 1966, The Child Labour (Prohibition and Regulation) Act 1986, and The Mine Act 1952.

The Law and their Provisions for Women: Although women constitute a significant part of the workforce in India but they lag behind men in terms of work participation and quality of employment. According to Government sources, out of 407 million total workforce, 90 million are women workersin the agricultural sector.In urban India, the employment of women in the organised sector in March 2000 constituted 17.6 percent of the total organised sector.

Almost all the major central labour laws are applicable to women workers; with the Maternity Benefit Act resting its full focus on the women workers only. The Equal Remuneration Act was passed in 1976, providing for the payment of equal remuneration to men and women workers for same or similar nature of work. This law does not permit any discrimination in recruitment and service conditions except where employment of women is legally prohibited or restricted.The Central Ministry of Labour and the Central Advisory Committee regularly monitors the enforcement of the provisions of this law.In so far as occupational hazards concerning the safety of women at workplaces is concerned, the Supreme Court of India in the case of Vishakha Vs. State of Rajasthan [(1997) 6 SCC 241] held that sexual harassment of working women amounts to violation of rights of gender equality. As such, it also amounts to violation of the right to practice any profession, occupation, and trade. The judgment also laid down the definition of sexual harassment, the preventive steps, the complaint mechanism, and the need for creating awareness of the rights of women workers. Implementation of these guidelines has already begun by employers by amending the rules under the Industrial Employment (Standing Orders) Act, 1946.

Legal framework with regard to Child Labour: It took an initiative for framing an omnibus legislation prescribing 14 years as the minimum age for employment and work in all occupations except agricultural activity in family and small holdings producing for own consumption. This was done with an intended focus on the elimination of child labour. The legislation also looked into fixing a minimum age of not less than 18 years to any type of employment and work which by its nature or circumstances is likely to jeopardize the health, safety or morals of young persons. Consequently, employment of children has been prohibited in 13 occupations and 51 processes in the country bringing the total to 64 and more are in the process of being added to this list. In 2006, the Central

Government amended the Child Labour (Prohibition and Regulation) Act, 1986 prohibiting employment of children below 14 years of age even in non-hazardous industry like restaurants, motels and also as domestic servants.

To emphasise upon the issue of child labour, the Ministry of Labour signed a Memorandum of Understanding with the ILO extending International Programme on Elimination of Child Labour (IPEC) in India for another two years.

Labour Law Reforms: It is being advocated that all talk of liberalization is futile without squarely facing up to the imperative of labour reforms. Other efforts at raising the standard of performance on the economic front to world class are apt to stall if those managing enterprises find themselves hamstrung by outdated trade union laws and dilatory methods of adjudication of industrial disputes.

Productivity, customer service, cost-effectiveness, keeping to delivery schedules, technological up gradation and modernization have emerged as the criteria for judging the quality of management of companies, and labour reforms hold the key to increased competitiveness and investment flows in all these respects. Realising this need, introducing labour market flexibility and simplifying labour laws has no doubt been emphasized by the President and Prime Minister of the country from time to time.



CHECK YOUR PROGRESS

Q 3: To which industries are the Indian labour laws applicable?

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3.5 TRADE UNION RECOGNITION

A union must be recognised before it may effectively represent any employees. Once a union is recognised it serves as the bargaining agent for the workers in a particular bargaining unit. The need for recognition of

trade unions by employers was felt by the working class to ensure that appropriate modes of collective bargaining took place and that the agreements, which were collectively reached, were mutually observed. Recognition of trade unions was regarded as a step towards securing reasonable levels of pay and working conditions.

By the late 1990's, it was realised that trade unions have becomemassive bureaucratic bodies with interests and agendas of those who comprise its membership. However, there is a growing debate as to the extent to which they represent and pursue the interests of their members. It is often argued that this is slight and coincidental.

Trade union recognition works as much in the interests of the employeras it does in the interest of the worker. The recognition of a trade union has several repercussions in defending people on disciplinary charges, accompanying members in meetings with managers and negotiating local conditions of service.

After the passing of the Trade Unions Act, 1926, it may be observed thattrade unions have now become legalized and recognised institutions; from being institutions which were only very small bodies they have now become gigantic associations which are interested in the social, cultural and political development of the country as well.

In the absence of any central legislation, management in several states have refused to recognise a trade union mainly on the following five grounds:

(1) most of the office bearers of the union were outsiders,
(2) and sometimes, those disapproved by management, particularly politicians and ex-employees;
(3) the union consisted of only small number of employees;
(4) there were many rival unions in existence; and
(5) the trade union was not registered under the Trade Unions Act,1926.

The Constitution on Recognition of Trade Unions:

The right to grant recognition to trade unions within the meaning of Constitution of India, art. 19(1)(c) is a fundamental right or not is answered in negative because the right to form association does not carry with it the concomitant right that the association must be recognised by the employers.

Hence withdrawal of recognition does not infringe the fundamental rights guaranteed under the Constitution of India, art. 19(1)(c).

Necessary Conditions for Recognition:

The Trade Unions (Amendment) Act, 1947, Sec 25D provides that a trade union will not be entitled for recognition by order of a labour court under Sec 25E unless it fulfills the following conditions, namely:

(1) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with another;

(2) that it is representative of all the workmen employed by the employer in that industry or those industries;

(3) that its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause. (b);

(4) that its rules do not provide for the procedure for declaring a strike;

(5) that its rules provide that a meeting of its executive will be held at least once in every six months; and

(6) that it is a registered trade union and that it has complied with all provisions of this Act.

3.6 PROBLEMS OF TRADE UNIONS

Some of the major problems faced by trade unions in India are as follows:

1. **Small Size:** According to the veteran trade union leader V.V. Giri, "the trade union movement in India is plagued by the predominance of small sized unions". Nearly three-fourths of the unions in the country have a membership of less than 500. Smallness in size of the union implies, among other things, weakness in bargaining power.
2. **Poor Finance:** Small size of unions has its direct bearing on its financial health. It is the small size of trade unions accompanied by small subscriptions that the trade unions cannot undertake welfare activities as desired or as is expected of them.
3. **Lack of Enlightened Labour Force:** The lack of an enlightened labour force capable of manning and conducting the movement efficiently, purposefully and effectively has been a major problem in the

development of trade unions in the country. Lack of education, division by race religion, language and caste, migratory nature, lack of self consciousness, and non-permanent class of workers have been attributed as the causes for the lack of enlightened labour force in India.

4. **Multiplicity of Unions:** Of late, trade unionism in India is also characterised by multiplicity of unions based on craft, creed and religion. The implication of multiplicity of trade unions is that it leads to rivalry among unions in the organization and contributes to fragmentation to workers leading to small-sized unions.

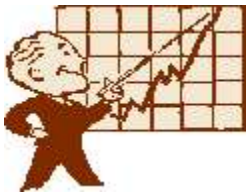
5. **Politicisation:** Leaders being affiliated to one or the other party, the unions were more engrossed in toeing the lines of their political leaders than protecting workers' interests. This certainly is a serious defect of the Trade Union Movement evidenced in India.

   Many a times, inspite of political leaders possessing little knowledge of the background of labour problems, fundamentals of trade unionism, the techniques of industry, and even little general education – they tend to exhibit heavy influence upon all significant decisions and workings of the unions. Naturally, unions cannot be expected to function efficiently and on a sound basis under the guidance of such leaders.

6. **Miscellaneous Problems:** (i) The majority of registered unions are independent unions. One possible reason for this is the educated workers' preference to the independent unions,

   (ii) About 90% of workers in the public sector are unionized while in case of the private sector only 30 % workers are unionized. This is a World-Wide trend, not only featuring in India. But it has a serious implication for trade union movement in India as more and more public sector undertakings are privatized.

   (iii) Given the fast changing industrial scenario, jobs are moving from the organized formal sector to informal sector. However, the unorganised sector which constitutes about 90% of the total work force does not come under the purview of the trade unions.



CHECK YOUR PROGRESS

Q 4: State some major problems faced by Trade Unions in India?

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3.7 EMPLOYEE ASSOCIATION: MEMBERSHIP AND FINANCIAL STATUS

The Collins Dictionary defines an Employee Association as "an organization, other than a trade union, whose members comprise employees of a single employing organization. The aims of the association may be social, recreational, or professional".

Membership: Membership in employee associations may be automatic upon employment, which implies some degree of employer sponsorship, or voluntary, which indicates less direct employer support. In either case, the principal activities include some or all of the following: the provision of various forms of group insurance, the operation of a credit union; the supervision of recreational centres or vacation resorts; the operation of medical centres, cooperative stores, or buying clubs; and the sponsorship of athletic teams or cultural events. This is one side to the membership status of employee associations as followed in some countries.

In certain other countries, employee associations are limited mainly to associations of professional (administrative, technical, and clerical) workers, formed primarily for the preservation and improvement of professional standards. In yet certain other parts of the globe, it is common for non-manual workers to belong to associations that are similar in many respects to trade unions.

Financial Status: The members of the Association may take it upon themselves to fund it and thereby, maintain its financial standing. One such model is a Voluntary Employees' Beneficiary Association (VEBA) which is a type of trust fund formed to provide members and their beneficiaries with a

specified set of employee benefits. Life, health, accident, and medical (including retiree medical) coverage are the most common benefits provided through a VEBA. It is a fund which enjoys tax exemption under IRC Secm501(c)(9) and may be established by a group of employees with common employment-related connections. The VEBA benefits may be funded by either the employees or the employers or both as mutually agreed upon.

A VEBA must meet the following IRS requirements:

1. It must be a voluntary association of employees.
2. The organization must provide for payment of life, sick, accident, or other similar benefits to members or their dependents or designated beneficiaries. Substantially all of its operations must be devoted to this purpose.
3. VEBA earnings must be used solely for the administration and payment of member benefits and may not be used for the advantage of any private individual or shareholder.
4. A single employer may establish a VEBA under some circumstances and subject to fiduciary requirements.
5. VEBA benefits must not favor highly-compensated employees, and any membership eligibility restrictions must be on a reasonable and objective basis.

3.8 TRADE UNION ACT 1926

A highlight of the Trade Union Act 1926 is as follows:

Trade Union [Sec. 2(h)]: Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more Trade Unions.

Provided that this Act shall not affect -

(i) any agreement between partners as to their own business;

(ii) any agreement between an employer and those employed by him as to such employment; or

(iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession trade or handicraft.

The law relating to the registration and protection of the Trade Unions is contained in the Trade Unions Act, 1926 which came into force with effect from 1st June 1927. The Act extends to the whole of India except the State of Jammu and Kashmir.

In common parlance, Trade Union means an association of workers in one or more occupations. Its object is the protection and promotion of the interests of the working class. Trade Unions have a home grown philosophy based on workers' experience and psychology. It grows out of the workers' day-to-day experience.



CHECK YOUR PROGRESS

Q 5: Define Employee Association.

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The Trade Union Act, 1926 has been precisely projected below:

CHECKLIST

Object of the Act
To provide for the registration of Trade Union and in certain respects to define the law relating to registered Trade Unions

Registration of trade Union

- Any **7** or more members of a trade union may, by subscribing their names to the rules of the trade union and its compliance.
- There should be at least **10%,** or **100** of the work-men, whichever is less, engaged or employed in the establishment or industry with which it is connected.
- It has on the date of making application not less than **7** persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.

Registration of trade Union

Prescribed form with following details.

- Names, occupations and address of the members' place of work.
- Address of its head office; and
- Names, ages, addresses and occupations of its office bearers.

Sec. 5

Minimum requirements for membership of trade union

Not less than **10%**, or **100** of the workmen, whichever is less, subject to a minimum of **7**, engaged or employed in an establishments etc.
Sec. 9A

Cancellation of registration

- If the certificate has been obtained by fraud or mistake or it has ceased to exist or has wilfully contravened any provision of this Act.
- If it ceases to have the requisite number of members.

Sec. 10

Criminal conspiracy in trade disputes

No office bearer or member of a registered trade union shall be liable to punishment under sub section (2) of conspiracy u/s 120B of IPC in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union.

Sec. 17

Disqualification of office bearers of Trade Union

If one has not attained the age of **18** years.
Conviction for an offence involving moral turpitude.
Not applicable when **5** years have elapsed.
Sec. 21-A

Returns

Annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the **31st December.**
Sec. 28

Penalties	Offence	Punishment
U/s 31	• For making false entry in or any omission in general statement required for sending returns. • For making false entry in the form.	• Fine upto Rs.500. On continuing default, additional fault, Rs.5 for each week (not exceeding Rs.50). • Fine upto Rs.500.
U/s 32	• Supplying false information regarding Trade Union	• Fine upto Rs.200.

3.8.1 Objectives Trade Union Act, 1926

A Trade union is a voluntary organization of workers relating to a specific trade, industry or a company and formed to help and protect their interests and welfare by collective action. Trade unions are the most suitable organisations for balancing and improving the relations between the employees and the employer. They aim to:-

- Secure fair wages for workers and improve their opportunities for promotion and training.

- Safeguard security of tenure and improve their conditions of service.
- Improve working and living conditions of workers.
- Provide them educational, cultural and recreational facilities.
- Facilitate technological advancement by broadening the understanding of the workers.
- Help them in improving levels of production, productivity, discipline and high standard of living.
- Promote individual and collective welfare and thus correlate the workers' interests with that of their industry.
- Take participation in management for decision-making in connection to workers and to take disciplinary action against the worker who commits in-disciplinary action.

3.8.2 Definitions from the Trade Union Act, 1926

Some important Definitions from the Act:

Appropriate Government [Sec. 2]: In relation to Trade Unions whose objects are not confined to one state 'the appropriate Government' is the Central Government. In relation to other Trade Unions, the 'appropriate Government' is the State Government.

Executive [Sec. 2(a)]: Executive means the body of which the management of the affairs of a Trade Union is entrusted.

Trade Dispute [Sec. 2(g)]: A trade dispute means any dispute between the employers and workmen, the workmen and workmen and the employers and employers which is connected with the employment or non-employment, or the terms of employment, or the conditions of labour of any person. 'Workmen' mean all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises.

Registered Trade Union [Sec. 2(e)]: A registered Trade Union means a 'Trade Union' registered under the Act.

Certain Acts do not apply to trade unions [Sec 14]:

Below mentioned Acts will not apply to any registered Trade

Union, had the registration of any such Trade Union under any such Act shall be void.

1. The Societies Registration Act, 1860.
2. The Cooperative Societies Act, 1912.
3. The Companies Act, 1956

Trade Unions can be registered only under the Trade Union Act, 1926.

3.8.2 Registration of Trade Unions

For the purpose of registration a minimum of seven members are necessary to form a trade union. The reason for fixation of minimum seven members is to encourage formation of more trade unions so that the trade union would grow.

3.8.3 Cancellation of Registration [sec. 10] (2001 amendment)

The Registrar of the Trade Union can cancel the registration of the Trade Union under the following circumstances:

1. When Trade Union registration certificate has been obtained by fraud or other illegal means.
2. Disobey the rules and regulation of Trade Union act.
3. All the provision contained in section 6 of this act not followed by the members of the Trade Union.
4. When there are no minimum required numbers of members in the Trade Union.

3.8.4 Features of Registered Trade Union[Sec 13]

- Registered Trade Union will have perpetual succession (will no stop after the death of the members of the Trade Union.
- Every registered Trade Union will have common seal.
- Every registered Trade Union can acquire and hold both movable and immovable property.
- Every registered Trade Union can sue others.
- Every registered Trade Union can sued by others also.



3.9 LET US SUM UP

- The Trade Union Movement began in India during the closing years of the First World War. The exploitation of labor caused by the exigencies of the war created unrest among the working class people and led them to form unions which, would voice their grievances, fight for their rights and ensure to them better working conditions.
- The national government of India too having a very sympathetic attitude to laborers of all categories passed a series of Acts for the welfare of industrial labor. They gave the workers security against unjust exploitation.
- A distinguishing feature of Indian Labour and Employment Laws are that in India there are three main categories of employees: government employees, employees in government controlled corporate bodies known as Public Sector Undertakings (PSUs) and private sector employees.
- A union must be recognised before it may effectively represent any employees. Once a union is recognised it serves as the bargaining agent for the workers in a particular bargaining unit. An employee may not circumvent the union, because recognition entails willingness 'to negotiate with a view to striking a bargain and this involves a positive mental decision.
- The Collins Dictionary defines an Employee Association as "an organization, other than a trade union, whose members comprise employees of a single employing organization. The aims of the association may be social, recreational, or professional".
- The law relating to the registration and protection of the Trade Unions is contained in the Trade Unions Act, 1926 which came into force with effect from 1st June 1927. The Act extends to the whole of India except the State of Jammu and Kashmir.



3.10 FURTHER READING

1) Monappa A (2012), *Industrial Relations and Labour Laws*, 2nd edition, McGraw-Hill Education, India.

2) Srivastava S C (2014), *Industrial Relations and Labour Laws*, 6th Revised Edition, Vikash Publishing House, India, 2014.

3) Padhi P K (2012) , Labour and Industrial Laws, 2/E 2nd Edition, PHI Learning Pvt. Ltd., New Delhi.



3.11 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: The Trade Union Movement began in India during the closing years of the First World War. The exploitation of labor caused by the exigencies of the war created unrest among the working class people and led them to form unions which, would voice their grievances, fight for their rights and ensure to them better working conditions.

Ans to Q No 2: Causes of trade unionism are:

- The rise in the cost of living made industrial workers better organized than before.
- Their demand for overtime allowance, bonus, compensation, relief, etc. became more and more insistent and gathered a force which even the most resourceful of our producing concerns failed to resist.

Ans to Q No 3: Indian labour laws divide industry into two broad categories to which they are applicable – (i) factories and (ii) shops and commercial establishments.

Ans to Q No 4: Some of the major problems faced by trade unions in India are - 1. Small Size,2. Poor Finance, 3. Politicisation, 4. Multiplicity of Unions, 5.Lack of Enlightened Labour Force, 6.Miscellaneous Problems.

Ans to Q No 5: The Collins Dictionary defines an Employee Association as "an organization, other than a trade union, whose members comprise employees of a single employing organization. The aims of the association may be social, recreational, or professional".



3.12 MODEL QUESTIONS

Q 1: Phase out the growth of Trade Unions in India and their present stand.

Q 2: Name the categories into which the Indian Labour Laws divide the industries?

Q 3 State a few distinctive features of Indian Labour and Employment laws.

Q 4: Draw attention to the conditions required to be fulfilled for the recognition and disqualification of recognition of Trade Unions in India.

Q 5: What are employee Associations? Explain their role and financial management.

Q 6: In a gist, highlight the basic objectives, purpose and components of the Trade Union act 1926.

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UNIT 4: INDUSTRIAL DISPUTE AND PREVENTION & SETTLEMENT OF INDUSTRIAL DISPUTE

UNIT STRUCTURE

4.1 Learning Objectives

4.2 Introduction

4.3 Nature and Scope Of Industrial Dispute

4.4 Causes and Consequences Of Industrial Dispute

4.5 Prevention and Settlement Of Industrial Dispute In India

4.6 Machinery for Settlement of Industrial Disputes

4.7 Nature and Cause Of Grievance

4.8 Grievance Redressal Procedure

- 4.8.1 Need for a Grievance Handling Procedure
- 4.8.2 Essential Pre-requisites of a Grievance Handling Procedure
- 4.8.3 Basic Elements of a Grievance Handling Procedure

4.9 Let Us Sum Up

4.10 Further Reading

4.11 Answers To Check Your Progress

4.12 Model Questions

4.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- define and discuss the nature and scope of Industrial Dispute.
- identify the causes of industrial disputes
- discuss the various methods of prevention and settlement of industrial disputes in India and the bodies which are responsible for carrying out such procedures
- outline the difference between a dispute and a grievance
- discuss the causes of grievance and their redressal procedures.

4.2 INTRODUCTION

In the previous units we discussed about the various aspects of Industrial Relations. In this unit we are going to have a discussion on nature and scope of Industrial Dispute, causes of industrial disputes etc. Not only are conflicts indispensable parts of any organizational functioning but are also quite necessary, if only to bring in newer ideas and cross-verify decisions taken. If kept under control within desirable limits, conflicts may rather be helpful for organisations than a pain. However, when minor conflicts take the shape of disputes, proper mechanisms becomes necessary to manage them.

Thus, this unit deals with the concept of industrial disputes, settlement machineries and procedures and related topics.

4.3 NATURE AND SCOPE OF INDUSTRIAL DISPUTE

An Industrial Dispute may be defined as a conflict or difference of opinion between management and workers on the terms of employment. When an industrial dispute occurs, both the parties, that is the management and the workmen, try to pressurize each other. The management may resort to lockouts while the workers may resort to strikes,picketing or gheraos.

Definition of Industrial Disputes

According to Section **2(k) of the Industrial Disputes Act,1947, "**Any disputes or differences 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 labour, of any person".

Nature of Industrial Dispute

1. There must be difference of opinion or a dispute:

i. Between employers (such as wage-welfare where labour is scarce).

ii. between employers and workmen(such as demarcation disputes).

iii. between workmen and workmen.

2. The subject matter is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person,or it must pertain to any industrial matter.
3. The relationship between the employer and the workman must be in existence and should be the result of a contract and the workman actually employed.

Scope of Industrial Dispute

1. Industrial disputes are considered to overcome the disagreement made between employer and employee in industrial relation.
2. It Act as an connectivity between firm and the protesters for unappropriate consequences.
3. Industrial dispute perform the high degree of trust to be made in order to make propensity for communication made for conflict.
4. To handle the desired situation through lockout, strikes, picketing, bans etc; which are highly applicable to maintain the situation.



CHECK YOUR PROGRESS

Q 1: Define Industrial Disputes as per the Industrial Disputes Act of 1947.

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4.4 CAUSES AND CONSEQUENCES OF INDUSTRIAL DISPUTE

Causes of Industrial Dispute

The following are the causes of Industrial Disputes:

1. **Industrial Factors:** The industrial factors that cause industrial disputes are as follows:
   i. **Nature of employment:** The employment methods or policies followed by the organizations in employing an individual may sometimes be the reasons for the conflict/dispute.

ii. **Work and its nature:** The type of work, unpleasant working conditions, non-availability of machinery to do the work, working hours etc., may lead to industrial strike.

2. **Management attitude towards employees:** The management practices which are not in accordance with legal requirements and which are unfair to employees are the sources of disputes such as:
   i. Discriminatory labour policies.
   ii. Ineffective leadership/supervision.
3. **Government machinery:** Through government acts as a balance between the management and workers in setting the disputes, sometimes it also tends to become the causes of industrial disputes.
4. **Political interference:**
   i. Politics influencing the trade union movement.
   ii. Political instability.
   iii. Strained central-state relations.
   iv. Existence of multiple labour laws.
5. **Economic cause:** Economic reasons, such as the below mentioned, may also result in an industrial dispute:
   i. Low wages.
   ii. Dearness allowances (DA) and bonus.
   iii. Increasing industrial profits.

Thus, the causes of Industrial disputes may be summed up as follows:

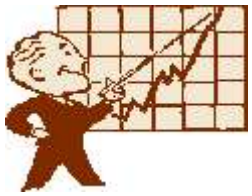
1. Low income: Many times, the income of a worker is not enough to keep everyone in the family content and to pay all the bills. Thus, if the earning member loses his/her job, the entire family suffers in poverty. Low wages cause discontent in employees. Moreover, with every prices rise, it is also expected that the income of industrial labourers increase, which may not always happen very promptly.
2. Most industries have unhygienic and unsafe working conditions. This puts pressure on workers' health.
3. Employees find it extremely difficult to get leave with pay.
4. Employees are becoming more and more conscious about self-

respect. Tempers flare when they are insulted or instigated by their superiors.

5. Sometimes, employees are unfairly relieved from their jobs. Nevertheless, their colleagues unite and fight for the rehiring of their relieved colleagues.
6. Sometimes, trade unions are not recognized by industries resulting in strained relations and stress.
7. Replacement of workers by machinery is often found to be a cause of discontent. Workers are get laid off and replaced by machines that do the same work.
8. Political involvement in trade unions causes divisions and unnecessary tensions at times.
9. Disputes may also arise due to dishonest mid-level management. This management preventlabourers from contacting senior management, and act as middle-men. Lack of communication causes distrust.

Consequences of Industrial Disputes:

1. Unrest and unnecessary tensions engulf the hearts and minds of all the people involved - labourers and senior management.
2. There is economic loss due to conflicts because conflicts may result in strikes and lock-outs. This causes low or no production resulting in industrial loss.
3. Industrial losses may cause economic depression because many industries are interlinked. A problem in one industry may drastically affect another industry.
4. The lives of low-level labourers become worse when they are out of work. They may be the only working members of the family, and their joblessness may lead everyone in the family to poverty.
5. When industrial conflicts get out of hand, they become a threat to peace and security. Workers may resort to violence and indulge in sabotage.



CHECK YOUR PROGRESS

Q 2: State a few of the causes of industrial disputes.

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Q 3: Mention a consequence of industrial disputes

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4.5 PREVENTION AND SETTLEMENT OF INDUSTRIAL DISPUTE IN INDIA

The consequences of an Industrial dispute prove to be harmful to not only the owners of industries and the workers, but also to the economy and the nation as a whole resulting in loss of productivity, profits, market share and even closure of the plant. Hence, Industrial disputes need to be averted by all means.

Prevention of Industrial disputes is a pro-active approach in which an organisation undertakes various actions through which the occurrence of Industrial disputes is prevented.

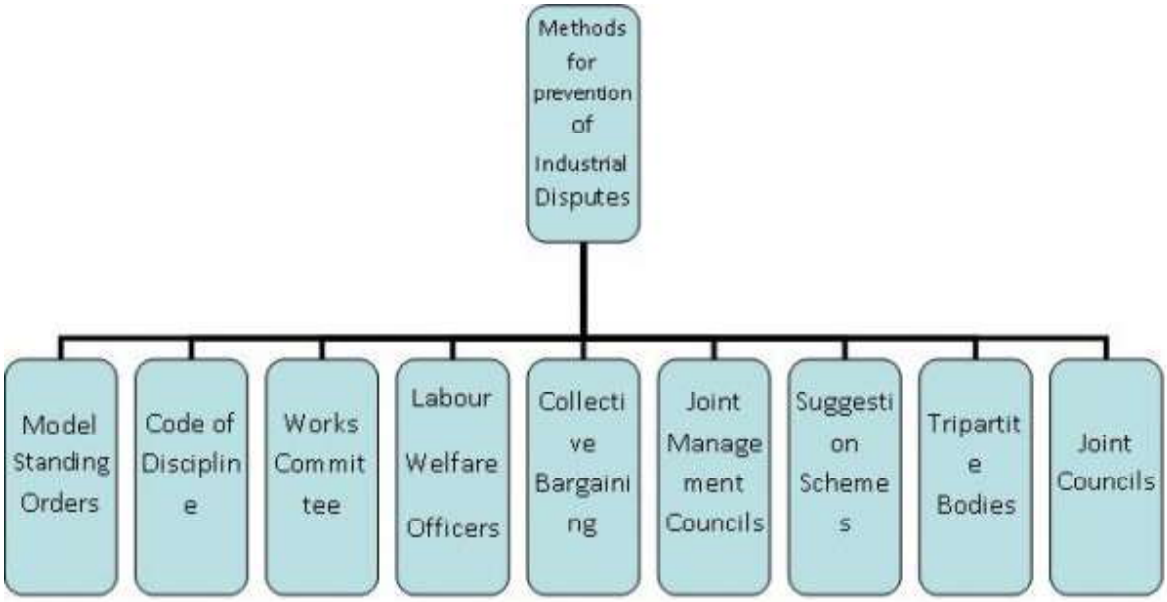


Fig 4.1: Methods of Dispute Prevention

1. **Model Standing Orders:** 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.

   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 behaviour.

2. **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.

3. **Works Committee:** Every industrial undertaking employing 100 or more workers is under an obligation to set up a works committee consisting equal number of representatives of employer and employees. According to Indian Labour Conference work committees are concerned with:-
   - Administration of welfare & fine funds.
   - Educational and recreational activities.
   - Safety and accident prevention
   - Occupational diseases and protective equipment.
   - Conditions of work such as ventilation, lightening, temperature & sanitation including latrines and urinals.
   - Amenities such as drinking water canteen, dining rooms, medical & health services.

However, the following items are excluded from the preview of the work committees.

- Wages and allowances
- Profit sharing and bonus
- Programs of planning and development
- Retirement benefits
- PF and gratuity
- Housing and transport schemes
- Incentive schemes
- Retirement and layoff

4. **Joint Management Councils:** It consists of equal numbers of workers and employers representation (minimum 6 & maximum 12). Representation of workers to the JMCs should be based on the nomination by the representation.

The decisions of the JMC should be unanimous and should be implemented without any delay. JMC should look after 3 main areas:-

1. information sharing
2. consultative
3. administrative

The primary objectives of the JMC may be stated thus:

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

5. **Suggestion Schemes:** As the name suggests, these are schemes wherein the parties to a dispute offer their suggestions for solution based on which mutually agreeable decisions are encouraged.
6. **Joint Councils:** Joint Councils are set up for the whole unit and deals with matters relating optimum production and efficiency and the fixation of productivity norms for man and machine for every industrial unit employing 500 and more workers. The features of these councils include:

- Members of the council must be actually engaged in the unit.
- The chief executive of the unit will be the chairman of the council and vice chairman will be nominated by worker members.
- Term of the council will be two years.
- JC shall meet at once in a quarter.
- Decision of the council will be based on consensus and not on voting.

The Joint Councils have the following functions to deliver:

- Optimum use of raw materials and quality of finished products
- Optimum production, efficiency and function of productivity norms of man and machine as a whole.
- Preparation of schedules of working hours and of holidays.
- Adequate facilitates for training.
- Rewards for valuable and creative suggestions received from workers.

7. **Collective Bargaining:** Collective Bargaining involves discussion and negotiation between two groups as to the terms and conditions of employment. It 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.
8. **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 and welfare of workers. 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.
9. **Tripartite bodies:** Several tripartite bodies have been constituted at central, national and state levels. At the central level, The India Labour Conference, Standing Labour Committees, Wage Boards and Industries Committees operate whereas at the state level, State Labour Advisory Boards have been set up. The recommendations given by these bodies are however advisory in nature and not statutory.

4.6 MACHINERY FOR SETTLEMENT OF INDUSTRIAL DISPUTES

The following are the ways by which the settlement of industrial dispute can be made:

1. **Conciliation: C**onciliation 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.

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. The appropriate government may, by notification in the official gazette, appoint such number of persons as it thinks fit to be the conciliation officer. The duties of a conciliation officer are:

a. To hold conciliation proceedings with a view to arrive at amicable settlement between the parties concerned.
b. To investigate the dispute in order to bring about the settlement between the parties concerned.
c. To send a report and memorandum of settlement to the appropriate government.
d. To send a report to the government stating forth the steps taken by him in case no settlement has been reached at.

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. **Arbitration:** It is 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. Certain advantages of this process are**:**

- It is established by the parties themselves and therefore both parties have good faith in the arbitration process.
- The process in informal and flexible in nature.
- It is based on mutual consent of the parties and therefore helps in building healthy Industrial Relations.

However, the process is not devoid of flaws. Some of the disadvantages include:

- Delay often occurs in settlement of disputes.
- Arbitration is an expensive procedure and the expenses are to be shared by the labour and the management.
- Judgement can become arbitrary when the arbitrator is incompetent or biased.

Arbitration may take the following two forms:

- **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.

3. Adjudication: 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 labour court or a tribunal. For the purpose of adjudication, the Industrial Disputes Act provides a 3-tier machinery:

- **Labour court**
- **Industrial Tribunal**
- **National Tribunal**

a) Labour Court: The appropriate government may, by notification in the official gazette constitute one or more labour courts for adjudication

of Industrial disputes relating to any matters specified in the second schedule of Industrial Disputes Act. They are:

- Dismissal or discharge or grant of relief to workmen wrongfully dismissed.
- Illegality or otherwise of a strike or lockout.
- Withdrawal of any customary concession or privileges.

Where an Industrial dispute has been referred to a labour court for adjudication, it shall hold its proceedings expeditiously and shall, within the period specified in the order referring such a dispute, submit its report to the appropriate government.

b) Industrial Tribunal: The appropriate government may, by notification in the official gazette, constitute one or more Industrial Tribunals for the adjudication of Industrial disputes relating to the following matters:

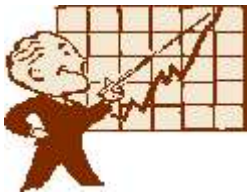
- Wages
- Compensatory and other allowances
- Hours of work and rest intervals
- Leave with wages and holidays
- Bonus, profit-sharing, PF etc.
- Rules of discipline
- Retrenchment of workmen
- Working shifts other than in accordance with standing orders

It is the duty of the Industrial Tribunal to hold its proceedings expeditiously and to submit its report to the appropriate government within the specified time.

c) National Tribunal: The central government may, by notification in the official gazette, constitute one or more National Tribunals for the adjudication of Industrial Disputes in:

- Matters of National importance
- Matters which are of a nature such that industries in more than one state are likely to be interested in, or are affected by the outcome of the dispute.

It is the duty of the National Tribunal to hold its proceedings expeditiously and to submit its report to the central government within the stipulated time.



CHECK YOUR PROGRESS

Q 4: Enlist a few methods of settlement of industrial disputes.

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4.7 NATURE AND CAUSE OF GRIEVANCE

A grievance is a problem and submitted by an employee or several employees of different types. It may be concerning a situation or likely to affect the terms and conditions of employment of one worker or several workers.

If a problem is related to and endorsed by all or majority of employees or if trade union submits a problem as a general claim it falls outside the scope of grievance procedure and generally comes under the purview of collective bargaining.

Thus, a grievance:

(a) Has a narrower perspective;

(b) Is concerned with the interpretation of a contract or award as concerned to an individual or a few employees of different types. As such policy issues do not fall within the scope of grievance machinery.

The causes of employee grievances may include the following:

(i) Demands for individual wage adjustments;

(ii) Complaints about the incentive system;

(iii) Complaints about the job classifications;

(iv) Complaints against a particular foreman;

(v) Complaints concerning disciplinary measures and procedures;

(vi) Objections to the general methods of supervision;

(vii) Loose calculation and interpretation of seniority rules, and unsatisfactory interpretation of agreements;

(viii) Promotions;

(ix) Disciplinary discharge or lay-off;

(x) Transfer for another department or another shift;

(xi) Inadequacy of safety and health services/devices;

(xii) Non-availability of materials in time;

(xiii) Violation of contracts relating to collective bargaining;

(xiv) Improper job assignment; and

(xv) Undesirable or unsatisfactory conditions of work.

A grievance may be characterized as follows:

a. **Factual:** The employer-employee relationship depends upon the job contract in any organisation. This contract indicates the norms defining the limits within which the employee expects the organisation to fulfill his aspirations, needs or expectations. When these legitimate needs of expectations or aspirations are not fulfilled, the employee will be dissatisfied with the job. Such dissatisfaction is called factual grievance.

b. **Imaginary:**When the job contract is not clear-cut and does not indicate the norms defining the limits within which the employee expects the organisation fulfill his needs or aspirations, the employee develops such needs which the organisation is not obliged to meet. Under such situations, grievances are not based on facts but that does not stop the employee from feeling aggrieved. Normally, the organisation does not feel any kind of responsibility for such grievances and their redressal, because they are based not only on wrong perceptions of the employee but also on wrong information. However, such grievances can have far-reaching consequences on the organisationas the employees are likely to develop an altogether negative attitude towards the organisation which decreases their effectiveness and involvement in work.

c. **Disguised:** Although in most cases, organisations consider the basic requirements of their employees – sometimes psychological needs of the employees such as need for recognition, affection, power, achievement etc., tend to go unattended and ignored. These conditions may take the shape of a disguised grievance; ultimately having a severe bearing on the health of employer-employee relationship.

4.8 GRIEVANCE REDRESSAL PROCEDURE

4.8.1 Need for a Grievance Handling Procedure

Grievance procedure is necessary for any organisation due to the following reasons:

a. Most grievances seriously disturb the employees. This may affect their morale, productivity and their willingness to cooperate with the organisation. If an explosive situation develops, this can be promptly attended to if a grievance handling procedure is already in existence.

b. It serves as a check on the arbitrary actions of the management because supervisors know that employees are likely to see to it that their protest does reach the higher management.

c. The management has complete authority to operate the business as it sees fit subject, of course, to its legal and moral obligations and the contracts it has entered into with its workers or their representative trade union. But if the trade union or the employees do not like the way the management functions, they can submit their grievance in accordance with the procedure laid down for that purpose.

d. It serves as an outlet for employee gripes, discontent and frustrations. It acts like a pressure valve on a steam boiler. The employees are entitled to legislative, executive and judicial protection and they get this protection from the grievance redreessal procedure, which also acts as a means of upward communication.

e. It is not possible that all the complaints of the employees would be settled by first- time supervisors, for these supervisors may not have had a proper training for the purpose, and they may lack authority. Moreover, there may be personality conflicts and other causes as well.

4.8.2 Essential Pre-requisites of a Grievance Handling Procedure

The grievance procedure, to be sound and effective should possess certain pre-requisites:

1. **Conformity with Statutory Provisions:** Due consideration must be given to the prevailing legislation while designing the grievance handling procedure.
2. **Unambiguity:** Every aspect of the grievance handling procedure should be clear and unambiguous. All employees should know whom to approach first when they have a grievance, whether the complaint should be written or oral, the maximum time in which the redressal is assured, etc.
3. **Simplicity:** The grievance handling procedure should be simple and short. If the procedure is complicated it may discourage employees and they may fail to make use of it in a proper manner.
4. **Promptness:** The grievance of the employee should be promptly handled and necessary action must be taken immediately. This is good for both the employee and management, because if the wrong doer is punished late, it may affect the morale of other employees as well.
5. **Training:** The supervisors and the union representatives should be properly trained in all aspects of grievance handling before hand or else it will complicate the problem.
6. **Follow up:** The Personnel Department should keep track of the effectiveness and the functioning of grievance handling procedure and make necessary changes to improve it from time to time.

4.8.3 Basic Elements of a Grievance Handling Procedure

The basic elements of a grievance redressal procedure are:

1. The existence of a sound channel through which a grievance may pass for redressal if the previous stage or channel has been found to be inadequate, unsatisfactory or unacceptable. This stage may comprise three, four or five sub-stages.
2. The procedure should be simple, definite and prompt, for any complexity or vagueness or delay may lead to an aggravation of the dissatisfaction of the aggrieved employee.
3. The steps in handling a grievance should be clearly defined.

These should comprise:

(a) Receiving and defining the nature of the grievance:

(b) Getting at the relevant facts, about the grievance;

(c) Analysing the facts, after taking into consideration the economic, social, psychological and legal issues involved in them;

(d) Taking an appropriate decision after a careful consideration of all the facts; and

(e) Communicating the decisions, to the aggrieved employee.

(f) Whatever the decision, it should be followed up in order that the reaction to the decision may be known and in order to determine whether the issue has been closed or not.



4.9 LET US SUM UP

In this unit we have discussed the following:

- According to Section2(k) of the Industrial Disputes Act,1947, **"**Any disputes or differences 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 labour, of any person".
- The consequences of an Industrial dispute will be harmful to the owners of industries, workers, economy and the nation as a whole, which results in loss of productivity, profits, market share and even closure of the plant. Hence, Industrial disputes need to be averted by all means.

- Prevention of Industrial disputes is a pro-active approach in which an organisation undertakes various actions through which the occurrence of Industrial disputes is prevented. Like the old saying goes, "prevention is better than cure".
- A grievance is a problem and submitted by an employee or several employees of different types. It may be concerning a situation or likely to affect the terms and conditions of employment of one worker or several workers.
- If a problem is related to and endorsed by all or majority of employees or if trade union submits a problem as a general claim it falls outside the scope of grievance procedure and generally comes under the purview of collective bargaining.



4.10 FURTHER READING

1) Padhi P K(2012), *Labour and Industrial Laws*, 2/E 2nd Edition, PHI Learning Pvt. Ltd., New Delhi,
2) Kumar H L (2016), Labour Problems and Remedies, 13th Edition, Universal Law Publishing, India,
3) Purcell J, Good Industrial Relations : Theory and Practice, Palgrave Macmillan, UK 1981
4) R. Sivarethinamohna (2010), Industrial Relations and Labour Welfare: Text and Cases, Prentice Hall India Learning Pvt Ltd, India,



4.11 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: According to Section2(k) of the Industrial Disputes Act,1947, **"**Any disputes or differences 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 labour, of any person".

Ans to Q No 2: Some of the causes of industrial disputes are – industrial factors, management attitudes towards employees, government machineries, political factors and economic factors.

Ans to Q No 3: One of the consequences of industrial disputes/conflicts may be industrial losses which may cause economic depression because many industries are interlinked. A problem in one industry may drastically affect another industry.

Ans to Q No 4: Some of the methods of dispute settlement include – Model Standing Orders, Works Committees, Joint Management Councils, and Collective Bargaining, among others.



4.12 MODEL QUESTIONS

Q 1: Explain the basic nature and scope of industrial disputes.

Q 2: Project the cause and effect relationship evident in industrial disputes.

Q 3: Elaborately discuss the various methods for prevention and settlement of industrial dispute in India.

Q 4: Characterise grievances and state the causes of the same.

Q 5: Highlight the procedure for Grievance Redressal popularly used in India.

Q 6: Discuss what makes for effectiveness in Grievance Redressal.

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UNIT 5: INDUSTRIAL WORKERS

UNIT STRUCTURE

5.1 Learning Objectives

5.2 Introduction

5.3 Industrial Workers – Background, Education, Skills and Adjustments

5.4 Characteristics of Industrial Worker

5.5 Absenteeism

5.6 Influence of Trade Unions

5.7 Let Us Sum Up

5.8 Further Reading

5.9 Answer to Check Your Progress

5.10 Model Questions

5.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss about the origin and background of Industrial Workers
- learn about the educational status, skill status and other characteristics of Indian industrial workers
- discuss the meaning of, causes of and remedies to absenteeism in workplace
- describe the significant impact and influence that trade unions exhibit.

5.2 INTRODUCTION

The plight of any relationship is determined by the personal, social, professional, educational, locational, legal, and such other back drops where it originates or exists. Hence, an understanding of the background and present status of the prime parties involved in the relationship helps in setting mutual goals and in maintaining a congenial and smooth relationship. With this object in mind, this unit has been so designed as to create an understanding of the background of industrial workers, their educational status, skills, etc.

– with special reference to the Indian context - as workers are a primary stakeholder of any industrial relations activity/decision.

Moreover, with the same intention in mind, the unit also focuses upon various facets of absenteeism in the workplace and the significance of existence and influence of trade unions within and outside the organization.

5.3 INDUSTRIAL WORKERS – BACKGROUND, EDUCATION, SKILLS AND ADJUSTMENTS

Industrial Workers refer to all those workers, who are employed in manufacturing units, i.e., the workers employed in large scale, village & small scale industries are considered industrial labour in general sense.

The 1850s mark the increase in the labour intensive industrial development. This decade saw the successful establishment of jute and cotton mills. The coal-fields were connected with the railway junctions to facilitate the supply of coal to the expanding railway system in India.

Since India was subjected to British industrial interests, the building of railway system and working coal-fields could not give stimulus to industrial revolution. As observed by Daniel Thorner, the railway system was constructed both to drain out the raw materials at economical rates and also to create a demand for British industrial goods.

To put it in his words:

In the economic sphere the railways fostered a measure of regional specialization in both agricultural and industrial production and encouraged the bringing of more land under cultivation. The railways appear also to have helped raise the level of wages and prices and to have helped make them more nearly uniform in the sub-continent as a whole.

Yet when we consider the fact that the railways have been the largest and most important enterprise of a truly modern character in India, involving heavy machinery, precision techniques, and advanced communications, we have to conclude that they have had surprisingly few constructive results. They helped spread a veneer of modernization over the countryside while doing little to initiate a process of modernization.

In 1946, 70 per cent of the industrial index was constituted by the

cotton textiles jute textiles and coal. All other mining and industrial concerns accounted for about one third of the total industrial production on the eve of independence.

The industrial growth up-to the first World War was confined entirely to these four basic industries viz., railways, coal, jute and cotton. It was the alarming growth of steel industry in Germany which rather compelled the British Government to develop conciliatory steel industry in India, and the Tata Iron and Steel Industry (TISCO) made its mark on the industrial map of India in 1911.

Next in importance to the railway industry was the coal industry. Not only was it the basic requirement of railways in India, but also of the British industry. The production of coal was just one lakh tonnes in the 1840s which rose to three lakhs tonnes in 1860, one million tonnes during the First World War, and, thereafter, remained almost static on 250 million tonnes during the period of subjugation of the country to Pax Britannica. This industry was controlled and managed exclusively by the British till the 1920s. Thereafter, small coal-fields were developed by the Indian management.

Next in order of importance was the jute industry - also started by the British. The first jute industry, in India, was established in 1854. Three more mills came into existence by 1862 followed by, 4000 looms in operation by the year 1877. This number rose to 15,000 looms by the close of the century.

The military preparations in Europe in the twentieth century helped increase the number to 40,000 looms by the time the First World War came to an end.

Around the same time, the Indian textile industry was ruthlessly destroyed by the British in India. However, **the cotton industry** was revived by the Indian entrepreneurs. The Parsicommunity which traded in raw-cotton were the first to establish a cotton mill in 1854. Thereafter, the growth of cotton industry was rapid in the country. The number of mills increased from just 8 in 1861 to 271 mills in 1914 and the trend till 1946.

The First World War forced the industrial growth, in India, at a faster rate and in diverse areas. On the one side, marine activities being curbed in

1800, India was left with no merchant marine of its own. The country was also deprived of the marine facility offered by the British merchant fleet during the war.

The British empire was exposed to the grave danger of non-availability of spare parts and machinery brought and there was evidenced almost a break-down even in railway service. British compulsion to place its demands for government stores, so far obtained from England, on Indian resources helped in the emergence of other light industries in the country. The general and electrical engineering industries which were absent from the industrial map of 1914, had become an important sector by 1919.

Railway workshops, ordinance factories, iron and steel factories, chemical industries and others had obtained a respectable place on the industrial map of India by that time. This trend of industrial growth provided jobs to an increasing number of people and led to the emergence of a substantial labour force in India as depicted in the table that follows:

Growth of Industrial Employment in India ('000)

Industry	*1892*	*1899*	*1909*	*1919*	*1929*	*1939*	*1949*
Railways	25	309	510	713	818	709	901
Coal mines	33	83	129	190	180	227	345
Other mines				59	184	186	174
Cotton textiles	121	163	237	280	338	449	653
Jute Textiles	66	102	204	276	347	299	332
General and Elec. Engg.				30	53	48	136
Railway workshops		52	93	134	136	104	108
Ordinance		13	15	24	22	31	84
Iron and Steel	12	17	24	21	32	41	60
Chemical				2·8	3·5	4·8	18
Other factory employment	55	105	213	404·2	622·5	715·2	1053
Total labour employment	546	844	1425	2134	2736	2824	3354

Table 5.1: Growth of Industrial Employment in India

It is evident in the above table that there was a labour force of about 546 thousands in 1892 which increased to 3854 thousands by 1949 i.e., it increased 700 per cent during this period. This phenomenal growth was in the railways as it employed the largest number of people. Further, this number rose from 259 thousands in 1892 to 901 thousand in 1949.

Thus, there was an increase of about 350 per cent in the employment

oflabourers in the railways which was followed by the mining industry. There were just 33 thousands miners in 1892 which rose to 594 thousands in 1948 i.e., the employment opportunities increased by 180 per cent in mining industry.

Next to the railways in providing employment was the cotton industry that employed 121 thousands people in 1892 and 661 thousands people in 1848. The overall factory employment, however, was insignificant with only 254 thousands people in the factory employment in 1882. By 1949, the factories in India were providing jobs to about 2580 thousandspeople and industrial growth was much below the potentialities of the country. During the Second World War, India still remained predominantly an agricultural country with only eleven per cent of the population in urban centres. Until 1939, over seven- tenths of the export trade consisted of raw materials and food stuffs and about three-quarters of the imports consisted of wholly or partially manufactured goods.

The number of persons employed in organized sector remained extremely low for a population of the size of India.This was mainly because of the tendency that the country could not have a substantial labour force, which could leave its impact on the socio-economic development of the country during this period.

5.4 CHARACTERISTICS OF INDUSTRIAL WORKERS

The following are the characteristics of industria worker:

1) **Illiteracy:** A large proportion of industrial workers in India are illiterates & ignorant. So they cannot understand the problems confronting the economy in general & industries in particular. They do not even understand their own problems.
2) **Lack of Discipline:** There is no discipline among the industrial labours in India Indiscipline, absenteeism without any reasons. Moving from one job to another etc, are very common.
3) **Migratory Characters:** Industrial labour in India is migratory in character. Most of the laborers in industries are drawn from villages &

are cages to return to their homes during their busy agricultural seasons.

4) **Lack of Organisations:** The industrial labour in India is not united, but is divided & sub – divided on the basis of language, region, caste, etc. They are unable to organize themselves. Consequent upon that most of the trade unions are controlled by outsiders.

5) **Low Efficiency:** The efficiency of industrial labour in India is very low. Their productivity is also very low. Lack of education, training, research medical facilities, etc, are reasons for low productivity.

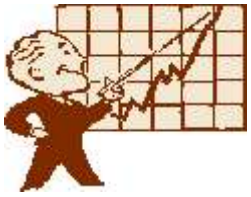
6) **Poverty:** The industrial labours in India are very poor. Their salary, standard of living & productivity are very low. They are unable to generate interest in their work because of poverty.

7) **Superstitions:** Most of the industrial labour in India are superstitions & tradition – bound. They believe in fatalistic & Meta physical things. They have irrational outlook.

8) **Large Scale Absenteeism:** It is another important feature of industrial labour. They remain absent without any reason.

9) **Ignorant of Roles & Regulations:** A good proportion of our industrial workers are ignorant of rules & regulation.

10) **Bad Habits:** The industrial labourers in India are addicted to bad habits. They are involved in unhealthy practices. As a result, their efficiency & mental discipline are badly affected.



CHECK YOUR PROGRESS

Q 1: Enlist the chacteristics of the Indian industrial workers.

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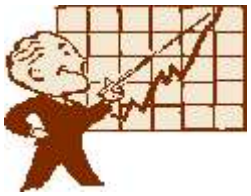
5.5 ABSENTEEISM

Absenteeism is an employee's intentional or habitual absence from work. While employers expect workers to miss a certain number of workdays each year, excessive absences can equate to decreased productivity and

can have a major effect on company finances, morale and other factors. This article looks at the causes of absenteeism, the costs of lost productivity and what employers can do to reduce absenteeism rates in the workplace. People miss work for a variety of reasons, many of which are legitimate and others less so. Some of the common **causes** of absenteeism include (but are not limited to):

- **Bullying and harassment** - Employees who are bullied or harassed by co-workers and/or bosses are more likely to call in sick to avoid the situation
- **Burnout, stress and low morale -** Heavy workloads, stressful meetings/presentations and feelings of being unappreciated can cause employees to avoid going into work. Personal stress (outside of work) can lead to absenteeism.
- **Disengagement** - Employees who are not committed to their jobs, co-workers and/or the company are more likely to miss work simply because they have no motivation to go.
- **Childcare and eldercare** - Employees may be forced to miss work in order to stay home and take care of a child/elder when normal arrangements have fallen through (for example, a sick caregiver or a snow day at school) or if a child/elder is sick.
- **Injuries** - Accidents can occur on the job or outside of work, resulting in absences. In addition to acute injuries, chronic injuries such as back and neck problems are a common cause of absenteeism.
- **Depression** - According to the National Institute of Mental Health, the leading cause of absenteeism in the United States is depression. Depression can lead to substance abuse if people turn to drugs or alcohol to self-medicate their pain or anxiety.
- **Illness** - Injuries, illness and medical appointments are the most commonly reported reasons for missing work (though not always the actual reason). Not surprisingly, each year during the cold and flu season, there is a dramatic spike in absenteeism rates for both full-time and part-time employees.

- **Job hunting** - Employees may call in sick to attend a job interview, visit with a head-hunter or work on their resumes/CVs.
- **Partial shifts** - Arriving late, leaving early and taking longer breaks than allowed are considered forms of absenteeism and can affect productivity and workplace morale.



CHECK YOUR PROGRESS

Q 2: What do you understand by absenteeism?

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Q 3: State a few of the causes of work place absenteeism.

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5.6 INFLUENCE OF TRADE UNIONS

A Trade union is an organization of workers, acting collectively, who seek to protect and promote their mutual interests through collective bargaining. Trade unions are based upon the concept of “class-struggle” between the capitalist employers and their workers.

Trade Unions in India are registered and file annual returns under the **Trade Union Act (1926)**. The Trade Union movement in India is largely divided along political lines and follows a pre-Independence pattern of overlapping interactions between political parties and unions. Trade unions have gradually evolved and have now come to occupy an important place in the modern industrial order, they have now become gigantic associations; they have now become institutions which are interested in the social, cultural and political development of the county.The firm or industry level trade unions are often affiliated to larger Federations. The largest Federations in the country represent labour at the National level and are known as **Central Trade Union Organisations (CTUO)**.

Trade Unions have **three cardinal principles:** Unity is strength, Equality of pay for equal work, Security of employment. Now-a-days the trade union movement is no longer solely a movement for advancing claims

as a movement seeking to increase the material well being of its members but has grown into a force which not only defends the political, social and cultural interests of its members but also carries out special tasks affecting enterprising and intellectual workers especially with regard to their career, jobs, salaries, paid holidays, vocational training, recreational and health improvement programmes etc.

The establishment of textile and clothing mills around the port cities of Bombay (now Mumbai), Calcutta (now Kolkata), Madras (now Chennai) and Surat in the second half of the 19th century led to the start of the industrial workforce in India. The credit for the first association of Indian workers is generally given to the **Bombay Mill-Hands Association** founded by N.M. Lokhande in 1890. This was just after the passing of the 'First' Factories Act in 1881 by the British Government. Thereafter the formation of several labour associations and unions could be evidenced. The first clearly registered trade-union is considered to be the **Madras Labour Union** founded by B.P. Wadia in 1918, while the first trade union federation to be set up was the All India Trade Union Congress in 1920.

With the rapid growth of unions around the time of the First World War, the Russian Revolution and the setting up of the ILO, industrial conflict began to increase. Over 1,000 strikes were recorded between 1920 and 1924. Consequently, the **Trade Union Act (1926)** was passed which created the rules for the regulation and closer monitoring of Trade Unions. During the first year of the operation of the Act, 28 unions registered and submitted returns with a total membership of100,619. The number grew rapidly thereafter. By the time of Independence of India in 1947, there were 2,766 unions registered which had a combined membership of over 1.66 million. This resulted in a wide influence of unions and workers' organisations and led to significantly favourable social legislation being enacted in the first decade of Independence.

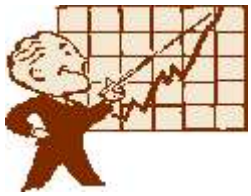
Post Independence in 1947 and post formation of the Republic in 1950, India largely followed a socialist economic approach encouraging public sector employment and pro-worker legislations. The trade-union movement reflected divisions along Socialist and Communist lines. In the subsequent

decades, significant expansion in trade union membership could be seen with the number of active unions reaching its peak in the mid-1970s and mid-1980s. The 1970s in India was a period characterised by political instability but the 1980s was characterised by the beginnings of a distinct turn towards more market-friendly policies, support for industrialists and an implicit opposition to workers.

After economic liberalisation in 1991, there was seen a declining government intervention in the economy as well as a decline in the creation of public sector employment and encouragement for the private sector. Initiatives at unionization in the private sectors were often met with opposition and the wider general withdrawal of State support for workers further undermined their bargaining power. These policies led to a stagnation in the number of unionised formal sector workers.

This led to a gradual shift in focus about the importance of the Informal sector and 'Informal employment in the formal sector' from the late 1990s onwards which meant that trade unions also began to focus on these workers. As a result, there was greater enrolment of these workers subsequently leading to increases in union membership. The Central Trade Union Organisations (CTUOs) increased their combined membership from 13.21 million in 1989 to 24.85 million in 2002. Almost all the CTUOs now have at least 20 percent of their official members coming from the informal sector.

For a long time after 1947, neither the government nor the management (or even the unions themselves) thought of the unions as a group who may contribute to the economic performance of the economy or the enterprise. However, this is changing gradually. The unions and the management are entering into agreements with bearing on productivity and growth of the enterprise.



CHECK YOUR PROGRESS

Q 4: Explain the meaning of Trade Union.

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5.7 LET US SUM UP

- Pre- independence, railway workshops, ordinance factories, iron and steel factories, chemical industries and others had obtained a respectable place on the industrial map of India. It was this industrial growth which provided jobs to an increasing number of people and led to the emergence of a substantial labour force in India.
- Absenteeism is an employee's intentional or habitual absence from work. While employers expect workers to miss a certain number of workdays each year, excessive absences can equate to decreased productivity and can have a major effect on company finances, morale and other factors. This article looks at the causes of absenteeism, the costs of lost productivity and what employers can do to reduce absenteeism rates in the workplace.
- A Trade union is an organization of workers, acting collectively, who seek to protect and promote their mutual interests through collective bargaining. Trade unions are based upon the concept of "class-struggle" between the capitalist employers and their workers.
- Trade Unions in India are registered and file annual returns under the **Trade Union Act (1926)**. Statistics on Trade Unions are collected annually by the Labour Bureau of the Ministry of Labour, Government of India. As per the latest data, released for 2012, there were 16,154 trade unions which had a combined membership of 9.18 million (based on returns from 15 States - out of a total of 36 States).[1] The Trade Union movement in India is largely divided along political lines and follows a pre-Independence pattern of overlapping interactions between political parties and unions. The net result of this type of system is debated as it has both advantages and disadvantages.



5.8 FURTHER READING

1) Hancock Keith and LandsburyRusell D, Industrial Relations Reform: Looking to the Future :Essays in honour of Joe Isaac AO, Federation Press, Annandale (Australia), 2016

2) Misra S N, *Labour and Industrial Law*, Central Law Publications, India, 2013.

3) Ratnam C S V, *Industrial Relations*, Oxford University Press, New Delhi, 2013.



5.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: The characteristics of Indian industrial workers include – illiteracy, lack of discipline, lack of organization, poverty, superstition, migratory character, low efficiency, among others.

Ans to Q No 2: Absenteeism is an employee's intentional or habitual absence from work.

Ans to Q No 3: Among the various causes of absenteeism, a few are – job hunting, stress and burnout, childcare and eldercare, bullying and harassment, depression, partial shifts, etc.

Ans to Q No 4: A Trade union is an organization of workers, acting collectively, who seek to protect and promote their mutual interests through collective bargaining. Trade unions are based upon the concept of "class-struggle" between the capitalist employers and their workers.



5.10 MODEL QUESTIONS

Q 1: Elaborately discuss the development, composition and characteristics of Industrial Workers in India.

Q 2: Explain the meaning and causes of absenteeism.

Q 3: Discuss the negative effects of absenteeism on industrial functioning.

Q 4: Is there a cure for absenteeism? Suggest remedial measures to deal with the crucial issue of absenteeism in workplace.

Q 5: Emphasise upon the influence that trade unions exhibit in the industrial environment, owing to the kind of role that they play.

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UNIT 6: COLLECTIVE BARGAINING

UNIT STRUCTURE

6.1 Learning Objectives

6.2 Introduction

6.3 Meaning and Concept of Collective Bargaining

6.4 Objectives of Collective Bargaining

6.5 Features of Collective Bargaining

6.6 Strategies and Approaches to Collective Bargaining

6.7 Collective Bargaining Process

6.8 Impact of Collective Bargaining in India

- 6.8.1 Position of Collective Bargaining in India
- 6.8.2 Politicization of Trade Union movement in India

6.9 Workers' Participation In Management

6.10 Let Us Sum Up

6.11 Further Reading

6.12 Answers to Check Your Progress

6.13 Model Questions

6.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- learn the meaning, features and strategies of Collective Bargaining
- discuss of the approaches to Collective Bargaining and the impact thereof
- describe Worker's Participation in Management.

6.2 INTRODUCTION

In this unit, we have tried to acquaint you with the subject matter "collective bargaining" as properly as possible. First we will get an idea about the meaning and concept of Collective Bargaining followed by the characteristics and features of Collective Bargaining.

Then we will come to know about the activities include in the

collective bargaining process. The discussion also includes the nature and feature of it. You will come to know about the importance of collective bargaining in respect of employer, employee as well as the society.

To arrive at a harmonious solution to any conflicting issue, decisions based on mutual dialogues between the parties at stake is of vital importance. Collective Bargaining and Worker's Participation in Management are approaches designed to uphold this very philosophy.

This unit focuses on various aspects of the said topics so as to establish their significance in the work front.

6.3 MEANING AND CONCEPT OF COLLECTIVE BARGAINING

Collective bargaining is a process of negotiating between management and workers represented by their representatives for determining mutually agreed terms and conditions of work which protect the interest of both workers and the management.

Michael J. Jucious has defined collective bargaining as "a process by which employers, on the one hand, and representatives of employees, on the other, attempt to arrive at agreements covering the conditions under which employees will contribute and be compensated for their services".

According to Dale Yoder', "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relation-ships in their employment".

By collective bargaining we mean the 'good faith bargaining'. It means that proposals are matched with counter proposals and that both parties make every reasonable effort to arrive at an agreement' It does not mean either party is compelled to agree to a proposal. Nor does it require that either party make any specific concessions.

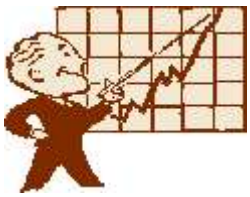
It is called "collective" because both the employer and the employee act collectively and not individually in arriving at an agreement; and 'bargaining' because the process of reaching an agreement involves proposals and counter proposals, offers and counter offers.

6.4 OBJECTIVES OF COLLECTIVE BARGAINING

The basic objective of collective bargaining is to arrive at an agreement between the management and the employees determining mutually beneficial terms and conditions of employment. Among the other objectives are:

1. It is a bipartite process because being a group process here you will find two groups. Representatives of employers and employees sit together to negotiate on the terms of employment in this process of collective bargaining.
2. The phrase “collective bargaining” itself indicates a negotiative process through which the employer and employees get a considerable scope to discuss, compromise on the topic of mutual give and take between them. Thus it can be considered as a form of participation.
3. Collective bargaining is a formalized process through which certain employment-related issues are regulated at national, organizational and workplace levels.
4. Collective bargaining is considered as a process because it consists of a number of steps.
5. Being a complementary process, here in this process of collective bargaining one party needs the thing that the other party has. For example labours can increase their productivity , but in return of it management has to pay them a better remuneration.
6. An improvement in the relationship among the workers on one hand while between the union and the employer on the other hand is accepted to achieve through the process of collective bargaining .
7. Collective Bargaining is a continuous process that tries to make the industrial democracy an effective one because there is use of cooperation and consensus in the process of collective bargaining in order to settle the disputes rather than conflict and confrontation.
8. The process of collective bargaining is influenced by the day to day changes in policies, potentialities, capacities and interests of the stakeholders etc .

9. Collective bargaining can also be defined as a political activity in the sense that it can be frequently undertaken by professional negotiators too.



CHECK YOUR PROGRESS

Q 1: Define Collective Bargaining.

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Q 2: List a basic objective of Collective Bargaining

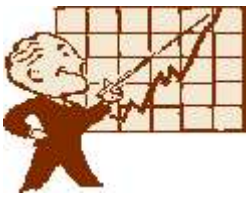
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6.5 FEATURES OF COLLECTIVE BARGAINING

- It is a group process, wherein one group, representing the employers, and the other, representing the employees, sit together to negotiate terms of employment.
- Collective bargaining is a process in the sense that it consists of a number of steps. It begins with the presentation of the charter of demands and ends with reaching an agreement, which would serve as the basic law governing labor management relations over a period of time in an enterprise. Mutual trust and understanding serve as the by products of harmonious relations between the two parties.
- It a bipartite process. This means there are always two parties involved in the process of collective bargaining. The negotiations generally take place between the employees and the management. It is a form of participation.
- Negotiations form an important aspect of the process of collective bargaining i.e., there is considerable scope for discussion, compromise or mutual give and take in collective bargaining.
- Collective Bargaining is continuous process. It enables industrial democracy to be effective. It uses cooperation and consensus for settling disputes rather than conflict and confrontation.

- Collective bargaining is a formalized process by which employers and independent trade unions negotiate terms and conditions of employment and the ways in which certain employment-related issues are to be regulated at national, organizational and workplace levels.
- Collective bargaining is a complementary process i.e. each party needs something that the other party has; labor can increase productivity and management can pay better for their efforts.
- Collective bargaining tends to improve the relations between workers and the union on the one hand and the employer on the other.
- Collective bargaining takes into account day to day changes, policies, potentialities, capacities and interests.
- It is a political activity frequently undertaken by professional negotiators.



CHECK YOUR PROGRESS

Q 3: State one feature of Collective Bargaining.

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6.6 STRATEGIES AND APPROACHES TO COLLECTIVE BARGAINING

The collective bargaining process generally encompasses the following four types of activities:

1. **Distributive-Bargaining:** In distributive bargaining, one party's gain is another party's loss. This is most commonly explained in terms of a pie. Disputants can work together to make the pie bigger, so there is enough for both of them to have as much as they want, or they can focus on cutting the pie up, trying to get as much as they can for themselves. In general, distributive bargaining tends to be more competitive. It involves haggling over the distribution of surplus. Under it, the economic issues like wages, salaries and bonus are discussed. This type of bargaining is also known as conjunctive-bargaining.

2. **Integrative-Bargaining:** This involves negotiation of an issue on which both the parties may gain, or at least neither party loses. In general, it tends to be more cooperative than distributive bargaining. This type of bargaining is also known as cooperative bargaining.
3. **Attitudinal-Restructuring:** When there is a backlog of bitterness between both the parties, attitudinal restructuring is required to maintain smooth and harmonious industrial relations. It develops a bargaining environment and creates trust and cooperation among the parties. This involves shaping and reshaping some attitudes like trust or distrust, friendliness or hostility between labor and management.
4. **Intra-organizational-Bargaining:** It generally aims at resolving internal conflicts. This is a type of maneuvering to achieve consensus with the workers and management. Even within the union, there may be differences between groups. Within the management also, there may be differences. Trade unions maneuver to achieve consensus among the conflicting groups.

There are three elements in the system of collective bargaining:-

1. **Issues for consideration:** It is a matter of anxiety when the organization of workers is weak and they have to struggle for recognition by the employers. Under such a circumstance, they might have to fight for their union recognition as well as the union security. The issues are either of employment related aspects of the organization or the personal matters of employee and thus it includes the matters of wages, fringe benefits, working condition as well as the promotion, transfer, discharge and dismissal etc respectively.
2. **Procedure for consideration**: The bargaining machinery and the procedure those are adopted to solve a problem may vary according to different circumstances. It is dependent upon the decision of two parties whether they ,that means, the employers or managements in one hand and the workers as well as their unions on the other hand are willing to conduct the bargaining process either by their own or by involving a third party, such as the government intervenes to bring about a settlement between them.

3. **Collective agreements and their implementation:** Collective agreement is a type of agreement which is the outcome of the process of collective bargaining and it occurs between an employer, a group of employers or one or more employer's organizations on the one hand and one or more representative worker 's organizations on the other hand. The collective bargaining agreement may also mean a compromise between the two parties both of whom have their own own self interest. The parties are agreed to abide by the rules and regulation mentioned in the agreements as a guide to carry on their relationship on certain matters for a specified period of time. It has been observed that in some countries, negotiations at the level of a single undertaking are preferred in view of the special conditions prevailing therein in opposite to the situation where the countries favour the negotiation at the level of industry as it tends to harmonise the working conditions as well as provide the uniform benefits to all the concern. The content of collective agreements vary considerably from plant to plant and from industry to industry and usually covers the items that are related to the wages, working conditions, working hours, fringe benefits and the job security etc. Legally a collective agreement binds not only the parties to it but also the persons on behalf of whom they are acting. It is always a common thing among the workers in a given undertaking that they may not belong to the union which has signed the agreements or that they are non-unionised. Therefore in a number of countries the law provides for compulsory coverage of agreements or settlements on the employers and all the employees in an establishment. There is no doubt that the proper implementation of the collective agreements as well as its afterwards monitoring is totally dependent on the good faith of the parties involved. In India, there are prevailing three types of agreements, namely:-

   a. voluntary agreements,
   b. settlements, and
   c. consent awards.

The type of collective agreement is known as voluntary agreement when it is the result of direct negotiation between the parties and when the parties are responsible for its implementation. Settlements are the collective agreements where you will find an intervention of government agencies. When the situation of reaching a collective agreement is that here in this case the matter of dispute is placed under the reference to industrial tribunal/ court, then the collective agreement is known as consent awards.

6.7 COLLECTIVE BARGAINING PROCESS

It is known to us that collective bargaining is generally a negotiative process that goes on between the representatives of employee and employer of the organization. In this bargaining process, employees are represented as a union or other labour organization which then negotiates with the employer to determine the conditions of employment. The system of collective bargaining results out the collective bargaining agreement (CBA) that may be either of procedural agreements or of substantive agreements.

Emphasising specially on the relationship between the workers and management, this procedural agreements denote the procedures to be adopted for resolving the individual or group disputes. Here, in this agreement, the procedures adopted to resolve the individual grievances, disputes as well as to maintain discipline in the industry should be cited properly. Generally, procedural agreements provide the information on the overall terms and conditions of employment and on the codes of behavior.Then the specific issues, such as basic pay, overtime premiums, bonus arrangements, holiday entitlements, hours of work, etc are covered in a substantive agreement. Agreements are usually signed for a fixed or definite period of time. Hence a procedural agreement has to be reviewed on timely when the negotiation takes place on the matter of pay and conditions of employment under the process of collective bargaining.

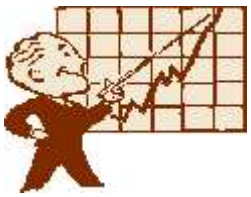
The collective bargaining process comprises of five core steps:

1. **Prepare:** In this step of collective bargaining, first a negotiation team is formed that consists of the representatives of both the employer

and employee. These representatives posses the adequate knowledge and skills for negotiation. In this phase, first both the employer's representatives and the union examine or review their own situation. Then it is followed by a stage where a decision is taken regarding the issues/ matters of concern that they believe as the most important one to be raised/ included in the negotiation process. It is also tried by the representatives to find out the justified reason for choosing the topic for discussion i.e. to negotiate. We have to keep the following things in mind when we go for choosing the issue to be discussed like —— correct understanding of the main issues to be covered and intimate knowledge of operations, working conditions, production norms and other relevant conditions etc.

2. **Discuss:** Here in this stage, a discussion goes on between the parties involved about the ground rules that they will have to follower abide by during the process of negotiation. The process of collective bargaining is also not excluded from the saying that a process well begun is half done. In order to reach a collective bargaining agreement first an environment of mutual trust and understanding should be created among the members of the organization.
3. **Propose:** As all we know that propose means that the initial opening statements and the possible options those exist to resolve them. So, this phase of collective bargaining process also indicated the same thing. In a word, this phase can also be described as 'brainstorming' where there takes place an exchange of messages and opinions between the parties involved in the bargaining process.
4. **Bargain:** The parties involved in the bargaining process should posses a problem solving attitude in them. Then only the process of collective bargaining will be easy one. This stage comprises the time when 'what ifs' and 'supposals' are set forth and the drafting of agreements take place.
5. **Settlement:** In this stage, a permanent settlement is achieved i.e both the parties reach to an agreeable decision where both of them concise. Both the parties sign on the consignment and agree to abide by the

terms and conditions written on it. Both the parties are agreed to support the common decision taken through mutually agreeable discussion regarding the problem or issue of negotiation. They also give the commitment to support the implementation of the agreement effectively through the joint effort of employer and employees via shared visions, strategic planning and negotiated change.



CHECK YOUR PROGRESS

Q 4: Mention the five core steps of the collective bargaining process.

i) .....

ii) .....

iii) .....

iv) .....

v) .....

6.8 IMPACT OF COLLECTIVE BARGAINING IN INDIA

Collective bargaining in India has been the subject matter of industrial adjudication since long and has been defined by our Law Courts. In *Karol Leather Karamchari Sangathan v. Liberty Footwear Company*(1961 I LLJ. 504) the Supreme Court observed that, "Collective bargaining is a technique by which dispute as to conditions of employment is resolved amicably by agreement rather than coercion."

In *Ram Prasad Viswakarma v. Industrial Tribunal* (1972, LLJ. 212) the Court observed that, "It is well known how before the days of 'collective bargaining', labour was at a great disadvantage in obtaining reasonable terms for contracts of service from its employer.As trade unions developed in the country and Collective bargaining becamethe rule, the employers found it necessary and convenient to deal with the representatives of workmen, instead of individual workmen, not only for the making or modification of contracts but in the matter of taking disciplinary action against one or more workmen and as regards of other disputes."

According to the Court, the Industrial Disputes Act, 1947 seeks to achieve social justice on the basis of collective bargaining. In an earlier judgment in Titagarh Jute Co. Ltd. v. SriramTiwari(1982 II LLJ 491) , the Calcutta High Court clarified that this policy of the legislature is also implicit in the definition of 'industrial dispute'.

In *Bharat Iron Works v. BhagubhaiBalubhaiPatel*(AIR 1990 SC 247), it was held that "Collective bargaining, being the order of the day in the democratic, social welfare State, legitimate trade union activities, which must shun all kinds of physical threats, coercion or violence, must march with a spirit of tolerance, understanding and grace in dealings on the part of the employer. Such activities can flow in healthy channel only on mutual cooperation between the employer and the employees and cannot be considered as irksome by the management in the best interests of its business. Dialogue with representatives of a union help striking a delicate balance in adjustments and settlement of various contentious claims and issues."

These cases and their consequent decisions only bring out the basic element in the concept i.e., civilized confrontation between employers and employees and the whole process is regulated by statutory provisions.

6.8.1 Position of Collective Bargaining in India

The history of the trade union movement shows that unions are affiliated to one or the other political parties. As a result most of the trade unions are controlled by outsiders. Critics say that the presence of outsiders, is one of the important reasons for the failure of collective bargaining in India.

The Trade Unions Act, 1926, permits outsiders to be the office bearers of a union to the extent of half the total number of office bearers. Among them, to be the leader of the union, one does not have to actually work in the industry. Experience shows that outsiders who have little knowledge of the background of labour problems, history of labour movement, fundamentals of trade unionism and

the technique of the industry and with even little general education assume the charge of labour union and become the self-appointed custodian of the welfare of workers. The employers, therefore, have been reluctant to discuss and negotiate industrial matters with outsiders, who have no personal or direct knowledge of day to day affairs of the industry. Employees also refuse recognition to the unions which are either controlled by the politicians or affiliated to a particular political party or controlled by a particular individual. Owing thereto, it has been observed that he State must outright ban "outsiders" from the trade union body. Further, provision for political funds by trade unions should be eliminated, since it invariably encourages the politicians to prey upon them. This aspect has, however, been overlooked by the National Commission on Labour. The Commission does not favour a legal ban on non-employees for holding the union office. It is only hopeful that internal leadership would develop through their education and training. This is considered as a gradual process. Accordingly the Commission suggests proportion of the outsiders and the workers in a union executive. However, on realizing the problems of outsiders in the Union, the Industrial Relations Bill, 1988 proposes to reduce the number of outsiders to two only.

6.8.2 Politicization of Trade Union movement in India

The Trade-Union Movement in India is divided on political lines and exists on the patronage of various political Parties. Political patronage of trade-unions has given a new direction to the movement whose center of gravity is no longer the employees or workmen. Since the public sector which is really the instrumentality of the State, has emerged as the biggest employer in this country, the collective bargaining -between the union patronized by the party-in-power and the employer has become an important methodology in the search for workers votes by political parties. It is because of this process

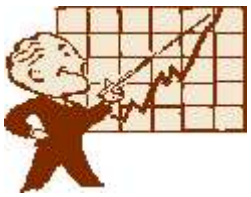
that agreements conferring benefits are signed even in those units where financial losses are mounting. Observations are also indicative of instances when in spite of wage increase end improved conditions of service; there has been no corresponding improvement in production or the productivity. Rather losses are found to be passed on to the consumers by increasing prices of the products.

6.9 WORKERS' PARTICIPATION IN MANAGEMENT

WPM means different things to different people depending upon their objectives and expectations. For example, for management it is a joint consultation prior to decision making, for workers it means co-determination, for trade unions It is the harbinger of a new order of social relationship and a new set of power equation within organisations, while for government it is an association of labour with management without the final authority or responsibility in decision making.

In the words of Mehtras "Applied to industry, the concept of participation means sharing the decision-making power by the rank and file of an industrial organisation through their representa-tives, at all the appropriate levels of management in the entire range of managerial action".

According to Keith Davis, "Workers' participation refers to the mental and emotional involve-ment of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them".



CHECK YOUR PROGRESS

Q 5: Define Workers' Participation in Management.

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6.10 LET US SUM UP

In this unit we have discussed the following:

- Collective bargaining is a process of negotiating between management and workers represented by their representatives for determining mutually agreed terms and conditions of work which protect the interest of both workers and the management. According to Dale Yoder', "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relation-ships in their employment".
- The basic objective of collective bargaining is to arrive at an agreement between the management and the employees determining mutually beneficial terms and conditions of employment.
- A detailed description about the five core steps namely- prepare, discuss, propose, bargain and settlement of collective bargaining process is given in this unit.
- Collective Bargaining machinery essentially is a reflection of a particular social and political climate. The history of the trade union movement shows that unions are affiliated to one or the other political parties. As a result most of the trade unions are controlled by outsiders. Critic says that the presence of outsiders, is one of the important reasons for the failure of collective bargaining in India.
- According to Keith Davis, "Workers' participation refers to the mental and emotional involve-ment of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them".



6.11 FURTHER READING

1) Ratnam C S V (2003), *Negotiated Change: Collective Bargaining, Liberalization and Restructuring in India,* 1st edition,SAGE Publications Pvt. Ltd, India,

2) Patil B R (2000), *Collective Bargaining*, Orient Blackswan Pvt Ltd., New Delhi,

3) Current Approaches to Collective Bargaining by ILO,International Labour Office (6 September 1989)



6.12 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: According to Dale Yoder', "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relation-ships in their employment".

Ans to Q No 2: The basic objective of collective bargaining is to arrive at an agreement between the management and the employees determining mutually beneficial terms and conditions of employment.

Ans to Q No 3: One of the features of Collective Bargaining is that it is a formalized process by which employers and independent trade unions negotiate terms and conditions of employment and the ways in which certain employment-related issues are to be regulated at national, organizational and workplace levels.

Ans to Q No 4: (i) Prepare

(ii) Discuss

(iii) Propose

(iv) Bargain

(v) Settlement

Ans to Q No 5: According to Keith Davis, "Workers' participation refers to the mental and emotional involve-ment of a person in a group situation

which encourages him to contribute to group goals and share in responsibility of achieving them".



6.13 MODEL QUESTIONS

Q 1: Draw attention to the concept, features and advantages of Collective Bargaining as a tool for decision-making and dispute management in industries.

Q 2: Highlight a few strategies of Collective Bargaining often found to be in practice in indian industries.

Q 3: Project a comparative discussion on the different approaches to Collective Bargaining.

Q 4: Being one of the primary stakeholders of any industrial relations, Workers' Participation in Management can prove to be a fruitful step towards maintaining a congenial relationship in the industry. Comment.

Q 5: Explain the process of collective bargaining.

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UNIT 7: WORKER'S PARTICIPATION IN MANAGEMENT

UNIT STRUCTURE

7.1 Learning Objectives

7.2 Introduction

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7.6 Methods of Workers' Participation in Management

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7.8 Workers Participation in Management in India

7.9 Making Workers Participation in Management Effective

7.10 Let Us Sum Up

7.11 Further Reading

7.12 Answers to Check Your Progress

7.13 Model Questions

7.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- learn the features and objectives of Worker's Participation in Management in general and with special reference to India
- discuss the forms of WPM practiced in India
- outline the merits and demerits of WPM along with being able to suggest measures to make WPM effective.

7.2 INTRODUCTION

In the previous unit we discussed about collective bargaining and in the section 6.9 of that we discussed the definition and the meaning of Workers Participation in Management.

Workers are the people who put in their sweat and limbs to industrial

functioning. By virtue of this very position that they hold in industries, they are the ones who face the grass-root challenges and problems of production, processing and others. Hence, the earlier tendency to keep them aloof of decision-making cannot hold good in the long run functioning and existence of the organization. Today, with the need to better educate and train workers so as to enable them to operate under advanced information and technological settings, it is also required that they be made a crucial part of the decision-making process. Thus, the emphasis upon Workers Participation in Management is discussed in this unit. At the end of this unit we will also discuss merits and demerits of WPM along with being able to suggest measures to make WPM effective

7.3 CONCEPT OF WORKERS PARTICIPATION IN MANAGEMENT (WPM)

According to the ILO,"Workers' participation may, broadly be taken to cover all terms of association of workers and their representatives with the decision-making process, ranging from exchange of information, con-sultations, decisions and negotiations to more institutionalized forms such as the presence of work-ers' members on management or supervisory boards or even management by workers themselves as practised in Yugoslavia".

There exists much difference of opinions regarding the perception of WPM due to the differential pattern of practices adopted by various countries while implementing Workers' Participation in Man-agement.

For example, in Great Britain and Sweden, WPM is in the form of Joint Consultation through Joint Consultative Committees; Works Committees in France; Co-determination Committees in West Ger-many; Joint Work Council in Belgium; Workers' Council and Management Board in Yugoslavia and Union Management Co-operation in USA.

In India, WPM is in the form of Labour Management Cooperation implemented through the agencies like Works Committees, Joint Management Councils (JMCs) Shop Councils, Unit Councils and Joint Councils.

However, in essence all of these practices uphold the same basic principles. WPM is a system of communication and consulta-tion, either formal or informal, by which the workers of an organisation are kept informed, as and when required, about the affairs of the undertaking and through which they express their opinion and contribute to decision-making process of management.

7.4 FEATURES AND OBJECTIVES WORKERS PARTICIPATION IN MANAGEMENT

The following are the main characteristic features of WPM:

1. Participation implies practices which increase the scope for employees' share of influence in decision-making process with the assumption of responsibility.
2. Worker's participation in management differs from collective bargaining in the sense that while the former is based on mutual trust, information sharing and mutual problem solving; the latter is essentially based on power play, pressure tactics, and negotiations.
3. Participation presupposes willing acceptance of responsibility by workers.
4. The basic rationale for worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.
5. Workers participate in management not as individuals but as a group through their representatives.

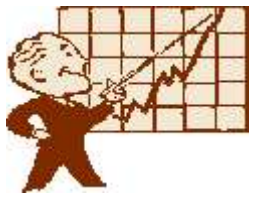
The objective of WPM, as envisaged in the Second Five Year Plan of India is to ensure:

1. Increase in productivity for the benefit of all concerned to an enterprise, i.e., the employer, the employees and the community at large.
2. Satisfaction of worker's urge for self-expression in the matters of enterprise management.
3. Making employees better understood of their roles in the organisation.

In ultimate sense, the objective of WPM in India is to achieve organizational effectiveness and the satisfaction of the employees.

As such, the objectives of WPM in India may be summed up as follows:

1. Promote mutual understanding between management and workers, i.e., industrial harmony.
2. Establish and encourage good communication system at all levels.
3. Create and promote a sense of belongingness among workers.
4. Help handle resistance to change.
5. Induce a sense among workers to contribute their best for the cause of organisation.
6. Create a sense of commitment to decisions to which they were a party.



CHECK YOUR PROGRESS

Q 1: State the prime rationale for WPM.

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Q 2: State two objectives of WPM

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7.5 FORMS OF WORKERS' PARTICIPATION IN MANAGEMENT (WPM)

Mehtras has suggested five levels of workers' participation ranging from the minimum to the maximum. These are:

1. **Informative Participation:** This refers to management's information sharing with workers regarding those items that are concerned with workers such as Balance Sheet, production, economic conditions of the plant etc. However, workers have no right of close scrutiny of the information provided and management has its prerogative to make decisions on issues concerned with workers.

2. **Consultative Participation:** Workers, in this case, are consulted in those matters which relate to them. The role of workers is restricted to give their views only. The acceptance or non-acceptance of these views depends upon the management. Nevertheless, it provides an opportunity and a forum to the workers to express their views on matters involving their interest.
3. **Associative Participation:** In this type of participation, the role of the workers' council is not just advisory like in case of consultative participation. This may be regarded as an advanced and improved form of consultative participa-tion where the management is under a moral obligation to acknowledge, accept and implement the unanimous decision of the council.
4. **Administrative Participation:** In this form of participation, decisions already taken are implemented by the workers. Compared to the former three levels of participation, the degree of sharing authority and responsibility by the workers is definitely more in this participation.
5. **Decisive Participation:** This is the ultimate level of Workers' Participation in Management. Here, the decisions are taken jointly by the management and the workers of an organisation.

7.6 METHODS OF WORKERS' PARTICIPATION IN MANAGEMENT

1. **Suggestion Method:** Suggestions from the workers, regarding improvement in working, how to avoid accidents, cleanliness etc., are invited The best suggestion from the worker is rewarded and a certificate to that effect is given to the worker so that others can make better suggestions in future. This is a method of encouraging workers' interest in the industrial establishment. This method is adopted in many organizations in India.
2. **Co-partnership:** In this method, workers' participation in management is viewed as leading to industrial democracy by way of co-partnership which allows workers to participate in decision making. The

employees get shares of the company and establish their ownership. This is made possible because the share of profit is not paid in cash but company shares are allotted to the workers. As shareholders of the company, they are entailed to participate in management. This not only increases the status of workers but also leads to improvement in their attitude as they realize their responsibility and relations between workers and management become smooth. Moreover, they also receive dividend on their shares.

3. **Representation on Board of Directors:** This method encourages one or two representatives of the workers to be nominated on the Board of Directors of a company wherein they enjoy the same privileges and have the same authority as other directors have. The representatives of the workers to be nominated are elected or suggested by the unions of the workers. They actively participate in the decision making process in respect of formulation of policies and procedures of the organisation. This is one of the most effective methods of ensuring Workers' Participation in Management.
4. **Works Committees:** The Industrial Disputes Act 1947 provides for establishing Works Committees in every establishment employing hundred or more workers. This is done to make workers' participation legally binding. The committee consists of equal number of representative members of workers and employers/management. The object of establishing works committees is to promote healthy industrial relations. However, to make this object come true in the real sense of the term, what is required is bringing in a change in outlook on the part of both the parties.
5. **Joint Management Councils:** It is not mandatory on the part of the industries to establish JMCs. These committees are set up in consultation with recognized union of the establishment and are usually formed at the plant level. The members of management are nominated by the top management and the representatives of workers are elected or nominated by the recognized trade union of the undertaking. Industrial Policy 1956 of government of India has

stressed on joint consultation between management and workers to maintain industrial peace and to promote better industrial relations in the prime sector of industries. As a consequence, the Joint Management Councils received recognition during the second five year plan. Consultative committees, that are advisory in nature, are set up consisting of representatives of employees and employers both. These committees discuss the matters relating to workers and the working conditions. The representatives of workers and employers discuss their problems and arrive at mutually consenting solutions. Although it is not mandatory to implement the decisions so taken, managements normally consider their decisions sympathetically and implement them. Matters, such as those relating to canteen facilities, prevention of accidents, general precautions and safety measures, drinking water facilities, rules and regulations, absenteeism, training, discipline etc., are discussed in such a forum.

6. **Shop Councils:** This system requires the industrial units having employees 500 or more to set up shop councils in all shops and departments. With an upper limit of not more than 12 members in total, these councils have an equal representation of the members of management and of workers. The tenure of the council is for two years. The council should meet at least once in a month. The decision of the shop council is to be implemented within a month's time. The shop council must make efforts to increase the productivity, to avoid wastages and to make maximum use of machines and manpower and recommend the steps to remove absenteeism.

7. **Joint Councils:** Every undertaking employing 500 or more employees should set up a Joint Council at the unit level – the organisation of the joint council being same as that of the Shop Council. Some of the state governments extended this scheme to the undertaking having less than 200 employees. It has a chairman, Vice Chairman and secretaries who receive all the facilities required to perform their functions. The Joint Council should meet at least once in three months. It deals with optimum production, fixation of productivity

norms, matters unresolved by the shop councils. Shop councils and joint councils were the schemes implemented during emergency in 1975 but after the lifting of emergency the schemes have lost their effect.

7.7 MERITS AND DEMERITS OF WORKERS' PARTICIPATION IN MANAGEMENT

Merits of Workers' Participation in Management

Workers' Participation in Management is a tool which promotes better industrial relations and establishes industrial peace. It has several advantages, some of which are discussed below:

1. **Mutual Understanding:** The employees and employers nurture two different conflicting interests and both lack the knowledge of the problems faced by them. Workers' Participation in Management brings both the parties together, thereby enabling them to understand each other's problem through an approach of mutual understanding.
2. **Efficiency of Workers Increase:** The overall efficiency of workers increases as the workers become partners in the decision making process wherein they learn about various aspects of the issue under discussion. This also helps enhance their sense of responsibility while dealing with any situation in their work place.
3. **Increase in Production:** Increase in efficiency of workers, better understanding between workers and employers lead to mutual cooperation which results in increased productivity and increase in total production of the enterprise.
4. **Establishes Industrial Peace:** As each dispute is solved with mutual understanding and consent, both parties to the decision are equally responsible for the consequences thereof – positive or negative. In this way disputes are eliminated and industrial peace is restored.
5. **Promotion of Industrial democracy:** Workers' participation in management helps in promoting industrial democracy as all parties

to a conflict/dispute get equal opportunity to voice their opinion and contribute towards the final decision through active participation.

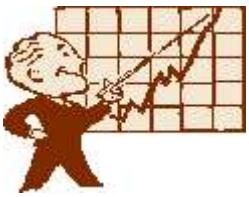
6. **Welcomes Changes:** Workers' Participation in Management helps in arriving at a unanimous decision regarding whether to accept or reject any change. The changes which bring more benefits than the costs incurred on them, are accepted. Thus, there exists lesser chances of resistance to change; rather, changes are self-invited and hence, welcomed by the employees.
7. **Personal Development:** Participation helps workers to express their creative instinct and they respond favourably to the challenges at the workplace as regards performance of the job. They feel free in doing so. It is possible as participation brings industrial democracy.
8. **Reduces Misunderstanding:** Participation reduces misunderstanding regarding the managements' outlook. This increases the organisational balance.
9. **No Outside Help to Sort-out Disputes:** In case of industrial disputes, no outside help is taken but they are sorted out within the plant itself by the employees and employers themselves in a participative mode. This helps in maintaining confidentiality of issues and decisions, wherever necessary along with boosting cohesiveness amongst workers and management in organizational functioning.

Demerits of Workers' Participation In Management

WPM is not devoid of its share of limitations like any other process. Some of them are**:**

1. **Workers are not Enthusiastic:** Employers often believe that workers being incompetent cause delay in decisions. Some of the good decisions cannot be implemented for lack of support from the workers. Many a times, workers also lack enthusiasm in participating.
2. **Weak Trade Unions:** In India, multiplicity of trade unions poses a serious threat to mutual agreement while taking decisions.This apart, political dominance also weakens the genuine strength of the unions. Moreover there are certain problems that require specialized

knowledge which workers do not possess hence such problems cannot be solved through participation.



CHECK YOUR PROGRESS

Q 3: Highlight two merits of WPM.

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7.8 WORKERS' PARTICIPATION IN MANAGEMENT IN INDIA

In India, the concept and idea of Workers' Participation in Management dates back to the 1920s when Mahatma Gandhi suggested participation of workers in management on the ground that workers contributed labour and brains while shareholders contributed money to the enterprise and that both should, therefore, share in its property. He had emphasized upon a perfect relationship of friendship and cooperation among them. It was under his guidance that, in 1920, the workers and the employers in Ahmedabad Textile Industry agreed to settle their disputes by joint discussions and consultations.

Therefore, the Ahmedabad Agreement may be regarded as a mile-stone in the history of joint consultation or participative management in India. Consequently, India saw the setting up of some works committees in the Government Printing Presses and Railways also; as also in the Tata Iron and Steel Company, Jamshedpur. Since then, there has been no looking back.While supporting the need for works committees, the Royal Commission on Labour suggested that, to promoting industrial harmony and to avoid misunderstanding and settle disputes, not only works committees be set up, but strong trade unions be developed and labour officers be appointed.

The Commission also suggested the establishment of a joint machin-ery to deal with the more general questions, and also to act as an advisory appellate body in respect of disputes which were confined to

a single establishment. These recommendations were given legal shape and form through the incorporation of provisions relating to formal statutory machinery under the Bombay Industrial Rela-tions Act, 1946 and the Industrial Disputes Act, 1947.This was the pre-independence status of WPM in India.

The concept and practice of WPM, in the true sense of the term, geared up force only after independence of the country. In fact, the first major step in the direction of Workers' Participation in Management in India was the enactment of the Industrial Disputes Act, 1947 with the dual purpose of prevention and settle-ment of industrial disputes. The Industrial Policy Resolution, 1948 advocated WPM by emphasizing upon the inclusion oflabour in all matters concerning industrial production. In this regard, Article 43 A of the Constitution of India states:

"The State shall take steps, by suitable legislation, or in any other way, to secure the participa-tion of workers in management of undertakings, establishments or other organisations engaged in an industry".

The First Five-Year Plan and the successive plans emphasised the need for Workers' Participation in Management. More specifically, to quote from the recommendations of the Second Five Year Plan, the following points may be highlighted:

1. WPM schemes should be introduced in selected undertakings on a voluntary basis.
2. A sub-committee consisting of representatives of workers, employers and government should be set up for considering the WPM in India.

The above recommendations, among other things, were accepted by 15th Indian Labour Confer-ence held in July 1957. The Conference appointed a 12 member sub-committee to look into further details of the scheme. The recommendations made by the sub-committee were discussed in a "Seminar on Labour-Management Co-operation" held in New Delhi on January 31 and February 1, 1958wherein a "Draft Model Agreement" between labour and management for the establishment of the Joint Management Councils (JMCs) was drawn upto perform the following functions :

- First, to fulfill its functions as an advisory body.
- Second, to receive information on certain matters.
- Third, to fulfill administrative responsibilities.

Thus, the Joint Management Councils (JMCs) were set up in 1958. Following the recommendations of the Administrative Reforms Commission, the Government of India accepted the inclusion of the representatives of workers on the Board of Directors of public sector undertakings. Following this, the Nationalised Banks (Management and Miscellaneous Provi-sions) Scheme 1970 also provided for the appointment of one worker director and one director from among officers to their Board for a tenure of 3 years. Thus up to July 1975, there had been three forms of Workers' Participation in Management intro-duced in India: Works Committees, Joint Management Councils and Workers-Directors (public sec-tor) on Boards of Directors.

Under the Government of India's 20-Point Economic Programmes, a new scheme of shops and plants councils was introduced in 1975 after the emergency was declared in June 1975. In 1976, the Government of India amended the constitution to incorporate Workers Participation in Management as one of the Directive Principles of State Policy.

The Janata Government also set up a "Committee Workers' Participation Management and Equity" in September 1977 under the Chairmanship of RavindraVarma, the then Union Minister of Labour. The Committee consisted of 18 members representing Central Organisations of trade unions and employers and some of the States and professional institutions of management.

The strength of Committee increased to 21 by nominating three additional members in January 1978. The terms of reference of the Committee were to consider, among other things, the need for a statutory scheme for Workers' Participation in Management. The Committee submitted its report to the Government in March 1979. The report showed that the majority of the members favoured adoption of a three-tier system of participation, viz., at the shop, plant and corporate or board levels. It also recommended to enact legislation on workers participation in

management covering all undertakings, be public or private, employing 500 or more workers.

The Government accepted the recommendations made by the 21-Member Committee on Workers' Participation in Management and Equity. Based on a review of the working of the various schemes of Workers' Participation in Management, the Government formulated and notified a new comprehensive scheme on a voluntary basis for 'Workers' Participation in Management' on 30th December, 1983. This scheme drew attention to the following aspects of WPM**:**

1. The scheme will be non-legislative.
2. It will apply to all central public sector enterprises, expect those specifically exempted.
3. It envisaged constitution of bipartite forums at shop and plant levels.
4. The mode of representation of workers representatives was to be determined by consulta-tion with the concerned unions.
5. A wide range of work related issues were brought within the ambit of the councils.

Owing to a host of constraints such as multiplicity of unions, inter-union rivalry, lack of proper knowledge on the part of workers about the scheme, etc., it could not be as successful as was expected. As aremedy to the situation**,** the Government of Indiaintroduced a **Bill in the Parliament on 25th May 1990** to provide for**:**

1. Meaningful three-tier participation of workers in management in all industrial establish-ments.
2. Formulation of scheme specifying criteria regarding nomination of representatives from workers.
3. The principle of secret ballot for determining the representation of workers on the shop floor and establishment level councils.
4. Rules for monitoring the scheme.
5. Deletion of Section 3 of the Industrial Dispute Act, 1947.
6. Rules for appointment of Inspector.
7. Imprisonment up to 2 years or a fine up to Rs. 20,000 or both for contravention of the provisions.

This rendered the practice of WPM legally obligatory upon organisations and further accelerated the adoption and implementation of the process in Indian industries **post independence**.

7.9 MAKING WORKERS' PARTICIPATION IN MANAGEMENT EFFECTIVE

The success of workers portion in management depends upon the following conditions:

- The attitude and outlook of the parties should be enlightened and impartial so that a free andfrank exchange of thoughts and opinions could be possible.
- Both parties should have a genuine faith in the system and in each other and be willing to work together.
- There should be a strong trade union, which has learnt the virtues of unit and self-reliance so that they may effectively take part in collective bargaining or participation.
- Authority should be centralized through democratic management process. The participation should be at the two or at the most three levels.
- Programs for training and education should be developed comprehensively.
- Participation must work as complementary body to help collective bargaining, which creates conditions of work and also creates legal relations.
- A peaceful atmosphere should be there wherein there are no strikes and lock-outs, for their presence ruins the employees, harms the interest of the society, and puts the employees to financial losses.



7.10 LET US SUM UP

- Participation implies practices which increase the scope for employees' share of influence in decision-making process with the assumption of responsibility.
- The basic rationale tor worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.
- The primary objective of WPM in India is to achieve organizational effectiveness and the satisfaction of the employees.
- In fact, the first major step in the direction of workers' participation in management in India was the enactment of the Industrial Disputes Act, 1947 with the dual purpose of prevention and settle-ment of industrial disputes. The Industrial Policy Resolution, 1948 advocated WPM by suggesting that labour should be in all matters concerning industrial production.



7.11 FURTHER READING

1) Akhter Nargis (2011), *Workers' Participation in Management* (Wpm), Lambert Academic Publishing.
2) Ramana P V (2007), *Workers' Participation in Management*, APH Publishing Corporation, India.
3) Prasad C S D (2011), *Workers' Participation in Management*, Discovery Publishing Pvt.Ltd, India.
4) Tsiganou H A (1991), *Workers' Participative Schemes*: The Experience of Capitalist and Plan-Based Societies, Greenwood Press.



7.12 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: The basic rationale for worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.

Ans to Q No 2: Two objectives of WPM in India are to:

- Promote mutual understanding between management and workers, i.e., industrial harmony.
- Establish and encourage good communication system at all levels.

Ans to Q No 3: Two merits of WPM are – increase in workers' efficiency and increase in mutual understanding among workers.



7.13 MODEL QUESTIONS

Q 1: Project ILO's stand on Workers' participation in Management to create understanding about the concept.

Q 2: Draw attention to the basic features and objectives of WPM in India.

Q 3: Briefly explain each of the various forms and methods of WPM practices in India.

Q 4: Emphasise upon the need for and merits of WPM in IR.

Q 5: Enlist the various demerits of WPM and suggest ways to overcome the same.

Q 6: State the conditions that make for effectiveness in Workers' Participation in Management.

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UNIT 8: LABOUR WELFARE AND SOCIAL SECURITY

UNIT STRUCTURE

8.1 Learning Objectives

8.2 Introduction

8.3 Introduction to Labour Welfare

8.4 Evolution of Social Security Measures

8.5 Health and Safety Programmes

8.6 Let Us Sum Up

8.7 Further Reading

8.8 Answers To Check Your Progress

8.9 Model Questions

8.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- learn the meaning and importance of Labour welfare
- relate labour welfare as a social security measure
- phase out the evolution of social security measures in the country
- discuss deeper insights into health and safety programmes in practice in industries.

8.2 INTRODUCTION

In this unit, let us discuss the various aspects related to labour welfare.Man is a social animal. And, more often than not, people work due to obligations rather than by choice. As such, taking extra efforts to make for their welfare at work and/or outside their work premises should be the responsibility of those who make them work. Although, there has been no stated limits to the scope of welfare provisions that may be facilitated by organisations, but there has certainly to be specific standards set so as to ensure some kind of uniformity in this respect, across industries. Many legal frameworks have been designed to ensure the same.

This unit, attempts to highlight concepts, practices and legal provisions relating to labour welfare and social security in India.

8.3 INTRODUCTION TO LABOUR WELFARE

The meaning and implications of Labour Welfare differ widely across times, regions, industries, countries, social values and customs, the general economic development of the people and the political ideologies prevailing at particular moments.

According to Balfour committee, "Labour welfare refers to the efforts made by the employers to improve the working and living conditions over and above the wages paid to them. In its widest sense it comprises all matters affecting the health, safety, comfort and general welfare of the workmen, and includes provision for education, recreation, thrift schemes, convalescent homes". It covers almost fields of activities of workers e.g., social, economic, industrial and educational.

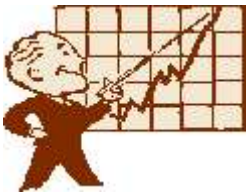
In the words of Prof. H.S. Kirkaldy, "The whole field of welfare is one in which much can be done to combat the sense of frustration of the industrial workers, to relieve them of the personal and family worries, to improve their health, to offer them some sphere in which they can excel others and to help them to a wider conception of life."

According to N.M. Joshi, "welfare work covers all the efforts which employers take for the benefit of their employees over and above the minimum standards of working conditions fixed by the Factories Act and over and above the provisions of the social legislation providing against accident, old age, unemployment and sickness."

In the second Asian Regional Conference of ILO, it was stated that workers' welfare may be understood to mean "such services, facilities and amenities which may be established in or in the vicinity of undertakings to enable the persons employed in them to perform their work in healthy and peaceful surroundings and to avail of facilities which improve their health and high morale."

According to Labour Investigation Committee. "Anything done for

the intellectual, physical, moral and economic betterment of the workers, whether by the employers, by the government or by other agencies over and above what is laid down by law or what is normally expected on the part of the contractual benefits for which worker may have bargained."



CHECK YOUR PROGRESS

Q 1: What do you understand by Labour welfare

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8.4 EVOLUTION OF SOCIAL SECURITY MEASURES

The emergence of industrial revolution changed both the nature of insecurity as well as the remedies provided for it in the society. The United States of America is considered to be the birth place of modern social security measures.

The social security measures in the USA were inaugurated with the enactment of the Social Security Act, 1935 under which a United Social Insurance System was established as the first major step taken in the field of social security. By the same Act of 1935, an old age pension system was also established. In the year 1938, a Social Security Board was set up to administer social security measures in the United States.

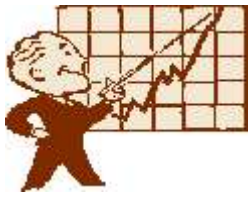
The introduction of social security measures in India is comparatively a recent one. The climate for industrial security in India started from the 10th Session of the International Labour Conference held in 1927 in which two Conventions and Recommendations were adopted for social security in the country which were discussed thread-bare in the Indian Legislative Assembly in 1928. As an aftermath of this discussion, the Assembly, however, resolved that the introduction of any comprehensive scheme for social security on the lines proposed by the ILO was impracticable under the conditions then prevailing in the country.

Thereafter, the Preparatory Asian Regional Labour Conference, held in New Delhi in 1947 adopted a comprehensive resolution on social security

implementation in various Asian Countries. The Employees State Insurance Act, 1948 was enacted in India to inaugurate the social security measures in the country, as a resultant initiative of the former resolution.

India, as a 'Welfare State', is expected to take care of the citizens from the 'cradle to the grave'. In the backdrop of this very realization, the constitution of India lays down that the State shall, within the limits of its resources and development, make effective provisions for securing public assistance in event of unemployment, old age, sickness, and disablement. Since then, various social security schemes have been introduced in the country. Among the social assistance schemes, old-age assistance schemes are the most important ones. The Government of Uttar Pradesh initiated the introduction of the old-age assistance scheme for the first time in 1957.

This scheme was designed to pay a monthly benefit to needy individuals over the age of 70 years who had no one to support them. As a ripple-effect to this initiative of the UP Government, similar schemes were introduced in Andhra Pradesh in 1961, Tamil Nadu in 1962, Punjab and Haryana in 1963 and subsequently in many other states. The eligibility conditions to avail of these benefits and levels of benefits, however, differ across the States.



CHECK YOUR PROGRESS

Q 2: Which is considered to be the place of origin of modern social security measures?

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8.5 HEALTH AND SAFETY PROGRAMMES

Health and safety programs ensure that workers are protected, risks are minimized, and a healthy and safe workplace is maintained. All employers must establish some form of health and safety program at the workplace. An effective program will:

- Identify and control hazards in the workplace.

- Help prevent injuries and disease.
- Limit an organization's financial losses resulting from injuries and disease.
- Promote a positive health and safety culture.
- Outline the importance of, and provide guidance on, health and safety processes such as workplace inspections, investigations, safe work procedures, management meetings for health and safety, joint OHS committee requirements, and the tracking and trending of OHS records and statistics.
- Include sub-programs focused on health and safety issues pertinent to your site. For example, your site may have a specific lockout program, a fall protection program, or a confined space entry program.

The newest trend in workplace safety and health has been to incorporate all areas that affect human health for both workers and non-workers into one unit, the environmental, health, and safety (EHS) department. This department of professionals not only strives to protect the immediate health and safety of the workers, but protects the environment and public as well.



CHECK YOUR PROGRESS

Q 3: What is the basic aim of Health and safety programs in industries?

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8.6 LET US SUM UP

In this we discussed the following:

- Labour welfare is a flexible and elastic concept. Its meaning and implications differ widely with times, regions, industries, countries, social values and customs, the general economic development of the

people and the political ideologies prevailing at particular moments. As such, a precise definition is rather difficult.

- In the pre-industrial society, security against various contingencies was provided by the institutions like joint family, caste, guild, village community, religious institutions, etc. Eventually, the emergence of industrial revolution changed both the nature of insecurity as well as the remedies provided for it. The United States of America is considered to be the birth place of modern social security measures.
- The introduction of social security measures in India is expectedly a recent one. In fact, the making of climate for industrial security in India started from the 10 Session of the International Labour Conference held in 1927 in which two Conventions and Recommendations were adopted for social security in the country.



8.7 FURTHER READING

1) Misra S N (2016), *Labour and Industrial Law*, Central Law Publications, India, 2013
2) Kumar H L, *Labour Problems and Remedies*, 13th Edition, Universal Law Publishing, India,
3) Kumar H L (2016), *Obligations of Employers: Under Labour Laws*, 8th Edition, Universal Law Publishing, India,
4) Sarma A M (2015), *Aspects of Labour Welfare and Social Security*, 12th Edition, Himalaya Publishing House, India,



8.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: In the second Asian Regional Conference of ILO, it was stated that workers' welfare may be understood to mean "such services, facilities and amenities which may be established in or in

the vicinity of undertakings to enable the persons employed in them to perform their work in healthy and peaceful surroundings and to avail of facilities which improve their health and high morale."

Ans to Q No 2: The United States of America is considered to be the birth place of modern social security measures.

Ans to Q No 3: Health and safety programs are aimed at ensuring that workers are protected, risks are minimized, and a healthy and safe workplace is maintained.



8.9 MODEL QUESTIONS

Q 1: Define and explain the concept of Labour welfare.

Q 2: Discuss the evolutionary phases of Social Security measures in India.

Q 3: Suggest a few measures that can ensure effectiveness of Employee Health and Safety Programs.

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UNIT 9: WORKER'S PARTICIPATION IN MANAGEMENT

UNIT STRUCTURE

9.1 Learning Objectives

9.2 Introduction

9.3 Concept of Workers Participation in Management (WPM)

9.4 Features and Objectives of Workers Participation in Management

9.5 Forms of Workers Participation in Management (WPM)

9.6 Methods of Workers' Participation in Management

9.7 Merits and demerits of Workers Participation in Management

9.8 Workers Participation in Management in India

9.9 Making Workers Participation in Management Effective

9.10 Let Us Sum Up

9.11 Further Reading

9.12 Answers to Check Your Progress

9.13 Model Questions

9.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- learn the features and objectives of Worker's Participation in Management in general and with special reference to India
- discuss the forms of WPM practiced in India
- outline the merits and demerits of WPM along with being able to suggest measures to make WPM effective.

9.2 INTRODUCTION

In the previous unit we discussed about collective bargaining and in the section 8.9 of that we discussed the definition and the meaning of Workers Participation in Management.

Workers are the people who put in their sweat and limbs to industrial

functioning. By virtue of this very position that they hold in industries, they are the ones who face the grass-root challenges and problems of production, processing and others. Hence, the earlier tendency to keep them aloof of decision-making cannot hold good in the long run functioning and existence of the organization. Today, with the need to better educate and train workers so as to enable them to operate under advanced information and technological settings, it is also required that they be made a crucial part of the decision-making process. Thus, the emphasis upon Workers Participation in Management is discussed in this unit. At the end of this unit we will also discuss merits and demerits of WPM along with being able to suggest measures to make WPM effective

9.3 CONCEPT OF WORKERS PARTICIPATION IN MANAGEMENT (WPM)

According to the ILO,"Workers' participation may, broadly be taken to cover all terms of association of workers and their representatives with the decision-making process, ranging from exchange of information, consultations, decisions and negotiations to more institutionalized forms such as the presence of workers' members on management or supervisory boards or even management by workers themselves as practised in Yugoslavia".

There exists much difference of opinions regarding the perception of WPM due to the differential pattern of practices adopted by various countries while implementing Workers' Participation in Management.

For example, in Great Britain and Sweden, WPM is in the form of Joint Consultation through Joint Consultative Committees; Works Committees in France; Co-determination Committees in West Ger-many; Joint Work Council in Belgium; Workers' Council and Management Board in Yugoslavia and Union Management Co-operation in USA.

In India, WPM is in the form of Labour Management Cooperation implemented through the agencies like Works Committees, Joint Management Councils (JMCs) Shop Councils, Unit Councils and Joint Councils.

However, in essence all of these practices uphold the same basic principles. WPM is a system of communication and consulta-tion, either formal or informal, by which the workers of an organisation are kept informed, as and when required, about the affairs of the undertaking and through which they express their opinion and contribute to decision-making process of management.

9.4 FEATURES AND OBJECTIVES WORKERS PARTICIPATION IN MANAGEMENT

The following are the main characteristic features of WPM:

1. Participation implies practices which increase the scope for employees' share of influence in decision-making process with the assumption of responsibility.
2. Worker's participation in management differs from collective bargaining in the sense that while the former is based on mutual trust, information sharing and mutual problem solving; the latter is essentially based on power play, pressure tactics, and negotiations.
3. Participation presupposes willing acceptance of responsibility by workers.
4. The basic rationale for worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.
5. Workers participate in management not as individuals but as a group through their representatives.

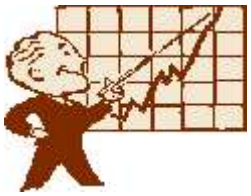
The objective of WPM, as envisaged in the Second Five Year Plan of India is to ensure:

1. Increase in productivity for the benefit of all concerned to an enterprise, i.e., the employer, the employees and the community at large.
2. Satisfaction of worker's urge for self-expression in the matters of enterprise management.
3. Making employees better understood of their roles in the organisation.

In ultimate sense, the objective of WPM in India is to achieve organizational effectiveness and the satisfaction of the employees.

As such, the objectives of WPM in India may be summed up as follows:

1. Promote mutual understanding between management and workers, i.e., industrial harmony.
2. Establish and encourage good communication system at all levels.
3. Create and promote a sense of belongingness among workers.
4. Help handle resistance to change.
5. Induce a sense among workers to contribute their best for the cause of organisation.
6. Create a sense of commitment to decisions to which they were a party.



CHECK YOUR PROGRESS

Q 1: State the prime rationale for WPM.

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Q 2: State two objectives of WPM

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9.5 FORMS OF WPM

Mehtras has suggested five levels of workers' participation ranging from the minimum to the maximum. These are:

1. **Informative Participation:** This refers to management's information sharing with workers regarding those items that are concerned with workers such as Balance Sheet, production, economic conditions of the plant etc. However, workers have no right of close scrutiny of the information provided and management has its prerogative to make decisions on issues concerned with workers.
2. **Consultative Participation:** Workers, in this case, are consulted in those matters which relate to them. The role of workers is restricted

to give their views only. The acceptance or non-acceptance of these views depends upon the management. Nevertheless, it provides an opportunity and a forum to the workers to express their views on matters involving their interest.

3. **Associative Participation:** In this type of participation, the role of the workers' council is not just advisory like in case of consultative participation. This may be regarded as an advanced and improved form of consultative participa-tion where the management is under a moral obligation to acknowledge, accept and implement the unanimous decision of the council.
4. **Administrative Participation:** In this form of participation, decisions already taken are implemented by the workers. Compared to the former three levels of participation, the degree of sharing authority and responsibility by the workers is definitely more in this participation.
5. **Decisive Participation:** This is the ultimate level of Workers' Participation in Management. Here, the decisions are taken jointly by the management and the workers of an organisation.

9.6 METHODS OF WORKERS' PARTICIPATION IN MANAGEMENT

1. **Suggestion Method:** Suggestions from the workers, regarding improvement in working, how to avoid accidents, cleanliness etc., are invited The best suggestion from the worker is rewarded and a certificate to that effect is given to the worker so that others can make better suggestions in future. This is a method of encouraging workers' interest in the industrial establishment. This method is adopted in many organizations in India.
2. **Co-partnership:** In this method, workers' participation in management is viewed as leading to industrial democracy by way of co-partnership which allows workers to participate in decision making. The employees get shares of the company and establish their ownership. This is made possible because the share of profit is not paid in cash but company shares are allotted to the workers. As shareholders of the company,

they are entailed to participate in management. This not only increases the status of workers but also leads to improvement in their attitude as they realize their responsibility and relations between workers and management become smooth. Moreover, they also receive dividend on their shares.

3. **Representation on Board of Directors:** This method encourages one or two representatives of the workers to be nominated on the Board of Directors of a company wherein they enjoy the same privileges and have the same authority as other directors have. The representatives of the workers to be nominated are elected or suggested by the unions of the workers. They actively participate in the decision making process in respect of formulation of policies and procedures of the organisation. This is one of the most effective methods of ensuring Workers' Participation in Management.
4. **Works Committees:** The Industrial Disputes Act 1947 provides for establishing Works Committees in every establishment employing hundred or more workers. This is done to make workers' participation legally binding. The committee consists of equal number of representative members of workers and employers/management. The object of establishing works committees is to promote healthy industrial relations. However, to make this object come true in the real sense of the term, what is required is bringing in a change in outlook on the part of both the parties.
5. **Joint Management Councils:** It is not mandatory on the part of the industries to establish JMCs. These committees are set up in consultation with recognized union of the establishment and are usually formed at the plant level. The members of management are nominated by the top management and the representatives of workers are elected or nominated by the recognized trade union of the undertaking. Industrial Policy 1956 of government of India has stressed on joint consultation between management and workers to maintain industrial peace and to promote better industrial relations in the prime sector of industries. As a consequence, the Joint Management Councils received

recognition during the second five year plan. Consultative committees, that are advisory in nature, are set up consisting of representatives of employees and employers both. These committees discuss the matters relating to workers and the working conditions. The representatives of workers and employers discuss their problems and arrive at mutually consenting solutions. Although it is not mandatory to implement the decisions so taken, managements normally consider their decisions sympathetically and implement them. Matters, such as those relating to canteen facilities, prevention of accidents, general precautions and safety measures, drinking water facilities, rules and regulations, absenteeism, training, discipline etc., are discussed in such a forum.

6. **Shop Councils:** This system requires the industrial units having employees 500 or more to set up shop councils in all shops and departments. With an upper limit of not more than 12 members in total, these councils have an equal representation of the members of management and of workers. The tenure of the council is for two years. The council should meet at least once in a month. The decision of the shop council is to be implemented within a month's time. The shop council must make efforts to increase the productivity, to avoid wastages and to make maximum use of machines and manpower and recommend the steps to remove absenteeism.

7. **Joint Councils:** Every undertaking employing 500 or more employees should set up a Joint Council at the unit level – the organisation of the joint council being same as that of the Shop Council. Some of the state governments extended this scheme to the undertaking having less than 200 employees. It has a chairman, Vice Chairman and secretaries who receive all the facilities required to perform their functions. The Joint Council should meet at least once in three months. It deals with optimum production, fixation of productivity norms, matters unresolved by the shop councils. Shop councils and joint councils were the schemes implemented during emergency in 1975 but after the lifting of emergency the schemes have lost their effect.

9.7 MERITS AND DEMERITS OF WORKERS' PARTICIPATION IN MANAGEMENT

Merits of Workers' Participation in Management

Workers' Participation in Management is a tool which promotes better industrial relations and establishes industrial peace. It has several advantages, some of which are discussed below:

1. ***Mutual Understanding:*** *The employees and employers nurture two different conflicting interests and both lack the knowledge of the problems faced by them. Workers' Participation in Management brings both the parties together, thereby enabling them to understand each other's problem through an approach of mutual understanding.*
2. ***Efficiency of Workers Increase:*** *The overall efficiency of workers increases as the workers become partners in the decision making process wherein they learn about various aspects of the issue under discussion. This also helps enhance their sense of responsibility while dealing with any situation in their work place.*
3. ***Increase in Production:*** *Increase in efficiency of workers, better understanding between workers and employers lead to mutual cooperation which results in increased productivity and increase in total production of the enterprise.*
4. ***Establishes Industrial Peace:*** *As each dispute is solved with mutual understanding and consent, both parties to the decision are equally responsible for the consequences thereof – positive or negative. In this way disputes are eliminated and industrial peace is restored.*
5. ***Promotion of Industrial democracy:*** *Workers' participation in management helps in promoting industrial democracy as all parties to a conflict/dispute get equal opportunity to voice their opinion and contribute towards the final decision through active participation.*
6. ***Welcomes Changes:*** *Workers' Participation in Management helps in arriving at a unanimous decision regarding whether to accept or reject any change. The changes which bring more benefits than the costs incurred on them, are accepted. Thus, there exists lesser*

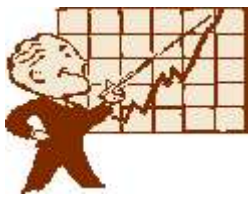
chances of resistance to change; rather, changes are self-invited and hence, welcomed by the employees.

7. ***Personal Development:*** *Participation helps workers to express their creative instinct and they respond favourably to the challenges at the workplace as regards performance of the job. They feel free in doing so. It is possible as participation brings industrial democracy.*
8. ***Reduces Misunderstanding:*** *Participation reduces misunderstanding regarding the managements' outlook. This increases the organisational balance.*
9. ***No Outside Help to Sort-out Disputes:*** *In case of industrial disputes, no outside help is taken but they are sorted out within the plant itself by the employees and employers themselves in a participative mode. This helps in maintaining confidentiality of issues and decisions, wherever necessary along with boosting cohesiveness amongst workers and management in organizational functioning.*

Demerits of Workers' Participation In Management

WPM is not devoid of its share of limitations like any other process. Some of them are:

1. ***Workers are not Enthusiastic:*** *Employers often believe that workers being incompetent cause delay in decisions. Some of the good decisions cannot be implemented for lack of support from the workers. Many a times, workers also lack enthusiasm in participating.*
2. ***Weak Trade Unions:*** *In India, multiplicity of trade unions poses a serious threat to mutual agreement while taking decisions.This apart, political dominance also weakens the genuine strength of the unions. Moreover there are certain problems that require specialized knowledge which workers do not possess hence such problems cannot be solved through participation.*



CHECK YOUR PROGRESS

Q 3: Highlight two merits of WPM.

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9.8 WORKERS' PARTICIPATION IN MANAGEMENT IN INDIA

In India, the concept and idea of Workers' Participation in Management dates back to the 1920s when Mahatma Gandhi suggested participation of workers in management on the ground that workers contributed labour and brains while shareholders contributed money to the enterprise and that both should, therefore, share in its property. He had emphasized upon a perfect relationship of friendship and cooperation among them. It was under his guidance that, in 1920, the workers and the employers in Ahmedabad Textile Industry agreed to settle their disputes by joint discussions and consultations.

Therefore, the Ahmedabad Agreement may be regarded as a mile-stone in the history of joint consultation or participative management in India. Consequently, India saw the setting up of some works committees in the Government Printing Presses and Railways also; as also in the Tata Iron and Steel Company, Jamshedpur. Since then, there has been no looking back.While supporting the need for works committees, the Royal Commission on Labour suggested that, to promoting industrial harmony and to avoid misunderstanding and settle disputes, not only works committees be set up, but strong trade unions be developed and labour officers be appointed.

The Commission also suggested the establishment of a joint machinery to deal with the more general questions, and also to act as an advisory appellate body in respect of disputes which were confined to a single establishment. These recommendations were given legal shape and form through the incorporation of provisions relating to formal statutory machinery under the Bombay Industrial Rela-tions Act, 1946 and the Industrial Disputes Act, 1947.This was the pre-independence status of WPM in India.

The concept and practice of WPM, in the true sense of the term, geared up force only after independence of the country. In fact, the first major step in the direction of Workers' Participation in Management in India was the enactment of the Industrial Disputes Act, 1947 with the dual purpose

of prevention and settle-ment of industrial disputes. The Industrial Policy Resolution, 1948 advocated WPM by emphasizing upon the inclusion oflabour in all matters concerning industrial production. In this regard, Article 43 A of the Constitution of India states:

"The State shall take steps, by suitable legislation, or in any other way, to secure the participa-tion of workers in management of undertakings, establishments or other organisations engaged in an industry".

The First Five-Year Plan and the successive plans emphasised the need for Workers' Participation in Management. More specifically, to quote from the recommendations of the Second Five Year Plan, the following points may be highlighted:

1. WPM schemes should be introduced in selected undertakings on a voluntary basis.
2. A sub-committee consisting of representatives of workers, employers and government should be set up for considering the WPM in India.

The above recommendations, among other things, were accepted by 15th Indian Labour Confer-ence held in July 1957. The Conference appointed a 12 member sub-committee to look into further details of the scheme. The recommendations made by the sub-committee were discussed in a "Seminar on Labour-Management Co-operation" held in New Delhi on January 31 and February 1, 1958wherein a "Draft Model Agreement" between labour and management for the establishment of the Joint Management Councils (JMCs) was drawn upto perform the following functions :

- First, to fulfill its functions as an advisory body.
- Second, to receive information on certain matters.
- Third, to fulfill administrative responsibilities.

Thus, the Joint Management Councils (JMCs) were set up in 1958. Following the recommendations of the Administrative Reforms Commission, the Government of India accepted the inclusion of the representatives of workers on the Board of Directors of public sector undertakings. Following this, the Nationalised Banks (Management and Miscellaneous Provi-sions)

Scheme 1970 also provided for the appointment of one worker director and one director from among officers to their Board for a tenure of 3 years. Thus up to July 1975, there had been three forms of Workers' Participation in Management intro-duced in India: Works Committees, Joint Management Councils and Workers-Directors (public sec-tor) on Boards of Directors.

Under the Government of India's 20-Point Economic Programmes, a new scheme of shops and plants councils was introduced in 1975 after the emergency was declared in June 1975. In 1976, the Government of India amended the constitution to incorporate Workers Participation in Management as one of the Directive Principles of State Policy.

The Janata Government also set up a "Committee Workers' Participation Management and Equity" in September 1977 under the Chairmanship of RavindraVarma, the then Union Minister of Labour. The Committee consisted of 18 members representing Central Organisations of trade unions and employers and some of the States and professional institutions of management.

The strength of Committee increased to 21 by nominating three additional members in January 1978. The terms of reference of the Committee were to consider, among other things, the need for a statutory scheme for Workers' Participation in Management. The Committee submitted its report to the Government in March 1979. The report showed that the majority of the members favoured adoption of a three-tier system of participation, viz., at the shop, plant and corporate or board levels. It also recommended to enact legislation on workers participation in management covering all undertakings, be public or private, employing 500 or more workers.

The Government accepted the recommendations made by the 21-Member Committee on Workers' Participation in Management and Equity. Based on a review of the working of the various schemes of Workers' Participation in Management, the Government formulated and notified a new comprehensive scheme on a voluntary basis for 'Workers' Participation in Management' on 30th December, 1983. This scheme drew attention to the following aspects of WPM**:**

1. The scheme will be non-legislative.
2. It will apply to all central public sector enterprises, expect those specifically exempted.
3. It envisaged constitution of bipartite forums at shop and plant levels.
4. The mode of representation of workers representatives was to be determined by consulta-tion with the concerned unions.
5. A wide range of work related issues were brought within the ambit of the councils.

Owing to a host of constraints such as multiplicity of unions, inter-union rivalry, lack of proper knowledge on the part of workers about the scheme, etc., it could not be as successful as was expected. As aremedy to the situation**,** the Government of Indiaintroduced a **Bill in the Parliament on 25th May 1990** to provide for**:**

1. Meaningful three-tier participation of workers in management in all industrial establish-ments.
2. Formulation of scheme specifying criteria regarding nomination of representatives from workers.
3. The principle of secret ballot for determining the representation of workers on the shop floor and establishment level councils.
4. Rules for monitoring the scheme.
5. Deletion of Section 3 of the Industrial Dispute Act, 1947.
6. Rules for appointment of Inspector.
7. Imprisonment up to 2 years or a fine up to Rs. 20,000 or both for contravention of the provisions.

This rendered the practice of WPM legally obligatory upon organisations and further accelerated the adoption and implementation of the process in Indian industries **post independence**.

9.9 MAKING WORKERS' PARTICIPATION IN MANAGEMENT EFFECTIVE

The success of workers portion in management depends upon the following conditions:

- The attitude and outlook of the parties should be enlightened and

impartial so that a free andfrank exchange of thoughts and opinions could be possible.

- Both parties should have a genuine faith in the system and in each other and be willing to work together.
- There should be a strong trade union, which has learnt the virtues of unit and self-reliance so that they may effectively take part in collective bargaining or participation.
- Authority should be centralized through democratic management process. The participation should be at the two or at the most three levels.
- Programs for training and education should be developed comprehensively.
- Participation must work as complementary body to help collective bargaining, which creates conditions of work and also creates legal relations.
- A peaceful atmosphere should be there wherein there are no strikes and lock-outs, for their presence ruins the employees, harms the interest of the society, and puts the employees to financial losses.



9.10 LET US SUM UP

In this unit we discussed the following

- Participation implies practices which increase the scope for employees' share of influence in decision-making process with the assumption of responsibility.
- The basic rationale tor worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.
- The primary objective of WPM in India is to achieve organizational effectiveness and the satisfaction of the employees.
- In fact, the first major step in the direction of workers' participation in

management in India was the enactment of the Industrial Disputes Act, 1947 with the dual purpose of prevention and settle-ment of industrial disputes. The Industrial Policy Resolution, 1948 advocated WPM by suggesting that labour should be in all matters concerning industrial production.



9.11 FURTHER READING

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2) Ramana P V (2007), Workers' Participation in Management, APH Publishing Corporation, India.
3) Prasad C S D (2011), Workers' Participation in Management, Discovery Publishing Pvt.Ltd, India.
4) Tsiganou H A (1991), Workers' Participative Schemes: The Experience of Capitalist and Plan-Based Societies, Greenwood Press.



9.12 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: The basic rationale for worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.

Ans to Q No 2: Two objectives of WPM in India are to:

- Promote mutual understanding between management and workers, i.e., industrial harmony.
- Establish and encourage good communication system at all levels.

Ans to Q No 3: Two merits of WPM are – increase in workers' efficiency and increase in mutual understanding among workers.



9.13 MODEL QUESTIONS

Q 1: Project ILO's stand on Workers' participation in Management to create understanding about the concept.

Q 2: Draw attention to the basic features and objectives of WPM in India.

Q 3: Briefly explain each of the various forms and methods of WPM practices in India.

Q 4: Emphasise upon the need for and merits of WPM in IR.

Q 5: Enlist the various demerits of WPM and suggest ways to overcome the same.

Q 6: State the conditions that make for effectiveness in Workers' Participation in Management.

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UNIT 10: THE INDIAN FACTORIES ACT, 1948

UNIT STRUCTURE

10.1 Learning Objectives

10.2 Introduction

10.3 Definitions under the Act

10.4 Statutory Agencies and Their Powers for Enforcement of The Act

10.5 Health, Safety and Welfare Provisions

10.6 Provisions Regarding Hazardous Work

10.7 Employment of Young Person

10.8 Penalties and Provisions

10.9 Let Us Sum Up

10.10 Further Reading

10.11 Answers To Check Your Progress

10.12 Model Questions

10.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- explain the different definitions under the Indian Factories Act,1948
- explain the inspecting staff
- explain health, safety and welfare provisions under the Act
- explain the provision in the Act regarding hazardous works
- discuss the issue of the employment of young person
- explain penalties provisions

10.2 INTRODUCTION

In this unit we are going to discuss about The Indian Factories Act, 1948. The Indian Factories Act, 1948 applies to the whole of India. It came into force on the 1st April, 1949. This Act was enacted to consolidate and amend the law regulating labour in factories. The Act was passed to make available, appropriate and beneficial provisions to the Act to the workers in factories. It is codified with a view to regulating the working conditions in the factories and to provide them with the

health, safety and welfare measures. In this unit, we are going to discuss the Indian Factories Act, 1948 along with the details about various definitions. We will also discuss the different provisions relating to health, safety and welfare of the factory workers. Through this unit, you will be able to learn about the provisions regarding hazardous work as well as the different provisions relating to the employment of young persons. You will also able to understand such matter as the inspecting staff, provisions relate to health, safety and welfare, provisions regarding hazardous work ,employment of young persons and penalties and provisions related to it.

10.3 DEFINITIONS UNDER THE ACT

Section 2 of the Act contains definitions of the terms used in the Act.

(a) **"Adult"** means a person who has completed his eighteenth year of age [Section 2 (a)];

(b) **"Adolescent"** means a person who has completed his fifteen year of age but has not completed his eighteenth year [Section 2 (b)];

(bb) **"Calendar year"** means the period of twelve months beginning with the first day of January in any year [Section 2 (d)];

(c) **"Child"** means a person who has not completed his fifteenth year of age [Section 2 (c)];

(cb) **"Hazardous process"** means any process or activity in relation to an industry specified to the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would–

(i) result in the material impairment to the health of the persons engaged in or connected therewith,

Or,

(ii) result in the pollution of the general environment;

Provided that the State Government may, by notification in the Official

Gazette, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule;

(d) **"Young person"** means a person who is either a child or an adolescent [Section 2 (d)];

(h) **"Prime mover"** means any engine, motor or other appliance which generates or otherwise provides power [Section 2 (h)];

(i) **"Transmission machinery"** means any shaft, wheel drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance[Section 2 (i)];

(j) **"Machinery"** includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied[Section 2 (j)];

(k) **"Manufacturing process"** means any process for –

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) pumping oil, water, sewage or any other substance; or;

(iii) generating, transforming or transmitting power; or

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding;

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;

(vi) preserving or storing any article in cold storage(Section 2 (k) as amended in 1976)

(l) **"Worker"** means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any manufacturing process, or in cleaning any part

of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the union (Section 2 (1) as amended in 1976);

Thus, the essential elements of a worker are:

1. There should be an 'employed person'.
2. Employment should be direct or through some agency.
3. Employment should be in any manufacturing process etc.
4. Employment may be for remuneration or not
5. Any member of the armed force of the Union is excluded from the definition of worker.
6. Whether all employees are workers or not, as the term employee is not defined in the Act. All persons employed in or in connection with a factory whether or not employed as workers are entitled to the benefits of the Act.

(m) **"Factory"** is defined in section 2(m) of the Act, which includes any premises including the precincts thereof –

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on.

But, it does not include a mine subject to the operation of the Mines Act, 1952 or a mobile unit belonging to the armed forces of the union, a railway running shed or a hotel, restaurant or eating place;

Explanation I: For computing the number of workers for the purposes of this clause all the workers in different groups and relays in a day shall be taken into account.

Explanation II : For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof;

Thus, the essential elements of a factory are:

1. There must be premises.
2. There must be a manufacturing process which is being carried on or is so ordinarily carried on in any part of such a premises,
3. There must be ten or more workers who are or were working in such a premises on any day of the last 12 months where the said manufacturing process is carried on with the aid of power. On the other hand, the required number of workers working should be twenty or more where the manufacturing process is carried on without the aid of power.



CHECK YOUR PROGRESS

Q1: Define the term 'Factory'.

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10.4 STATUTORY AGENCIES AND THEIR POWERS FOR ENFORCEMENT OF THE ACT

The main responsibility for administration of the Act lies on the State Government. The State Government carries out the administration of the Act through:

i. The inspecting staff

ii. Certifying surgeons

iii. Welfare Officer

iv. Safety Officer

i) The inspecting staff:

The State Government is empowered to make appointment for the post of Inspector and Chief Inspector. Appointment is made by the State Government by notification in the Official Gazette. Under Section 8(i) lays down that a person may be appointed as an Inspector who possesses the prescribed qualifications. But, under Section 8(4) lays down the general provision that every District Magistrate shall be Inspector for his District. Sub-section (5) of Section 8, lays down that the State Government may, also, by notification in the Official Gazette, appoint such public servants as it thinks fit to be Additional Inspectors for all or any of the purposes of this Act , within such local limit as it may assign to them respectively.

Chief Inspector, Additional Inspectors, Joint Chief Inspector, Deputy Chief Inspector and Inspector and any other officer appointed under Section 8(7) to be public servant within the meaning of Indian Penal Code,1860. According to Section 9, subject to any rules made in this behalf, and within the local limits for which he is appointed—

(a) enter, with such assistants, being persons in the service of the Government, or any local or other public authority, as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

(b) make examination of the premises, plant, machinery, article or substance;

(c) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;

(d) require the production of any prescribed register or any other document relating to the factory;

(e) seize, or take copies of, any register, record or other document or any portion thereof, as he may consider necessary in respect of

any offence under this Act, which he has reason to believe, has been committed;

(f) direct the occupier that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause(b);

(g) take measurements and photographs and make such recordings as he considers necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment;

(h) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health or safety of the workers, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of this Act), and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

Exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this section to answer any question or give any evidence rendering to incriminate himself.

Thus, besides the powers enumerated in Section 9 of the Act, the Inspector may discharge other duties and functions as required under the different provisions of the Act.

ii.) Certifying surgeons:

Under Section 10 (1) of the Act the State Government is empowered to appoint qualified medical practitioners as certifying surgeons. He has to discharge his duties as assigned by the State Government.

No person shall be appointed to be, or authorized to exercise the powers of, a certifying surgeon

a. who is or becomes the occupier of a factory, or

b. who is or becomes directly or indirectly interested therein or in

any process or business carried on therein, or in any patent or machinery connected therewith ,or

c. who is otherwise in the employment of the factory.

According to the Section 10 (4) the certifying surgeon shall carry out such duties as may be prescribed in connection with-

(a) the examination and certification of young person under this Act;

(b) the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;

(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process;

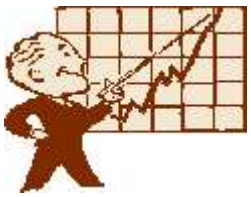
(iii) young persons are, or are about to be, employed in any work.

iii.) Welfare Officer:

The factory wherein 500 or more workers are ordinarily employed, the occupier has to appoint welfare officer. His duties, qualification etc are prescribed by the State Government (Section 49).

iv.) Safety Officer:

In the factory or manufacturing unit wherein 1000 or more workers are ordinarily employed and which involves risk of bodily injury, poisoning or disease or any other hazard to health of the persons employed the occupier has to appoint safety officer. His duties, qualification etc are prescribed by the State Government (Section 40-B).



CHECK YOUR PROGRESS

Q2: Fill in the blanks:

i. The factory where …….. or more workers are employed, the occupier has to appoint welfare officer.

ii) The factory where …….. or more workers are employed, the occupier has to appoint safety officer.

10.5 HEALTH, SAFETY AND WELFARE PROVISIONS

The Act makes detailed provisions in regard to various matters relating to health, safety and welfare provisions.

A. HEALTH

Chapter III of Section 11 to 20 of the Factories Act, 1948, deals with the provisions relating to the health of the workers in a factory.

1. Cleanliness (Sec. 11):

Every factory shall be kept clean and free from dirt. There should be effective drainage system that the floor of the manufacturing process should not remain wet and accumulation of dirt is easily getting removed through it. Use of disinfectants, detergents, painting and whitewashing shall be resorted to.

2. Disposal of wastes and effluents (Sec.12):

There should be such arrangement in the factory that the wastes and effluents easily disposed off.

3. Ventilation and Temperature (Sec.13):

(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom

(a) Adequate ventilation and the circulation of fresh air, and

(b) Workers therein reasonable conditions of comfort and prevention from injury to health.

(2) Process producing high temperature to be separated— The walls and roofs shall be made and designed with

such material that such temperature shall not be exceeded but kept as low as practicable. Beside this, where the nature of the work carried on in the factory involves production of excessively high temperatures, adequate measures as are necessary shall be taken to protect the workers.

4. Dust and Fume (Sect. 14):

In a factory, by reason of the manufacturing process carried on, there may be given off any dust or fume. Its inhalation by and anybody accumulation in any workroom is injurious or offensive to the workers employed therein. So, in order to prevent this the point of origin of the dust, fume or other impurity, shall be enclosed as far as possible. On the other hand, in any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless, effective measures have been taken to prevent such accumulation of fumes therefrom as they are likely to be injurious to workers employed in the room.

5. Artificial humidification (Sec. 15):

In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules,-

(a) prescribing standards of humidification;

(b) regulating the methods used for artificially increasing the humidity of the air;

(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms; the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used. But if the water that used is not purified, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should

be adopted, and requiring them to be carried out before specified date.

6. Overcrowding (Sec. 16):

The overcrowding affects the workmen not only in the discharge of duties but also their health. The working space should be 14.2 cubic meters of space per worker in every workroom.

7. Lighting (Sec. 17):

The Factories Act makes following provisions in this respect,

(a) There shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both, in every part of the factory.

(b) In every factory all glazed windows and skylights be used and workrooms shall be kept clean on both the inner and outer surface.

(c) In every factory effective provision shall, so far as is practicable, be made for the prevention of glare, either directly from a source of light or by reflection from a smooth or polished surface;

(d) The State Government prescribes standards of sufficient and suitable lighting for factories or for any class of description of factories or for any manufacturing process.

8. Drinking water (Sec. 18):

The provisions in this respect under the Factories Act, are;

(a) Arrangements shall be made to provide and maintain sufficient supply of wholesome drinking water.

(b) Provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof in every factory wherein more than two hundred and fifty workers are ordinarily employed.

(c) Examine as prescribed by the authorities of the supply and distribution of drinking water in factories.

9. Latrine and Urinal (Sec. 19):

The Factories Act makes following provisions in this respect,

(1) (a) sufficient latrine and urinal accommodation of prescribed types shall be provided and conveniently situated to make them accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers and there should be adequately lighted and ventilated;

(c) they shall be maintained in a clean and sanitary condition at all times;

(d) sweepers shall be employed whose primary duty would be to keep latrines, urinals and washing places clean.

(2) But in factory wherein more than two hundred and fifty workers are ordinarily employed-

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

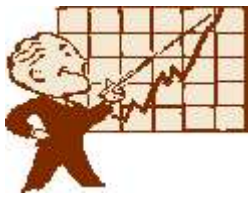
(b) the floors and internal walls, up to a height of ninety centimeter , the sanitary blocks shall be laid in glazed tiles or a smooth polished impervious surface;

(c) latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The State Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the number of male and female workers ordinarily employed therein.

10. Spittoons (Sec. 20):

There shall be provided sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition. The State Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory.



CHECK YOUR PROGRESS

Q3. Mention five provisions related to safety under the Factories Act, 1948?

i) .....

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ii) .....

iii) .....

iv) .....

v) .....

B. SAFETY

Chapter IV of the Factories Act, 1948, deals with the provisions relating to the safety of the workers in a factory.

1. Fencing of machinery (Sec. 21):

According to Section 21 of Factories Act, 1948, in every factory, the dangerous parts of all machineries should be securely fenced. The section provides for fencing the following machineries while they are in use—

(i) every moving part of a prime mover and every flywheel connected to a prime mover whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water-wheel and water turbine;

(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and

(iv) the following should be securely fenced—

(a) every part of an electric generator, a motor or rotary convertor;

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery,

2. Work on or near machinery in motion (Sec. 22):

in any factory it becomes necessary to examine any part of machinery, while the machinery is in motion, or, lubrication or other adjusting operation; or , any mounting or shipping of belts or operation shall be made or carried out only by a specially trained adult male worker wearing

tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of his appointment, and while he is so engaged,--

(a) such worker shall not handle a belt at a moving pulley unless20
   (i) the belt is not more than fifteen centimeters in width;
   (ii) the belt joint is either laced or flush with the belt;
   (iii) the belt, including the joint and the pulley rim, are in good condition;
   (iv) there is reasonable clearance between the pulley and any fixed plant or structure;
   (v) secure foothold and, where necessary, secure handhold, are provided for the operator.

(b) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

3. Employment of young persons on dangerous machines (Sec.23): Section 23 provides that young person shall be required or allowed to work at any machine to which he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and-

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a through knowledge and experience of the machine.

4. Striking gear and devices for cutting off power (Sec. 24): Section 24 provides that suitable striking gear or other efficient mechanical appliance shall be maintained and used to move driving belts to and from fast and loose pulleys which form part of the

transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley. Further driving belts, when not in use, shall not be allowed to rest or ride upon shafting in motion. Besides these, in every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.

5. Self-acting machines (Sec. 25):

Section 25 provides safeguard for workers from being injured by self-acting machine. This section provides that no traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of from any fixed structure which is not part of the machine.

6. Prohibition of employment of women and children near cotton-openers (Sec. 27):

In any part of a factory where a cotton-opener is at work for pressing cotton, no woman or child shall be employed. Provided that the Inspector may in any particular case specify in writing that the women and children may be employed on the side of the partition where the feed-end is situated.

7. Hoists and lifts (Sec. 28):

Every hoist and lift shall be of good mechanical construction, sound material and adequate strength, properly maintained ,protected by an enclosure fitted with gates, and shall be thoroughly examined by a competent person .

8. Lifting machines, chains, ropes and lifting tackles (Sec. 29):

Every lifting machine and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials, all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be of good construction, sound material and adequate strength and free from defects. It should be properly maintained.

9. Protection of eyes (Sec. 35):

Prescribed process should be taken which involves risk of injury to the eyes from particles or fragments thrown off in the course of the process, or risk to the eyes by reason of exposure to excessive light. Effective screens or suitable goggles shall be provided for the protection of persons employed.

10. Precautions against dangerous fumes, gases, etc (Sec. 36):

No person shall be allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present.

C. WELFARE

There are many welfare provisions mentioned under the Act—

1. Washing facilities (Sec. 42):

In every factory adequate washing facilities should be provided for both male and female workers. They should be conveniently accessible and kept clean. The State Government prescribes standards for adequate and suitable facilities for washing.

2. Facilities for storing and drying clothing (Sec. 43):

There should be suitable places for keeping the clothing not worn during working hours and for the drying of the wet clothing.

3. Facilities for sitting (Sec. 43):

In every factory suitable arrangements for sitting as well as standing shall be provided and maintained for all workers for rest which they may require in course of their work.

4. First-aid appliances (Sec. 45):

There should be readily accessible during all working hours the first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed . Each first-aid box or cupboard shall be kept in the charge of a separate responsible person

6. Canteens (Sec. 46):

In a factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided. Besides the foodstuffs to be served therein, the construction, accommodation, furniture and other equipment of the canteen should be of good standards. The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

7. Creches (Sec. 48):

Wherein more than thirty women workers are ordinarily employed in a factory, there shall be provided and maintained a suitable room or rooms for the use of the children under the age of six years of such women. The rooms should be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

8. Welfare officers (Sec. 49):

Wherein five hundred or more workers are ordinarily employed in a factory the occupier shall employ such number of welfare officers as may be prescribed by the State Government.



CHECK YOUR PROGRESS

Q4. Mention five provisions related to welfare under the Factories Act, 1948?

i) .....

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ii) .....

iii) .....

iv) .....

v) .....

10.6 PROVISIONS REGARDING HAZARDOUS WORK

A. Constitution of Site Appraisal Committees (Sec. 41 A):

(1) Granting permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory The State Government may constitute a Site Appraisal Committee and advise to take application. The Site Appraisal Committee shall consist of—

(a) the Chief Inspector of the State who shall be its Chairman;

(b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(d) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974; (6 of 1974).

(e) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act,1981 (14 of 1981);

(f) a representative of the Department of Environment in the State;

(g) a representative of the Meteorological Department of the Government of India;

(h) an expert in the field of occupational health; and

(i) a representative of the Town Planning Department of the State Government,

(j) not more than five other members who may be co-opted by the State Government who shall be--

  (i) a scientist having specialized knowledge of the hazardous process which will be involved in the factory,

  (ii) a representative of the local authority within whose jurisdiction the factory is to be established, and

  (iii) not more than three other persons as deemed fit by the State Government.

(2) Within a period of ninety days of the receipt the Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government in the prescribed form.

(3) If a factory is owned or controlled by the Central Government or by a corporation or by a company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

(4) The Site Appraisal Committee shall have the power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process. Besides this, if the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Board established under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) A Act 1981 (14 of 1981).

B. Compulsory disclosure of information by the occupier (Sec. 41 B):

(1) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed all information (information like the quantity, specifications and other characteristics of wastes) regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity. The occupier shall lay down a detailed policy at the time of registering the factory involving a hazardous process with respect to the health and safety of the workers employed therein.

(2) Every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(3) The occupier of a factory, which proposes to engage in a hazardous process, must inform the Chief Inspector regarding the nature and details of such process. The occupier must inform the Chief Inspector within a period of 30 days before the commencement of such process.

C. Specific responsibility of the occupier in relation to hazardous processes (Sec. 41 C):

Specific responsibility of the occupier in relation to hazardous processes. Every occupier of a factory involving any hazardous process shall—

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(b) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final;

(c) provide for medical examination of every worker--

(a) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and

(d) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed.

D. Power of Central Government to appoint Inquiry Committee (Sec. 41 D):

On the occurrence of an extraordinary situation involving a factory engaged in a hazardous process the Central Government may appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory. The

Committee consists of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its member shall be such as may be determined by the Central Government according. The recommendations of the Committee shall be advisory in nature.

E. Emergency Standards (Sec. 41E):

(1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director- General of Factory Advice Service and Labour Institutes or any institution specialized in matters relating to standards of safety in hazardous processes, to lay down emergency standards for the enforcement of suitable standards in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section shall, until they are incorporated in the rules made under this, be enforceable and have the same effect as if they had been incorporated in the rules made under this Act.

F. Permissible limits of exposure of chemical and toxic sub-stances (Sec. 41E):

(1) The maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

(2) The Central Government may, at any time, for the purpose of giving effect to any scientific proof obtained from specialized institutions or experts in the field, by notification in the Official Gazette, make suitable changes in the said Schedule.

G. Workers' participation in safety management (Sec. 41 G):
Safety Committee set up consisting of equal number of representatives of workers and management to promote cooperation between the workers and the management in maintained for proper safety and health at work where hazardous substances used or process takes place.

H. Right of workers to warn about imminent danger (Sec. 41 H):
Under section 41H, the workers engaged in a hazardous process in a factory have the rights to warn against any imminent danger to their lives and health due to an accident in the form of a notice to be sent directly or through their representatives to the occupier, agent or manager or any other person who is incharge of the factory. It shall be the duty of the person who is the incharge of the factory or the process to take immediate remedial whom he is satisfied as to the existence of the danger. It is required to send a report of whom taken to the nearest incharge whether he is satisfied or not about the possibility of the accident.

10.7 EMPLOYMENT OF YOUNG PERSON

There are many provisions in the Act for the employment of young person—

a. **Prohibition of employment of young children (Sec. 67):** No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

b. **Non-adult workers to carry tokens (Sec. 68):** A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless he carries a certificate of fitness and a token given in reference to such certificate.

c. **Certificates of fitness (Sec. 68):**

(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by

the manager of a factory certify that such person will be employed therein who is certified to be fit for work in a factory. The certifying surgeon also on the application of the manager of the factory in which any young person wishes to work, examine a such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may issue to such a young person, in the prescribed form, or may renew--

(a) a certificate of fitness to work in a factory as a child, if he has completed his fourteenth year, or if he has attained the prescribed physical standards and he is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he completed his fifteenth year, and is fit for a full day's work in a factory:

The certifying surgeon should have personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed. He shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)-

(a) shall be valid only for a period of twelve months from the date thereof;

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.

(4) A certifying surgeon shall revoke any such certificate granted or renewed.

(5) Any fee payable for a certificate under this section shall be paid by the occupier and shall not be recoverable from the young person, his parents or guardian.

d. Effect of certificate of fitness granted to adolescent (Sec. 70):

(1) An adolescent having certificate of fitness and token to work in a factory shall be deemed to be an adult for all the purposes of

Chapters VI and VIII:

No female adolescent or a male adolescent who has not attained the age of seventeen years but who has been granted a certificate of fitness to work in a factory as an adult shall be required or allowed to work in any factory except between 6 A.M. and 7 P.M: Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories,—

(i) No any female adolescent is allowed to work between 10 P.M. and 5 A.M.;

(ii) grant exemption from the provisions of this sub-section in case of serious emergency where national interest is involved.

e. Working hours for children (Sec. 71):

(1) No child shall be employed or permitted to work, in any factory for more than four and a half hours in any day;

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each; and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(3) The provisions of section 52 shall apply also to child workers and no exemption from the provisions of that section may be granted in respect of any child.

(4) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

(5) No female child shall be required or allowed to work in any factory except between 8 A.M. and 7 P.M.

f. Notice of periods of work for children (Sec. 72):

Under section 108, a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work has to display.

(2) The periods shown in the notice required by sub-section (1) shall be fixed.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

g. Register of child workers (Sec. 73):

A register of child workers should be maintained and to be made available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing-

(a) the name of each child worker in the factory,

(b) the nature of his work,

(c) the group, if any, in which he is included,

(d) where his group works on shifts, the relay to which he is allotted, and

(e) the number of his certificate of fitness granted under section 69.

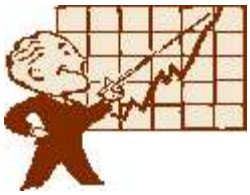
h. Power to require medical examination (Sec. 75):

Where an Inspector is of the opinion--

(a) that any person working in a factory without a certificate of fitness is a young person, or

(b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,--

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.



CHECK YOUR PROGRESS

Q5. Mention five provisions related to employment of young persons under the Factories Act, 1948?

i) .....

ii) .....

iii) .....

iv) .....

v) .....

10.8 PENALTIES AND PROVISIONS

A. General penalty for offences: According to the provisions of section 93 if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to 2 years or with fine which may extend to two lakh rupees or with both.

But if any of the provisions of Chapter IV or any rule made thereunder section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than twenty five thousand in the case of an accident causing death, and five thousand rupees in the case of an accident causing serious bodily injury.

B. Liability of the owner of premises in certain circumstances:

i) If in any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of latrines, urinals and washing facilities, fencing of machinery and plant etc.

The Chief Inspector shall have the power to issue orders to the owner of the premises in respect of the carrying out the provisions related to it.

ii) Again, in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of-

(a) Chapter III, except sections 14 and 15;

(b) Chapter IV, except sections 22, 23, 27, 34, 35 and 36

iii) If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to three years or with fine which shall not be less than ten thousand rupees but which may extend to two lakh rupees or with both:

iv) If any person who wilfully obstructs—

a. an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers, or other documents in his custody kept in pursuance of this Act ,or of any rules made thereunder,

b. or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector; shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

v) Prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

vi) Any person who fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made thereunder, shall, in respect of such failure or conntravention, be punishable with imprisonment for a term which may extend to seven year and with fine which may extend to two lakh rupees. But if it still continues, with additional fine which may extend to five

thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. On the other hand, if it continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to ten years.

C. Offences by workers:

(1) Under section 111, if any worker employed in a factory contravenes any provision of this Act he shall be punishable with fine which may extend to five hundred rupees unless it is proved that he failed to take all reasonable measures for its prevention. For using false certificate of fitness, their shall be imprisonment which may extend to two month or with fine which may extend to one thousand rupees or with both.

(2) The parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from wages where the child works in a factory on any day on which he has already been working in another factory,, shall be punishable with fine which may extend to one thousand rupees unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

D. Limitation of prosecutions:

No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence comes to the knowledge of an Inspector.



10.9 LET US SUM UP

- The Indian Factories Act, 1948 has been enacted with an object to protect the workers and for that purpose different provisions are imposed on the owner and the occupier of the factories.

- The Indian Factories Act, 1948 has been enacted and these are entered many new provisions which protect the workers employed in a factory against industrial and occupational hazards.
- The Indian Factories Act, 1948 defines 'Factory' as a premises where manufacturing process is being carried out by ten or more workers who are or were working in such a premises on any day of the last 12 months where the said manufacturing process is carried on with the aid of power. On the other hand, the required number of workers working should be twenty or more where the manufacturing process is carried on without the aid of power.
- The State Governments carry out the administration of the Act through Inspecting Staff, Certifying Surgeons, Welfare Officers and Safety Officers.
- There are many provisions stipulated in the Act which have to be taken by the factories for health, safety, welfare provisions of the workers. Apart from these some provisions are also taken relating to working hours of child, young persons and female workers.
- Many penalty provisions are also entered in the Act which can be imposed on the owner and the occupier of the factories if any provisions contravene this Act or any rules made thereunder.



10.10 FURTHER READING

1. The Indian Factories Act, 1948; (Bare Act).
2. P. L. Malik(2017), *Industrial Law*, Eastern Book Company, India
3. N. D. Kapoor(2011), *Handbook of Industrial Law*, Sultan Chand & Sons, India



10.11 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1: Under section 2 (m) of the Factories Act, 1948 ,"factory" means any premises, whereon ten or more workers are working, or

were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on.

Ans to Q No. 2: i) 500 ii) 1000

Ans to Q No. 3: Five provisions related to safety under the Factories Act, 1948 are,

i) Fencing of machinery
ii) Work on or near machinery in motion
iii) Employment of young persons on dangerous machines
iv) Protection of eyes
v) Precautions against dangerous fumes, gases, etc

Ans to Q NO. 4: Five provisions related to welfare under the Factories Act, 1948 are,

I) Washing facilities
ii) Facilities for storing and drying clothing
iii) Facilities for sitting
iv) First-aid appliances
v) Canteens

Ans to Q No. 5: Five provisions related to employment of young persons under the Factories Act, 1948 are,

i) Prohibition of employment of young children
ii) Non-adult workers to carry tokens
iii) Certificates of fitness
iv) Working hours for children
v) Notice of periods of work for children



10.12 MODEL QUESTIONS

Q 1: Explain the following terms under the Indian Factories Act, 1948:

i) Hazardous process ii) Worker
iii) Factory iv) Manufacturing process

Q 2: Explain the provisions of the Indian Factories Act, 1948 ensuring the health and welfare of the workers in a factory.

Q 3: Explain the provisions of the Indian Factories Act, 1948 ensuring the safety of the workers in a factory.

Q 4: What are the provisions in the Act for employment of young person?

Q 5: What are the provisions regarding hazardous work under the Indian Factories Act, 1948?

Q 6: Who is a certifying surgeon? What are his duties?

Q 7: "The State Government carries out the administration of the Indian Factories Act, 1948 ".

State how different statutory agencies administer the different functions under the Act.

*** ***** ***

UNIT 11: THE INDUSTRIAL DISPUTES ACT, 1947 (PART-A)

UNIT STRUCTURE

11.1 Learning Objectives

11.2 Introduction

11.3 Objectives of the Act

11.4 Important Definitions

11.5 Illegal Strikes and Lock-outs

11.6 Unfair Labour Practices

11.7 Let Us Sum Up

11.8 Further Reading

11.9 Answers To Check Your Progress

11.10 Model Questions

11.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- explain the objectives and scope the Industrial Disputes Act, 1947
- define the different definitions
- explain Strikes, Lock-outs, Lay off, Retrenchment, Transfer and Closing down of undertakings
- explain the meaning of Unfair Labour Practices

11.2 INTRODUCTION

The first Act regarding the dealing with industrial dispute was the Employees' and Workman's Disputes Act, 1860 which later replaced by Trade Dispute Act, 1929 as it weighed much on the workers. But later this Act also fails to create favorable atmosphere in the industry and settlement the disputes. After Second World War, the necessity of speedy redress of the industrial disputes was given much stress. Thus it gives the result of the Industrial Disputes Act, 1947. In this unit, we are going to discuss about Industrial Disputes Act, 1947 and details about its objectives and scope .This unit also encompasses the different important

definitions under the Act. You will also get about the different meaning of strikes, lock-outs, lay off, retrenchment, transfer and closing down of undertakings.The unit also, discusses about the meaning of Unfair Labour Practices. Thus, you will able to explain the basic object of passing of this Act and different prohibition when the strikes, lock-out set are become illegal.

11.3 OBJECTIVES OF THE ACT

The Industrial Disputes Act, 1947 extends to the whole of India whether it is private or Government undertaking. The Act amended from time to time. The basic objectives of the Act are to ensure fair terms to the workman and prevent disputes between employers and employees so that production of the industry does not effect.

In the case of Workmen of Dimakuchi Tea Estate v. Dimakuchi Tea Estate, AIR 1958 S.C. 353, the Supreme Court laid down the following objectives of the Act:

i. Promotion of measures of securing and preserving amity and good relations between the employers and workmen.
ii. Investigation and settlement of industrial disputes between employers and employers, employers and workmen, workmen and workmen with a right of representation by registered trade union or federation of trade unions or an association of employers or a federation of associations of employers.
iii. Prevention of illegal strikes and lock outs.
iv. Promotion of collective bargaining.

Thus, it is important that all the indifferences should be settle and decided with such care that neither party get undue leverage.



LET US KNOW

The Industrial Disputes Act, 1947 is a central act which came into operation on 1st April 1947. This Act received the asset of the President on 31.8.1982. The latest amendment to the Act was made in 1984.



CHECK YOUR PROGRESS

Q1: Mention one objective of the Industrial Disputes Act, 1947.

i. .....

.....

11.4 IMPORTANT DEFINITIONS

Some important definitions are given below—

Industry:

Section2 (j) under the Industrial Disputes Act, 1947 define the term 'industry'. It means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not,-

(i) any capital has been invested for the purpose of carrying on such activity; or

(ii) such activity is carried on with a motive to make any gain or profit, and includes--

(a) any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948;

(b) any activity relating to the promotion of sales or business or both carried on by an establishment. but does not include-

(1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one.

Explanation :- For the purposes of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in

clause (f) of section 2 of the Plantations Labour Act, 1951; or

(2) hospitals or dispensaries; or

(3) educational, scientific, research or training institutions; or

(4) institutions owned or managed by organizations wholly or substantially engaged in any charitable, social or philanthropic service; or

(5) khadi or village industries; or

(6) any activity of the Government related to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defense research, atomic energy and space; or

(7) any domestic service; or

(8) any activity, being a profession practiced by an individual or body or individuals, if the number of persons employed by the individual or body of individuals in relation to such profession is less than ten; or

(9) any activity, being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less than ten.

Now let us see whether the following activities would fall under industry or not:

1. *Municipalities:* If a municipality discharges many functions some pertaining to industry and other are non industry, the predominant function of the department shall be the criterion for the purpose of the Act. Some industry falls under like, Tax, Public Conveyance, Lighting, Health, Market, Public Garden etc.
2. *Hospitals and Charitable institutions:* Absence of profit motive or gainful objective is irrelevant for “industry:” be the venture in the public, joint, private or other sector. The true focus is functional

and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. The charitable institutions fall into three categories:

a. Those that yield profit but the profits are not use for their own, rather use for other purposes i.e. the profit that earned is siphoned off for altruistic purposes.

b. Those that make no profit but hire the services of employees as in any other business.

c. Those that are oriented on a human mission fulfilled by men who work not because they are paid wages but share the passion and job derive satisfaction.

Here the first two are industries but not the third.

3. *Clubs:* Without destroying the non-employee character of the definition of 'industry', and hire a minimal matters of marginal employees, clubs can be said as industry.

4. *Universities:* As regards institution, if the triple tests of the definition of 'industry' done i.e. systematic activity, cooperation between employer and employee and production of goods and services were to be applied, a university, a college, a research institute or teaching institute will be 'industry'.

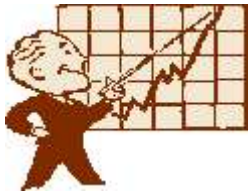
5. *Professional firm:* Professional firm like lawyers, doctors etc follow the personal character of the relationship between a doctor or a lawyer with his professional assistant may be of such a kind that requires complete confidence and harmony in the productive activity in which they may be cooperating; and as they have the character of the test of having direct relation between capital and labour in the production of goods or in rendering of service or that cooperation between employer and employees in carrying the service, professional firm can be 'industry'.

6. *Voluntary services:* If for a certain pious mission, many employees' provide free service for a nominal cost or on the master and servant relationship, then the institute is not an industry.



LET US KNOW

The Supreme Court in the decision of the Bangalore Water Supply and Sewerage Board V. A. Rajappa and others had while interpretining the definitation of industry as contained in the Act, observed that Government might restructure the definitation by suitable legislative measures.



CHECK YOUR PROGRESS

Q2. Mention whether the following activities would fall under industry or not under Industrial Disputes Act, 1947.

a. Voluntary services, b. Municipalities

a) .....

.....

b) .....

.....

Industrial Disputes: "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 or with the conditions of labour, of any person [Section 2(k)].

Thus the above definition can be analysed as:

a. **Existence of a disputes or difference:** An industrial dispute exists only when the same has been raised by the workmen with the employer. Unless there is a demand by the workmen and that demand is not complied with by management, there can not be any Industrial dispute within the meaning of Section 2(k).

b. **Parties to the disputes:** Industrial dispute mean that the dispute must affect a large groups of workmen and employers ranged on opposite sides. Thus, there should be community of interest in the disputes. The disputes can be raised by workmen themselves or their union or federation on their behalf. A dispute may initially be

an individual dispute. But the workmen may make that dispute as their own that they have a community of interest and are directly and substantially interested in the employment, non-employment, or conditions of work of the concerned workmen. All workmen need not to join the dispute. It may have been raised by a minority group of workmen.

c. **Subject matter of dispute:** The disputes should relate to the employment, non-employment, or conditions of work of the workmen. It is a wider term which refers the amenities to be provided to the workmen and the conditions under which they will be required to work. The matters are like safety, health and welfare of workers.

d. **Dispute in an 'industry':** The difference or the dispute must relate to an 'industry' as defined under Section2 (j) of Industrial Disputes Act, 1947. No industrial dispute can exist without an industry.

Workman: According to the section 2(s) "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes:

a) any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or

b) whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person:

   (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

   (ii) who is employed in the police service or as an officer or other employee of a prison; or

   (iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per month or

(v) who, exercising, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

Strike: "Strike" means a cessation of work by a body 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 to accept employment [section 2(q)];

Essentials of strike:

(I) Strike can be take place only when there is a cessation of work or refusal to work by the workmen acting in combination or a concerted refusal.

(II) A concerted refusal under a common understanding of any number of persons to continue to work or to accept employment will amount to a strike.

(III) The striking workmen must be employed in an 'industry'.

(IV) Even when workmen cease to work, the relationship of employer and employee is deemed to continue and it may in a state of belligerent suspension.

Lock-out: "Lock-out" 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 [Section 2 (l)].

Essentials of lock-out:

(i) There is temporary closing of a place of employment or the suspension of work.

(ii) There is an element of demands for which the place of employment is locked –out or closed;

(iii) There is an intention to re-employ the workers if they accept the demands.

Lay-off: "Lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of to give employment to a workman whose name is borne on the master rolls of his industrial establishment and who has not been retrenched, for the following reasons,

a. shortage of coal, power or raw materials or
b. the accumulation of stocks or
c. the breakdown of machinery or
d. natural calamity or
e. for any other connected reason [Section 2 (kkk)].

Explanation to section 2 (kkk) provides that every workman whose name is borne on the master rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the, second half of the shift for the day and is given employment then, he shall be deemed to have been laid off only for one-half of that day.

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day.

Difference between lock out and lay off:

The concept of 'lock-out' is essentially different from the concept of 'lay-off'. The points of distinction between 'lay-off' and 'lock-out' may be broadly stated as follows:

1. 'Lay-off' generally occurs in continuous business, whereas 'lock-out' is closure of business for the time-being.

2. In the case of 'lay-off' owning to the reasons specified in Section 2(kk). Here, the employer is unable to give employment to one or more workmen, whereas in 'lock-out' the employer deliberately closes the business and locks out the whole body of workmen for reasons which have no relevance to the causes specified in Section 2 (kkk).
3. 'Lock-out' is resorted to by the employer as a weapon of collective bargaining and also ordinarily involves an element of malice or ill-will while 'lay-off' is actuated by the exigencies of the business.
4. The provisions applicable to the payment of 'lay-off' compensation cannot be applied to the case of 'lock-out.'

But there are some resemblances also:

1. both 'lay-off' and 'lock-out' are temporary in nature and both arise out of and exist during an emergency though the nature of emergencies in each case is different.
2. both in 'lay-off' and 'lock-out', the relationship of employment is only suspended and is not severed.
3. 'lay-off' resorted to in contravention of the provisions of Section 25-M is illegal and punishable under Section 25Q, while 'lock-out' declared in contravention of the provisions of Section 10(3), 10A (4A), 22 or 23 is illegal and punishable under Section 26 of Industrial Disputes Act, 1947. The rule regarding the second half of the suit was omitted in West Bengal by an amendment of the Industrial Dispute Act in 1974.

Retrenchment: According to section 2(o o) retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include--

(a) voluntary retirement of the workman; or
(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

2*[(bb) termination of the service of the workman as a result of the non-

renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein;] or

(c) termination of the service of a workman on the ground of continued ill-health[Section 2(o o)].

Essentials of Retrenchment:

(i) There should be termination of the service of the workmen.

(ii) The termination should be by the employer.

(iii) The termination is not the result of punishment inflicted by way of disciplinary action.

(iv) The definition excludes termination of service on the specified grounds or instances mentioned in it.

Settlement: "Settlement" means a settlement arrived,

a. at in the course of conciliation proceeding and

b. includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding, where, such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer [Section 2(p)].

Appropriate Government:

"Appropriate Government" means -

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government or by a railway company or concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning [a Dock Labour Board established under Section 5-A of the Dock Workers (Regulation of Employment) Act, 1948 or [the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956] or the Employees State Insurance Corporation established under Section 3 of the Employees State Insurance Act, 1948, or the Board of Trustees constituted under Section 3-A of the Coal

Mines Provident Fund and Miscellaneous Provisions Act, 1948, or the Central Board of Trustees and the State Boards of Trustees constituted under Section 5a and Section 5b, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, or the Life Insurance Corporation of India established under Section 3 of the Life Insurance Corporations Act, 1956, or [the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956 (1 of 1956) or the Deposit Insurance and Credit Guarantee Corporation established under Section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, or the Central Warehousing Corporation established under Section 3 of the Warehousing Corporations Act, 1962, or the Agricultural Refinance and Development Corporation established under Section 3 of the Agricultural Refinance and Development Corporation Act 1963, or the Unit Trust of India established under Section 3 of the Unit Trust of India Act, 1963 or the Food Corporation of India established under Section 3 or a Board of Management established for two or more contiguous States under Section 16 of the Food Corporation Act, 1961, or [the Airports Authority of India Act, 1994 (33 of 1994) or a Regional Rural Bank established under Section 3 of the Regional Rural Banks Act, 1976 or the Export Credit and Guarantee Corporation Limited for the Industrial Reconstruction Corporation of India Limited, or [an air transport service, or a banking or an insurance company], [a mine, an oil-field], [a Cantonment Board], or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the State Government [Section 2(a)].

Public Utility Service:

"Public utility service" means-

(i) any railway service [or any transport service for the carriage of passengers or goods by air;

(ia) any service in, or in connection with the working of, any major port or dock;]

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public:

(v) any system of public conservancy or sanitation:

(vi) any industry specified in the [First Schedule] which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the Official Gazette, declare to be public utility service for the purposes of this Act, for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months but may, by a like notification, be extended from time to time, by any period not exceeding six months, at any one time, if in the opinion of the appropriate Government, public emergency or public interest requires such extension [Section 2(n)].

11.5 ILLEGAL STRIKES AND LOCK-OUTS

The justification of strikes depends on the fairness and reasonableness of demands made by workmen. It is not merely because they have all legitimate options open for getting their demands fulfilled. Thus, the legality of strike is determined with reference to the legal provisions enumerated in the Act. Sections 10 (3), 10A (4A), 22 and 23 of the Act deals with strikes and lock-outs. Section 22 and 23 of the Act deals with restriction on the commencement and Sections 10 (3), 10A (4A) prohibits the continuance of strikes and lock-outs.

A. General prohibition of strikes and lock-outs –

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out: —

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal and two months after the conclusion of such proceeding.

[(bb) during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3-A) of Section 10-A; or

(c) during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award (Section 23).

The basic purposes of these provisions are to ensure a peaceful atmosphere during the pendency any proceeding before Labour Court, Tribunal, National Tribunal or Arbitrator.

B. Prohibition of strikes and lockouts—

(1) No person employed in a public utility service shall go on strike in breach of contract

(a) without giving to the employer notice of strike, -as hereinafter provided, within six weeks before striking; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen-

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking-out; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence of a strike or, as the case be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such a manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such a manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe, the number of such notices received or given on that day.

C. Illegal strikes and lock-outs –

(1) A strike or a lock-out shall be illegal if-

(i) it is commenced or declared in contravention of Section 22 or Section 23, or

(ii) it is continued in contravention of an order made under sub-section (3) of Section 10 or sub-section (4-A) of Section 10-A.

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, an arbitrator, a Labour Court, Tribunal or National Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited

under sub-section (3) of Sec. 10 or sub-section 4(A) of Section 10-A.

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

11.6 UNFAIR LABOUR PRACTICES

It means any of the practises specified in the Fifth schedule [Section 2(ra]. Under Section 25T, no employer or workman or a Trade Union whether registered under the Trade Unions Act, 1926 or not shall commit any unfair labour practices. Section 25U provides that any person who commits any such acts shall be punishable for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

The **fifth schedule under section 2(ra)** of unfair labour practices includes:

I) On the part of employers and trade unions of employers

1. To interfere with, restrain from, or coerce, workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say-
   (a) threatening workmen with discharge or dismissal, if they join a trade union,
   (b) threatening a lock-out or closure, if a trade union is organized,
   (c) granting wage increase to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union at organisation.
2. To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say,
   (a) an employer taking an active interest in organizing a trade union of his workmen; and

(b) an employer showing partiality or granting favour to one of several trade unions attempting to organize his workmen or to its members, where such a trade union is not a recognized trade union.

3. To establish employer-sponsored trade unions of the workmen.

4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say- Taj discharging or punishing a workman, because he urged other workmen to join or organize a trade union,

(a) discharging or dismissing a workmen for taking part in any strike (not being strike which is deemed to be an illegal strike under this Act),

(b) changing seniority rating of workmen because of trade union activities,

(c) refusing to promote workmen to higher posts on account of their trade union activities,

(d) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union.

(e) discharging office-bearers or active members of the trade union on account of their trade union activities.

5. To discharge or dismiss workmen-

(a) by way of victimization;

(b) not in good faith, but in the colorable exercise of the employer's rights;

(c) by falsely implicating a workman in criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.
7. To transfer a workman mala fide from one place to another, under the guise of following manageent policy.
8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.
9. To show favoritism or partiality to one 'set' of workers regardless of merit.
10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of per-manent workmen.
11. To discharge or discriminate against any workman for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
12. To recruit workmen during a strike which, is not an illegal strike.
13. Failure to implement award, settlement or agreement.
14. To indulge in acts of force or violence.
15. To refuse to bargain collectively, in good faith with the recognized trade unions.
16. Proposing or continuing a lock-out deemed to be illegal under this Act.

//.) On the part of workmen and trade unions of workmen.

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.
2. To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from joining any trade union, that it is to say-

(a) for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;

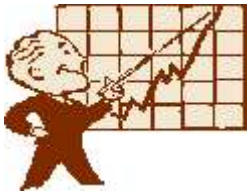
(b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.

3. For a recognised union to refuse to bargain collectively in good faith with the employer.
4. To indulge in coercive activities against certification of a bargaining representative.
5. To state, encourage or instigate such forms of coercive actions as wilful 'go-slow', squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.
6. To stage demonstrations at the residences of the employers or the managerial staff members.
7. To incite or indulge in willful damage to employer's property connected with the industry.
8. To indulge in acts of force or violence or to hold out threats or intimidation against any workman with a view to prevent him from attending work.



LET US KNOW

When an employer of a public utility service receives notice of strike or gives notice of a lock-out, he must within five days report to the appropriate Government or the authority appointed by such Government for this purpose. [Section 22(6)]



CHECK YOUR PROGRESS

Q3. Fill in the blanks with appropriate words:

i) Industrial Dispute is defined under section …….....

ii) Workmen in defined under section……

iii) Strike is defined under section ……..

iv) Lock out is defined under section …….



11.7 LET US SUM UP

In this unit, we have discussed the following :

- The Industrial Disputes Act, 1947 applies to all industries.
- The main objective of the Industrial Disputes Act, 1947 are,
  a) promotion of measures of securing and preserving amity and good relations between the employers and workmen
  b) Investigation and settlement of industrial disputes.
- Section 22 and 23 of the Act deals with restriction on the commencement and Sections 10 (3), 10A (4A) prohibits the continuance of strikes and lock-outs.
- The unfair labour practises specified in the Fifth schedule [Section 2(r a)] of the Industrial Disputes Act, 1947.



11.8 FURTHER READING

1. The Indian Factories Act, 1948; (Bare Act).
2. P. L. Malik(2017), *Industrial Law*, Eastern Book Company, India
3. N. D. Kapoor(2011), *Handbook of Industrial Law*, Sultan Chand & Sons, India.



11.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1: The main objective of Industrial Disputes Act, 1947 is,

i.) Promotion of measures of securing and preserving amity and good relations between the employers and workmen.

Ans to Q No. 2: a) Voluntary services: If for a certain pious mission, many employees' free service or supply free service for a nominal cost or on the master and servant relationship, then the institute is not an industry.

b. Municipalities: Municipality discharges many functions. Some pertaining to industry and other are non industry. The predominant function of the department shall be the criterion for the purpose of the Act. Some industry falls under like, Tax, Public Conveyance, Lighting, Health, Market, Public Garden etc.

Ans to Q No. 3: i) 2 (k) ii) 2(s) iii) 2 (q) iv) 2 (i)



11.10 MODEL QUESTIONS

Q 1: What are the objectives of the Industrial Disputes Act, 1947?

Q 2: Define the terms:

a. Industrial Disputes
b. Industry
c. Workmen
d. Public utility service

Q 3: Mention a few unfair labour practices on the part of employers and on the part of workmen?

Q 4: Distinguish between:

a. 'Lay-off' and 'Lock-out'
b. Strikes and Lockouts

Q 5: Discuss the provisions relating to illegal strikes and lockouts.

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UNIT 12: THE INDUSTRIAL DISPUTES ACT, 1947 (PART-B)

UNIT STRUCTURE

12.1 Learning Objectives

12.2 Introduction

12.3 History of the law of Industrial Disputes

12.4 Authorities under the Act and their Duties

12.5 Reference of Disputes

12.6 Procedure and Powers of Authorities

12.7 Award and Settlement

12.8 Let Us Sum Up

12.9 Further Reading

12.10 Answers To Check Your Progress

12.12 Model Questions

12.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- explain the history and importance of the Industrial Disputes Act, 1947
- explain about different authorities under the Act and their duties
- discuss about reference of disputes
- explain the procedure and powers of authorities
- describe about award and settlement

12.2 INTRODUCTION

The main purpose of the Industrial Disputes Act, 1947 is to ensure fair terms between employers and employees, workmen and workmen as well as workmen and employers. It helps not only in preventing disputes between employers and employees but also help in finding the measures to settle such disputes so that the production of the organization is not hampered. In this unit, we are going to discuss the Industrial Disputes Act, 1947 and its importance. This unit encompasses the different authorities and their duties in the settlement of disputes. It also discuss

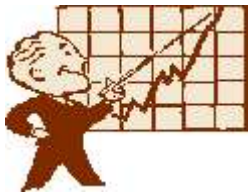
about the reference of disputes. Through this unit, you will be able to know about the different award given by the different authorities under the Act. Thus, you will able to understand through this unit, the procedures of settlement of the disputes as well as the duties of different authorities as well as the way of reference of disputes.

12.3 HISTORY OF THE LAW OF INDUSTRIAL DISPUTES

The World War I (1914-1919) brought a new awakening among the working class people who were dominated by the employers regarding the terms and conditions of service and wages. The workers resorted to strikes to fulfill their demands and the employers retaliated by declaring lockouts. During the period 1928-29 the numerous strikes and lock-outs forced the Government to enact the Trade Disputes Act, 1929.

The Trade Dispute Act, 1929 was introduced for the settlement of industrial disputes. This Trade Union Act gave the trade unions a legal status. The main object of the Act was to make provision for the establishment of Courts of Enquiry and Boards of Conciliation with a view to investigating and settling trade disputes. But, this Act failed to create favorable atmosphere in the industry and settle the disputes. The main defect of the Act was that no provision was has been made to render the proceedings institutable under the Act while restraint had been imposed on the right of strike and lock-out in the public utility services. But, later this defect was overcome by empowering under Rule 81-A, of the Defense of Indian Rules to refer industrial disputes to adjudicator for settlement during the Second World War (1938-1945). The rule provide speedy remedies for industrial disputes by compulsory reference of disputes to conciliation or adjudication, by making the awards of adjudicators legally binding on the parties, by prohibiting strikes and lock-outs during the pendency of conciliation or arbitration proceeding.

With the termination of the Second World War, Rule 81-A was about to lapse on 1st October, 1946, but it was kept alive by recourse to Government's Emergency Powers. The main provision was retained in the Industrial Disputes Act, 1947.



CHECK YOUR PROGRESS

Q1. What was the main defect of the Trade Dispute Act, 1929?

.....

.....

12.4 AUTHORITIES UNDER THE ACT AND THEIR DUTIES

The Industrial Dispute Act, 1947 makes provision for the investigation and settlement of disputes that may hamper the peace of the industry. It ensures harmony and cordial relationship between the employers and employees. The Act provides self-contained code to compel the parties to resort to industrial arbitration for the resolution of disputes. It also provides statutory norms besides helping in the maintaining of cordial relation among the employers and employees ,reflecting socio-economic justice.

The act provides for the following authorities for Investigation and Settlement of industrial disputes:

(i) Works Committee
(ii) Conciliation Officer
(iii) Boards of Conciliation
(iv) Court of Inquiry
(v) Labour Court
(vi) Labour Tribunals
(vii) National Tribunals

Let us discuss these authorities in detail:

WORKS COMMITTEE (Section 3):

The works committee is a committee consisting of representatives of employers and workmen (section3). The works committee is a forum for explaining the difficulties of all the parties.The main objective of the works committee is to solve the problems arising in the day-to-day working of a concern and to secure industrial harmony. The function of the working committee is to ascertain the grievances of the employees

and to arrive at some agreement. The committee is formed by general or special order by the appropriate Government in an industrial establishment in which 100 or more workmen are employed or have been employed on any day in the preceding 12 months. It consists of the representatives of employers and workmen engaged in the establishment.

It shall be the duty of the working committee to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end, to comment upon matters of their common interest or concern and to endeavour to compose any material difference of opinion in respect of such matters and decision of the works committees are not binding.

CONCILIATION OFFICER (Section 4):

For promoting and settlement of industrial disputes the appropriate Government may by notification in the Official Gazette, appoint such number of conciliation officer as it thinks fit. The main objective of appointing conciliation officer is to create congenial atmosphere within the industry and reconcile the disputes of the workers and the employers. He may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

The duty of the conciliation officer is not judicial but administrative. He has to hold conciliation proceedings, investigate the disputes and do all such things as he thinks fit for the purpose of inducing the parties to arrive at a fair settlement of the disputes. The conciliation officer is entitled to enter an establishment to which the dispute relates, after reasonable notice and also to call for and inspect any document which he consider relevant. He has to send a report and memorandum of settlement to appropriate Government. The report by the conciliation officer has to be submitted within 14 days of the commencement of the conciliation proceeding or shorter period as may be prescribed by the appropriate Government. The conciliation officer has the power to enter the premises as well can call for and inspect documents.

BOARDS OF CONCILIATION (Section 5):

The appropriate Government may by notification in the Official Gazette, constitute a Board of Conciliation for the settlement of industrial disputes. The Board shall consist of a chairman and 2 or 4 other members in equal numbers representing the parties to the disputes as the appropriate Government thinks fit. The Chairman shall be an independent person. A person is "independent" for the purpose of appointment to a Board, Court or Tribunal if he is uncommitted with the dispute or with any industry directly affected by such dispute. He may be a shareholder of a company connected with or likely to be affected by such disputes. But in such a case he must disclose to the Government the nature and intent of his share [Section 2(i)]. Where the appropriate Government is of the opinion that any industrial disputes exist in an industry, it may refer by order in writing to the Board of Conciliation for settling industrial disputes.

The Board of Conciliation has to bring about a settlement of the dispute. He has to send a report and memorandum of settlement to appropriate Government. He has to send a full report to the Appropriate Government setting for the steps taken by the Board in case no settlement is arrived at. The Board of Conciliation has to communicate the reasons to the parties if no further reference is made. The Board has to submit its report within 2 months of the date on which the dispute was referred to it within the period what the appropriate Government may think fit. The report of the Board shall be in writing and shall be signed by all the members of the Board.

COURT OF INQUIRY (Section 6):

The appropriate Government may by notification in the Official Gazette, constitute a court of inquiry into any matter appearing to be connected with or relevant to settlement of industrial disputes having an independent person or of such independent persons as the appropriate Government may think fit. The court consists of two or more members one of whom shall be appointed by the Chairman. Within a period of 6 months, the court has to send a report thereon to the appropriate Government from

the commencement of its any inquiry. This period is not mandatory and it may be extend.

It has the same powers as are vested in a Civil Court under the Code of Civil Procedure 1908, in the following matters—

a. enforcing the attendance of any person and examining him on oath,
b. compelling the production of documents and material objects,
c. issuing commissions for the examination of witnesses,
d. in respect of such other matters as may be prescribed.

The report of the Court must be signed by all the members. A member can submit a note of dissent. The Report together with the dissenting note must be published by the appropriate Government within 30 days from its report. A court of enquiry has no power to improve any settlement upon the parties.

LABOUR COURT (Section 7):

The appropriate Government may by notification in the Official Gazette, constitute one or more labour court for adjudication of industrial disputes relating to any matters specified in the Second Schedule. A labour court consists of one person only to be appointed by the appropriate Government.

The main function of the labour court is to hold its proceedings expeditiously and submit its award as the proceeding concludes.

A person shall be presiding officer of a labour court unless—

a. he is or has been, a Judge of the High court,
b. he has for a period of not less than three years, been a District Judge or an Additional District Judge or
c. he has held any judicial office in India for not less than seven years; or
d. he has been the presiding officer of a Labour Court constituted under any provincial Act or State Act for not less than five years.
e. He must be an " independent " person and must not have attained the age of 65 years.

LABOUR TRIBUNALS (Section 7- A):

The appropriate Government may by notification in the Official Gazette,

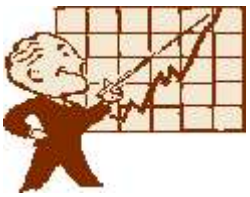
constitute one or more Industrial Tribunals for adjudication of industrial disputes. A Tribunal shall consist of one person to be appointed by the appropriate Government. The Appropriate Government may appoint two persons as assessors to advise the Tribunel. The person shall be not qualified unless—

a. he is, a Judge of the High court,
b. he has for a period of not less than three years, been a District Judge or an Additional District Judge.
c. The appropriate Government may, if it so thinks fit, may appoint two persons as assessors to advise the Tribunal in the proceeding before it.

The functions of the Tribunals are very much like those of a body discharging judicial functions, although it is not a Court. Its power is different from that of a Civil Court. The proceedings before an Industrial Tribunal are quasi-judicial in nature with all the attributes of a Court of Justice. The Government is empowered under Section 7-A of the Act to constitute for a limited time which comes to an end automatically on the expiry of the said period for any particular case. The duties of Industrial Tribunal are identical with the duties of Labour Court, i.e. on reference of any industrial disputes; the Tribunal shall hold its proceedings expeditiously and submit its award to the appropriate Government.

NATIONAL TRIBUNALS (Section 7 B)

The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes. National Industrial Tribunals are involve only incase of the questions of national importance or if they are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such industrial disputes. It consists of one person only to be appointed by the Central Government.The person shall not be qualified for appointment as the presiding officer unless he is, or has been, a Judge of a High Court. Beside these, the Central Government may, if it thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceedings before it.



CHECK YOUR PROGRESS

Q2. Mention the authorities for Investigation and Settlement of industrial disputes under the Industrial Dispute Act, 1947?

i.) .....

ii) .....

iii) .....

iv) .....

v) .....

vi) .....

vii) .....

vii) .....

12.5 REFERENCE OF DISPUTES

Any industrial disputes should have to referred by the Appropriate Government under section 10 for adjudication, to the Conciliation Board, Labour Court, Court of Inquiry or Industrial Tribunal or National Tribunal.

A. Reference of disputes to various Authorities:

A matter is referred to the Conciliation Board for promoting the settlement of the disputes. The Conciliation Board is to promote settlement and not to adjudicate.

But if the purpose of reference of the matter is investigatory instead of conciliatory or adjudicatory, it should be referred to Court of Inquiry. Again, if the matter is related to the Second Schedule or Third Schedule, it is referred to the Labour court. On the other hand, any matter of the industrial disputes which may relate to the Second Schedule or Third Schedule may refer to the Industrial Tribunal.

Where the disputes relate to a public utility service and a notice of the same is given, it becomes mandatory of the Appropriate Government or the Central Government to refer the matter for adjudication. But the power of the Appropriate Government to make a reference is discretionary and it is open to judicial review.

B. Reference of disputes to National Tribunal involving question of importance, etc:

When industrial disputes are of national importance or they are likely to be affect the industrial establishments situated in more than one State then they are referred to the National Tribunal by the Appropriate Government for adjudication. Again if any matter referred to National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before Labour Court or Tribunal becomes invalid. On the other hand, it is not lawful to refer any matters which are under adjudication before the National Tribunal to Labour Court or Tribunal.

C. Reference on application of parities:

If a person individually or jointly applies any matter in a prescribed manner to the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal for adjudication and the Appropriate Government on being satisfied on the same specifies such time limit as it these proper to submit the award.

D. Time limit for submission of awards:

Section 10 (2A) of the Act specifies the time period for submitting award by the Appropriate Government, when any reference is made to the Labour Court, Industrial Tribunal or National Tribunal for adjudication.

VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION:

The settlement of industrial disputes may be done through voluntary reference under section 10-A.

i) When an industrial dispute is not referred to Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal for adjudication, the employer and the workmen through a written agreement forward the matter for arbitration specifying the names of the arbitrator.

ii) The arbitration agreement should be made in prescribed form and should be signed by the parties.

iii) Within one month from the receipt of the arbitration agreement

which should be forwarded to Appropriate Government and the Conciliation Officer, a copy of the same has to be published in the Official Gazette.

iv) The arbitrator or arbitrators shall have to investigate the disputes and submit to the Appropriate Government the award.

v) The award should be signed by the arbitrator or the arbitrators.

vi) The strike or lock-out in connection with the disputes should be prohibited by an order of the Appropriate Government.

12.6 PROCEDURE AND POWERS OF AUTHORITIES

Section 11 provides that every Conciliation Officer or member of a Board or Court or Presiding Officer of a Labour Court, Industrial Tribunal or National Tribunal after giving notice can enter the premises occupied by any establishment to which the disputes relate and follow such procedure as the arbitrator or other authority concerned may think fit. They have the same power as are vested in the Civil Court under the Code of Civil Procedure, 1908 while trying a suit in matters like,

a. enforcing the attendance of any person and examining him on oath,

b. compelling the production of documents and material objects,

c. issuing commissions for the examination of witnesses,

d. in respect of other such other matters as may be prescribed.

An assessor or assessors may be appointed by the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal for advice having special knowledge on that matter. The Conciliation Officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect the documents. The Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal has the full power to determine to what extent, by whom and subject to what conditions costs are to be paid.

Thus, it is seen that section 11 (1) has given wide power to the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal in the settlement of industrial disputes.

12.7 AWARD AND SETTLEMENT

Award means an interim or a final determination of any industrial disputes or of any question relating thereto by any Labour Court, Tribunal or National Tribunal and includes an arbitration award made under section 10A Section 2 (b).The report of the Board of Conciliation or the Court of Inquiry shall be in writing and shall be signed by all the members and the award of a Labour Court and Industrial Tribunal shall be in writing and shall be signed by the Presiding Officer. Section 21 requires certain matters to be kept confidential and it is further provided by the section that certain matters are not disclosed without the written consent of the secretary of the trade union or firm or company in question as the case may be of any information obtained by Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal. An award usually is enforceable on the expiry of 30 days from the date of its publication except when the Appropriate Government declares that the award given by the Labour Court and Industrial Tribunal shall not be enforceable on the expiry of 30 days from the date of its publication. Again, it may not be enforceable on the expiry of 30 days from the date of its publication, if the Central Government get the opinion regarding the award given by the National Tribunal. In such case, the Appropriate Government or the Central Government may within 90 days from the date of publication of the award under section 17 make an order rejecting or modifying the award. But, if it appears that the award given by the Industrial Tribunal is fair and just, it is authorised to issue direction that the award takes effect retrospectively.

Persons on whom settlements and awards are binding (Section 18):

1. Settlement and awards are binding on all the parties under the agreement arrived at between the employers and workers in the course of conciliation proceedings.
2. An arbitration award is binding on the concerned parties of the agreement who referred the disputes to arbitration.
3. An arbitration award or settlement award or award of Labour Court, and Industrial Tribunal or National Tribunal is binding on—

a. All the parties to the disputes,

b. On all other parties who are summoned to appear in the proceeding as parties to the disputes, unless the Board, Arbitrator, Labour Court, Industrial Tribunal or National Tribunal in the settlement of industrial disputes as the case may be, records the opinion that they were so summoned without proper cause.

c. Where a party referred to Clause (a) and Clause (b) is an employer, his heirs, successors assigned in respect of the establishment to which the dispute relates.

d. But if the parties referred to in Clause (a) or Clause (b) is of workmen, all person who were employed in the establishment or part of the establishment, as the case may be, to which the disputes relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

A settlement arrived at in the course of conciliation proceedings before a Conciliation Officer shall come into operation on such date as is agreed upon by the parties to the disputes and on the date on which the memorandum of the settlement is signed by the parties to the disputes when no date is agreed. But, if a person breaches any term of any settlement or award which is binding on him he shall be punishable with imprisonment for a term which may extend to 6 months or with fine or both.



12.8 LET US SUM UP

In this unit, we have discussed the following issues:

- The Industrial Disputes Act, 1947 makes provision for the investigation and settlement of disputes through Conciliation Officer or member of a Board or Court or Presiding Officer of a Labour Court, Industrial Tribunal or National Tribunal.

- Any industrial disputes may be referred by the Appropriate Government under section 10 for adjudication, to the Conciliation Board, Labour Court, and Court of Inquiry, Industrial Tribunal or National Tribunal.
- The settlement of industrial disputes may be done through voluntary reference under section 10-A
- The conciliation officer or a member of a Board or Court or the Presiding Officer of a Labour Court, Industrial Tribunal or National Tribunal has the same power as are vested in the Civil Court under the Code of Civil Procedure, 1908.



12.9 FURTHER READING

1. The Indian Factories Act, 1948; (Bare Act).
2. P. L. Malik(2017), *Industrial Law*, Eastern Book Company, India
3. N. D. Kapoor(2011), *Handbook of Industrial Law*, Sultan Chand & Sons, India



12.10 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1: The main defect of the Trade Dispute Act, 1929 was that no provision has been made to render the proceedings institutable under the Act while restraints have been imposed on the right of strike and lock-out in the public utility services

Ans to Q No.2: The authorities for Investigation and Settlement of industrial disputes under the Industrial Dispute Act, 1947 are—

i) Works Committee
ii) Conciliation Officer
iii) Boards of Conciliation
iv) Court of Inquiry
v) Labour Court
vi) Labour Tribunals
vii) National Tribunals



12.11 MODEL QUESTIONS

Q 1: What authorities have been set up under the Industrial Dispute Act, 1947 for investigation and settlement of industrial disputes?

Q 2: Write short notes on—

a. Works Committee
b. Conciliation Officer
c. Boards of Conciliation
d. Court of Inquiry
e. Labour Court
f. Labour Tribunals
g. National Tribunals

Q 3: Under what circumstances does an award made under the Industrial Dispute Act, 1947 commence to be enforceable?

Q 4: Discuss the provisions of Industrial Dispute Act, 1947 relating to the voluntary reference of disputes to arbitration.

Q 5: Mention the persons on whom settlements and awards are binding under the Industrial Dispute Act, 1947.

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UNIT 13: WORKMEN'S COMPENSATION ACT, 1923

UNIT STRUCTURE

13.1 Learning Objectives

13.2 Introduction

13.3 Object and Scope of the Act

13.4 Important Definitions

13.5 Disablement

13.6 Employer's Liability For Compensation

13.7 Employer's Liability When Contractor Is Engaged

13.8 Commissioner

13.9 Compensation

13.10 Let Us Sum Up

13.11 Further Reading

13.12 Answers To Check Your Progress

13.13 Model Questions

13.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- discuss the object and scope of Workmen's Compensation Act, 1923
- define the different definitions
- describe employer's liability for compensation
- explain the employer's liability when contractor is engaged
- discuss commissioner & compensation

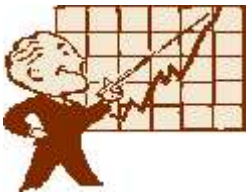
13.2 INTRODUCTION

The passing of the Workmen's Compensation Act, 1923 was the first step towards social security of the workmen. Its main purpose was to give financial protection to the workmen. In this unit, we are going to discuss about Workmen's Compensation Act, 1923 and details about its object and scope .This unit also encompass the different definitions.

Through this unit, you will be able to know about the employer's liability for compensation and penalties related to it. The unit discusses about the meaning of compensation and the basic object of passing of this Act and different principles of workmen's compensation stipulated under the Act.

13.3 OBJECT AND SCOPE OF THE ACT

The Workmen's Compensation Act, 1923 extends to the whole of India. It came into force on the first day of July, 1924. It is social security legislation. The Workmen's Compensation Act, 1923 imposes statutory liability upon an employer to discharge his moral obligation towards employees when they suffer from any physical disabilities or diseases, during the course of employment in hazardous working conditions. The aim of the Act is to provide quick and cheaper disposal of disputes relating to the compensation which is not possible in comparison in case of proceedings of civil law. The Act also helps the dependants to get relieved from the hardship, rising from accident.



CHECK YOUR PROGRESS

Q1: Mention one objective of the Workmen's Compensation Act, 1923.

i) .....

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13.4 IMPORTANT DEFINITIONS

Some important definitions are given below—

(a) Section 2 (1) (b) of the Act define, **"Commissioner"** as a Commissioner for Workmen's Compensation appointed under section 20;

(b) **"Compensation"** [section 2 (1) (c)] means compensation as provided for by this Act;

(c) Section 2(1) (d) of the Act defines, **"dependent"** means any of the following relatives of a deceased workman, namely :-

(i) a widow, a minor legitimate or adopted son, and unmarried legitimate or adopted daughter, or a widowed mother; and

(ii) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;

(iii) if wholly or in part dependent on the earnings of the workman at the time of his death,

(a) a widower,

(b) a parent other than a widowed mother,

(c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor,

(d) a minor brother or an unmarried sister or a widowed sister if a minor,

(e) a widowed daughter-in-law,

(f) a minor child of a pre-deceased son,

(g) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(h) a paternal grandparent if no parent of the workman is alive.

Explanation: For the purposes of sub-clause (ii) and items (f) and (g) of sub-clause (iii), references to a son, daughter or child include an adopted son, daughter or child respectively;

(d) **"Employer"** [section 2 (1) (e)] includes:

i) any body of persons whether incorporated or not ,

ii) any managing agent of an employer ,

iii) legal representative of a deceased employer,

iv) any workman whose services are temporarily lent or let on hire to another person, by the person with whom the workman has entered into a contract of service or apprenticeship;

means such other person while the workman is working for him.

A contractor falls within the above definition of the employer.

(e) **"Managing agent"** means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer;

(f) **"Minor"** means a person who has not attained the age of 18 years;

(g) **"Prescribed"** means prescribed by rules made under this Act;

(h) **"Qualified medical practitioner"** means any person registered under any Central Act, Provincial Act, or an Act of the Legislature of a State providing for the maintenance of a register of medical practitioners, or, in any area where no such last-mentioned Act is in force, any person declared by the State Government, by notification in the Official Gazette, to be a qualified medical practitioner for the purposes of this Act;

(i) **"Seaman"** means any person forming part of the crew of any ship, but does not include the master of the ship;

(j) **"Wages"** includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

(k) **"Workman"** has been defined under section 2 (1) (n) as follows:

1. Workman means any person (other than a person whose employment is of a casual in nature and who is employed otherwise than for the purposes of the employer's trade or business) who is –

   (i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989 (24 of 1989), not permanently employed in any administrative, district or sub-divisional office

of a railway and not employed in any such capacity as is specified in Schedule II, or

(a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or

(ii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

(2) The exercise and performance of the powers and duties of a local authority or of any department acting on behalf of the Government shall, for the purposes of this Act, unless a contrary intention appears, be deemed to be the trade or business of such authority or department.

(3) The Central Government or the State Government, by notification in the Official Gazette, after giving not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply, in case of a notification by the Central Government, within the territories to which the Act extends, or, in

the case of a notification by the State Government, within the State, to such classes of persons :

Provided that in making addition, the Central Government or the State Government, as the case may be, may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.



CHECK YOUR PROGRESS

Q2: Define the term wage under the Workmen's Compensation Act, 1923.

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13.5 DISABLEMENT

The Act does not define the word disablement. But it defines the partial and total disablement.

(i) **"Partial disablement"** means,

a. where the disablement is of a temporary in nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and

b. where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in Part II of Schedule I shall be deemed to result in permanent partial disablement.

In case of temporary partial disablement, the disablement results in reduction of earning capacity in respect of only that employment in which he was engaged at the time of accident. This means the workman's earning capacity in relation to other employment is not affected. But in case of permanent partial disablement, the disablement results in reduction in his earning capacity is not only the employment

in which he was engaged at the time of accident but in all other employment.

(ii) **"Total disablement"** means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement.

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of Schedule I or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent or more.

13.6 EMPLOYER'S LIABILITY FOR COMPENSATION

Under the Section 3 of the Act provides the liability of the employer, in case of occupational diseases or personal injuries or the prescribed manner in which compensation has pay to the workmen.

a. *In case of occupational diseases:*

i. Where a workman employed in any employment specified in Part A of Schedule III contracts any disease specified therein, as an occupational diseases peculiar to that employment , it is deemed to be injury by accident out of and in the course of such employment ,

ii. Such employment period should be continuously doing for six months under the same employer as specified in the Part B of Schedule III.

iii. Contract any such diseases to a workman, whilst he is in service of one or more employers (not necessarily the same employer) in any employment specified in Part C of Schedule III for such continuous period as the Central Government may specify.

iv. If it is proved:

   a. Contract any such occupational diseases to a workman, whilst he is in service of one or more employers in any employment specified in Part C of Schedule III and that

occupational diseases is peculiar in nature to that employment during a continuous period which is less than the period specified under this sub section for that employment;

b. That the disease has arisen out of and in the course of the employment.

v. The Central Government or the State Government, after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in Schedule III, and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively, and thereupon the provisions of sub-section (2) shall apply In the case of a notification by the Central Government, within the territories to which this Act extends or, in case of a notification by the State Government, within the State as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

vi. Except as mentioned above, no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

b. *In case of Personal Injuries:*

i. **Personal injuries:** Here the injury means physical or bodily injury caused by an accident which may include nervous shock or break-down or mental strain.

ii. **Accident:** The word 'accident' has not been defined in the Act. But in common expression, it means a mishap or an untoward event which is not expected or designed.

iii. **Arising out of employment and in the course of employment:**

a. **Arising out of employment:** The injury should arise out of employment

i.e. the cause should be a proximate cause not a remote cause. In the case of **Mackenzie v. I.M. Issak**, it was observed that the word arising out of employment means that injury which is resulted from the risk incidental to the duties of the service which unless engaged in the duty owing to the master , it is reasonable to believe that the workman would not otherwise have suffered. There must be a casual relationship between the accident and the employment.

b. **Arising in the course of employment:** The workman, at the time of accident must have been employed in the performance of his duties and the accident took place at or about the place where he was performing his duties.

iv. *Theory of notional extension of employment:* The injury should be caused by an accident which must have arisen in the course of employment i.e. the accident must take place at a time and the place when he was doing his master's job.

v. *When employer is not liable:*

A. When the injury does not result of disablement for a period exceeding 3 days.

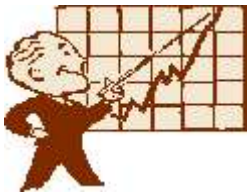
B. When the injury not resulting in death or permanent total disability is due to any of the following:

a. the workman was at the time of accident, under the influence of drink or drugs,

b. the workman wilfully disobeyed an order expressly framed for the purpose of securing safety of workers,

c. the workman wilfully disregards or removes any safety guards or safety devices which he knew to have been provided for the safety of workman.

vi. Suit for damages in a court barred: Under Section 3(5), a workman has to institute in a Civil Court, a suit for damages against the employer or any other person to entitle compensation under the Workmen's Compensation Act, 1923.



CHECK YOUR PROGRESS

Q3: Mention reasons when employer is not liable to pay compensation under the Workmen's Compensation Act, 1923.

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13.7 EMPLOYER'S LIABILITY WHEN CONTRACTOR IS ENGAGED

Section 12 of the act covers the employer's liability when contractor is engaged for the purpose of doing any work in respect of employer's trade or business. Such contractor has to execute the work with the help of workman engaged by him. But the employers will liable for the payment of compensation only in the following circumstances:

a. The contractor is engaged to do a work which is part of the trade or business of the employer.

b. The workmen were engaged in the course of or for the purpose of his trade or business.

c. The accident occurred in or about the premises on which the employer has under taken or undertakes to execute the work.

This provision, however does not prevent a workman from recovering compensation from the contractor instead of the employer. Here, the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

13.8 COMMISSIONER

Section 19(1) lays down the jurisdiction of a commissioner to entertain a claim in respect of payment of compensation to workman. The State Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workman's Compensation for such

area as may be specified in the notification. The Commissioner has the following jurisdiction over following matters:

a. Liability of any person to pay compensation.

b. The person injured is or is not a workman.

c. The nature and extent of disablement.

d. The amount or duration of compensation.

According to Section 19 (2), no Civil Court, shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decide or dealt with by a Commissioner or to enforce any liability incurred under this Act.

All claims shall be made subject to the provision of the Act to the Commissioner. But, such applications other than the applications made by dependant or dependants can only be submitted when the parties have failed to settle the matter by agreement.

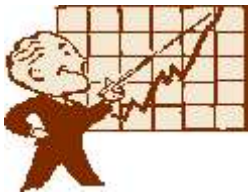
The Commissioner shall have for the following powers—

a. taking evidence on oath;

b. enforcing the attendance of witness;

c. compelling the production of documents and material objects.

According to the Section 26, all costs incidental to any proceedings before a Commissioner shall subject to rules under this Act .



CHECK YOUR PROGRESS

Q4: Mention three jurisdiction of Commissioner in payment of compensation to workman under the Workmen's Compensation Act, 1923.

i) .....

ii) .....

iii) .....

13.9 COMPENSATION

The word 'compensation' has been defined under section 2(1) (c) of the Workmen's Compensation Act, 1923. Amount of compensation can be decided by—

a. Schedule II contains a list of persons engaged in different employments/ operations specified therein who are covered by the definition of workman and they are entitled to pay compensation.

b. Schedule III contains a list of occupational diseases which if contracted while in employment entitles a workman to compensation such as disease caused by lead, mercury etc.

c. Schedule IV lays down the relevant factors related to age of the workman at the time of death, injury or accident by which wages are multiplied to arrive at compensation.

d. Section 4A of the Act provides that compensation under section 4 shall be paid as soon as it falls due.

e. The amount of compensation can be calculated deemed to be payable for a month , as—

   i. The monthly wages of the workman i.e. 1/12th of total wages which have been fallen due, for payment to him by the employer in the last 12 months of that period, only when workman is continuing work not less than 12 months immediately preceding the accident.

   ii. If the service of the workman was less than one month, the monthly wages of the workman shall be the average monthly amount which will be earned by the workman during the year i.e. 12 months immediately preceding the accident.

   iii. If it is not possible to calculate the monthly wages under clause (b), the monthly wage shall be the 30 times the total wages earned in respect of the last continuous period of service, divided by the number of days comprising such period.

f. Any half monthly payment payable to the workman under this act, either under an agreement between the parties or under the order of the Commissioner, accompanied by the certificate of qualified medical practitioner.

g. The half monthly payment received by agreement between the parties or on application of either party to the Commissioner, the compensation has to pay to the workman for not less than 6

months or, lump sum as determined by the Commissioner and agreed by the two parties.

h. No compensation has to be paid in respect of a workman whose injury has resulted in death and no payment of lump sum compensation to a woman or person under a legal disability except by deposit with the Commissioner.

i. The compensation money shall bear the first charge on the asset transferred by the employer.



13.10 LET US SUM UP

In this unit, we have discussed the following:

- The Workmen's Compensation Act, 1923 is one of the important social security legislation
- The Act provide quick and cheaper mode of disposal of disputes.
- Partial disablement may be temporary or permanent disablement.
- Total disablement means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement.
- Amount of compensation is payable in the event of a workman meeting with an accident resulting into temporary or permanent disabilities or disease as stated in Schedule II and III in terms of Section 4 of the Act , read with schedule IV.



13.11 FURTHER READING

1. The Indian Factories Act, 1948; (Bare Act).
2. P. L. Malik(2017), *Industrial Law*, Eastern Book Company, India
3. N. D. Kapoor(2011), *Handbook of Industrial Law*, Sultan Chand & Sons, India



13.12 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1: The object of the Workmen's Compensation Act, 1923 is to provide quick and cheaper disposal of disputes relating to the compensation which is not possible under the proceeding of civil law.

Ans to Q No.2: The definition of "Wages" under the Workmen's Compensation Act, 1923 includes, any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment.

Ans to Q No.3: The reasons when employer is not liable to pay compensation under the Workmen's Compensation Act, 1923 are—

i. When the injury does not result of disablement for a period exceeding 3 days.

ii. When the injury not resulting in death or permanent total disability is due to any of the following:

   a. the workman was at the time of accident, under the influence of drink or drugs,

   b. the workman wilfully disobeyed an order expressly framed for the purpose of securing safety of workers,

   c. the workman wilfully disregards or removes any safety guards or safety devices which he knew to have been provided for the safety of workman.

Ans to Q No.4: Three jurisdiction of Commissioner in payment of compensation to workman under the Workmen's Compensation Act, 1923 are—

a. Liability of any person to pay compensation.

b. The person injured is or is not a workman.

c. The nature and extent of disablement.

d. The amount or duration of compensation.



13.13 MODEL QUESTIONS

Q 1: Explain the following terms under the Workmen's Compensation Act, 1923:

i. Dependant

ii. Disablement

iii. Wages

Q 2: Define an 'accident'. When it is said to arise out of and in the course of an employment?

Q 3: Explain employer's liability to pay compensation to an employee?

Q 4: Is the principal employer liable to pay compensation to a workman engaged through contractor sustaining injuries while on duty?

Q 5: To what extent is the compensation payable to a workman for personal injury sustained by him while on duty leading to—

i. his permanent total disablement

ii. his death under the Workmen's Compensation Act, 1923.

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UNIT 14: EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

UNIT STRUCTURE

14.1 Learning Objectives

14.2 Introduction

14.3 Scope and Applicability of the Act

14.4 Various Schemes Provided Under the Act

14.5 Central Board and its Constitution, Functions and Powers

14.6 State Board and Their Constitution

14.7 Duties and Powers of Inspectors Appointed Under the Employee's Provident Funds and Misc Provisions Act, 1952

14.8 Constitution and Working Procedure of Employees' Provident Fund Appellate Tribunal

14.9 Let Us Sum Up

14.10 Further Reading

14.11 Answers To Check Your Progress

14.12 Possible Questions

14.1 LEARNING OBJECTIVES

After going through this unit, you will be able to :

- discuss the scope and applicability of the Act
- explain various schemes provided under the Employee's Provident Funds and Miscellaneous Provisions Act 1952
- describe the constitution and powers of the Central Board under the Act
- discuss about the constitution of Executive Committee and State Boards under Employee's Provident Funds and Misc Provision Act
- explain the duties and powers of Inspector appointed under the Act

- describe the provisions regarding the question of contribution by the employees and employer under the Act
- explain the constitution and working procedure of employee's Providentdent Fund Appellate Tribunal describe the various penalties provided under the Employee's Provident Funds Misc. Provision Act

14.2 INTRODUCTION

The Employee's Provident Fund (EPF) and Miscellaneous Provisions Act 1952 was introduced for the benefits of the employees working in the factories and their family members.

So, in this unit, we are going to discuss the concept of EPF. EPF means the provident fund established under the EPF scheme framed under Section 5 of this Act providing for all or any matters specified in Schedule II. Section 5 of the Act authorised the Central Government to frame employees' provident fund scheme for the establishment of provident fund under this Act. The Central Government by notification in the Official Gazette shall have to issue such a notice before framing any such scheme. The Scheme shall apply to all employees or any class of employees of an establishment as Specified. After framing the scheme, as soon as possible a fund shall be established in accordance with the provisions of this Act and the Scheme as such.

14.3 SCOPE AND APPLICABILITY OF THE ACT

The scope of the Act can be understood from its applicability. This Act is applied in the following establishments except the exemptions contained in Section 16 of the Act.

i) The Act applies to every establishment which is a factory engaged in any industry specified in schedule I and in which 20 or more persons are employed.

ii) Any establishment which employs 20 or more persons or class of such establishments which the central Government may, by notification in the Official Gazette specify in this behalf.

iii) After giving not less than 2 months notice of its intention the Central Government apply the provisions of this Act to any establishment with less than 20 persons in the employment as provided under Section 1(3).

iv) Not with standing anything mentioned above as in sub section (1) of Section 16 (Certain establishment statutorily exempt from the applicability of the Act) where it appears to the Central Provident Fund Commissioner, where as an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment, have agreed that the provisions of this Act would be made applicable to the establishment. He may apply the provision of this Act to the establishment on and from the date of such agreement or from any subsequent date specified in such agreement under Section 1(4) and Section 3.

v) An establishment to which this Act applies must continue to be governed by this Act, even if the number of persons employed therein falls, so at below any time under section 1(5).

vi) Under Section 4, the Central Government by a notification in the official Gazette add any other industry to schedule I and it will apply to any establishment engaged in such industry.

14.4 VARIOUS SCHEMES PROVIDED UNDER THE ACT

With a view to providing various benefits of the employees working in the factories and their family members, following schemes are introduced-

i) The Employees' Provident Fund Scheme.

ii) The Employees' Pension Scheme.

iii) Employees' Deposit linked Insurance Scheme.

i) The Employees' Provident Fund Scheme :-

Under Section 5 of Act, the Central Government is authorised to frame employees' provident Fund Scheme for the establishment of provident fund under this Act. Section 5 of the Act also provides that-

i) As per Section 5 (1-A), the fund shall vest in and be administered by the Central Government Board contituted section under 5-4.

ii) Subject to the provisions of this Act, a scheme formed under Section 5(1) may provided all or any of the matters specified in Schedule II, and

iii) A scheme formed under sub-section (1) may provide that any of its provisions shall take effect either prospectively or retrospectively on such dates as may be specified in this behalf in the scheme. In order to frame this scheme, the power of the Central Government is neither unrestricted nor unguided. For the guidance of the Central Government various provisions are laid down under this Act. Under Section 5(1), following two distinct powers are conferred on the Central Government.

a) To frame a scheme and

b) To specify to which factories and establishments the scheme shall apply.

Above two powers can be exercised only through one notification. Further, the factories and establishments to which the scheme shall apply may be specified in the scheme itself.

ii) The Employees' Pension Scheme :-

Under Section 6-4 of the Act, the Central Government may frame a scheme of Employees' Pension Scheme by notification in the Official Gazette for the purpose of providing for superannuation pension, refiring pension or permanent total disablement pension to the employees of any establishment or class of establishment to which this Act applies and for widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

Regarding the funding of the scheme, it is to be mentioned that the contribution from the employer should not exceeding 8 $^{1}/_{3}$ % of the basic wages, dearness allowance and retaining allowance.

iii) Employees' Deposit -Linked Insurances Scheme :-

According to the Section 6 of the EPF Act 1952 as amended in 1976,

it is provided that the Central Government may form a scheme to be called the Employees' Deposit linked Insurance Scheme for the purpose of providing life insurances benefits to the employees of any establishment or class of establishment to which this Act applies.

After framing of the insurance scheme, there shall be establish Deposit Linked Insurance Fund into which it shall be paid by employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than 1% of the aggregate basic wages, dearness allowance and retaining allowance.

After due appropriation made by Parliament by law, the Central Government shall contribute to the Insurance Fund in relation to each employee, of any establishment to which this Act applies, an amount representing one-half of the contribution which an employer is required to make as above.

The employer shall pay into the Insurance Fund such further sums of money, not exceeding $^1/_4$ of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the insurance scheme other than expenses towards the cost of any benefit provided by or under that schemes.

The Insurance Fund shall vest in the Central Board and be administrated by it in such manner as may be specific in the insurance scheme. All or any of the matters specified in the schedule IV may be provided by this insurance scheme.

14.5 CENTRAL BOARD AND ITS CONSTITUTION, FUNCTIONS AND POWERS

According to the Section 5-A of the Act the Central Government may constitute bared of trustees, which is called "The Central Board". The main purpose of this board for administering the employees' Provident Fund in the territories to which this Act has been extended.

The Central Board is constituted by the following persons-

i) One Chairman and one Vice Chairman appointed by the Central Government under section 5-A (a).

ii) The Central Provident Fund Commissioner, ex-officer under Section 5-A (4a).

iii) Not more than five persons to be appointed by the Central Government from its officials under section 5-A (b).

iv) Not more than fifteen person representing Government of such States as the Central Government may specify, to be appointed by the Central Government under Section 5-A (c).

v) Ten persons representing employers or the establishment to which the scheme applies to be appointed by the Central Government consulting with the organization recognised by the Central Government under section 5-A (d).

vi) Ten persons representing employees, in the establishment in which the scheme applies, appointed by the Central Government consulting with the organizations of employees recognized by the Central Government under section 5-A (e).

According to the section 5-c, the Central Board is a corporate body under the name specified in the notification and the board has perpetual succession and a common seal.

Functions of the Central Board:-

Under various Section, different functions are provided to be performed by the Central Board, which are as follows-

i) The terms and the conditions subject to which a member of the Central Board may be appointed shall be such as may be provided for in the scheme.

ii) The time, place and procedure of the meeting of the Central Board shall be such as may be provided for in the scheme.

iii) Under Section 6-A and 6-B, it shall administer the fund, in such manner as may be specified in the Scheme.

iv) It shall perform such other functions as it may be required to perform by or under any provisions of the scheme.

v) According to Section 5-A (5), the Board shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may specify in the scheme after consultation with the controller and Auditor General of India.

vi) According to Section 5-A (6) the accounts of the Board shall be audited by the Controller and Auditor General of India.

vii) According to sub-section 7, the controller and Auditor General of India shall have some rights and privilege and authority in connection with such audit and shall have right to demand the production of books, accounts connected vouchers, documents and papers and inspect any officers of the Central Board.

viii) According to Sub- Section (8) the audit report shall be forwarded to the Central Government along with the comments of the Controller and Auditor General.

ix) According to Section 5-A (9), it shall be the duty of the Central Board to submit also to the Central Government an annual report of its works and activities, which shall be placed before the parliament along with the audit report.

Powers of the Central Board :

Following are the powers of the Central Board

i) To hold and conduct the meetings at the time and place as specified.

ii) To administer the fund as per provisions contained in section 6-A and 6-B.

iii) To perform all the functions, interested to it under the Act.

iv) To appoint and constitute State Board under Section 5-B.

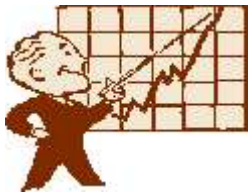
v) To appoint the Central Provident Fund. Commissioner and other officers as per power entrusted to it under section 5-D.

vi) To delegate its powers to the Executive Committee, State Boards or other officers under Section 5-E.



LET US KNOW

Under Section 6-B Central Government shall after due appropriation made by Parliament by law in this behalf pay such further sums as may be determined by it into the family Pension Fund to meet all the expenses in connection with the administration of the Family Pension Scheme other than the expense in connection with the administration of the scheme after that the expense towards the cost of any benefits provided by or under the said scheme.



CHECK YOUR PROGRESS

Q1: Fill in the blanks.

i) The employees' Pension Scheme may not provide for ..... Pension.

ii) Chairman and Vice-Chairman of the Central Board of P.F. are appointed by .....

iii) The account of the Central Board of PF are audited by the .....

14.6 STATE BOARDS AND THEIR CONSTITUTION

According to Section 5-B of the Act State Boards can be constituted as follow-

i) The Central Government may, by a notification in the Official Gazette, constituent a State Board of Trustees for any state after consultation with the Government of that state in such manner as may be provided in the scheme.

ii) It shall exercise powers and perform such duties as the Central Government may assign to it from time to time.

iii) The members to the State Board shall be appointed on such terms and conditions as may be laid down in the scheme.

iv) The time, place and procedure of the meetings of a State Board shall be such as may be provided under the scheme.

In this connection, other rules are as follows-

i) The State Boards with the approval of the State Government concerned may appoint such staff, as it may consider necessary.

ii) The method of recruitment, allowance discipline and other conditions of services shall be such as may be specific by the Central Government.

iii) Salaries and allowances of these officers shall be paid out of the fund.

iv) Method of recruitment, salary and allowances, discipline and other conditions of service of the officers and employers shall be as that the State Government notify.

14.7 DUTIES AND POWERS OF INSPECTOR APPOINTED UNDER THE EMPLOYEE'S PROVIDENT FUNDS AND MISC. PROVISIONS ACT 1952

According to section 13 inspector shall be appointed by the Appropriate Government by giving notification in the Official Gazette for the purpose of the Act or of any scheme. Under section 13 (i) the Appropriate Government is empowered to define the jurisdiction of inspectors.

Following are the duties of the inspectors :

i) To inqurie about the correctness of any information furnished in connection with this Act or with any scheme, or

ii) To ascertain whether any provision of the Act or of any scheme, have been complied with in respect of an establishment to which the scheme or the insurance scheme applies, or

iii) To ascertain whether the provisions of the Act or any scheme are applicable to any establishment in which the scheme has not been applied, or

iv) To determine whether the conditions subject to which exception was granted under section 17 are being complied with by the employer in relation to an exempted establishment.

Powers of the Inspectors :-

Under Section 13 of the Act, following powers are entrusted to the inspectors -

i) Require the employer or any contractor from whom any amount is recoverable to furnish such information as he may consider necessary.

ii) At any reasonable time and with necessary assistance, enter and search any establishment or any premises connected therewith.

iii) Require anyone found incharge of an establishment to produce before time for examination of any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment.

iv) Examine, in respect of any matter relevant for his purpose, the employer or the contractor from whom any amount is recoverable, his agent or servant or any other person found incharge of the establishment or whom the inspector has reasonable cause to believe to be or to have been, an employee in an establishment.

v) Make copies of or extract from any book, register or other document maintained by an establishment and where he has reason to believe that any offence under the Act has been committed seize with such assistance as he may think, such book, register as other documents as he may consider relevant.

vi) Exercise such other process as the scheme may provide. The inspector has also been conferred with line above powers for the purpose of enquiring into the correctness or as containing of any information in connection with the employees version scheme.

14.8 CONSTITUTION AND WORKING PROCEDURE OF EMPLOYEES' PROVIDENT FUND APPELLATE TRIBUNAL

Under the section 7-D of the EPF and Miscellaneous Provisions Act 1952, the Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Employee's Provident Funds. Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Act and every such Tribunal shall have jurisdiction in respect of establishments situated in such area as may be specified in the notification constituting the Tribunal. A Tribunal shall consist of one person only to be appointed by the Central Government. A person shall not be qualified for appointment as the Presiding officer of a Tribunal unless he is or has been or is qualified to be a judge of a high court.

Under the section 7-E the term of office of the Presiding Officer of a Tribunal shall hold will be for five years from the date on which he enters upon his office or until the attains the age of sixty two years, whichever is earlier.

Under the section 7-F, the Presiding Officer may, by notice in writing under his hand addressed to the Central Government, resign his office. Provided that the Presiding Officer shall unless he is permitted by the Central Government to relinquish his office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earlier.

Under the section 7-M, if , for any reason, a vacancy occurs in the office of the Presiding Officer the Central Government shall appoint another person in accordance with the provisions of this Act, to fill the vacancy and the proceedings may be continued before a Tribunal from the stage at which the vacancy is filled.

Salary and allowance and other terms and conditions of services of Presiding Officer :- Under section 7-G, the salary and allowance

payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Presiding Officer shall of be such as may be prescribed provided that neither the salary and allowances nor the other terms and conditions service of the Presiding Officer shall be varied to his disadvantage after his appointment.

Regarding staff of Tribunal, under section 7-H, it is laid down that the Central Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in discharge of its functions and other employees as it may think fit.

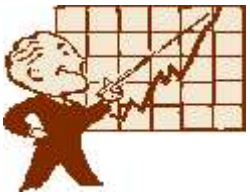
The officers and other employees of a Tribunal shall discharge their function under general superintendent of the Presiding Officer.

The salaries and allowances and other conditions of services of the officers and other employees of a Tribunal shall be such as may be prescribed.



ACTIVITY

1. Mention few rules regarding the constitution of State Board under the EPF Mis. Pro. Act 1952.



CHECK YOUR PROGRESS

Q2: Fill in the blanks :

i) State Board is constructed under Section_____

ii) Inspector is appointed under Section _____

iii) Section _____ is empowered to define the jurisdiction of Inspector.

iv) Under Section 13, _____ of inspector's are laid down.

v) The term of office of the Presiding Officer of a Tribunal shall be for _____ years.



14.9 LET US SUM UP

In this unit we have discussed about Employees Provident Fund. The E P F and Misc. Prov. Act 1952 was introduced for the benefit of the employees working in the factories and their family members.

The Act applies to every establishment which is factory engaged in any industry in schedule I and in which 20 or more persons are employed or such establishment which the Central Government may by notification in the Official Gazette specify in this behalf.

There are various schemes under the Act for providing various benefits to the employees. Such as -

i) The Employee's provident fund scheme.

ii) The Employees' Pension scheme.

iii) Employees' Deposit Linked Insurance scheme.

A Central Board may be constituted under section 5-A of the Act by the Central Government. The main purpose of this board for administering, the Employees' Provident Fund in the territories to which this act has been extended. The Central Board shall perform such functions as it may be required to perform by or under any provisions of the scheme. The Central Board is empowered to hold and locate the meetings at the time and place as specified and it can administer his fund as per provisions contained in section 6-A and 6-B. Moreover, the board is to perform all the functions entrusted to it under the Act.

On the other hand, under the section 5-B of the Act, State Boards can be constituent by the Central Government for any state after consultation with the Government of that state in such a manner as may be provided in the scheme.

Under section 13, inspector shall be appointed by the Appropriate Government notification in the Official Gazette for the purpose of this Act or of any scheme under section 13 (i) the Appropriate Government is

empowered to define the jurisdiction of inspectors. The duty of inspectors is to enquire about the correctness of any information furnished in connection with this Act or with any scheme.

Under section 13 of the Act, different powers are entrusted to the inspectors.



14.10 FURTHER READING

1. S C Srivastava (2012), *Industrial Relation and Labour Law*, Vikas Publishing House; Sixth edition
2. Arun Monappa (1985), *Industrial Relations*, McGraw Hill Education,India
3. Gogna P.P.S (2010), *A Text Book of Business and Industrial Laws*,S Chand & Company, India



14.11 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No.1: i) Third party,
ii) Central Govt.
iii) Comptroller and Auditor General of India

Ans to Q No.2: i) True
ii) 13
iii) Government
iv) Power
v) 5



14.12 MODEL QUESTIONS

Q 1: Discuss the scope and applicability of the E P F and Misc. Prov. Act 1952.

Q 2: Discuss various schemes provided under the EPF and Misc. Prov. Act 1952.

Q 3: Discuss the constitution of the Central Board and State Board and its functions and powers.

Q 4: Explain the different power of inspectors appointed under the EPF and Misc. Prov. Act 1952.

Q 5: Discuss the constitution and working procedure of E.P.F. Appellate Tribunal.

*** ***** ***



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