

# **PONDICHERRY UNIVERSITY**

(A Central University)

**DIRECTORATE OF DISTANCE EDUCATION**

## **Industrial Relations Management**

Paper Code : MBHR 3004



**MBA - HUMAN RESOURCE MANAGEMENT**

**III Semester**

## **Authors**

✿ **Prof. S. Nithyanandam Sastry**

✿ **Prof. S. Sivakumar**

✿ **Prof. M. Sheaba Rani**

✿ **Prof. Durga Prasad Rao**

✿ **Prof. B. Murali Krishna**

## **Edited by**

**Prof. S.K.Sengupta,**

Professor

Dept. of Business Administration,

University of Burdwan,

West Bengal,

© All Rights Reserved

For Private Circulation Only

## TABLE OF CONTENTS

UNIT	LESSON	TITLE	PAGE NO.
I	1.1	Introduction to Industrial Relations	3
	1.2	Concept and determinants of Industrial relations the Indian scenario	13
	1.3	Managing Industrial Relations changes	24
	1.4	Indian Culture & Industrial Relations	40
II	2.1	Trade Unions - Purpose, Functions and Structure of Trade Unions	53
	2.2	Trade Union Legislation	70
	2.3	Multiplicity of Trade Unions, Conflict Resolutions, Industrial Relations, Welfare and Productivity and Social Responsibility of Trade Unions	87
	2.4	Industrial Relation Management and Management of Trade Union	104
III	3.1	Employee Counselling– Types, Methods, Contents and Problems	115
	3.2	Consultative Bodies – Tripartite and Bipartite	132
	3.3	IR Strategies - A Discussion	147
	3.4	Workers' Development and Participation	161
IV	4.1	Employee Discipline	191
	4.2	Grievance Handling Machinery	208
	4.3	Conciliation - Arbitration and Adjudication	217
	4.4	Collective Bargaining	230
	4.5	Collective Bargaining - The Bargaining Process	247
	4.6	Collective Bargaining in INDIA—Strengths and Skills	261
V	5.1	Labour Administration	273
	5.2	Central Machinery of Labour Administration and Contemporary Trends as well as Future of IR in India.	294



**PAPER - XIV**

---

**Industrial Relations Management**

---

**Objectives**

- To provide exposure of theories, techniques and approaches to manage Industrial Relations.
- To understand the importance of labour administration and Constitutional Provisions.

**Unit - I**

Introduction - Concept and Determinants of Industrial Relations - Industrial Relations in India - Managing IR Changes - IR and Productivity - Technology and IR -Effective Communication Systems and IR Management - Indian Culture & IR.

**Unit - II**

Trade Unions - Purpose, Functions and Structure of Trade Unions - Trade Union Legislation - Multiplicity of Trade Unions - Conflict Resolutions - Industrial Relations - Welfare and Productivity - Social Responsibility of Trade Unions - IR Management and Management of Trade Unions.

**Unit - III**

Employee Counseling - Types - Methods - Problems - Consultative Bodies (Bipartite, Tripartite) - IR Strategies - Workers Development and Participation.

## **Unit - IV**

Discipline and Grievance Redressal Machinery - Purposes and Procedures of Disciplinary Action - Grievance Redressal Procedures - Conciliation - Arbitration and Adjudication - Collective Bargaining - The Bargaining Process - Strengths and Skills.

## **Unit - V**

Labor Administration - ILO, ILC and Indian Constitutional Provisions in Relation to Labor Administration - Central Machinery of Labor Administration - Labor Administration at the State, District and Local Levels - Contemporary Trends and Future of Industrial Relations in India.

## **References**

**Arun Monappa**, INDUSTRIAL RELATIONS, *Tata Mc-Graw Hill, New Delhi*

**Pramod Verma**, MANAGEMENT OF INDUSTRIAL RELATIONS – READING AND CASES, *Oxford University Press, New Delhi*

**Sivarethinamohan**, INDUSTRIAL RELATIONS AND LABOUR WELFARE, *PHI Learning, New Delhi, 2010*

## UNIT - I

### Unit Structure

Lesson 1.1 - Introduction to Industrial Relations

Lesson 1.2 - Concept and Determinants of Industrial Relations the Indian Scenario

Lesson 1.3 - Managing Industrial Relations Changes

Lesson 1.4 - Indian Culture & Industrial Relations

---

### Lesson 1.1 - An introduction to Industrial Relations Management

---

#### Introduction to Industrial Relations

This chapter starts with the subjects that appear to be notable from the stand point of developing our knowledge on industrial relations [IR]. Basically, industrial relations cover a wide range of relationships, formal and/or informal, that subsists between employers and the employees' trade unions. However, in absence of registered trade unions industrial relations, broadly, come under employee relations. Needless to mention that government has very definite roles to play in determining the quality of industrial relations because the state dictates the process of industrial relations within the stipulated framework of labour legislation of the country.

#### Learning Objectives

The prime objective of this chapter is to aware the students about the impact of good industrial relations in bringing the effectiveness of the enterprise, operating under industry. Based upon the same, this lesson, therefore, initiates a number of issues that constitute the fabric of industrial relations management.

Here, we try to

- a) Define what is industry?
- b) Understand what is dispute?
- c) Discuss certain key definitions.

### **Introduction**

In simple terms industrial relations deal with the workers and employers relations in any industry. Government has attempted to make industrial relations healthy by enacting Industrial Disputes Act, 1947. This act offers a number of solutions to settle the disputes between the employers and the employees within industry and thereby attempts to reduce the conflicts arising out of such disputes. This in turn improves the relations.

What is Industry? “Industry means any systematic activity carried on by co operation between an employer and his employee 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 want or wishes (not being wants or wishes which are merely spiritual or religious in nature).

”There exists no disparity 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 any activity of the Dock Labour Board under Dock Workers Act, 1948 and also any activity relating to the promotion of sales or business or both carried on by an establishment but does not include.

- i) Normal Agriculture operations
- ii) Hospital, Dispensaries.
- iii) Educational, Scientific Research Training Institution,
- iv) Charitable Philanthropic Service
- v) Khadi Village Industries
- vi) Domestic Services etc.

It is an activity systematically or habitually undertaken:

1. for the production or distribution of goods, or for rendering material services to the community at large, or part of such community with the help of employees in an undertaking.
2. Such activity generally includes the co-operation of employer and employees
3. The object is the satisfaction of material human needs
4. It must be arranged or organized in a manner in which trade or business is generally arranged or organized
5. It must not be casual nor must it be for pleasure. Thus the very industry revolves around good industrial relations.

### **Industrial Relation Meanings, Discord and Conflict**

This has always remained a disputable topic whether industrial relations are same as the human relations or labour- management or employer- employee or union- management relations. A discussion on industrial relations reveals that all these are almost same.

### **Definition of Industrial Relations**

As per *Dale Yoder Industrial Relations refers* to the relationship between management and employees, or employees and their organization, which arise out of employment.

Teed and Metcalfe observed industrial relations are the composite approach of the attitudes of the employers and employees towards each other with regards to planning, supervision, direction and unification of the activities for a set of shared goals to be accomplished for the firm within the industry. Industrial relations, thus, states the conditions of less friction and more co-operation among the parties who with the overt attitudes of mutual compatibility and serving for the interests of others generate a productive work climate, characterized by effectiveness, trustworthiness, outcome orientation, people orientation and efficiency. The essence of good industrial relations lies in the bringing up of good labour relations, which gives a forum to understand each other (employer, employee) properly. Creation of co-operative thinking and working with

consistent responses are the fundamental aspects to achieve the goal. Industrial relations system increases the morale of the employees and motivates them to give their best under a work atmosphere that induces mutual respects and serving for other's interest. Good industrial relations boost production, improve quality of work life, amplify efficiencies of the workers and reduce the cost of production.

Bad Industrial Relations leads to industrial unrest and industrial dispute. These in its turn establish a downward trend to performances of the workers, industries and the nation as a whole. Of course the first hit will be on the employers, who have invested. Industrial workers and the employers normally don't think, feel or act in the same way because each of the parties starts from a different perspectives. Dissimilar points of view produce conflict of some form between the two which cannot be eliminated completely but can be minimised.

The main reasons for industrial discord can be stated to be due to

1. misunderstanding or differences in perception;
2. lack of co operation, real or imaginary;
3. problems with authority;
4. compliance with the changing policies;
5. disagreements pondering the accomplishment of the agreed goal or set of goals.

Conflict can have some positive aspects, also. It may give positive results like the followings

1. Reveals new aspect of an existing issue
2. Improves long term communication between the individuals concerned
3. Always releases stifled emotion

### **Causes of Industrial Dispute**

General causes of industrial disputes that strain the relationships. In fact, bad industrial relations are the outcomes of the discords that exist within the industrial premises due to the presence of any or more of the following reasons

1. Close mindedness of employers and employees; one thinks to extract maximum work with minimum remuneration, other thinks to avoid work and get more enhancements in pay and wages.
2. Irrational wage, wage system and structure not mutually acceptable
3. Poor working environment, low presence of safety, hygiene conditions and vitiated atmosphere for smooth working
4. Meagre human relations and lack of skilfulness on the part of management personnel
5. Lack of control over the situations, erosion of discipline which rebounds on the performances of the workers and the industry as a whole
6. Introduction of new technology, automation, mechanization, computerization etc. without proper consultations with the workers [Preparations and discussions with the workers are the essential parts that create friendly work climate]
7. Nepotism, unequal workloads, disproportionate wage and responsibilities.
8. Adoption of unfair labour practices either by the employers or by the employees and unions.
9. Unjustifiable profit sharing and disregarding workers as co-shares of the gains of the industry.
10. Frequent union rivalries over membership and foisting up of fake unions.
11. Strikes, lock out, lay off, and resulting retrenchment due to high handedness on the part of the concerned parties.
12. Throwing away the agreements and arrived settlements
13. Militancy of the unions
14. Partitioned attitude of the government
15. Vested interests of the political parties who may indirectly control some the unions for their own gains or to get a hold on the industry

### **Definition of Related Terms in I.R**

***Industrial Relations*** It includes the relations, formal or informal, between the employers and the employees with or without the presence of recognized trade unions. The relationships are governed by the rights,

entitlements and responsibilities of the workers and the employers [managers on behalf of the employers] with reference to the conditions of the employment. These relations, further, get its meaningfulness within the framework of labour legislation where government plays the role of mediator.

**Industrial Dispute** As per section 2 (K) of Industrial Dispute Act, 1947, industrial dispute denotes any dispute or difference between employers and employees,

- i. employers and employees or
  - ii. employees and employees, which is connected with
    - a. the employment or non employment or
    - b. the terms of employment or
    - c. the condition of labour, of any person.
- 
- 1) There must be a dispute or difference. The dispute or difference must be between employers and employees or between employee and employees or between employers and employers.
  - 2) The dispute must be connected with the employment or non employment or terms of employment or with the conditions of labour of any person.
  - 3) The dispute, which has resulted in strained relations, always produces discord between the workers and the employers whereby the workers perceive that their interests are not taken care by the employers.
  - 4) The initial phase of the dispute is the grievance, felt by the employee, which asks for immediate remedial solution from the employers. The existence of a grievance is necessary and it must be communicated to the employer. The term industrial dispute implies a real and substantial difference between the employer and the employee, having some elements of persistency and continuity, till it resolves. In case if the dispute carries on for a reasonable time and is not settled then there is the likelihood that it can endanger the industrial peace of the undertaking or the community. The disputes arise when the parties are at variance with the terms or conditions of employment or non employment.

**Arbitrator** He or she is a neutral person, who decides on common issue as an umpire in the game.

**Average pay** It is the average wages payable to a worker [In case of monthly paid worker in the three complete calendar months, in the case of weekly paid, in the four complete weeks and in the case of daily paid worker in the 12 full working days, preceding, are the usual methods of payment].

**Award** An interim or a final determination of any industrial dispute or of any question relating thereto by any labour court, industrial Tribunal or national Tribunal and includes an arbitration award.

**Conciliation officer** A conciliation officer is appointed under sec.4 of the Industrial Dispute Act, 1947 to make conciliatory efforts on the issues, arising out of the disputes between employers and employees. His basic purpose is to hold conciliation proceedings in order to arrive to the settlement of disputes.

**Labour Court** It means a special court to adjudicate various issues related to labour with the help of labour legislation that includes the industrial and labour laws. Specifically, it adjudicates matters relating to industrial disputes and give award within the stipulated period.

**Industrial and labour law** Both the terms are used often interchangeably. However, industrial laws are broader than labour laws and include even taxation and company affairs. Labour law handles a body of laws that govern particularly the employment related matters and covers the welfare aspects more prominently.

**Public utility Service** Any railway service or any transport service that is utilized for carriage of passengers or goods and include rail, road, air and water transport systems Industries catering post & telegraph health, power, water and necessary goods or services to carry out life normally, banking, public conservancy or sanitation, media and information services etc. come under this jurisdiction.

**Settlement** It is a written agreement between the employers and workers arrived at otherwise than in the course of conciliation proceeding

where the parties thereto in such manner as have signed such agreement may be prescribed and a copy thereof has been sent to an officer authorized in this behalf by the appropriate government and the conciliation officer. It means an adjustment arrived at in the course of conciliation proceeding before a conciliation officer or before Board of conciliation.

It also includes a written agreement between the employer and the workers otherwise than in the conciliation proceedings. In such a case, the parties must sign the agreement in the prescribed manner and a copy of which must be sent to an officer, authorized in this behalf by the appropriate government and the conciliation officer. Thus, the settlement indicates the agreement either arrived at in the conciliation proceedings or otherwise between employer and the workers.

**Unfair labour practice** Generally, it includes any of the practices specified in the Fifth Schedule of the Industrial Dispute Act that pronounces certain labour practices as unfair from the side of the employers or the trade unions of the employers' and on the part of the employees or the trade unions of the employees as such.

It prohibits the occurrence of any unfair labour practice by both the parties involved in industrial relations. Any person, undertaking unfair labour practice, is punishable under this act, which covers imprisonment of maximum six months or fine of ₹ 1000 or of both.

**Wages** All remuneration capable of being expressed in terms of money which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, It covers

**Allowance, House rent allowance, Travelling concession and Commission for sale or business.** However, wage does not include bonus, gratuity provident fund etc.

**Workman** Any person (containing an apprentice) employed in an industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. The terms of employment of such person may be express or implied. For the reason of any proceedings under this Act and in relation to industrial disputes, "worker" means any such

person who has been dismissed, discharged or retrenched in connection with or as a consequence of the dispute or whose dismissal, discharge or retrenchment has led that dispute, but does not include personnel of the armed forces, police, managerial, administrative position holders or supervisors working with wages exceeding ₹ 10, 000 per month.

### **Suggestions for Improvements of IR**

Few suggestions are given below that come with the promises of improving the industrial relations and reducing the disputes between the parties

1. Trade unions should be strengthened democratically so that they can be a potent part of the industrial relations system.
2. Employers should be more transparent in their dealings with the workers which in other way will help to build respective confidences and progressive outlooks of the workers.
3. They should have open minded flexible collective Bargaining.
4. Workers should be allowed to participate in the management through forums, committees and councils.
5. Sound labour policy, planning and articulation of the action plans should get extreme priorities.
6. Proper leadership and communication are the essential requirements of good industrial relations.
7. Enforcement of discipline is another prerequisite of good industrial relations.
8. Trade unions activities should be controlled by the workers themselves and not by the outside leadership.
9. Equity in distribution of wealth by acknowledging workers as team members

### **Summary**

In this chapter we see, what is dispute in industrial atmosphere? We come across different definitions connected with Industrial Relations,

1.D etc. We study the reason for industrial conflict and try to find a solution. Several suggestions are given that come with the promise to improve industrial relations and reduce discord between the employers and the employees.

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Cited source is [http //e-university.wisdomjobs.com/industrial-relations-management/chapter-1860-357/introduction-of-industrial-relation-management\\_few-suggestions-for-the-improvement-of-industrial-relations-and-reduce-disputes\\_11545.html](http://e-university.wisdomjobs.com/industrial-relations-management/chapter-1860-357/introduction-of-industrial-relation-management_few-suggestions-for-the-improvement-of-industrial-relations-and-reduce-disputes_11545.html) ]

\*\*\*\*

---

## **Lesson 1.2 - Concept and Determinants of Industrial Relations the Indian Scenario**

---

### **Learning Objectives**

In this we try to find out meaning of the concept of industrial relations and its determinants. We discuss the ways the employers and the employees can create better industrial relations. Some of the major causes for industrial unrest are taken into considerations. In the process emphasis is given on the consequences of manifested unrests.

2.2 Introduction

### **Concept of Industrial Relations**

From the words of TISCO management, “The welfare of the labouring classes must be one of the first cares of every employer, any betterment of their conditions must proceed more from the employers downwards rather than be forced up by demands from below since labour, contented, well housed, well fed and generally well looked after, is not only an asset and advantages to the employer but serves to raise the standard of industry and labour in the country”

It is sheer injustice on the part of any management to take advantage of the poor, helpless conditions of workers and exploit them with more work extractions and less insufficient payment. Workers illiteracy and lack of training made them to work in unhealthy conditions for very low compensation. At this juncture, needs for good industrial relations were felt to protect workers’ rights, wages etc. Simultaneously, industrial relations cannot be viewed of producing the rights of the employees only. Industrial relations have to protect the rights of the employers, also

Main concepts of industrial relations spin around the followings

1. preservation and promotion of economic interest of workers along with their social interest

2. Peace and productivity goes hand in hand. Hence, attempt should be made to reduce industrial dispute and to promote peace.
3. Employer- employee relations should be made healthy and growing
4. Running of the industry, day to day work should be made more democratic with increasing frequency of workers' participation in management.
5. Producing products at a very competitive price so that country can promote export and our economy can improve.
6. Bringing mental revolution in management.

### **Determinants of Industrial Relations**

The determinants of good industrial relations are the followings

1. ***Measures for securing and preserving unity and better relations between workers*** and employers are one of the important determinants.
2. ***Both the ultimate weapons of employers and employee i.e., lock out and strike should*** be prevented at any cost. Proper relief to workers must be made after a 'lock out' or 'lay off' through government agencies. Basically, transparency between the parties and the attitudes of cooperation can only help to foster the good relations and can be regarded as determinants of IR.
3. ***Workers participation at all levels and encouragement towards give and take principle*** in collective bargaining bring a climate of trust between the workers and the management. So trustworthiness between the parties can be looked upon as one of the determinants of IR.
4. ***Control of the trade union by the workers themselves and not by the outside leadership*** may be considered to be one of the positive determinants to fetch good IR.
5. ***Mutual understanding and appreciation towards others may help to build team where the*** workers and the managers or employers can work together with mutual compatibilities of interests—a condition that can act as a determinant to yield good IR.

## Parties to Industrial Relations

The parties to industrial relations are described here

1. **Workers** [with or without recognized employees' unions]
2. **The trade Unions** [Employees' trade union acts as support system of the management now days. It is no more operating, aggressively]
3. **Employers and their Associations**[ The employers or their association should act as the part of the support system alike the labour unions so that the organization can achieve the unique capabilities to undertake pro-active activities for the future.]
4. **Management** [Its role is vital in the sense that it makes the coordination and integration mechanisms in a manner that can produce conducive work climate that in its turn ensures a good IR].
5. **Government** [Acts as the guardian of the industrial relations. Further as interventionist and as lawmaker, it should always endorse the administration of the legislative measures in judicious way so that interests of both the parties are served, equally well.]
6. **Customers' Associations/ Forums** [Come under wider preview of industrial relations. Public relation is one of the modes of earning reputation of the firm].
7. **Causes of industrial unrest, consequences of Strike Lockout lay-off retrenchment**

Causes of industrial unrest in India can be classified mainly under four heads. They are

### 1) Financial Aspects

- a) **Claim to raise wages, salaries and other perks.** Employees put the demand because of the increase in cost of living
- b) **Need for more perquisites, and fringe benefits.** Matter of bonus has, also, controversial within industry even though Bonus Act fixed the minimum payable rate of bonus at 8.33% of the total salary amidst profit or loss, earned by the industry.

- c) *Incentives, festivals allowances, concessions etc entails, always, an upward revision.* From time to time workers show the common trend to evaluate these benefits in relation to other industries and place their wants without considering the capacity of the own industry to pay.

## 2) Non-financial Aspects

- a) *Working hours, rest hours, travelling hours are the causes* of disagreements. If houses are made available a number of workers then try to include travel time within working hours.
- b) *Introduction of machines, computers modernization, and automation* always face stiff resistances from the workers.
- c) *More facilities like free meals, free group travel* etc are wanted now and again

## 3) Administrative Aspects

- a) *There are non-implementation of agreements,* awards and other local settlements;
- b) *Suppression of the recognition of labour unions though* they are registered.
- c) *There are unhealthy working conditions.*
- d) *Supervisors possess lack of skill.*
- e) *There are the presences of unequal* works loads, nepotism etc.
- f) *Victimization, favouritism and illogical approaches of management* are the common affairs in recruitments, promotions, transfers etc.
- g) *There is the trend to introduce forced voluntary retirement schemes* / compulsory retirement scheme (C.R.S).

## 4) Government and Political Aspects

- a) *Inter- unions' rivalry due to shift of union memberships,* which are the common tendency of the workers to join union, having affiliation with the political party in power. It results in industrial unrest.

- b) **Politicians, directly, exert influence upon the workers' groups.**  
Example is the take-over of Nalco by Sterlite. The state government has backed strike at Chhattisgarh State against Nalco and for months together that has harvested a total stoppage of the industry.
- c) **Sometime unions of the workers, in government and private sectors, call strike against mergers, acquisition, take-over and disinvestments.**

## 5. Other causes of strained relations

- a. **Denial to have workers participation** in the running of the industry.
- b. **Non observance of laid out 'standing orders'** and grievances procedures
- c. **Rejection of open, candid, and clear** collective bargaining.
- d. **Compassionate strike** – A demonstration of connection to workers of any industry by neighbouring industries whereby they carry out a token strike in support of the workers' full strike in the first industry

## Consequences of Strained Industrial Relations

- May result in go slow tactics, Strike, lock out etc.
- Industrial production and productivity may be affected; growth of industries will be stunted.
- May result in recited atmosphere, law and order situation will deteriorate.
- Employer-management-labour relations will be disturbed. Mutual faith and team spirit will vanish.
- Absence of mutual co operation influences participation, forums and bargaining plat forms.
- Government also will lose revenue and may need to spend more to keep law and order around the industry.
- National income and per capita income will get affected.
- Workers, as a result, will get drop in earnings with added suffering.
- The industries, also, will suffer with the shortfalls of production

and it will hurt the interests of the common consumers, too.

The manifestation of industrial strife and disputes come in the form of strike, lockout, layoff and retrenchment.

### **Strike Section 2 (q) of the Industrial Dispute Act, 1947**

It means-

- (i) a cessation of work by a body of persons employed in any industry acting in combination; or
- (ii) a concerted refusal of any number of persons who are or have been so employed to continue to work or to accept employment; or
- (iii) refusal under a common understanding of any number of such persons to continue to work or to accept employment.

The ingredients can be summed up as:

1. A cessation of work.
2. This abstinence of work must be by a body of persons employed in an industry
3. The strikers must have been acting in combination.
4. They must be persons working in an industry as per this I.D Act 1947.
5. There must be concerted refusal or refusal in a common understanding; they must stop work for some demands relating to this employment or its terms or conditions of labour.

The strike may be manifested in different forms like, hunger, sit down, solve down, pen down, lighting etc

### ***Lockout***

*As per section 2 (l) of I.D Act, 1947* it 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. The basics of the lockout are presented below

- (a) ***There is temporary closing*** of the place of employment or suspension or withholding of the work by the employer in any form;
- (b) ***The elements of demand*** for which the industry is locked out must be present. The intention to reopen or take the workers back if they accept the demands must be present here. Lock out is not closure. It is a tactics of bargaining and is intended for compelling the employee to accept any terms or conditions affecting employment. It is a weapon in the hands of employers. A lock out declared in consequence of an illegal strike or a strike declared because of an illegal lock out shall not be deemed illegal.

### ***Lay -Off***

***As per section 2 (kkk) of I D Act, 1947***, it means *the failure, refusal or inability* of an employer to give employment to an employee :

- (a) whose name is accepted on the master –rolls of his industrial establishment, and
- (b) who has not been retrenched. The *failure, refusal or inability* of an employer to provide employment may be attributed to
  - (i) shortage of fuel [coal], power or raw materials, or
  - (ii) the accumulation of stocks, or
  - (iii) the breakdown of machinery, or
  - (iv) the occurrences of natural calamities or any other related reasons.

It is a short-term removal of workers.

The essentials of a lay- off are as follows

- (a) Obviously there must be the failure or refusal or inability of the employers to maintain workers in the master- rolls of his industrial establishment, and
- (b) The employees laid-off must be permanent employees i.e., they must be on the company's master-rolls in the particular day of lay off

- (c) The failure, refusal or inability to give work may be due to various reasons beyond control like-
- a) a major break down of machinery
  - b) shortage of raw material, power, coal etc.
  - c) marketing problem of stocks, resulting in accumulation
  - d) natural calamities or
  - e) any other reasons beyond employer's power.

The worker must not be retrenched. Precisely, therefore, lay-off is temporary separation.

### ***Retrenchment***

**According to section 2 (oo) of I.D Act, 1947**, it means termination of the services of a workman by employer for any reason whatsoever otherwise than as punishment imposed by way of disciplinary action, and does not include—

- ***voluntary*** retirement of the worker, or
- ***retirement*** of the worker on reaching the age of superannuation, or
- ***termination*** after the expiry of the employment contract, or
- ***termination*** of work due to the inability of the worker to continue the same for prolonged illness.

### ***Essentials of Retrenchment***

- ***Termination of services of a worker is not counted as dismissal***
- ***The services of the employee may be terminated on the ground of surplus labour or staff***
- ***Service terminated must be a continuous one and perpetual in nature.***
- ***Termination is not the victimization or is due to unfair labour practice.***
- ***Compensation is payable to a workman in the event of retrenchment as per the act***

To maintain good industrial relations and safeguard the interests of the respective parties, the government has made a number of efforts, to minimize the disputes as far as possible. Different measures

enacted in the Industrial Dispute Act, 1947, portray the good will of the government to bring industrial peace so that the unrests can be diffused. However, attitudinal changes of the parties to each other's are the essential requirements of effective relations, which happen to be in the reality because of the thrust of environmental forces upon industries to accommodate changes for their survivals.

### ***Attempts by Government to Safeguard IR***

- The strikes may be declared illegal if adequate notices are not given if given it becomes legal and they may get compensation etc if any action is taken by employer.
- During lay off which is beyond the control of employers, workers should be paid  $\frac{1}{2}$  the wages for sustenance at least up to 45 days.
- Lockout can be as a consequence to illegal strike. If strike is withdrawn work can resume, of course punitive action can be completed.
- Retrenchment is an extreme action, but when industry returns back to normal running, the retrenched workers can re establish their lien, and they will be given preference for absorption.

Thus it can be seen every attempt is made by government and various acts to retain relationship between worker and management which only can ensure industrial peace and progress.

### **Industrial Relations in India**

Industrial relations are concerned with the relationships between management and workers and in this context the role of regulatory mechanism comes into sharper focus in resolving any industrial dispute. The relations between workers and management have undergone massive changes in our country. There had been a system of king and his subjects, all should work to improve the coffers of the king. Later Zamindars came and workers were bonded labourers and were at their mercy at all respect. Soon after the formation of East India Company and British Rule, a heart less hires and fire system was established. Industrial workers were no man's child. Neither the employers nor the government cared for them. There were no union, also. India saw the awakening of the working class

at the end of British period. The World War II, particularly, forced the employers to become friendlier with the workers. Out of their self interest to see uninterrupted production during war time, they became benevolent.

Gradually enlightened leaders came in, like Gokhale, M.K. Gandhi, Tilak etc, who felt the need for workers' union. Their relentless efforts forced both governments and the employers to think of the workers' conditions. Lots of small unions were formed and government enacted rules like 'Trade union Act, 1926. Industrial disputes Act, 1947 etc. The workers began to realise their status and they were awakened. A sort of up- righting workers and reluctant management has started functioning. Soon after independence workers were motivated by different Industrial Acts, enacted by parliament, supporting them, and looking after their health, welfare, safety, social security etc. They got emboldened to raise their voice. At the same time, the attitudes of the management also had started improving. After 60's nation saw the tremendous rise of industries in public and private sectors .More and more industries were nationalised. Public sector industries came into existence at number of places. Textile, insurance, banks, transport etc. had started expansions and gradually large public sector industries came with the assurances of employment in one hand and on the other brought the changes of the life style of the workers, than before.

With increasing number of public sectors, workers' life style and work style changed. Assured job, arrogated unions, appeasing management, administration with less account ability etc were the conditions that gave enormous opportunities to the workers to consolidate the movements of the unions which at the latter phase was pushed forward by the political interference. Indeed, outside political leadership begun gaining momentum and started dictating the course of the trade union movement. After the independence our government has implemented a number of measures to make certain the developments of industrial relations. The Directive principles of state policy, as enshrined in our constitution, stipulate that the state shall endeavour to improve the workers conditions, working conditions, and also productivity of industries which will improve wealth of nations. Several acts were enacted by parliament after independence which was focusing on workers' interests, welfares, health etc. The 'Trio Acts' [i.e., Factory, Act, Industrial Dispute Act and Trade union Act] give major directions to this respect to achieve the constitutional directives. Besides this, wages Act 1948, Bonus Act 1965, Gratuity Act 1972, Equal

remuneration Act 1975, are some of the acts in the above direction. In 1972 National commission on labour had recommended the setting up of a permanent Industrial Relations Commission. National labour conference in 1982 [**Indian Labour conference. ...** Tripartite NLC, 17-18 Sept., 1982, New Delhi, and 28th Session], also, made several recommendations

- Emphasis on formation of permanent Industrial Relations Commission
- Stringent action on flouting of a mutually agreed code of conduct
- A check off system was prescribed in terms of ballot election to identify the real as against dual and bogus members of the unions.

Slowly the trend commenced changing with the government's positive outlooks to this end. Compelled by world-wide acceleration of competition in business and trade, faster changes in the economy, rapid obsolescence of the technology etc, government has turned towards opening up the Indian economy. The result, thus, puts both the employers and the employees to live in a competitive world. The impact of competition, therefore, pulls both the parties to come closer and thereby incites a new wave of industrial relations that bestows on cooperation.

## Summary

In this chapter we have seen the concept and determinants of Industrial Relations. The causes of industrial unrest are talked about along with its consequences. The weapons in the hands of employers and employees are discussed. Legacy of I.R in India with the present position is reviewed. In the process, government's efforts to bring industrial peace are also narrated

.....  
 [NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons]

\*\*\*\*

---

## Lesson 1.3 - Managing Industrial Relations Changes

---

### Learning Objective

Presence of knowledgeable workers and growing level of education of the workforce, rising industries and upward trend of information-centric industries with sophisticated technology, in-coming foreign companies, open economy etc require to be considered in the light of emerging industrial relations. Strictly speaking, our industries have to be used with the new form of industrial relations in order to survive under stiff competition. Our industries need to introduce improved technology in one hand and require changing the communication pattern with the workers on the other hand. It is only the workers through whom industries can ensure the fruits of the competition and the success of the business. There should be a shift in the maintenance of industrial relations in the light of above changes. Within this framework, this chapter puts stress upon some of the pertinent issues that in other way portray the necessity of the changed industrial relations.

### Introduction

*Managing Industrial Relations changes* There are phenomenal changes in industrial relations field in India. To improve the working conditions in industries and also to safeguard the interest of the workers and to put a check on the accumulation of wealth by industrialists, government of India has taken a number of measures in the post independent era. This has resulted in the expansions of the public sector undertakings in one hand and sustenance of the trade union movements with directions from the outside political leaderships within the enacted labour acts and labour-centric administrative policies, rules and regulations on the other. Now after half a century the country has shifted from socialistic-pattern-public sector approach to liberalization-privatization-globalization mode. The shift immediately asks for radical changes in the approaches of the industrial relations. It seeks to alter the age old concept of industrial relations and wants to revise traditional approaches in order to achieve

cordial relations among the parties to I.R. So to say, the new form of industrial relations talks about

1. workers whole hearted co-operation in the modernization endeavours of the industries;
2. satisfying level of transparency among the parties to I.R;
3. effective collective bargaining under win-win condition;
4. enhancement in production and improvement in productivity;
5. The net outcome of increasing efficiency and profit will go to employers as well as to workers.

### **Human Resource Management [HRM] and Industrial Relations [IR]**

Industries in our country no longer insist upon age old concepts of personnel management. Nor they are inclined more on the industrial relations that revolve around labour legislation. Instead, now days, they rely heavily upon the approaches of human resource management [HRM] that in other way come with the promise to improve relations among the parties to I.R. Thus, human resource management evolves the following issues that are significant from the standpoint of industrial relations under changed perspectives. It attempts to

- consider work force and management, on behalf of the employers, as the parts of integrated industrial relations system[IIRS];
- look for the co operations among the parties of IIRS so that the enterprise can run with higher levels of productivity with quality out comes in order to counter the uncertainties of the competition;
- facilitate the inter-linked processes of cost reduction, customer services, market development, employee resourcing, employee relations and involvement, employee communication, team working, performance management etc;
- inculcate M.B.O approach in the restricted sense to improve the efficiencies of the workers under mutually compatible relations among the parties to I.R;
- induce organizational commitments of the workers and the managers in a manner that produces a friendly work climate within IIRS;

- favour decentralization of decision-making in the real sense of the term where employees and the managers within team spirit can go cohesively for innovations.

The approaches of HRM encourage flattened hierarchical set up, proper delegation of authority, feeling of trustworthiness, warm and supportive industrial relations, workers' participation in management, personnel information network under IIRS and many more. It is stated above that HRM promotes the idea of 'spelt out' career growth of the employees. This indeed is important from the points of employee motivation, efficiency and sustenance of trustworthy relations between employers and employees. Thus, HRM is giving more scope for proper union activities resulting in better negotiations and meaningful settlements.

HRM has made lot of changes in industrial relations. The rules and regulations are now days so tailored to suit the workers' needs and employees' problems are seen from humanitarian perspective. A co-operative attitude between employers and employees prevails within industrial sector that in other way shapes the nature and contents of industrial relations. The laid out procedures are contracted as per the need of the hours. The focus is on the end results more and less on the means. The pattern of supervision is gradually giving room to the guidance pattern. The managers manifest the transformational leadership model instead of transactional leadership and thereby insist upon proactive actions rather than reactive one. HRM puts thrust upon the development of workers, skill improvement, management development, career growth, succession planning etc. All these, comprehensively, have bearing upon the qualities of the industrial relations.

### **Industrial Relations Changes and Management**

Let us start here with *TISCO*. Accordingly, industrial workers are the assets of the industry. TISCO considers its workers as the members of the Tata family. A feeling of the membership has made a sense of pride and recognition to each of the workers who often boast to the others to carry the values of Tata work culture. This collective understanding has paved the way for the phenomenal growth and diversification of TISCO.

Industrial Relations Changes has brought a lot of changes in

- a) employers, management and the employees because of necessity and compelling circumstances.
- b) the trade unions and their movements
- c) the workers themselves
- d) the attitudes of the government and politicians
- e) judiciary, also

### **A. Changes and the Employers**

This can be discussed as follows:

1. HRM has changed the management policies on employee relations.
2. Employers have formed their effective associations to tackle not only their workers' present and the potential problems but also they try to form the business cartel with an aim to minimise the looming uncertainties of business competitions.
3. Linkage with international business organisations, participation in world trade conferences, mergers, technology transfers, acquisitions, diversifications, market development, business collaborations etc are some of the many approaches of the employers, suggesting requisite changes in commercial and labour laws, that have become the order of the day.
4. Connection with international labour organisation [ILO] helps the employers to get up to date information on areas of labour interests that in other way assist them to formulate the pragmatic labour policies under changed condition.
5. ASSOCHAM and different chambers of commerce and business have emerged as the sources to direct the course of the changes of industrial relations and to this end Confederation of Indian Industries, an association of the employers, play a crucial role in carrying out the negotiations with the government and the trade unions.

## **B. Roles of Trade Unions Under Change**

After independence more and more industries were coming in one side and employee trade unions with varying degrees of political patronage were appearing on the other side with the strong affinities towards demand based employee movements against the employers. In private sectors trade unions were the masters, virtually. These unions, mostly, believed in the existences of antagonistic relationships between the employers and the employees because of dissimilarities of interests and thereby opted for militant manifestations. These were the stories of the earlier decades of the post independent era. However, when nationalization of industries started, more public sectors came in the business scenario.

Actually, this was the onset of the direct involvements of the government through bureaucrats whereby the administrative process was used to give a contour of smooth industrial relations. Now under the emerging state of affairs all the parties, including the employee trade unions, are coming well within the folder of integrated industrial system [IIRS] where management in cohesion with the knowledge workers, with or without the presence of trade union, takes all the labour-centric decisions with alignment towards cooperative work climate. Under the condition, trade unions have reversed their roles and choose to manifest mutually compatible attitudes.

## **C. Changes and the Workers**

Workers, especially the knowledge workers with their crowded availabilities in the industries of the time, sit with the management i.e., representative of the employers, to settle their issues as the vital part of IIRS and thereby, decisively, approach towards negating the outside leaderships of the employee unions. The settlements are crafted within the framework of a number of social security acts, portraying the positive outlook of the government to safeguard the interests of the workers. Employees, therefore, have started accommodating the new scenario with direct linkages to management. They are now more concerned with the recognition, teamwork, responsibilities to decisions and with the overall '*Workers' Participation in Management*'.

#### ***D. Attitude of government and politician***

Government has taken a number of measures to safe guard the interests of the employers and the employees with the aim to maintain cordial relations and industrial peace. Under the regime of open Indian economy, both the employers and the employees have faced initially the problems of change over but gradually both the parties have learnt to move harmoniously with the common strategy to accomplish and sustain business success. Both the government and the politicians have understood the need of value-added industrial relations which favour the cohesive move of all the interested parties in order to claim the supremacy of the business within the face of global competitions. So the political leaders are more concerned with the 'worker participation in management' under the support of trade union movements. The Political leaderships are connected to dictate the trade union movements with the issues of employee development, decentralization of the decision-making, workers welfare, employee counselling etc. On the government side, government is playing the role of mediator under tripartite relationships. Within the Industries both employers and employees are appreciating the necessity of good relations under the supportive role of the government.

#### ***E. Change in Judiciary***

Judicial Activism is more pronounced than the initial phase. Judges are free to decide for the country's welfare and benefits of the industries. Through there are frequent brushings between judiciary and parliament, by and large the supremacy of judiciary prevails. It is like a nation's guardian boosting the development of the nation, passing through stiff industrial competition.

### **Industrial Relations and Productivity**

Without the quality man power the industrial relation system [IIRS] is meaningless. It applies to every enterprise and includes unskilled, semiskilled, skilled, knowledgeable worker and the managers. Good industrial relations provide congenial atmosphere where workers can think of their job, management can think of the welfare of the workforce and the employers can think of the employees as partner to accomplish the business success with the mental set to pay the due shares of profit to

the employees. Under the condition, workers concentrate their activities more to the goal of the enterprise. Welfare of the enterprise now days, really, rests upon its effort to sustain business success where both manager and worker play the significant roles. Motivated workers with positive group morale exhibit high team spirit that in other way is the necessary condition to yield advantage for the enterprise under stiff competition. So to say, any enterprise moves with its people and satisfied workers make differences in ensuring quality products and services. There is no denial of the fact that the satisfied workers are the most productive workers and are considered to be the assets of the enterprise. Thus good industrial relations achieve better productivity and enhance the possibilities to sustain quality products and / or services. Thus good industrial relations, as compared to bad one, achieve better productivity through rise in productions of the employees. One may get the idea of the impacts of bad industrial relations upon person-day lost from the tables below

#### **A comparative Industrial Dispute Man Days Lost Figure**

<b>Year</b>	<b>No. of dispute</b>	<b>No. of worker involved (000)</b>	<b>No. of Man days left (000)</b>
1951	1071	691	3819
1961	1357	513	4919
1971	2752	1615	16546
1975	1943	1144	21901
1980	2856	1900	21900
1991	1810	1342	26428

*Source:* Annual report, ministry of labour Government of India hand book Labour Statistics

We give stress more on productivity than increase on production, as such. We cannot understand the gains of the increased production as output unless it is to be compared with the inputs, used for the purpose. Therefore, we talk about the productivity. Normally productivity is ratio of Outputs / Inputs. As per international labour organization, “The ratio between output and one of the factors of input (men, material, money, talent etc.) is generally known as productivity of the factor concerned....” Productivity is necessary for all type of enterprises i.e., government,

quasi government or private and public sectors etc. Not mere production will elevate us. We are to compete with the world. Hence, effective improvements of production and productivity can only raise us to international levels of the industries. There is no doubt that industrial growth of any country brings the stability of the economic growth. Significance of good industrial relations is implanted in the upswings of industrial productivities of the country for economic growth and development. Industries call attention to the cordial and congenial work-climate that in other way affects productivity and generate a good-fit with the consequences of the organization. Influences of industrial relations on productivity and subsequent consequences can be perceived in the following manners

- Minimizations of wastages systematically and reductions of wasteful expenditure;
- Maximizations of the Workers' efficiencies;
- Improvements of the information processing capacity of the enterprise and thereby lowering of the opportunity costs ;
- Lessening of total costs of productions or services of the industry;
- Up gradation of the quality of the outcomes with respect to time ;
- Increment of workers' motivation and morale which are linked to the standards of production or service or of both;
- Reduction of future uncertainties of the firm through joint decisions of the parties to IR to opt for diversified product, market and services ;
- Faster rate of technological adaptations by the enterprise
- Gaining of the competitive advantage by the firm;
- Presence of efficient work force as distinctive capability of the firm and utilization of the same to the fullest;

Techno- savvy efficient workforce, value added industrial relations, high-degrees of flexible organizational structure to adapt quick changes, incessant increment of productivity are some of the important factors that make brighter the firm's prospects to expand the periphery of the business across the world.

## **Technology and Industrial Relations**

In the modern times industries can survive only if they bring a change management. There should be organisational changes. The dynamics of change include various modifications

1. Change in technology
2. Change in Human relations
3. Change in Production methods
4. Change in marketing strategies
5. New Financial management etc.

In this chapter we draw the connectivity between technology and industrial relations. As discussed earlier new technology should be adopted to increase productions, its quality and productivity as a whole. Now when the questions of adaptation of new technology as well as quality production come then it is the workers who will be active to initiate changes. Industries, therefore, sense the necessities of good industrial relations which in its turn dilute the strengths of the resistances for change. The resistances are natural but it requires to be handled tactfully by the management. Good industrial relations prepare the mind sets of the workers to accept the changes even in the presence of incompatible differences. Industrial relations, evoking transparency, trustworthiness and cohesiveness, appear to fit, suitably, to induce the new technology with the promise of rapid adaptation.

Introduction of new technology creates

1. Fear of unknown in the minds of the workers.
2. Fear to lose jobs or curtailments of responsibility due to mechanisation.
3. Fear of consequent displacement.
4. Panic reactions because of the inability to learn new techniques, knowledge and methods of operations.
5. A feeling of inferiority complex and consequent depression.
6. A feeling of overall insecurity which if persists may create strained attitude of the employee that begets poor industrial relations, cumulatively.

## Case Illustration

When computerization was contemplated at Life Insurance Corporation of India Office, Mount Road, the then the city Madras and now the Chennai, a few years back, all the workers and staff came out to the streets, saying we would not allow computer to enter our office. It would enter on our dead bodies, only. Such fierce resistance was there in the L.I.C against technology advancement at the time.

However, today, even the lowest paid employee cannot move without a computer in his or her possession. Under changed patterns of industrial relations, many Indian firms on an average manifest the following approaches towards technological adaptations

- ***Even before the machines use to come, workers are taken into confidence*** [The underlying slogan is Tell them, Educate them, and Sell them so that they can Own them];
- ***Firms use to motivate the employees across the organization for the technological adaptations*** [The reasons for change of technology, try to create an atmosphere in consonance with the workers so that the workers get ready to accept the change and minimize the resistances—majority of the firms make attempts by telling the workers the disadvantages of remaining static and the need to go for the competition prevailing around the industry locally and internationally];
- ***To this end, the enterprises often draw the future vision in relation to change*** [Thus the contributory factors i.e., less production cost and more profit should be projected along with the employees' career movements in job ladder of the firm after the change. Restructuring of the compensation packages is also an area of workers' interests with reference to incoming changes and the firms under the frame work of value added industrial relations get less trouble to convince the workers about the change than the others who still operate with traditional patterns of IR];
- ***Arrangement for advanced training and development programme prior to the introduction of the technology*** [Workers should be initiated into new Technology with prior training and with

tolerance. While imparting training to adopt new Technology, the knowledge skill activity, dynamism of the workers should be taken into account. New wave of industrial relation approach allows the management in harmonization with the workers or the unions to identify new competences and skills in terms of the technology to be adapted which in other way give the scope to the management to implement the new work designs as fast as it can be along with new mode of performance evaluation techniques];

- ***Attempt to prepare the support system and action plans to execute the adaptation process*** [Industrial relation approach, to day, comes out with the hope to develop the action plans and support system where both management and the employees are involved with some degrees of commitment].

### **Effective Communication System and Industrial Relations Management**

Any good administration requires proper communication system. In the case of industries where we have got pronounced hierarchical arrangements of the roles, communication system should be sufficient enough to move upwards, downward lateral and diagonal. There should be adequate and effective communications to keep the employees informed about decisions that affect their interests. Side by side, it is simply the essential component of the industrial life without which all the organizational activities within and outside the enterprise will be stopped. Effective communication builds trust and team work. It is the prime mover of good industrial relations. Communication is basically of two types i.e., Operational and Personal. It is the personal communication that is concerned with the shaping of personal relationships. Again these personal relations are vital because sum total of all personal relations synergic ally fabricate improved industrial relations.

Now, basically, the process of communication facilitates meaningful exchange of information. Meaningful information is one which produces feelings along with the perception. This is important because this meaningfulness helps to form the attitudes. Needless to mention here, that these attitudes are the necessary ingredients of the relationship bonds. The nature of conversation in a work situation affects attitudes. Where there

is friction and heated exchange of words, it is obvious, the work climate gets vitiated and employees under this condition are not likely to make their usual productive efforts. At the same time, the extent of personnel communication to be permitted should be guarded. Too much talk may dilute authority and strictness and may create emotional up set.

In any industry within the communication system (internal, external, and personal) there exist different types of information flow. Each day several information are being nurtured by the communication net work of the organization. Regarding industrial relations it is the communication net work that is significant. A net work that allows equal proportion of down ward and upward communication is likely to generate understanding between the parties involved in the exchanges. In ***downward communication*** there is flow of instructions and messages from the top to workers [This can be done through notices on board, circulars or through workplace microphones]. There can be meetings with the subordinates. In this, there can be two way discussions and the message communicated reaches to the worker fully and without ambiguity. To some extent this helps in settlement of grievance which promotes industrial relations. ***Upward communication*** is the flow of information, mainly, from the employees to employers. This type of communication assist the industry to propagate an atmosphere of good industrial relations provided the management on behalf of the employers is ready to take measures to initiate integration mechanism.

If management keeps an open mind, useful suggestions in terms of the communication will flow from bottom line to upward direction and implementation of any or selective suggestions may satisfy the employees because of the recognitions. Recurrences of the event may cater the improvement of the relations between the employers and the employees. ***Informal communication or grapevine communication*** though informal yet it is the very important source of information to the employees. Employees rely more on the grapevine as one of the trusted sources of information. It spreads very fast and is strong enough to influence the quality of industrial relations. Under grapevine member's satisfaction is estimated to be more than the other channels.

However, grapevine suffers with the accuracy of information because most of the time rumours are getting distorted. But fallacy of this

communication is the extents of reliance of the employees upon it whereby they believe this source more than the formal channels. That is basically the reasons due to which management has no control over grapevine. The formal methods of communications are normally, departmental meetings, conference, bulletins etc. Again out of the two normal modes of communication oral and written, **oral communication** is

1. the direct face to face exchange of words that generates affinity and develops a co operative spirit;
2. the intent of the communication that changes reciprocally the mood of the source and the receiver under face to face interactions whereby verbal as well as the nonverbal languages of the parties breed long lasting impacts on the relations.
3. clearing doubts, instantly and at the same time can generate wilful confusions.
4. the common way to create impression through the manifestation of the desired symbols and the attitudes as perceived by the other. So it is useful to correct the mood or to ratify the earlier actions.

This is not suitable for lengthy messages. Written message is more confirmative and comfortable.

**Written communication** to workers comes with the following features

1. This leaves evidence and can remain with the receiver for frequent reference.
2. This can be preserved
3. While writing utmost care is taken to make it sweet and up to the point.
4. We can reproduce it for expansion of message.

Improper communication affects industrial relations. Communication with employees may have an effect on the following problems that are considered to be the **barriers** of the process

### **1. Semantic Problem**

This is the problem of language. In employer employee communication under a two way process, the worker should understand the language of the employer and vice-versa. Any problem of the semantic can create misunderstandings between the parties.

### **2. Perception Problem**

People may perceive the same thing, differently. Perception acts as barrier of the communication because the management and the workers perceive the respective interests in another way. This may lead to misunderstanding during communication.

### **3. Problem with the message**

Away from the verbal language a number of Para- languages including tone, intensity of the sound, pitch of the sound etc as well as body languages are extremely the determining factors of the message quality in terms of the perception of the receiver. In industrial setting, therefore, messages should be easily understandable to suit and attract the employees as receiver.

It is equally true for the employers who need to extract the correct meaning of the message from the employees. Depending upon these perceptual limitations the toning, volume, depth of message should be tailored in order to make the communication effective.

### **4. Besides this there may be failures due to**

- a) Faulty speech and faulty hearing;
- b) Translation which may not carry the forcefulness and the intent of the employer as source;
- c) Hierarchical blocks and distortion of the original message;
- d) Status blocks.

Whatever the barriers but it is true that right communication improves industrial relations and in turn gives quality output and enhanced productivity

Hence, if one may want to improve industrial relations then he or she should take care about the ways and means to make better the communication.

1. The message of Communication should be short, sweet and up to the point leaving no ambiguity and the objective must be clear.
2. Communication should include the message where both verbal and nonverbal Languages should be understood by the workers.
3. There should be adequate doses of communication. The intention should reach and produce the intended perceptions and feelings. Upward communication should be appreciated by the top brasses of the enterprise that in other way brings favourable atmosphere of effective relations.
4. Before dissemination of information management must ensure the quality and the length of the message that is to be communicated with the priorities of importance.
5. Both the management and the employees should use a proper medium, either oral or written, to suit the message and its nature.
6. Both the parties should communicate, always, at an appropriate time that provides the right climate.
7. Both the management and the workers should be a good listeners otherwise both of them will not be able to extract the meanings of the intended message—a feature that improves the two way communication.
8. To make the communication effective it necessary to keep the recipients in good humour that can devoid the boredom and increase the attraction for the same.

### **Summary**

The new industrial scenario unearths the significance of human resource management in shaping effective industrial relations. Under it the workers are not only satisfied but at the same time this relations insist upon a friendly work climate where both the employers and the employees operate under trust, cooperation and as parts of integrated industrial relation system[IIRS]. Productivity automatically increases when the

workers are satisfied. These in turn reduces industrial conflicts. However, the productivity and production are different. Indeed, satisfied workers are more productive than dissatisfied. Both management and the workers cohesively work together under the changing mode and thereby make sure the quality of productions or services as well as the team enhances the overall productivity of the enterprise. In this chapter we, also, deal with the impacts of technology on IIRS and further elaborate the importance of communication in the growth, development and sustenance of good industrial relations.

.....

[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged].

\*\*\*\*

---

## Lesson 1.4 - Indian Culture & Industrial Relations.

---

### Learning Objectives

The objective of the lesson is to see the linkages among Indian culture, labour practices [Traditional and New] and institutional influences of the international body like ILO in shaping the trend of industrial relations in the country

### Introduction

Our industrial culture has undergone a radical change. From Vedic times up to British rule our industries (Whatever were there) were having 'Raja Praia' culture. All the wealth goes to king, all the sweat goes to the others. From there our culture descended to Zamindars' system of management. A sort of social practice with the working class, spinning around the bonded labour, was there at the time. All the workers who were within a particular area would be concerned for a particular Zamindar.

Following this, came the British pattern. Hire and fire was the relation with the workers. Engage them whenever they were required and then used to throw them off. During pre independence period, because of some national leaders like Mahathma Gandhi, Tilak and others, a concern was developed for the welfare of the workers.. British government at the end of their tenure enacted few acts like trade union act, Industrial disputes Act etc. Within this backdrop this chapter opens the discussion on the nature of the workforce under the legacy of Indian culture.

### Indian Culture and the Nature of the Workforce

Our Indian culture is not permitting fighting or aggressive behaviour. It is not at all a culture of belligerent type. Nature of average workers is normally docile. Majority Indians love to exist with peace. 'Live and let live' is the perpetual slogan of the Indian communities. Because of this nature of the work force, the British rulers faced no trouble, as such,

with the workers even under oppressive subjugations. Hence industrial relations, by and large, were smooth enough. From the last phase of the British Raj, the British administrators confronted with the problems of mass productions because of the demands of the Second World War and felt to go for the bulk recruitments of workers. They urgently needed to expand the capacities of the labour-centric industries where the major driving force was the manpower.

At the same time, some leaders of our freedom struggle; a few names are cited above, started claiming the enactments of labour laws that should prohibit the British employers to exploit the workers. So in the labour front, ultimately, Indian workers got a few well known laws, mentioned above. Our Sathvik culture was liked by most of the western countries. That is why even though so many youngsters are jobless in their countries, still then countries like U.S.A, Canada, Germany etc. recruit and employ Indian workers in their establishments.

After independence several welfare measures were taken by the government to protect the rights of industrial workers and to improve their working conditions. In order to give them their proper rights and to develop congenial industrial relations with employers, a number of legislations were made like, the Factories Act, Amended Industrial Disputes] Act, Wages Act etc. All were directed to build up the healthy atmosphere in the industries. There is a slight shift in our culture probably due to British impacts which had become more prone towards employers' welfare. Hence to fix the proper labour practices through our legislations some of the practices have been prohibited and eliminated.

### **Unfair Labour Practices**

The fifth schedule [Sec.2 (ra)] of Industrial Dispute Act, 1947 deals with the unfair labour practices, which constitute a classified group of labour practices as unfair on the part of the employers and their trade unions and on the part of workers and their trade unions. The Act therefore forbids of any unfair labour practices by the employers and employees. Any infringement may cause an imprisonment up to six months or a fine of ₹ 1000 or of both, The fifth schedule is represented below

## **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 organize, 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 workers 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 workers at crucial periods of trade union organization, with a view of undermining the efforts of the trade union.
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 employees; and
  - (b) an employer showing partiality or granting favour to one of several trade unions attempting to organize his employees, or to its members, where such a trade union is not a recognized trade union.
3. To establish employer-sponsored trade unions of employees.
4. To encourage or discourage membership in any trade union by discriminating against any employee, thus is to say—
  - (a) discharging or punishing an employee, because he urged other employees to join or organize a trade union;
  - (b) discharging or punishing an employee for taking part in any strike (not being a strike which deemed to be an illegal strike under this Act); © changing seniority rating of employees because of trade union activities;
  - (c) refusing to promote employees to higher posts on account of their trade union activities;
  - (d) Giving unmerited promotions to certain employees with

- a view of creating discord amongst other employees, 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 employees —
- (a) by way of victimization
- (b) not in good faith, but in the colourable exercise of the employers' rights; © by falsely implicating an employee in a 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 or domestic inquiry 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 services employee, thereby leading to a disproportionate punishment.
6. To abolish the work of a regular nature ,being done by employees, and to give such work to contractors as a measure of breaking a strike.
7. To transfer an employee mala fide from one place to another, under the guise of following management policy.
8. To insist upon individual employee, 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 favouritism or partiality to one set of employees, regardless of merit.
10. To employ employee 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 permanent employees.
11. To discharge or discriminate against any employee for filing charges or testifying against an employer in any inquiry or proceeding relating to any industrial dispute

12. To recruit employees during a strike that 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 lockout deemed to be illegal under this Act.

## **II. On the Part of Employees and Trade Unions of Employees**

1. To advice, actively support, or instigate any strike deemed to be illegal under this Act
2. To coerce employees in the exercise of their right to self-organization or to join a trade union or refrain from joining any trade union, that is to say-
  - (a) For a trade union or its members to picketing in such a manner that non-striking employees 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 employees or against managerial staff.
3. For a recognized 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 stage, encourage or instigate such form of coercive actions as wilful 'go slow', squatting on the work premises after working hour 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 wilful damage to employer's property connected with the industry.

8. To indulge in acts of force or violence or to hold out threats of intimidation against any employee with a view of preventing him from attending work.

Thus, this schedule, specifically, expresses the government's good will to impose ban on unfair labour practices.

### **International Labour Organization It's Contribution in Shaping IR**

International labour organization [I.L.O] plays a key role in fostering Indian labour legislation. ILO as a tributary international organization of UNO, simply, looks to the interests of the labour. Its governing body has tripartite structure with the representatives from the government, the employer and the employee of the member countries. So to say, India, as a pioneer member of the ILO movement, has enacted different labour acts to implement the vision and objectives of this organization. In order to regulate the systematic behaviours of the employees and the employers within industry, our government has ratified a few important Acts with their various provisions in the line of ILO declarations. Indeed, after independence the government has tried to create a reliable industrial relations system in accordance to the assertions of ILO. Through International

Labour Organisation we come in contact with countries having high industrial standards and from there we can adopt, pick up and follow better standards for progress. The Declaration of Philadelphia is the guiding principle of our labour policy. Government has projected its will to build effective industrial relations within the industries of our country whereby both employees and employers shall work within the stipulated labour laws that have reinforced the foundations on enunciated objectives of ILO.

### **Machineries to Reduce / Smooth Industrial Disputes**

To resolve industrial disputes, a number of approaches come on the surface. These approaches constitute those machineries that are used to settle industrial disputes and ensure healthy relations within industries.

- i. Voluntary in Built Approaches
- ii. Approaches based on conciliation[ Conciliation Machineries]

- iii. Mediators / Arbitrators approach [Arbitration Machinery]
- iv. Approach based on Adjudication [Adjudication Machineries]

**i. Voluntary in Built Approaches** These approaches basically revolve around workers' participation in management. These are

**1. Joint management councils**

- Help to promote productivity and general benefits of both management and workers
- Give employees a better understanding in the working of industry and of the process of production.
- Satisfy the workers' urges for self expressions and thus lead to better industrial relations.

**2. Workers' participation in management** In 1972 workers' participation in industry was highlighted. It was encouraged to create awareness among the workers about the objectives of the organisation and action plans to accomplish the same. It was contemplated that the scheme should be operative both at the shop floor and at plant levels in all public sector undertakings.

**3. Collective Bargaining** Here representatives of workers and management discuss and bargain their necessities under win-lose or win-win conditions. The process of bargaining takes place to settle issues related to wage, financial matters, working conditions etc. .

**ii. Approaches based on Conciliation [Conciliation Machineries]**

The statutory conciliation machineries are

1. Works Committee
2. Conciliation officers
3. Board of conciliation
4. Courts of Inquiry

**Works Committee**

It is the committee formed by the representatives of workers and the employers at workshop level. Equal number of representatives both from the employers and the workers constitute this committee. The works

committee's duty is to promote measures for securing and preserving amity and good relations between employers and the workers. It tries to resolve problems, arising out of the matter of common interests or concerns. The committee endeavours to compose any material differences of opinion with respect to such items that project the common interests of both the parties. The main function is to endorse measures for defending and protecting harmony and good relations and for this purpose take steps that ensures adjustments between employers and workers so that situation many not turn into industrial dispute.

### ***Conciliation Officer***

It is a recognised process of settling mutual conflict between individuals and groups. Conciliation officer can call for documents and summon witnesses. He or she tries for the settlement through conciliation proceedings.

The conciliation officer will hold conciliation proceedings. He or she will be assisted by the employers and the employees (He or she cannot adjudicate) to arrive at a fair and just settlement. He or she is to play the role of an advisor and friend of both the parties. He or she investigates and induces the parties to come to fair and amicable settlements. If no settlement is reached then he or she will submit the detailed report to the government.

### ***Boards of Conciliation***

Certain disputes (where the conciliation officer fails) may be referred to the Board. The Board shall consist of a chairman and 2 or 4 other members. It shall investigate the dispute and try for a right settlement. The Board has the powers of a civil court. The Board shall send a report and memorandum of settlement to the suitable government.

### ***Courts of Inquiry***

The right government may by notification in the Official Gazette form a Court of Inquiry for investigating either the issues related with conditions of employment or any relevant matters of industrial disputes. The Court consists of at least 1 person who shall be the chairman or 2 or

more members may be included. In that case 1 of them shall be appointed as the chairman. The court has the power to enter the premises and enjoy the power of Civil Court.

***iii. Mediators / Arbitrators approach [Arbitration Machinery]***

In arbitration both the parties seek the help of a third knowledgeable party for a decision. Arbitrators are chosen by both parties with consensus. This is voluntary arbitration. If there is disagreement to get a consensus candidate, court may order for an arbitrator who is to be accepted by the parties. The arbitrator enjoys the power of Civil Court.

***iv. Approach based on Adjudication [Adjudication Machineries].  
Labour court Industrial Tribunal National Tribunal***

***Labour Court***

It is one of the adjudicating machineries. It consists of one person, appointed as presiding officer of labour court. It provides machinery for investigation and settlement of industrial disputes. It makes provisions for constitution of a adjudication machinery besides the authorities of investigation and settlement of industrial disputes. Normally labour court adjudicates the matters that are specified in the Second Schedule of the I.D.Act, 1947.It passes award within the reasonable period as prescribed by the Act. Labour court's proceedings are the judicial proceedings. It is deemed to be a civil court and its award is binding upon the parties.

***Industrial Tribunal***

One or more industrial Tribunals may be formed by the appropriate government as per the needs. Government by notifying in the Official Gazette may constitute the Industrial Tribunal that adjudicates the matters as specified in the Second Schedule or the Third Schedule of the ID Act It is formed for a limited period. A person shall be appointed as the presiding officer if and only if he or she meets the prescribed qualifications as specified in the Act. It enjoys powers alike the Labour Court. In addition it can appoint the assessors and can award cost to the deserving party or parties as the case may be. Matters of the ***Third Schedule*** that Industrial Tribunal deals within the scope of the disputes are many. Some of these,

under employee wage and benefits, are mentioned here for the purpose getting an idea. These contain:

- a. Wages, including the period and mode of payment,
- b. Compensatory and other allowances,
- c. Hours of work and rest intervals,
- d. Leave with wages and other holidays,
- e. Bonus, profit sharing, P.F. and gratuity.

### ***National Tribunal***

The opinion of the Central Government is the essential requirement for the formation of National Tribunal. If at any time the Central Government thinks that industrial disputes bear the National importance(s) or industrial establishments across the country may be interested then the same by making appropriate Gazette notification constitutes one or more National Tribunals to adjudicate the related matter or set of matters. The Central Government appoints one person only in the said Tribunal after the fulfilment of the prescribed qualifications as per the Act. The duties and powers of this Tribunal are more or less similar to Industrial Tribunal and Labour Court. However jurisdictions of the Labour Court and Industrial Tribunal are likely to be ceased on the occasion of the references of disputes to the National Tribunal. The order, award or settlement of the National Tribunal are binding upon the parties concerned and are considered to be the decree of the Civil Court

### **Summary**

***This chapter starts with*** the periodic review of culture under different historical phases of Indian subjugations to external rulers with particular reference to '***British Raj***'. ***The extreme plights*** of the workers under the British rule, the unfair labour practices under British governance and the government measures to rectify the conditions in the post independent era are portrayed significantly in the lessons. ***In continuation, attempts*** are made to highlight the contributions of ILO in shaping industrial relations of the country. ***Last but not the least***, an endeavour is made, here, to show the relevance of different available machineries within the content and context of ***Industrial Dispute Act, 1947***.

[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons]

### Self Assessment Questions

1. Define industrial relations?
2. Explain industrial dispute?
3. What is unfair labour practice? What is settlement?
4. What are the causes of industrial dispute?
5. Give suggestion for improvement of Industrial Relations.
6. What are the determinants of Industrial Relations.?
7. Who are the parties to industrial relations?
8. Explain strike and lay off.
9. What are the causes of industrial unrest?
10. State the consequences of strained industrial relations.
11. Explain retrenchment.
12. The relations between workers and management have undergone massive changes in our country. Examine
13. Do you think industrial relations necessary?
14. What are the visible changes in industrial relations with the ushering in of HRM
15. What are the roles of government and judiciary under the changing scenario of industrial relations?
16. Describe the roles of the trade unions under the changing perspectives.
17. What are the ripples created by new technologies in industries?
18. What are the problems of new technologies and industrial relations?
19. Describe the types of communication that are suitable for better industrial relation.

20. State advantages of both oral and written communications in industry.
21. How to make effective communication?
22. What are the salient barriers of communication?
23. How will you make better the communication to improve the industrial relations?
24. Give a brief account of Indian Culture and the Nature of the Workforce
25. What are unfair labour practices? Examine unfair labour practices of the employers.
26. Can trade unions opt to unfair labour practices?
27. What is International Labour organisation? How does it shape industrial relations of the counter?
28. To resolve disputes conciliation machineries take vital roles.— Discuss
29. Give a brief idea of the functions of adjudication machineries to settle disputes..
30. What are the internal machineries to solve industrial disputes?
31. Describe the roles of the external machineries to solve industrial disputes.

\*\*\*\*



## UNIT - II

### Unit Structure

Lesson 2.1 - Trade Unions - Purpose, Functions and Structure of Trade Unions

Lesson 2.2 - Trade Union Legislation

Lesson 2.3 - Multiplicity of Trade Unions, Conflict Resolutions, Industrial Relations, Welfare and Productivity and Social Responsibility of Trade Unions

Lesson 2.4 - Industrial Relation Management and Management of Trade Union

---

### Lesson 2.1 - Trade Unions - Purpose, Functions and Structure of Trade Unions

---

### Learning Objectives

This chapter emphasizes upon the understanding of the activities of the trade union which is considered to be the association of the employees, in particular. In the context of employer- employee relations, the significance of the trade union is immense. From this stand point this chapter puts stresses upon exploring the suitable meaning of trade union, its characteristics and the requirements. In the process, this chapter attempts to identify the functions of trade union as well as the structure of the same.

### Conceptual Meaning of Trade Union

The trade union is an association, either of employees or employers or of independent workers. It is a relatively permanent combination of

workers and is not temporary or casual. It is an association of workers engaged in securing economic benefits for its members.

### **Definition**

According to Section 2(h) of the Trade Unions Act, 1926, a trade union is any combination of persons, whether temporary or permanent, primarily for the purpose of regulating the relations between employees and employers, or between employers and employees or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business, and includes the federation of two or more trade unions.

This association, as per the Act, controls the interactions of the employees with the employers. It also regulates the work behaviours of the employees and thereby dictates the terms of behaviour of the members to the group of employees, opposing the interests of the trade union. Again, within the scope of its functioning, a trade union enforces restrictive stipulation on the employees to perform their respective jobs i.e., the condition of the use of man powers on each of the jobs against wages and benefits to be fetched from the employers. This in other way generates the scope of bargaining to the union to settle up the matter.

However, in the line of employees, employers can also form trade union to accrue advantage for the members while dealing with the process of bargaining with the employee unions. Because the group of employers under the folder of this type of union can easily over rule the employees' union demands by consolidating united efforts under the process of negotiation. Needless to mention, here, that neither of the types of union are the agents of neither the State nor the state regulates the functions of the trade unions.

These are only being governed by the Trade Union Act, 1926. At this point, it is to be noted that a number of eminent social scientists have magnified the role of trade union in terms of continuous employee involvements for the sake of bringing favourable employment conditions and making them better off in the bargaining outcomes with the employers.

## Historical Evolution of Trade Unions in India

Between 1850 and 1870, foundation of modern industry was laid. Indian working class started emerging at this point of time. In the national economy, one could see the growth of Indian enterprises along with English ones, growing steadily. During this period, the working and living conditions of the labour were poor and their working hours were long. The Indian Factory Labour Commission (1908) and the Royal Commission of Labour (1931) have rectified the fact in their reports. The working hours were longer, but the wages were low and the general economic condition was poor in industries. Indian Factories Act (1881) was enacted to regulate the working hours and other service conditions of the Indian textile labourers. As a result, child labour was prohibited. This act required the formation of machinery for the inspection of factories. In 1885, the birth of the Indian National Congress has provided the background for the emergence of Trade Union.

*The Trade Union movement in India can be divided into three phases.*

*The first phase falls between 1850 and 1900* during which the inception of trade unions took place. Guided by educated philanthropists and social workers the growth of the trade union movement was slow in this phase. In all industrial cities, many strikes took place in the two decades following 1880 due to the prevailing poor working conditions and long hours of work. Small associations came out in Bombay and Calcutta.

*The second phase falls between 1900 and 1947.* The development of organized trade unions and political movements of the working class characterized this phase. It also witnessed the emergence of militant trade unionism. Organized trade unionism was prepared during 1900-1915. End of Its World War, and the Russian Revolution of 1917 gave a new turn to the Indian Trade Union movement and led to organized efforts on the part of workers to form Trade Unions. It was estimated that in 1920 there were 125 unions, with a total membership of two fifty thousand. In 1920, the first national trade union organization was established. Many of the leaders of the organization were leaders of the national **movement** (Monappa, 1985).

***The third phase began with the emergence of independence*** India.

The government sought the cooperation of the unions for planned economic development. The working class movement was also politicized along the lines of the political parties. Indian National Trade Union Congress is the Trade Union arm of the Communist party of India. Subsequently, the socialists left to set up another national worker federation, the Hind Amador Sabah. The centre of Indian Trade Unions organized in 1970, has close links with the Communist Party of India – Marxist. Besides workers, white-collar employees, supervisors and managers are also permitted to join the trade union. For example, in the Banking, Insurance, Petroleum Industries and Aviation the Trade Union exist.

### **Trade Union Growth**

In India, various factors like political, economic, historical and industrial have all helped the unions to get a legal status and represent the workers. However, the unions are handmaids of the political parties. They joined with one or the other political parties. The Trade union rivalries have also become the common features in free India. Most of the viable unions are split into new unions, having sympathies with political parties. These have permeated unions to operate in different levels. However, they have been able to influence public policy, labour and industrial legislations. They have played an important role in involving suitable machinery for joint consultation to negotiate various issues between labour and management.

Compared to other countries, India has large number of trade unions for a single country. In India, there are more than 52000 registered trade unions but only 17% of them is submitting returns and whose activities are on the record. Further, the density of the trade unions in India is as low as 9.1% as against 81% in Sweden, 54% in Norway, 39% in U.K, 32% in Germany and 30% in Canada. The Indian trade union movement also suffers from problems like small size, poor finance, outside leadership, domination by political parties, intense inter- union rivalries, etc. Due to new political and economic trends, these problems are further multiplying at a rapid pace.

Inspired by the problems trade unions have brought about, through their movements, some economic, political, and social changes for the

better conditions of workers. They have improved, comprehensively, the employment conditions of the workers and pushed them to sound economic footings. Politically, they have produced a very secular, anti capitalist, anti-imperialist, egalitarian and socialistic force in the country. Socially, they have emerged as a unique force of national integration.

## **A Few Relevant Issues**

### **Craft and General Union**

Developed Western Societies have the unions as the one just cited. In these places, the industrial way of life has had a longer history. A craft union is built around a certain specialized skill, which has necessitated a special type of training. Craft unions are open to members of a certain trade/skill, like Navigator's Union OF Air India. Alternatively, a general union is open to all members irrespective of their skills, cutting across trades/skills and includes unskilled, semi and skilled workers

### **Union Shop**

When the union acts as supplier of labour, once an employee is employed then he/ she has to join the union. Here the union makes employment conditional on union membership.

### **Check Off**

The check-off system is a practice where the management collects employees' union dues, as a wage deduction and gives a lump sum amount to the union. By this way, the union gets the facility to collect its dues in totality with no excuse on the part of employees to resist from paying for one reason or the other as it could happen in a voluntary system. Such a facility is provided only to a recognized union.

### **Distinctions Between the Workers**

Based on the level and status of the employee for membership of the unions, a distinction is made. All shop floor workers are termed **blue-collar workers** and all clerical or office staff, who does not work on the shop floor, are **termed white-collar workers**. White-collar workers are

different from the blue-collar workers on socio economic background, education, manner of speech, social customs and ideology. They are being paid monthly and enjoy longer holidays and various privileges, as compared to blue-collar workers. Nature of work clearly and significantly differentiates one from the other. In recent times, white-collar unionism is expanding. Through the methods of agitation and litigation, white-collar workers achieve the goals like better pay scales, more fringe benefits, internal promotion etc. A large membership, sound finance and internal leadership are a few strong points. Trade union leaders started influencing vital channels of productive and strategic functions. The government in consultation with the leaders of the trade union movement takes economic and social decisions affecting workers. The workers are turning to be militant since they have realized that by exerting pressure on employers through union power their needs will be fulfilled.

### **Union Leadership**

One of the most crucial factors in this sphere is the leadership that is provided. The leadership provides the direction and goals for a particular union. The leader's task is to make the union effective, by improving the terms and conditions of employment of the worker and by being concerned with the viability of the enterprise. The trade union organization based as it is, in many cases on individuals or the national federations and their ideologies, has not been able to evolve a professional cadre of leadership at the grass roots to the desired extent. In fact, quite often, a single union executive leader is responsible for running a large number of unions.

A survey of trade union leadership in Bombay in 1960 showed that one leader was, for example, were former Central Ministers like G.L.Nanda and Khadilkar, president of 17 unions and secretary of two more. Another was an office bearer of 20 unions.\* R.J.Mehta was President of the Free Trade Unions, which controlled more than 14 unions.\* This brings us to a consideration of the next issue, i.e. outside leadership vs. internal leadership.

In fact, the Trade Union Act of 1926 makes a provision for this and permits 10% of the leadership to be from outside the sphere of the organization.\* An outside leader is one who is not a full time employee

of the organization, whereas the internal leader is such a person. Many lawyers and politicians have been union leaders in the early part of their careers. The former President V.V.Giri was one of such leader\*\*

There are advantages and disadvantages either in terms of policy or in terms of implementation of administrative action, especially if he or she belongs to or has linkages with the ruling party. On the other hand, his or her involvement with the plant level problems is much less, as he is not on the shop floor to understand the intricate issues applicable to a particular plant. Not being an employee of the enterprise or an insider, he or she lacks the required depth of understanding of local issues and specifics. The outsider is a professional who has many units under his or her wing, all of which demand his time, including the larger function of liaison.

.....  
 [Sources: **R.D. Aggarwal** (Ed.), *Dynamics of Labour Relations in India A Book of Readings*, Tata McGraw-Hill, Bombay-Delhi, 1972, pp.58-82.; **India Today**, op.cit.; **B.R.Sheth**, *Indian Labour Laws A supervisor should Know*, New Delhi, All-India Management Association, 1978].

The insider would not only have greater knowledge of the enterprise but also have more time for sustained work and is being concerned with it, as he or she is taking care of just one enterprise. This is, mostly, the common aspect with the outside leadership of the trade union that these leaders bother more with their political ideologies and gains than the real interests of the workers and their unions. The leadership role in a trade union has a variety of demands placed on it. Not only does it require a certain amount of technical knowledge of the nature of business of the particular organizations, but also a sympathetic understanding of the workers, their attitudes and their problems happen to be the advantage to a leader, opting to work for the workers.

A certain amount of commitment and empathy for a cause, even in uncertain conditions, is necessary. Until now the attraction for persons, entering this occupation has been the possibility of a political career in the future. However, there have been some plant unions that are running very professionally and have, at the same, been concerned with the viability of the firm or the enterprise as well as the good of the workers.

## Trade Union Finances

If an organization is to grow, survive and meet the needs of its regular members in terms of attaining their objectives etc. then it needs money. For a variety of reasons, the finances of many trade unions have not been very exorbitant. It is to note that to every general statement, there are a number of exceptions and so is the case with some financially strong unions, too. Funds are needed for attracting and retaining the competent staff. However idealistic the cause may be, people do need to survive and therefore require money. It is only with competent staff that some of the objectives like research, comparative data generation, company studies, presenting demands and resolving workers problems can be achieved. Again, funds are necessary for political lobbying; for sending union representatives to the local bodies, state and central legislatures. Under inertia union as organization will wipe away.

Funds therefore are needed to pursue activities, which will in turn give the benefits to the members who will then contribute not only the subscriptions and other financial aids but also their services, too for the union. Under the condition majority of the members will come with the promise to sustain their membership. Activities, resulting in something, will arouse the enthusiasm of the members and make them concerned for the allocation and proper utilization of scarce resources. The divisive nature of Indian trade unionism has also led to the dissipation of funds amongst a large number of organizations, with the result that there are many small unions without financial backing and without much staff to do any substantial work.

The generation of funds has been wholly inadequate. In some cases, subscriptions are not collected promptly or members pay only when they confront a problem. In the former case, the trade union management for fear of losing membership overlooks it. On the other hand, there are, according to some trade union executives, shrewd members who do not mind paying subscription to more than one union in order to protect their interest in times of need. One other mechanism, employed nowadays besides the usual collection, is the special levy at the time of distribution of bonus. Some national federations and independent unions often generate some reserves to pay at the time of strike as strike fund.

## **Characteristics of a Trade Union**

### **Association of Employees**

A trade union is essentially an association of employees belonging to a particular class of employment, profession, trade or industry. For example, there are unions for teachers, doctors, film, artistes, weavers, mine workers and so on.

### **Voluntary Association**

An employee joins the trade union out of his free will. A person cannot be compelled to join a union.

### **Permanent Body**

A trade union is usually a permanent body. Members may come and go but the trade union remains.

### **Common Interest**

The member of a trade union have certain matters of common interest-job security, better pay and working conditions and so on, which bring them together.

### **Collective Action**

Even when an individual employee has any grievance over certain management decisions, the matter is sorted out by the intervention of the trade union.

Employees are able to initiate collective actions to solve any problem, concerning any particular employee or all the employees.

### **Rapport with the Management**

The trade union seeks to improve relations between the employees and employers. The officials of the trade union hold talks with the members of the management concerning the problems of the employees in order to find an amicable solution. It is thus possible for the employees to have better rapport with the management.

## **Association of Employers**

Employers can also constitute trade union. Alike the employee union to employers' union too ensures advantage for its members. At the time of negotiation and arbitration, employers' union plays a vital role.

## **State Agency**

Neither the employee nor the employers unions are the agents of the State. Either of the unions is only being governed by the Trade Union Act, 1926.

## **Purpose of Trade Union**

Workers join trade unions to achieve certain objectives that they may not be able to achieve in their personal capacity. Trade unions are necessary

### **1. To Ensure Job Security and Right Pay for the Members**

One of the basic needs of any employee is security of service. The main reason why an employee joins a union is to get him secured. Apart from job security, the employees need to get pay commensurate with their qualifications and skills. Trade unions strive to get both job security and correct pay for all employees.

### **2. To ventilate the Grievances of Employees to the Management**

When the employees in general or some in particular have any grievance, they may not be able to convey the same to the management in their personal capacity. Such grievances may be brought to the knowledge of the management through the trade union. The members of the management may be indifferent to the demands of the individual employees but they cannot be so when it comes to union demands.

Therefore, Trade Union exists for a variety of purposes. Individual workers found it more advantageous to band together and seek to establish their terms and conditions of employments. They have realized that without collective effort if they go for bargaining as individuals,

the employer would have a better advantage. Basically, group matters more as compared to individual in running of the enterprise. A group's contribution is much larger than an individual's is and so are the effects of its withdrawal. An individual may not be able to organize and defend his interests as well as a group can. Therefore, workers saw the advantages of organizing themselves into groups to improve their terms and conditions of employment.

Employers also found it advantageous to deal with a group or a representative of a group rather than go through the process of dealing with each individual over a length of time. The modification of political, social and educational environment has changed the degree of awareness rights of the workers. Due to this awareness of rights i.e., the right to organize, the right to bargain and settle terms and conditions of employment, the labour or workers' unions spring up in order to protect the workers from any sorts of exploitations.

Precisely, the major objectives of trade union are the followings

1. Better wages;
2. Better working conditions;
3. Protection against exploitation;
4. Protection against victimization;
5. Need- based provisions of the welfare measures;
6. Promote industrial peace;
7. Take up Collective Bargaining [Win-Win];
8. Look after the interests of trade and business

### **Nature and Scope of a Trade Union**

The employers' association or professional bodies are not included in any of the above definitions. The employees' unions are different from that of the employers or professional bodies. The employees' unions are primarily concerned with the terms and conditions of employment of their members. The employers' associations on the other hand are involved more with influencing the terms of purchase of the services of employees in favor of their enterprises. Hence, both of them are not to be placed in the same category.

The associations of professional members also differ fundamentally from employees' unions. Professional associations include self-employed as well as the employees whereas trade unions consist only of the people who are employed by others. In India, the term Trade Union refers both employees' and employers' associations, also. Similarly, in Britain, even the associations of professional people, such as Artists Federation or Musicians Unions, also get the recognition of Trade Unions.

Thus, trade unions are a major component of the modern industrial relations system. A trade union of workers is an organization formed by the workers to protect their interests i.e., to improve their working conditions and eliminate exploitations. All trade unions have certain common and distinctive objectives or goals to achieve, which indeed are reflected in their respective constitutions. Each has its own strategies to reach those goals.

Trade Unions are now considered a sub-system, which seek to serve the specific sub-groups' interests and also consider themselves a part of the organization in terms of the latter's' viabilities and contributions to the growth of the community of which they are the parts.

### **Functions of Trade Unions in India**

As per the Indian Trade Union Act, 1926, the primary function of a trade union is to protect and promote the interests of the workers and the conditions of their employment. They can also have other objectives, which are not inconsistent with this primary purpose or opposed to any law. In India, trade unions generally undertake the following functions

- (i) To achieve higher wages and better working and living conditions for the members.
- (ii) To acquire control over running of the industry by workers.
- (iii) To minimize the helplessness of the individual workers by making them stand-up united and increasing their resistance power through collective bargaining; protecting the members against victimization and injustice by employers.
- (iv) To raise the status of the workers as partners in industry and citizens of society by demanding an increasing share for them in the management of industrial enterprises.

- (v) To generate self-confidence among the workers.
- (vi) To encourage sincerity and discipline among workers.
- (vii) To take up welfare measures for improving the morale of the workers.

The National Commission on Labour has underscored certain basic functions to which trade unions have to pay greater attentions such as

- (i) To secure fair wages for workers.
- (ii) To safeguard the security of tenure and improve conditions of service.
- (iii) To enlarge opportunities for promotion and training.
- (iv) To improve working and living conditions.
- (v) To provide for educational, cultural and recreational facilities.
- (vi) To cooperate and facilitate technological advancement by broadening the understanding.
- (vii) To promote identity of interests of the workers with their industry.
- (viii) To offer responsive cooperation for improving levels of production and productivity as well as high standards of quality.
- (ix) To promote individual and collective welfare.
- (x) To enforce discipline among the employees

Besides these basic functions of trade unions, the Commission enjoined the following responsibilities upon the unions

- (i) Promotion of national integration.
- (ii) Generally, influencing the socio-economic policies of the community through the active participation in their formulation at various levels.
- (iii) Instilling in their members a sense of responsibility to industry and the community.

The First Five Year Plan while spelling out the role of trade unions emphasized that they should

- (a) Present plans to workers so as to create enthusiasm among them for the plans.
- (b) Exercise the utmost restraint with regards to work stoppage.
- (c) Formulate wage demands which are attuned to the requirements of economic development and are in keeping with considerations of social justice.
- (d) Assume greater responsibility for the success of the productive effort.

### **Structure of Trade Unions in India**

In India, the structure of trade union consists of three levels *plant/shop or local, the state and the centre*. It is generally from the central level that the ideology of the important central federations of labour in India percolates down to the state and local levels. Every national or central federation of labour in India has state branches, state committees or state councils, from where its organization works down to the local level.

There are two types of organizations to which the trade unions in India are affiliated

- (i) National Federations, and
- (ii) The Federations of Unions

Here a brief discussion on these trade union forms is given.

- 1. The National Federations** have all the trade unions in a given industry as their affiliated members. Every trade union, irrespective of the industry to which it belongs, can join a general national federation. Such federations are the apex of trade unions and take policy decisions, having a national character. The central union organizations are national federations of labour based on different political ideologies. Because of their political leanings, the affiliated trade unions in the field of labour relations follow either a militant

policy or a policy of cooperation with the employers and the government, or a policy of continuous strife and litigation.

The trade union leadership to these national organizations is generally provided by the politicians. Such leaders are found leading a dozen or more unions in a particular state. These unions may be in the petroleum industry, the transport industry, electricity supply undertakings or craft unions, such as the rickshaw pullers' union or taxi drivers' union. The national/central federations are empowered to decide the question of jurisdiction of the various local and national unions.

A majority of these federations allow their affiliates to bargain independently with their respective employers. The federations only act as coordinating authorities for different unions under their control. They also select delegates to represent workmen in international conferences organized by the International Labour Organisation or the International Confederation of Free Trade Unions. The all-India federation of trade unions has a regular structure. For example

The INTUC consists of a central organization, affiliated unions, industrial federation, regional branches and councils, functioning under the direct control or supervision of the central organization. The assembly of delegates, the general council and the working committees are the areas of direct supervision of the central organization.

The INTUC functions through its affiliated unions, delegates, assembly, general council (including office-bearers), the working committees of the general council and the Pradesh bodies. The UTUC consists of the general body (i.e., delegates' assembly), general council, and the working committee of general council. The Hind Mazdoor Sabha (HMS) works through the general council, the working committee and affiliated organization.

2. **Federations of Unions** These are combinations of various unions for the purpose of gaining strength and solidarity. They can resort to concerted action, when the need for such action arises, without losing their individuality. Such federations may be local, regional, state, national and international. There are a few organizations which are local in character, such as the Bharatiya Kamgar Sena,

the Labour Progressive Federation, Chennai, the National Front of Indian Trade Unions and the Co-ordinating Committee of Free Trade Unions. Many Unions are affiliated to one or the other type of the following central organizations of workers

The Indian National Trade Union Congress; The All-India Trade Union Congress; The Hind Mazdoor Sabha; The United Trade Union Congress; The Centre of India Trade Unions; Bharatiya Mazdoor Sangh; The National Front of India Trade Unions; The United Trade Union Congress (LS); The National Federation of Independent Trade Unions; The Trade Union Co-ordination Committee; Indian Confederation of Labour; Hind Mazdoor Kisan Panchayat; National Labour Organization

Besides the affiliated unions and their federations, there are a large number of associations and federations which have not joined in any one of the central workers' organizations.

Some of these are The All India Bank Employees' Association; The All India Bank Employees' Federation; The All India Insurance Employees' Association; The All India Defence Employees' Federation; The All India Railway men's Federation; The National Federation of Posts and Telegraphs Employees; The National Federation of Indian Railway men; All India Pvt. Employees

Federation; All India Electricity Employees Federation; All India Port and Dock Workers Federation; All India Defence Workers Federation; All India Chemical and Pharmaceutical Employees Federation.

### **Summary**

*The trade union can be considered as an instrument* in the hand of the worker to fight against oppression in industry. *The trade union's image of this militant character* was projected to the society for a few decades after independence. *It is interesting to note that although the Indian Trade Union Act, 1926* has considered many combinations of association including that of employers too, yet the major social perceptions of the Trade Union movement in our country rotate around the alliances of the workers and outside leadership of the political parties.

***This chapter therefore attempts to explain meaning and a few definitions*** with an aim to clear the understanding of the Trade Union and important activities of it.

.....

[**Note** Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books 1.Monappa, A.( 1985).***Industrial relations***, New Delhi Tata McGraw-Hill ; 2. Kapoor, N.D. (2011). ***Handbook of industrial law***, New Delhi Sultan Chand & Sons].

\*\*\*\*

---

## Lesson 2.2 - Trade Union Legislation

---

### Learning Objectives

*This chapter puts stress upon the laws relating to Trade Union. In the process, it frames the major objectives of this Chapter. These are*

1. The Trade Union Act and registration of Trade Union
2. Rights and Responsibilities of the registered trade unions

In the process, this chapter also tries to examine union-centric activities with reference to unionization in the Indian context, emphasizing upon the procedural part in the Act.

### The Trade Unions Act, 1926

#### Introduction

The origin of the passing of Trade Union Act in India was the historic Buckingham Mills Case of 1920 in which the Madras High Court granted an interim injunction against the Strike Committee of Madras Textile Labour Union, forbidding them to induce certain workers to break their contract of employment with the employers by joining in the strike. Trade Union leaders found that they were liable to prosecution and imprisonment for genuine union activities and it was felt that some legislation for the protection of trade unionism was necessary. In March 1921, Mr.N.M.Joshi, the then General Secretary of the all India Trade Union Congress successfully moved a resolution in the Central Legislative Assembly that Government should introduce legislation for registration and protection of trade unions. Nevertheless, opposition from employers to adoption of such measure was so great that it was only in 1926 that Trade Union Act was passed.

## Objective of the Act

The objective of passing the Act was to make essential terms involving the registration of Trade Unions and to delineate the law relating to registered Trade Unions. The Royal Commission on Labour in India viewed that the objective was to give trade unions the needed defences from civil suits and criminal laws amounting to conspiracy so as to permit them to continue their lawful conducts. The Act stretches to entire India embracing the state of Jammu and Kashmir as well. It came into force on the first day of June 1927.

## Trade Dispute

A trade dispute means any disagreement

- between employers and workers;
- between workers and workers;
- between employers and other employers.

Any such dispute as mentioned to be a Trade Dispute must also be concerned with

- (a) the employment,
- (b) non-employment,
- (c) the terms of employment, and
- (d) the conditions of labour of any person

The definition of Trade Dispute in this Act is almost similar to the definition of Industrial Dispute given in the Industrial Disputes Act, 1947. In ***Trade Dispute***, it is necessary that there must be a demand from one party and refusal to accept those demands by other party. There can be real and substantial discord between the parties to such dispute.

## Trade Union

The term trade union can be expressed both in an ordinary sense and in broad sense. In ordinary sense, it is a grouping of workers and in a broader sense; it includes the association of employers and federation of two or more such combinations. The trade union means, according to

section 2(h) of the Trade Union Act, 1926, “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, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions.”

Certain agreements given below have been excluded from the scope of the term trade union.

- (a) Agreement between partners in a business
- (b) Agreement, in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

Similarly an association whose main object was to acquire patent right was held not to be a trade union. Similarly, federation of teachers cannot be referred to as association of trade union for teachers, because they are not being the employees of any industry.

Trade union should send an application for registration to the Registrar and shall be accompanied by the followings

- Name and addresses of the members, making the application.
- The name of the Trade Union and address of its head office.
- The titles, names, ages, addresses and office bearers of the Trade Union.
- General statement of the assets and liabilities of the Trade Union, if the union is in existence for over one year.

The Trade Union can be registered only under the Trade Unions Act, 1926 and the registration of the Trade Unions under any other Act such as the following shall be void

The Societies Registration Act, 1860 or The Cooperative Societies Act, 1912 or The Companies Act, 1956.

The registration of Trade Union is not legally necessary but it brings certain advantages. A registered Trade Union, thus,

- obtains the status of a corporate body by name,
- gets the power to enter into a contract,
- attains a legal entity, and
- can sue and be sued in its registered name

The registrar can cancel or withdraw the registration and can exercise power on Trade Unions for the following issues where

- certificate of registration has been obtained by fraud or mistake,
- trade Union has ceased to exist,
- trade Union has violated any provision of this Act, and
- the primary objects of the Union are no longer the statutory objects.

The Trade Union can request the registrar to cancel their registration after the approval of the general meeting of Trade Unions or majority of members of Trade Union. The Registrar must give at least two months notice in writing, showing the grounds on which he proposes to cancel the certificate of registration. Registration confers on the Trade Unions certain rights and privileges which are as follows

1. Body corporate
2. Separate fund to political purposes
3. Immunity from criminal conspiracy
4. Immunity from civil suit
5. Enforceability of agreements
6. Right to amalgamate
7. Right to inspect books of Trade Union

## **Registration of Trade Unions**

### **Appointment of Registrars (Section 3)**

As regards to registration of a trade union, the Act authorizes the appropriate Government to appoint a person to be the Registrar of Trade Union for each state. The appropriate Government may employ as many additional and deputy registrars of the trade unions as it thinks fit. They shall work under the superintendence and direction of the Registrar. The appropriate Government shall specify and define the local limits within

which any additional and Deputy Registrar shall exercise and discharge his powers and functions.

### **Mode of Registration**

A Trade Union can be registered only under the Trade Union Act, 1926. The Societies Registration Act, 1860, the Co-operative Societies Act, 1912, and the Companies Act, 1956, shall not apply to any registered Trade Union, and the registration of a Trade Union under any such Act shall be void (Section 14)

Any seven or more members of a Trade Union may apply for registration of the Trade Union. All the members applying for registration must subscribe their names to the rules of the Trade Union and comply with the provisions of the Act relating to registration.

### **Application for Registration (Section 5)**

Every application for registration of a Trade Union shall be made to Registrar. A copy of the rules, containing matters as given in Section 6, shall accompany it. It also contains a statement of the following particulars

- The names, occupations and addresses of members making the application;
- The name of the Trade Union and the address of its head office; and
- The titles, names, ages, addresses and occupations of the office-bearers of the trade union.

Where a trade union has been in existence for more than one year before its registration, a general statement of the assets and liabilities of the Trade Union in the prescribed form must be submitted along with the application.

### **Rules of Trade Union to provide the following (Section 6)**

- (a) Name of the Trade Union
- (b) Objectives of the Trade Union
- (c) Purposes for which the general funds shall be applicable

- (d) Maintenance of a list of its members – facilities for its inspection
- (e) Admission of the number of honorary or temporary members
- (f) Payment of subscription – not less than 25 paise per month per member
- (g) Conditions under which members can enjoy the benefits and under which fines may be imposed on them
- (h) Manner in which rules may be amended
- (i) Manner of appointment and removal of the members
- (j) Safe custody of the funds, an annual audit, facilities for inspection of the accounts
- (k) Manner in which Trade Union may be dissolved

### ***Registration (Section 7)***

The Registrar will register the Trade Union, if he is satisfied that the trade union has complied with all the requirements of this Act about registration. The Registrar shall register the Trade Union by making necessary entries in the register, to be maintained in such form as may be prescribed. The particulars relating to the Trade Union, contained in the supplementary statement of the application for registration shall be entered in the register. Where the Registrar takes no action on an application for more than three months, writ under Article 226 can be issued, commanding the Registrar to deal with the application.

### ***Certificate of Registration (Section 9)***

The Registrar, on registering a Trade Union, shall issue a certificate of registration, which shall be conclusive evidence that the Trade Union has been duly registered under the Act. It is obligatory on the part of the Registrar to register a Trade Union provided in the provisions of the Act and is to be complied with. He is not entitled to question whether the Union is lawful or unlawful.

### ***Advantages of Registration***

Although it is not legally necessary for a Union to be registered, registration does provide it with certain advantages. Some of the advantages gained by registration as given in Section 13 are as under

1. A Trade Union becomes a body corporate by name under which it is registered and is a legal entity, distinct enough from its members who constitute it;
2. It gives perpetual succession and common seal;
3. It can acquire and hold both movable and immovable property;
4. It can enter into a contract;
5. It can sue and be sued in its registered name.

***Cancellation of Registration (Section 10)*** Power to withdraw or cancel registration of a Trade Union is given to the Registrar. The Registrar can exercise the power in the following case, namely

1. On the application of the Trade Union for such a course;
2. Where the certificate of registration has been obtained by fraud or mistake;
3. Where the Trade Union ceased to exist;
4. Where the Trade Union has wilfully and after notice from the Registrar allowed any rule to continue in force which is inconsistent with the provision of this Act;
5. Where the Trade Union has wilfully and after notice from the registrar violated any provisions of this Act;
6. Where the primary objects of the Union are no longer the statutory objects of the Act.

Where the Union desires to have its certificate of registration withdrawn or cancelled, the Registrar on receiving of such application must satisfy himself, before granting the application. He should see that a general meeting of the Trade Union approved the withdrawal or cancellation or if not so approved, it should have the opinions of the majority of the members of the Trade Union in its favour.

The Registrar is not competent to cancel registration of a Trade Union without giving requisite notice and giving an opportunity to the Trade Union to show cause against the proposed action.

The Registrar shall give not less than two months, prior notice in writing, stating the grounds on which he proposes to withdraw or cancel

the certificate of registration. No such notice is required where the Trade Union itself makes such application.

### ***Appeal (Section 11)***

Section 11 of the Act gives a limited right of appeal for the decisions of the Registrar. Any person who is aggrieved by the refusal of the Registrar to register a Trade Union or the withdrawal or cancellation of certificate of registration is given the right of appeal. The appeal must be within 60 days of the date of which Registrar passed the order against which appeal is made. Trade Union can be restrained by injunction from applying its funds for an unauthorized object or for an unlawful purpose, because such expenditure shall be ultra-virus to the Act. Thus, it would be illegal to devote Union funds in support of any illegal strike or lockout.

### ***Rights and Privileges***

Registration confers on the Trade Union certain rights and privileges. Similarly, some rights are granted to the members of a registered Trade Union, both collectively and individually. These are as under

### **Body Corporate (Section 13)**

Every registered Trade Union is a body corporate by the name under which it is registered. A registered Trade Union is an artificial person in the eyes of law capable of enjoying rights like a natural person. It has a perpetual succession and a common seal. It has the right to acquire and hold both movable and immovable property. It can enter into a contract, can sue, and be sued in its registered name.

### ***Fund for Political Purposes (Sec.16)***

Trade Union can constitute separate fund for political purposes.

### ***Executive Committee and Office Bearers of Union***

The management of trade union will be conducted by 'executive'. It is a body by whatever name called. Thus, controlling body of Trade Union may be called as 'Executive Body' or 'Governing Body' or 'Managing

Committee 'or any such name. The members of the executive body are termed as 'Officer Bearers'. At least 50% of office bearers of registered trade union shall be persons actually engaged or employed in an industry with which the trade union is connected.

### ***Annual Returns***

Every registered trade union will prepare a general statement of assets and liabilities of trade Union as on 31st December. The statement will be sent to Registrar along with information about change of office bearers during the year.

### ***Immunity from Provision of Criminal Conspiracy in Trade Disputes( Sec.17)***

Office bearer of a trade union shall not be liable to punishment u/s 120-B(2) of Indian Penal Code, 1860 in respect of any agreement made between members for the purpose of furthering any such object of trade union on which general funds may be spent. But if the agreement is agreement to commit an offence, no immunity can be claimed. Thus, office bearer of trade union cannot be prosecuted for criminal conspiracy in respect of agreement relating to object of trade union.

### ***Immunity from Civil Suit (Sec.18)***

A civil suit or other legal proceeding is not maintainable against any registered trade union or office bearer in furtherance of trade union activity on the ground that

- a. such act induces some person to break a contract of employment or
- b. it is in interference with the trade, business or employment of some other person

### **The Objects on which General Funds may be spent (Section 15)**

- (a) Salaries, allowances and expenses to office bearers;
- (b) Expenses for administration and audit of the accounts of funds of the union;

- (c) Towards Prosecution or defence of any legal proceeding to which the union or its member is a party;
- (d) The conduct of trade disputes on behalf of the union or its members;
- (e) Compensation for the members at the time of dispute.

### **Penalties and Procedure**

Under Sections 31 to 33, the Registrar of Trade Unions is empowered to impose penalty on the trade union for default in submitting returns or for supply of false information or statements.

#### **(i) Failure to Submit Returns (Section 31)**

- (a) Failure to give notice which is required to be given by a registered trade union;
- (b) Failure to send any return, required to be sent by a registered trade union; or
- (c) Failure to send any documents, required to be sent by a registered trade union. Every office-bearer or other member of the executive committee is bound to give such information, or send statements or documents as required under the provision of the Act, and if this is not done, they are punishable with fine which may extend to ₹ five. In the case of a continuing default, an additional fine extending to ₹ five may be imposed for each week after the first week during which the default continues.

The following information or statements are required to be submitted by the registered trade union

- (i) Notice of change in the address of the head office of the trade union( Sec.12);
- (ii) Notice of change of the name on amalgamation of the unions( Sec.25);
- (iii) Notice of change in the officers of the trade union;
- (iv) Copies of the corrected rules ;
- (v) Copy of every alteration made in the rules;

- (vi) Notice of dissolution of the trade union (Sec.27); and
- (vii) Annual returns for the period ending March 31 (Sec.28).

Any person who wilfully makes, or causes to make, any false entry in, or any omission from, the general statement required by Sec.28 or from any copy of rules or of alteration of rules sent to the Registrar under Sec.28 shall be punishable with fine which may extend to ₹ 500.,

### **(ii) Supplying False Information about Trade Unions (Section 32)**

The Act also lays down that where any person, with the intent to deceive others, gives any document purporting to be a copy—

- (a) of the rules of the trade union, or
- (b) of any variation of the same,

Which he knows, or has reason to believe, is not a right copy of such rules or changes as are for the time being in force.

Such person shall be punishable for such alteration with fine, which may extend to ₹ 200.

So, any person, who with intent to deceive others gives a copy of any rules of an unregistered trade union on the pretends that such rules are the rules of a registered trade union, shall be punishable with fine which may extend to ₹ 200.

### **(iii) Cognizance of Offence (Section 33)**

Any **offence** under this Act cannot be tried by a court inferior to that of Metropolitan/Presidency Magistrate or a Magistrate of the First Class. Further, no court shall take cognizance of any offence under the Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar. In the case of an offence of supplying false information regarding the trade union, the aggrieved person may make the complaint within six months of the date on which the offence is alleged to have been committed.

Individual employees, if not required to become members in good standing in the union, may refuse to follow contract provision. Other employees, although benefiting from union activities, may also refuse to support the union. These “free riders” can create dissatisfaction among union members, who may also likewise refuse to continue their support to union activities. For these reasons, unions often propose some system of union security, of which all employees are required to be or to become and to remain union members.

### ***The Union Security Covers***

- (a) ***Sole or Exclusive Bargaining Agent*** Under this type of security, the union is accepted as a bargaining agent for all employees (members and non-members) in the unit.
- (b) ***Preferential Union Shop*** Under this additional, recognition is granted to a union by agreement that management shall give the first chance to union members in their career movements.

### **Unionization in the Indian Context**

Trade union law and political parties’ strategies appear to be more or less consistent with each other that in other way propagates the process of unionization in the country as such.

The Trade Union Act 1926 states, “Any seven or more members of a trade union may, by subscribing their names to the rules of the trade union and by otherwise complying with the provisions of the Act with respect to registration, apply for its registration.”

This has resulted in a large number of registered and unregistered trade unions. Another factor is that the major political parties have a federation at the apex or national level to which unions at the plant and state level are affiliated. The organization pattern of a trade union federation is usually three-tiered. Units exist at the plant or shop, state and the national level.

### **National Level Federation**

Historically, four major federations have been in existence and have established a national network of federal unions. They are

1. The All India Trade Union Congress (AITUC)
2. India National Trade Union Congress (INTUC)
3. United Trade Union Congress (UTUC)

Of the four, the penultimate one, UTUC, has to a certain extent merged with the Center of Indian Trade Union (CITU)

Other than the above,

1. National Labour Organization (NLO)
2. Bhartiya Mazdoor Sangh (BMS) and
3. Hind Mazdoor Panchayat (HMP) are a few having stronger regional affiliations than a national coverage

### **Industry Level Unions**

#### **Textile Labour Association [TLA]**

Ahmedabad is an example of the industry level union. TLA has diversified into an unorganized sector. However, its strength and major contribution has been in the textile industry.

### **Local Level Unions**

Many Indian Unions are not affiliated to an industry level federation and in many cases may not have any affiliation to the national federation. They are thus independent local unions centered on a particular plant or a multi plant organization. Irrespective of occupational groups, all are admitted to this union. The numbers may vary among the small, medium and large ones. In specific situations, the assistance or guidance of the larger federations or other large unions in related industries are sought.

## Issues Relating to Recognition of a Union

There are two issues of concern before the management here

*The first is the issue of recognition of a union peruse*, especially in a non-unionized situation. The first question that arises out of it, is Which union is one to be recognized? Alternatively, should more than one union, be recognized? *The second issue related to this is the problem of verification*. It is a process by which the contending unions' claim to memberships can be crosschecked. This is indeed needed to enable a trade union to seek to its representative status.

The two issues are related to (i) the need to recognize a union; and (ii) the process to be employed for verification when a union stakes its claim, either in a new option for union or in multi-union situations. This problem arises because now there is no uniform legislation available in all the states and union territories with regard to the recognition issue. There have been attempts repeatedly at restructuring and streamlining the system but nothing has been affected so far. It is only in states, where the Bombay Industrial Relations Act is in force, i.e., Gujarat and Maharashtra, that there are elaborate provisions regarding recognition.

The Act classifies trade unions into three categories

1. Representative union
2. Qualified union,
3. Primary union

The basis of this classification is the percentage of membership that a union has at the industry level (Chemical industry) or at the lowest level, the primary union.

The representative union should be able to muster 15% of the total number of employees, employed in any one industry in a contiguous area. The qualified union should have 5% of the employees in an industry enrolled as members and finally the primary union should have 15% or more employees enrolled in a unit or a plant. Therefore, it is apparent that there is a scaling down of numbers in terms of the status accorded. The idea is to provide some basis to assess the relative strength of a union seeking recognition.

### **The Verification Process under the Code of Discipline**

In a situation where a union puts forth a claim to be recognized under the Code of Discipline, the Labour Department satisfies itself about the union's representation. The department would collect the following

1. Particulars of existing unions in the plant, registration number and date of registration, whether the existing recognized union has completed a two-year period, whether any of the unions has completed a two-year period, whether any of the unions committed a breach of the Code of Discipline as established by an enquiry of the implementation machinery. Within 10 days, the aspirant unions and other existing unions will have to produce documentary evidence to the verification officer in respect of the list of members who have paid subscriptions for three months out of the preceding six months.
2. Membership and subscription.
3. Money receipt counterfoils.
4. Books of Accounts.
5. Bank Account Books (Statements)
6. A copy of the Constitution of the union.

If there are two unions then both need to furnish the required data. However, if the unions

Abstain from providing data, the verification officer after giving 10 days notice, will go ahead with the verification process and come to a judgment. The verification officer scrutinizes the documents in the presence of the union(s) submitting the above data. If both the unions have claimed any member then an explanation is called for.

The muster roll of the firm will also be checked to ensure that the names tally in terms of employment and union membership. After this process of checking and rechecking, the concerned unions can themselves go through the verified list of members and notify their objections, if any. Only specific objections will be considered. The objections will then have to be verified. In order to establish this, a systematic sample of employees will be selected for personal interrogation. The proportion of interviews

varies from a figure as high as 29% or a minimum of 100 when the number of names objected to be 500 to 2% or 250 when the number is above 5000 or more.

The verification officer will then submit his report to the government as well as to the management of the firm. This verification process is according to the Code of Discipline. However, since the code is not a statute, his findings have to be accepted in good faith by both the management and unions during their bilateral talks. Many agreements incorporate the acceptance of such voluntary codes.

### **Rights and Responsibilities of Registered Unions**

Within the main clauses of the Trade Union Act of 1926, having the concern for the formation of unions, certain other features are also worth noting. Registration, which means formal recognition of a representative body, also entails certain pre-conditions. A registered union must allow membership to anyone over 15 years of age and have 50% of the office bearers from within the industry. It must keep its books of account in order and send its income and expenditure statements to the registrar of trade unions on or before 31<sup>st</sup> March.

The union can spend its funds on salaries of office bearers, prosecution, defence, etc. for protecting its trade union rights, to provide compensation to members, levy subscription fees, publish periodicals, etc. More important, a registered union can claim protection from being prosecuted for legitimate trade union activities. This protection is under Section 120 B, subsection 2 of the Indian Penal Code.

The issue that arises, therefore, is the distinction between a recognized union under the Code of Discipline and a registered union under the Trade Union Act of 1926. The former is a voluntary act and may well concern a representative union, while the latter may not always cover a representative union, especially in multi-union situations where there are many small unions or two or three factions. In the absence of any statute, the recognition of a majority bargaining union of the workers remains a cumbersome process.

## Summary

*This chapter starts with the story of delayed* introduction of the Trade Union Act in 1926 and thereby states the incidences of underlying barriers for its introduction, especially from the sections of employers.

*The objective of passing the Act was to make* essential stipulations relating to the registration of Trade Unions and to state the law narrating to the affairs of the registered Trade Unions. *In the process, the chapter undertakes* to clarify the issues of trade disputes and nature of trade union. *In order to give a complete understanding it* begins with the procedural aspects of the registration of the trade union with emphasis upon the appointment of Registrar, mode and application for the registration along with the relevant information to be divulged by the union at the time of registration as per this Act. *Furthermore, in this part of registration issue,* this chapter underlines on the procedural part of the cancellation and appeal against such termination. *The chapter also makes an endeavour to depict the* topic of unionization in the Indian context with the aim to focus upon different levels of union. *In continuation, therefore it takes into account* the subject matters linking recognition of a union and the rights and responsibilities of registered unions

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the help of the cited book Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons].

\*\*\*\*

---

## **Lesson 2.3 - Multiplicity of Trade Unions, Conflict Resolutions, Industrial Relations, Welfare and Productivity and Social Responsibility of Trade Unions**

---

### **Learning Objectives**

The major objective of this chapter aligns to project upon the varied conditions, affecting the effectiveness of the Trade Unions. Linked to this, it puts thrust upon welfare- related roles of the Trade Union. In this context, this chapter wants to examine the function of Trade in carrying out the social responsibility.

In continuation, therefore, it can be stated that this chapter tries to give a comprehensive outlook of the social usages of the Trade Union under industrial perspectives.

### **Multiplicity of Trade Union**

In India, many of the unions are general unions. In this environment, a combination of factors seems to operate. Let us consider the very first condition of the democratic principle that says that any seven members are being capable to form and register a union. In a democracy, even the minority has the right to explore an opportunity to organize and further its interests. The Trade Union Act of 1926 also gives sanction to this principle of seven members forming a union.

Secondly, given the large number of trade union federations at the national and regional level, which are vying with each other for increased membership, there is bound to be the disunity among the workers. There is no single federation to which all the other federations belong. The trade union leaders, some of whom are outsiders while others have come up from within the trade union movement, have different approaches to the problems at hand and hence there may, and does come a parting of ways on many occasions. In multi-union situations at the plant level, the problem of inter-union rivalry frequently poses a managerial problem.

Disagreement among unions to technological change, rationalization, automation or terms and conditions of employment causes the stoppage of work. Sometimes one union agrees while the other does not, for a variety of reasons. These rifts are also due to the rivalry among leaders, or to differences in strategy to be adopted or to differences in ideology. A clash of personalities and egos also plays its part. One of the effects of industrialization, which has meant the stepping up of the rate of capital formation, has been a strain on the living standards of workers. This has been coupled with another side effect i.e., job insecurity – a problem that workers usually face in the initial stages of industrialization. The growth of unions in such cases has generally been to protect the interest of the working class.

The process of industrialization itself makes for increase in the rate of unionization. In India, this process has not followed the pattern that existed in the developed countries. The merchant-craftsman's stage of capitalism was bypassed and we had instead an abrupt transition from the agricultural pattern of production to the factory pattern of production. In the process, the emphasis on artisans and their skills got de-emphasized. This, when coupled with the low level of skill formation, not only meant a greater number of unskilled industrial workers, but, also as a consequence, led to the growth of several general industrial unions and hence the problems of inter-union rivalry.

Another factor was the political linkage with unionization. Unions through their collective action are organizations concerned with the interest of a particular class. Hence, they are also concerned with the distribution of power. Since distribution of power and decision-making is linked with the political process, the inter-relationship between politics and unionism is part of this process, which is perpetual. Both political parties and unions have a stake in each other as the effect of their actions and strength is of interest to each other. Unions have a vital stake in the political process and the decisions that will change or restructure the balance of power within their society.

The growth of the four major national federations can be traced directly to the growth of the major political parties that have different ideologies and approaches to the distribution of power and the role of labour in society. The ideological links between these federations and

the political parties are, therefore, responsible for cleavages in the union movement. Another phenomenon has been the role of the 'outside leaders' in the union. This is partly due to the low level of education of the workers, their lack of opportunities to gain experience and therefore their dependence on small elite of educated and influential people. All these factors have led to the domination of the trade union positions by 'outside' leaders. The technical demands in terms of understanding the voluminous and all-embracing legislation are formidable and a legalistic approach seems to be all pervading.

Therefore, familiarity with the various pieces of legislation does play a part in getting things done. The social distance between the manager and the worker has also played its part. In a tradition-bound society, which gives due deference to authority, the distance between the manager and the worker, has been substantial. Politicians come turned union executives have therefore filled the gap.

### **Detrimental effect of Multiple Unionism**

The large number of national federations at the macro level means that the 'unit' level concept has been considerably de-emphasized. It leads to the diffusion of union power at the top and therefore damages the political advantage of labour. It also leads to inefficient efforts to change or introduce new legislation in order to improve the lot of workers, which could have been possible if there was one cohesive body at the macro level.

Similarly, at the micro or plant level the unions have an 'extra-plant' orientation of the unions that is inherent in their political groupings. This restricts their ability to judge a plant issue on its own merits without adding an 'extra' (political) dimension to it. The different unions are unable to come together to submit a common charter of demands as their differing ideologies make it impossible to take a united stand, with each individual union seeking to gain more leverage for itself from the particular situation. Managements also find it difficult to respond to these union demands as they are not plant-oriented and thus outside the management's control.

Multiple unionisms also lead to multiple enrolments in unions and non-subscribing members, causing delay or failure to get recognition. This restrains a union's bargaining power during a period of prolonged

strife while the unions are squabbling among themselves for dominance, the workers are deprived of their wages and the plant suffers a loss of production. One can say that the effect of multiple unions has largely been detrimental to the objectives of the trade union movement.

Again, at the plant level, multiple unionisms qualitatively weakens the movement, resulting in the formation of small-sized unions without effective organization, a precarious financial position and an inability to achieve significant benefits or rights to the members through their own efforts. Collective bargaining is not possible and there is greater dependence on government machinery in labour-management relations. This constant power struggle and jostling for the position of being the major trade union results not only in propaganda amongst fellow workers to gain support for a particular union but at times in violence and disharmony.

The primary role of a union is to protect the workers and to channelize their efforts into more rational directions so that the viability of the plant is also enhanced. The effect of having multiple trade unions both at the macro-and-micro-levels serves only to weaken the workers' power base while at the same time negatively affecting the viability of the plant. A variety of remedies have been suggested, which will be discussed later.

However, it must be noted that in spite of the foregoing, there are many organizations where multiple unions exist and the management does effectively negotiate, and conclude agreements. In many plants, workers are unionized – on a craft basis – their special skills or training bonding them together. Multi-unionism is more a problem where general unions exist, for whom all categories can be organized in one general union

### **The Presence of Conflict**

Conflict, basically, is a process that initiates from the perceptual anxiety of one party that other party has negatively altered or is going to alter negatively the interest of the first one with which he or she is concerned. Although a multitude of causes lead to industrial conflicts, it is not always easy, in specific instances, to ascertain the particular cause or causes involved. The surface manifestations of unrest and dissatisfaction that appear to be responsible for work stoppage may cover deep-seated

and more basic causes, which cannot be observed at first sight. Moreover, the relative importance of the causes, when more than one is present, is often very difficult to evaluate.

In spite of this observation, it has been pointed out by industrial relations experts that the causes of conflicts between labour and management are usually the same, wherever capitalist economy prevails. According to few experts, the growth of capitalistic firm, indeed, gives the capitalist entrepreneur the power to control over the means of production which in other way can be considered to be the basic cause of discord between the management and the worker, as such, across the world. In continuation to this line of thought, a group of social scientists believes that inherent antagonism prevails between the employees [sellers of labour power in capitalist economy] and the employers [buyers of the labour power] which produce different extents of discontent, dissatisfaction and mistrust between the two. In fact, at one side the workers are very much engrossed with the higher pay/ wages, career advancement, protection against any types of unfair practices, recognition, a helpful work climate, power to take job –centric decisions etc and on the other side the employers try to push back the employees' demands with the plea of lesser degrees of profit against higher extents of investment i.e, they always try to magnify expenditures and shrink the profit. Employers, therefore, make the efforts to curtail the costs of labour with the aim to inflate their profit margins. So two prevailing opposite perceptions, actually, amplify the dysfunctional conflict between the parties under the capitalist mode of production.

### **Different Causes of Conflict**

Industrial relations may be harmonious or strained and acrimonious. In the latter case, there may be many causes, which are rooted in historical, political and socio-economic factors, and in the attitudes of workers and their employers. These causes are being discussed under the following hea

- (A) Industry related factors;
- (B) Management-related factors;
- (C) Government-related factors; and
- (D) Other factors.

(A) *Industry-related factors*

1. Under this category, some of the causes of a dispute may be The Industry - related factors pertaining to employment, work, wages, hours of work, privileges, the rights and obligations of employees and employers, terms and conditions of employment, including matters concerning to
  - dismissal or non-employment of any person;
  - registered agreement, settlement or award; and
  - demarcation of the functions of an employee.
2. An industrial dispute which connotes a difference and which has been fairly defined as is of real substance;
3. A matter in which both parties are directly and substantially interested; or which is a grievance on the part of a worker with the employer and is likely in a position to be redressed;
4. An issue, which is such that the parties are capable of settling between themselves or referring it to adjudication;
5. Disputes often arise because of relatively higher working population and labour force. There is sharp increase in the quantum of unemployment from one plan period to another. A high quantum of job seekers in the employment market would create serious industrial relations problems. Further, the policy of liberalization that calls for the adoption of high tech in industries would further complicate the problem by reducing employment;
6. The galloping prices of essential commodities, their shortages and/ or non-availability, all these, erode the value of money, because of which the real wages of the workers go down. The existing inadequate and unjustified wage structure which has been chaotic,, confusing and full of anomalies; and failure to pay a “need-based wage” and D.A. all these have created dissatisfaction among workers and constrained tem to demand higher wages;
7. The attitude and temperament of industrial workers have changed because of their education, their adoption of urban culture and the consequent change in social values, the growth of public opinion and progressive legislation enacted for their benefit. They are,

therefore, very conscious of their rights and will not put up with any injustice or wrong done to them;

8. The trade unions at large have failed to safeguard the interest of working class on account of reasons like
  - (a) The growing inter-union rivalry and multiplicity of trade unions have destroyed the solidarity of the working class;
  - (b) Non-recognition of some trade unions as “bargaining agents” of their members;
  - (c) Increasing compulsory adjudication of disputes has made trade unions indifferent to the wages and working conditions of industrial employees which can now be determined by courts, tribunals and wage boards;
  - (d) The trade unions generally do not bother about any aspect of the lives of industrial labour except their wages;
  - (e) The trade union leaders who are not themselves industrial workers have become eyesore.
  - (f) The trade unions generally are organized based on caste, language or communal considerations, which “divide” rather than “unify” workers.

### ***(B) Management Related Factors***

The management-related factors that lead to disputes are

- (i) Management generally is not willing to talk over any dispute with the employees or their representatives or refer it to “arbitration” even when trade unions want it to do so. This enrages the workers.
- (ii) The management’s unwillingness to recognize a particular trade union and the dilatory tactics to which it resorts while verifying the representative character of any trade union have been a very fruitful source of industrial strife.
- (iii) Even when employers have recognized the representative trade unions, they do not, in a number of cases, delegate enough authority to their officials to negotiate with their workers, even

though the representatives of labour are willing to commit themselves to a particular settlement.

- (iv) When, during negotiations for the settlement of a dispute, the representatives of employers unnecessarily and unjustifiably take the side of the management, tensions are created, which often lead to strikes, go-slow or lockouts.
- (v) The management's insistence that it alone is responsible for recruitment, promotion, transfer, merit awards, etc. and there is no need to consult employees in regard to any of these matters, generally annoys workers who in turn become un-co-operative and unhelpful and often resort to strikes.
- (vi) The services and benefits offered by the management to its workers in most of the cases are far from satisfactory, which invariably leads to conflict.
- (vii) The decisions of managements to change their working methods, resulting in surplus of which employees are to be thrown out of employment and some-times close the establishment for various reasons.

### ***(C) Government-Related Factors***

The various Government-related factors that breed disputes are as under

- (i) The changes in economic policies also create many dispute situations. For instance, policies of liberalization and privatization have caused many strikes in the country.
- (ii) Though, there exists a plethora of enactments for the promotion of harmonious industrial relations, yet their ineffective or unsatisfactory working causes conflicts, a few instances of which are
  - (a) Most of the labour laws have lost their relevance in the context of the changed industrial climate/culture;
  - (b) Improper and inadequate implementation of labour laws by most of the employers; and
  - (c) Inherent difficulties in monitoring the working of various labour laws.

- (iii) The growing irrelevance of Government's conciliation machinery because
- i. both the employees and the employers have little faith in it
  - ii. both have become litigation-minded;
  - iii. it is inadequate, poor the number of disputes referred to it are very large and the personnel dealing with them is hopelessly inadequate, particularly because in addition to labour disputes, it is called upon to see to it that labour laws are properly implemented and
  - iv. the officers associated with conciliation proceedings have very little training in handling the problems or disputes which are referred to them.

**(D) Other Factors**

Among these may be included the following

- a. The trade union movement is highly influenced by politics. Quite often, politicians and political parties "engineer" strikes, gheraos and bandhs to demonstrate their political strength, invariably, the political party that is in power favours that trade union organization which is affiliated to it, because of which a number of disputes often arise.
- b. The political instability and sometimes the strained centre-state relations are reflected in industry, resulting in industrial conflicts.
- c. Other potential factors, such as rampant corruption in industry and public life, easy money, conspicuous consumption, permissive society, character crisis and general breakdown in national morale have brought, in their train, debasement of social values and social norms – all these can and have perpetuated all kinds of unrest, including industrial unrest.
- d. The tense inter-union rivalry among less important and dominant trade union invariably sparks off disputes.

## Conflict Resolution

From the above it is evident that a number of causes create a climate that incites the conflict among the parties involved in industry. Away from perennial causes interpersonal and organizational communication patterns, organizational labour policies and above all the individual personalities play a vital role in determining the extents and intensities of negative conflicts among the parties. The consequences of the dysfunctional conflict on substantial periods

From trade union points

1. It produces *discontents and dissatisfactions* within the workers;
2. It reduces *individual performances, team performances and organizational effectiveness*;
3. It reduces *group cohesiveness* that in other way hampers *group morale and team spirits*;
4. It increases the *infighting among the members* and with prolonged extensions; it can beget the *group working at standstill and intimidates the existence of the group, and the trade union*;

From the management points, the dysfunctional conflict

- i. Creates higher *rate of absenteeism and turnover*;
- ii. Decreases *team performance*;
- iii. Makes a *work atmosphere that pulls the persons instead of pushing them forward*;
- iv. Minimizes the *information processing capabilities* of the persons, the *teams and the organization*, as a whole.

However, the dysfunctional conflict is unavoidable in the organization and requires being resolved as quickly as possible. Here we discuss three rational techniques that are useful to resolve the conflict. These are **1. Problem Solving, 2. Smoothing, and 3. Compromises**

**Problem Solving** technique is one of the rational approaches through which the persons under conflict are persuaded to meet with each other under prefixed condition of openness. **This is followed by a**

*time-linked* phase that talks about the elimination of differentiation and installation of the process of integration between the parties. **Persuasive communication** techniques are used to consolidate unanimity. **Parties get reasonable** time to identify the points of differences and explore the solutions under win-win situation. **It helps the parties** to prepare the mind-sets in a way that increases the mutual understandings and with a moderate to long exposures of time, both the parties are likely to sort out the possibilities of mutual compatibility of interests.

**Smoothing is also the extension of the problem solving** in the sense that under the technique both the parties try to sort out the common zone of interests and then eliminating the differences and highlighting the common interests, both of the parties make the conflict smooth as far as possible. Under this circumstance, the dysfunctional conflict turns into functional conflict

**Compromise** is another technique to resolve the conflict where the conflicting parties try to give up some aspects of their interests under an atmosphere that evokes the attitudes of sharing. Here both the parties are ready to give up something at the cost of getting something i.e., mutually compatible interests.

## **Industrial Relations**

Industrial relations are affected by the impacts of a number of interacting factors, arising out of the environmental context. These **factors** include **state** labour policy, **enactment** and enforcement of labour laws, **labour judiciary**, **role of labourers** in economic development, **recruitment**, selection and training, **standing orders**, **absenteeism**, **labour turnover**, **migration**, **working** conditions, **labour** welfare , **social** security, **personnel** management policies and practices, **wage** problems, **incentives**, **joint** consultative machinery, **workers'** associations with management etc.

Similarly, the **collective** bargaining and **collective** agreements, **prevention** and settlement of **disputes**, **strikes and lockouts** have a direct bearing on industrial relations. Among other things, industrial relations involve the interplay of various types of factors such as **rate of growth**, **degree of industrialization**, **technology**, **personal characteristic of the labour and management**. Fortunately, the industrial relations are highly

structured in India by state interventions and there are four parties constituting industrial relations system. i.e. the state, management, workers and trade unions. The Indian Industrial relations are different from other countries in the following ways Most of the managements in India consider trade unions as necessary evil of the industrial system while the trade unions consider challenging and opposing the decisions of the management as their main task. The future of collective bargaining in India is very weak owing to the basic disagreement between the political parties who control the unions.

Generally, most of the Indian trade unions are highly conservative in contrast to the European and American trade unions. In India, the industrial relations are marked by industrial conflicts, militant trade unions and authoritarian employers. Due to the introduction of new liberalized economic policies, India has witnessed radical changes unthinkable even decades ago. In this context, it is worthwhile to think of some of the prominent spheres where the changes have taken place with the introduction of the new economic policy. Smooth industrial relations requires that all the participants are to be motivated to work whole heartedly for making the system to work. According to the new economic policy during 1991 a series of industrial fiscal and trade, the government to create industrial peace and prosperity announced reforms. Generally, the reasons for industrial disputes in India were psychological, political and economic. To achieve industrial peace, changes in the attitudes of workers, employers and trade unions are required along with political and economic changes.

### **Welfare and Productivity**

The Trade Union should take care, comprehensively, the advantages of the workers in particular under its folder and others, collectively, irrespective of affiliations.

Trade Union should look after a number of facilities for the welfare of the employees under on the job condition. These facilities are described below

- Separate *washing facilities* for male and female [To be approached handily and are to be kept clean regularly];

- **Facilities for the storage and drying of the clothes**, if and when required [This is needed mostly at rainy season and essential for the ladies];
- **Facilities of the Canteen** under employee governance through the managing committee and employer should bear the cost of running the same;
- **First-aid appliances and Ambulance** as per the prescribed provisions of the relevant Acts are made available as and when required;
- **Adequately lighted and ventilated crèches** are to be offered to the lady employees[ 30 and above]—the constructions and room furnishings are to done in accordance to the state government's rules to this regard;
- Employers should create the **provisions for shelters, rest rooms and lunch rooms** for the employees

These are, mostly, connected to the availability of the amenities that are to be offered to the employees by the management on behalf of the employers within industry. Trade Union as the representative of the employees should assist the employees to make certain about the accessibilities of those services. To this end, collective bargaining is one of the essential instruments that trade union uses to establish the claims as per rules. An effective Trade Union is one that is merely not trying to improve the monetary benefits linked to jobs only but contrary to it, the union gives equal emphasis on off the job welfare services, extended to workers' families under broader perspectives. Under off the job conditions the welfare provisions extend to the employee's family in a way so that employee can be able to get a standard life style. Off the job welfare provisions thus constitute 1. Education for the children and vocational training programme for the adults; 2. Employee cooperative; 3. Employee benefit funds; 4. Medical insurance; and 5. Extension of treatments to the employee's family members under subsidies.

Broadly speaking, Trade Unions, under changing perspectives of employee relations, look to the issues of the employee welfare from the following standpoints

1. Employee should be assisted to adjust economically and socially as far as possible in the wake of accelerated movements of the standard of life;
2. Emotional disturbances and marital conflicts of the employees are to be dealt with extreme care through pragmatic counselling programmes[ The perspective of viewing the Human Resource as Capital by the Trade Unions insists upon them to take care of the personalized problems of the employees—a meaningful shift towards fraternal compatibility];
3. Employees should get a decent standard of living at par with the market and thereby the Trade Unions assert to increase the employees' effectiveness.

A new group of employee welfare services has emerged that takes into account the immediate reduction of work-life problem in a cost effective way. Fraternal cooperation of trade union with the management, further, propel a joint activity towards the higher productivity of the enterprise and simultaneously the mutually consistent responses of both the parties enforce upon the trade union to procure optimal level of welfare services within the prescribed format of laws and codes of the country. Trade unions, now a day, strives to avoid the incompatible activities, mutually agreed upon by the managers and joins cohesively with them to formulate and execute the action plans that confirm increased productivity of the enterprise, a meaningful industrial relations and the ultimate success of the business under industrial peace.

### **Social Responsibility of Trade Union**

Trade unions under changed circumstances begin to realize their commitments to the community for the sake of the survival of the business under the threat of competition with growing inclusions of the uncertainty. Any enterprise, whether domestic or MNC or TNC, operates under the social system of the nation. For the purpose of its effective business operations, it builds tangible and intangible relations with the stakeholders including the government. The role of the government is vital. It is in the sense that by framing Acts, Rules and Regulations government allows the industry to flow its business activities in a systematic and standardized manner in one hand and on the other as part of maintenance

and service costs government fetches the revenues from the same. The concept of government without society is meaningless because ultimate source of power is the society from where it is vested to the government who then opts for different extents of rationalized distribution of power or authority to the organizations under the industrial or business set-ups in accordance to the rule of governance. Here the organization for carrying out business activities goes for honouring different types of contract with the stakeholders from short term to long term.

However, all these are the direct contracts in the sense of establishing some form of exchange relations under obligation. Nevertheless, a relationship that never spells the immediate exchange but the expectation to carry out only the relations in some form or others linked to push future benefits to the parties involved. This is the most significant business relationship that implicitly binds the primary stakeholders of the business i.e., the owner, the government, the management, the employee, the union and the customer, both present and potential, of the society with its vastly dispersed communities. Within this framework, let us now explore the social responsibility of the trade union. In addition to main functions, trade unions have now started undertaking and organizing social activities and providing variety of services to the community of which they are a part, which may be grouped under the following heads

### **Welfare Activities**

They put thrust to improve the quality of work life of the employees and thereby initiate measures like opening up of the employee cooperative societies for providing housing credit & other benefits, extending banking and medical facilities to the family members of the employees, taking part in the community development programmes, arranging socio cultural programmes etc. Under the social responsibility it can be conjectured that the trade unions now propagate different educational programmes for the employees' families and the community in general.

### ***Education***

Education of members creates awareness about the environment around them. It enhances their knowledge, particularly, with regards to issues that concern them. It also makes them aware about their statutory

and other rights and responsibilities and finally education enriches the perceived meaningfulness of the employees about the necessity of workers' participation scheme. This meaningfulness is important because it directs the course effective participation. Equally, education helps the employees to identify the correct procedure for redressing their grievances.

### **Communication with the Members and the Community**

Trade unions often go for the publications of news letters or magazines or periodicals. These endeavours are aimed towards establishing communications with their members in particular and others of the community in general, making the latter aware about the union policies and stand on certain principal issues as well as specific personal matters of the members, such as births, deaths, marriages, promotion and achievements. Apart from this, it engages in cohesion with the management to interact with the local and distant communities through two-way communication. Through this approach trade unions strive to provide policy-centric information, covering a number of issues like environmental protection, customer services, employment feasibilities, employee welfare scheme etc. in one hand and on the other invite the opinion of the communities by public opinion survey, seminars, workshops and media talk shows. With the advent of electronic media, it is now easier and quicker to communicate with the community and thereby to formulate socially endorsed business-centric action plans.

### ***Research***

Of late, this is gaining importance and is intended, mainly, to provide updated information to union negotiators, systematically collected and analyzed at the bargaining table. Such research is to be more practical than academic, concerning problems relating to day to affairs of the union and its activities and union and management relations. Some of the research activities are

1. Collection and analysis of wage data including fringe benefits, and
2. Market survey for other benefits and services in order to get the idea about competitive practices, and
3. Data on working conditions and welfare activities.

## Summary

*This chapter includes a number of issues* that are relevant with reference to trade union. *So to say, multiple trade unions produce the detrimental* effects more in facilitating the cohesive move of the industry as a whole. *Cohesive movement with the consistent drive* of the management and the trade union as a whole is the basic ingredient that counters the uncertainty of the growing competition. *To this, regard inter-union contest and competition* appear to be the great problems. At the plant level this opposite approaches of the inter-union rivalry frequently pose problems to the management. *This chapter, therefore, attempts to give an elaboration* of the detrimental effects of multiple unionisms within Indian industrial scenario. *In the process, it focuses upon conflicts that* arise out of the absence of mutually compatible interests among different interest groups. *Existences of conflict among different unions, both intra and inter union, evolve* disagreements among the groups of stakeholders. Again under the condition both the management and the unions find it difficult to move cohesively to achieve the goal of the enterprise. *Indeed, industry faces the dysfunctional effects of the conflict* more than the functional one. In continuation, the chapter makes detailed examinations of the sources that generate different causes of the conflict in one hand and on the other presents some of the remedial techniques to diffuse it. *Last but not the least, this chapter, within the back up of* industrial relations in Indian condition, projects the role of the trade union in initiating and implementing employee welfare services. *Trade unions now in consonance with the management* assist the employees to avail welfare assistances and at the same time go beyond these to cater services to the society.

.....  
 [NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books 1.. Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons; and 2. Robbins,S.P., Judge,T.A., and Sanghi,S. (2007).Organizational behaviour,12th Ed, Delhi Pearson Education,Inc,pp.554-84 ].

\*\*\*\*

---

## **Lesson 2.4 - Industrial Relation Management and Management of Trade Union**

---

### **Learning Objectives**

The major objective of this chapter is to appraise about the problems of Trade Union movement of India and issue like changing pattern of Government Labour Policy with a view to give a comprehensive understanding of industrial relations system where Trade union alike the management is a vital constituent. In continuation, the chapter aims to assess a few measures to strengthen Trade Union, which definitely justify the need to utilize its strength. Therefore, as an extension of the earlier objectives, this chapter also concentrates upon an emerging issue that talk about the management of Trade Union under changed condition.

### **The Government Labour Policy under Changing Mode**

Due to launch of the new economic policy, the government, for safeguarding the interest of the working class, took a number of measures, arising out of several factors, stated above. Out of these factors, growing rates of knowledge obsolescence and technological innovations are remarkable forces, asking for quick adaptation. In order to accommodate the environmental demands, government has, decisively, been trying to implement changes in the labour policy as per the recommendations of Indian Labour Conference. The most prominent measure is the setting up of the National renewal Fund. The amended ESI Act of 1989 is again a great leap to this end.

The amendment makes a wide coverage of this Act whereby workers of non- seasonal factories, using power [employing 10 or more workers] and non-power [employing 20 or more workers], has brought under it. The wage limit for the workers to be covered under the Act has been raised from ₹ 16000 per month to 32000 with effect from April 1992.

The standing Labour committee and the Indian Labour conference which met in October 1995 respectively took important decisions on matters pertaining to workers in plantation industry. Tripartite committee on plantations was constituted with the purpose of strengthening the health coverage of plantation workers.

The, Government has created a separate Women's cell in Directorate General of Training. It was aimed at boosting employment potentials for the women. The National Renewal Fund was established to provide funds for compensation of workers affected by restructuring or closure of industrial units. It started in providing the following assistances

- Assistance to cover the cost of retaining;
- Provide funds for the development of employees[ Needs arise out of modernization, technological up gradation and industrial restructuring ];
- Provide funds for employment generation and social security

From above it is evident that new economic policy of the government fabricates an environment that brings the scope of industrial restructuring. It is noted above that new economic policy not only fosters business competition but at the same time, it induces attitudinal changes of the government, the employees, the trade unions, the management and the owners. Government endorsements for the change are articulated by several modifications of the labour Acts and policies with a view to safeguard the interests of the present and growing new class of labour so that the changes can be faster than couple of decades ago under the developmental spree of the labour force.

### **Problems of the Trade Union Movement in India**

The shortcomings or the weakness of the trade union movement in India are as follows

1. Lack of balanced growth;
2. Illiteracy;
3. Low membership;
4. Poor financial position;
5. Political control and Outside Leadership;

6. Multiplicity of unions;
7. Inter-union rivalry;
8. Lack of able leaders;
9. lack of recognition;
10. Opposition from employers;
11. Indifferent attitude of the members.

**1. Lack of Balanced Growth** Trade unions are often associated with big industrial houses. A vast majority of the working population is without any union backing. The entire agricultural sector is highly unorganized in India. The agricultural workers are subject to all kinds of exploitation. The same is true with respect to those working in small scale and cottage industries. Lack of balanced growth of trade unions in all sectors is one of the major weaknesses of the trade union movement in India.

**2. Illiteracy visa-vies Educated Labour- A Problem** Simultaneously with the lack of balanced growth the trade unions suffer with illiteracy of the employees in different sectors of the industries along with the presence of educated and professional workers in the technologically upgraded one. Indian trade union movement faces two different prongs of the problem. At one side, due to illiteracy, a good number of workers fail to understand the significance of the employee trade union and thereby show less interests. On the other hand the educated workers try to disown the outside leadership of the trade union but concurrently they are not interested enough to carry on the trade union leadership. The indifference therefore pave the way for outside leadership.

**3. Low Membership** Trade unions, with the exception of few, have low membership. This is because many employees are not willing to join unions although they are ready to enjoy the benefits arising out of the union actions. The reasons for the hesitation of employees to join unions include, among others, the compulsion to take part in strikes and such other programmes, fear of pay cut and fear of punishment.

**4. Poor financial Position** Low membership is one of the reasons for the poor financial position of the unions. Moreover, the subscription payable by every member is kept low. Some members

may not even make a prompt payment of the small amount of subscription. Unions, also, cannot pull the fund from many sources. They may probably depend on contributions from philanthropists. The poor financial position can only weaken the trade union movement.

5. **Political Control and Outside Leadership** Political affiliations of the trade unions are very common in India. Political parties are very keen to transfer most of the grievances of the working class into political issues. As a result, the problems only get wide publicity and factually, remain unsolved. Side by side with the political connections, the trade unions are being regulated by the outside political leaders who are responsible for the slow growth of these unions. Beside it is the constant problem with the outside leaders that they cannot realize the problems and issues of the workers since they are not exposed to the real life situations of the industry alike the workers and are used to undermine the real needs against some ideological issues.
6. **Multiplicity of Unions** Often there exists more than one union within the same industry, each backed by a political party. These various unions have conflicting ideologies. If one union comes out with a proposal, another union may work against it. As a result, none of the unions is actually able to solve the problems of the workers.
7. **Inter-Union Rivalry** The existence of many unions within a particular industry paves the way for what is called inter-union rivalry. These unions do not work together for the cause of the workers. Each union may adopt a different approach to the problem. The inter-union rivalry may become a more serious problem of the workers. As a result, the employees are unable to derive the benefits of collective bargaining.
8. **Lack of Able Leaders** Another barrier to the growth of trade unions is the lack of able leaders. Some union leaders give a strike call even for petty problems that can easily be resolved through talks. On the other hand, there are leaders who put more emphasis on their own political careers. Some leaders do not convene a meeting of the general body at all even when a crisis develops. They take unilateral decisions that are thrust on the employees.

- 9. *Lack of recognition*** Most management is not prepared to recognize trade unions. This happens because of any of the following reasons
1. The existence of low membership that reduces the bargaining power of the union;
  2. The existence of more unions within the same industry;
  3. Inter-union rivalry;
  4. The indifferent attitude of the employees themselves towards trade unions.
- 10. *Opposition from employers*** Apart from the fact that most employers are not prepared to recognize trade unions, they also do not let their employees to form a union. This the employers are able to achieve by adopting certain punitive measures like intimidating employees, victimizing union leaders, initiating disciplinary action against employees indulging in union activities and so on. Some employers also start rival unions with the support of certain employees. The employers with traditional outlooks fail to understand that the union enables the employees to express their grievances in a democratic manner and can be used as a means of promoting better labour management relationships.
- 11. *Indifferent Attitude of the Members*** Union leaders alone cannot be blamed for the weakness of the trade union movement. The indifferent attitude of the members of certain unions is also a barrier. Some members do not even make a prompt payment of the subscription amount. The treasurer of the union has to go behind them, remind and persuade them to pay the subscription that is often a very small amount. There are not on the other hand, members who do not attend the general body meetings nor do they bother to know what is discussed in such meetings. There are still others, who do not take part at all in any of the programmes of the union organized to press the demands of the employees like slogan shouting, procession, demonstration, hunger strike etc. Members generally expect the office-bearers to do all that is necessary to achieve the demands.

## **Measures to Strengthen Trade Unions**

The following are some of the measures that can be adapted to strengthen trade union.

### **Improvement of the Financial Position**

The poor financial position of the trade union does not permit it to undertake certain activities. For example, it requires fund to permit pamphlets and booklets, to prepare banners and placards, to enable the officer-bearers to travel to different places to mobilize support and so on, in the processes of working for the cause of the employees. The first corrective action that is necessary therefore is to improve the financial position of every trade union. The following steps may be taken to this regard

1. The amount of subscription must be increased in tune with the increase in the cost of operations;
2. The members must be persuaded to make prompt payment of the subscription;
3. Donations may be sought from philanthropists.

### **Increase in Membership**

Steps must be taken to increase then membership of trade unions. The employees must be enlightened on the importance of cooperation and collective bargaining. This must be done on a continuous basis or until such time the employees take the decision to join the union. The office bearers must take the initiative to make the employers understand. The philosophy of “United We Stand and Divided We Fall” must be the guideline to generate the positive attitudes of the employees towards trade union.

### **Get rid of Political Affiliation**

When trade unions have political affiliation, the political parties make an attempt to use the power of unions to their own political gains. It is therefore important that our unions should free themselves from political control. When the employees have certain genuine demands, they must represent the same to their employers through able leaders who

are none other than their own fellow workers No attempt should be made to put the issue under political coverage.

### **Do away with Multiple Union**

The existence of many trade unions within the same industry only reduces the power of collective bargaining. Moreover, every such union works to its own ideals. The general interests and well being of the employees thus are ignored. It is therefore necessary to make efforts to bring all the employees under one union. United labour movement under one union, in other way, reinforces the power of the employees.

### **Securing Recognition**

Every employee, working in any industry, needs to be counselled by the office bearers of the union in a way so that he or she can realize the importance of trade union. He or she must come forward to join the union, willingly. Once the support of the employees is received, the next step is to make all possible efforts to persuade every management to recognize the trade union.

### **Amendment of the Trade Union Act**

The act of 1926 is to be amended in the light of the intake numbers of the members of the union. The minimum requirement to form a trade union, thereby, needs to be rectified in terms of a sizeable number. Again this approach may enhance the fund volume of the union in the way of more deposition of the subscriptions by the member employees.

### **Social Responsibility and welfare Activities of the Trade Union**

The trade union should understand that community-linked social activities can grow the positive image of it in the perceptions of the employees.

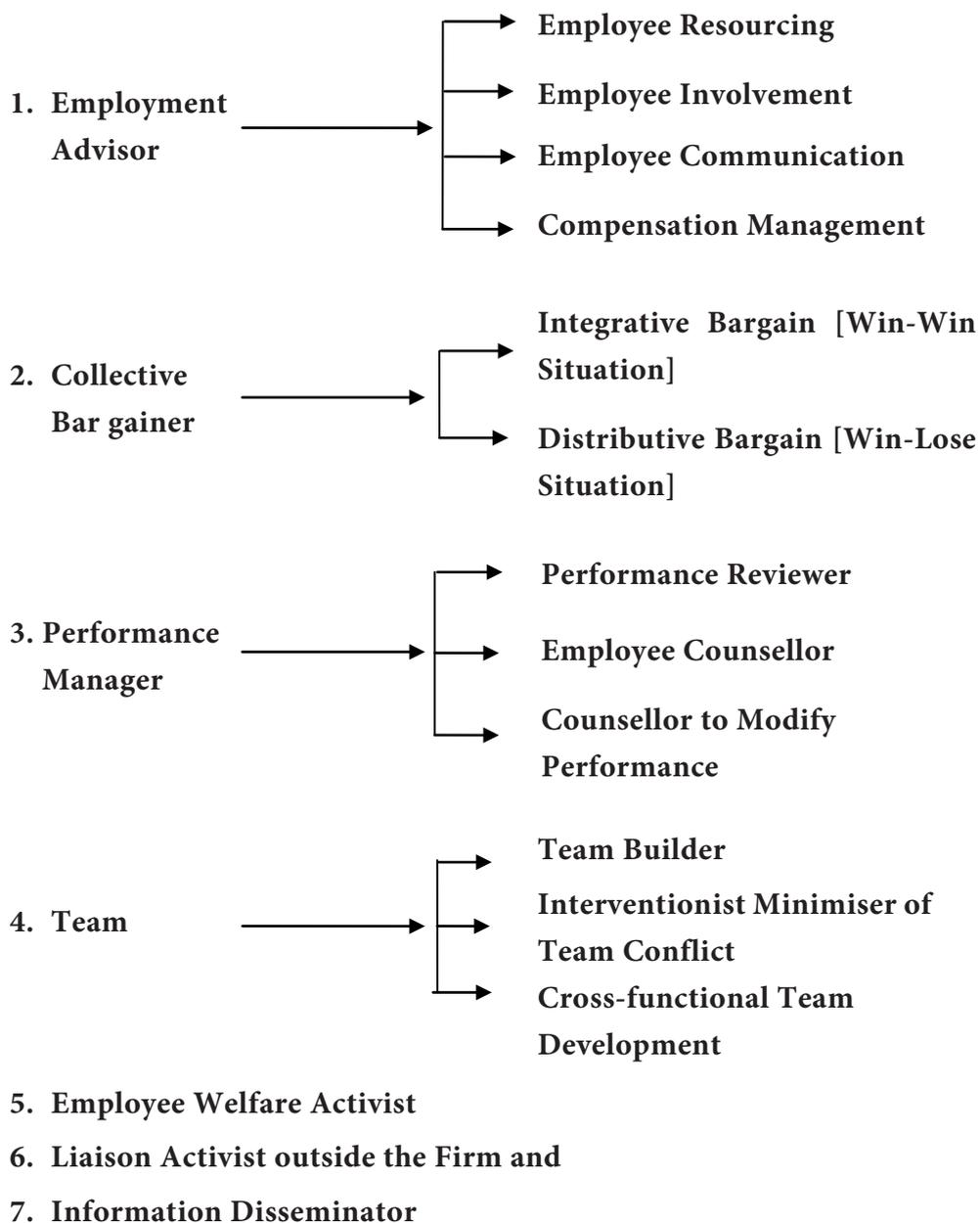
At the same time, welfare activities of the trade union irrespective of its affiliation to political ideology may consolidate the reflection that in other way stimulates the attitudes of the employees to join in the activities of the union and earn its membership.

## Management of Trade Union Under Change

Trade unions are gradually gaining momentum to take part in business activities with the management. The opening of economy accelerates the competition and asks for quick adaptation where employees and management requires going hand in hand with the sole objective to sustain the competitive advantage for business success. Under these two above specifications, the role of the trade union needs a radical change than the earlier time of industrial capitalism. Trade union has no option right now to go for opposition with management. Contrary to this, the trade union comes with the equal footings with management to explore the possibilities of value addition in every aspect of industrial activities. Changes of attitudes and outlooks of both the management and the union are the necessary ingredients of the business success. No more the union needs to play a major role in collective bargaining because the type of bargaining is more cooperative and less distributive [ The cooperative bargaining talks about integrative bargaining. i.e., both the parties under bargain will get a win- win outcome where as distributive bargaining gives win-lose out come].

In this new mode, the management thrust is on joint consultation committee, teamwork, single table bargaining and a total complete agreement with trade union as partner. Within this framework, let us now explore the areas where trade union and management can generate meaningful relations. These areas are employee resourcing, employee involvement, employee communication, employee relations [A broad extension of industrial relations that even ask to develop friendly public relations], performance management, appropriate control mechanism etc.

The presence of more and more the knowledge workers, technological advancement, rapid changes in HR process and business process with high frequencies of business process and knowledge process outsourcing, more competition, friendly business environment, information-centric society with less gender differences etc, have profound impacts on the above areas, asking for the new combined role of the management and the trade union. The essence of this role urges the trade union to act as **1. Employment Advisor, 2. Collective Bargainer, 3. Performance Manager, 4. Team Interventionist, 5. Employee Welfare Activist, 6. Liaison Activist outside the Firm and 7. Information Disseminator.**



Therefore, trade union now a day operates with the management in an integrated fashion and participates in the operative functions of employee-linked management more under complementary role manifestations.

**Essentials for Success of a Trade Union**

*The first essential* of a trade union is to have an enlightened labour force to guide and direct the movement. *This presupposes* the existence of correct leadership. *Another essential* is that a trade union should have its foundation laid on solid ground so that it may achieve success in the attainment of its objects.

*The objective of a trade union* should be clearly enunciated. *The trade unions with* a complexity of objectives are looked upon with suspicion, and the employers, who should be willing to sit with them round a table for discussion and negotiation, often try to bypass them.

*The trade unions should have a coherent and well-conceived policy* with regard to their structure. *A haphazard growth of trade unions* is likely to give rise to difficult problems of jurisdiction and spheres of activity. *A trade union should be regarded* as a business organization, which requires careful planning, and sound organizational methods. *To get the* success, the trade union should maintain transparency in its policies and actions. *It should earn* the credibility to fight for the interests of the employees. *It, therefore, requires* operating with some degrees of integrity to distribute benefits to the members and beyond them. *It should maintain the image* to provide *equitable procedural justice* in order to gain the confidence of the employees as a whole.

## Summary

*Trade unionism in India suffers from a variety* of problems. *This chapter, therefore, has taken into account* different issues pertaining to industrial relation management and management of trade union with a view to enrich ourselves with the value added activities of the trade union under changed circumstances. *In the process, this chapter, in its approaches, throws* light on the outlines of trade unions' functions and activities under the changed perspective of trade union movements at the present time.

.....  
 [NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books 1. Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons; and 2. Robbins, S.P., Judge, T.A., and Sanghi, S. (2007). *Organizational behaviour*, (12th Ed.), Delhi Pearson Education, Inc, pp.554-84; 3. Armstrong, M. (1988). *A handbook of personnel management practice*, (3rd Ed.), London Kogan Page.].

## Self Assessment Questions

1. Define Trade Unions? Why do workers organize into Unions?
2. Trace the Historical Evolution of Trade Union movement in India?

3. What are the aims and objectives of Trade Unions?
4. Explain the Structures and types of Trade Unions in India?
5. What are the functions of Trade Union?
6. Explain the Nature and Scope of Trade Union?
7. What are the characteristics of a Trade Union?

### **CASE STUDY**

M/S XYZ limited is private company making tyres with their HQ at Cochin. Labor management relations were cordial. They have three years wage agreement renewed periodically without any strike or lockout for the last ten years. There were three main Unions ENTUC, AITUC and CITU owing allegiance to respective political parties.

Current wages agreement is likely to expire shortly. Mr. Joseph, Director, HR was holding negotiations with union leaders for the last three months. During this period, he sorted out differences on all seven out of 8 points. The 8th point was in regard to the wages increase. Union originally demanded a wage raise of 30% whereas the management was prepared to go only for 15%. After a series of discussion, Union leaders agreed to come down to 25% and the management has agreed to increase to 17%. The stalemate continued for the next 20 days. Finally the management has accepted 18% increase. Union leaders did not agree and called for a strike.

Even after one week strike, the management did nothing. The Union gave a public advertisement stating its side and the management has also given an advertisement that the strike is unwarranted and they have no other alternative except to go for a lockout.

It also stated that their offer of present agreement will remain valid only for the next three days.

Questions :

- (a) Explain the Unions rationale of the latest demand.
- (b) Explain the reasons for management action.
- (c) Predict the outcome, of this dispute.
- (d) Suggest additional gestures from management or union to break the statement.

## UNIT - III

### Unit Structure

Lesson 3.1 - Employee Counselling– Types, Methods, Contents and Problems

Lesson 3.2 - Consultative Bodies – Tripartite and Bipartite

Lesson 3.3 - IR Strategies - a Discussion

Lesson 3.4 - Workers' Development and Participation

### Lesson 3.1 - Employee Counselling– Types, Methods, Contents and Problems

### Learning Objectives

This chapter comprises of three units. The first unit gives an overview of employee counseling in terms of concept, objectives, characteristics, functions and benefits. Second unit refers to types, methods and process in employee counseling. The last unit broadly sketches the various problems that stimulate the employee to go for counseling.

### Employee Counselling - A Conceptual Thrust

*Counselling has been practiced* in one form or other since the evolution of mankind. In every field that requires dealing with people, counselling is essential. *Counselling is a dyadic* relationship between two persons; a manager who is offering help (counsellor) and an employee whom such help is given (counselee). *It may be formal* or informal. *Formal counselling* is a planned and systematic way of offering help to subordinates by expert counsellors. *Informal counselling* is concerned with day-to-day relationship between the manager and his subordinates where help is readily offered without any formal plan. *Every manager has a* responsibility to counsel his subordinates. *When individual* managers

are unable to deal with specific problems, the counselling services of a professional body is required. **An organization can either** offer the services of a full-time in-house counsellor or refer the employee to a community counselling service. **Counselling occasionally** is necessary for employees due to job and personal problems that subject them to excessive stress.

**Counselling is discussion** of a problem that usually has emotional content with an employee in order to help the employee cope with it better [1]. **Counselling seeks** to improve employee's mental health. **People feel comfortable** about themselves and about other people and able to meet the demands of life when they are good in mental health. **The counselling** need not be limited to work-related issues. **Marital problems**, problems with children, financial difficulties or general psychiatric problems may not be directly related to the job. **However, we recognize** that individuals cannot completely separate their life away from the job and from their life on the job. **Therefore, personal problems** do affect a worker's job performance. **So, counselling is also** necessary for personal problems along with work-related issues. **Performance counselling involves** helping an employee to understand his own performance, finds where he stands in relation to others and identifies ways to improve his skills and performance. **It focuses, essentially**, "on the analysis of performance of the job and identification of training needs for further improvement" [2].

**An increasingly popular** form of counselling involves employees who are about to retire. **Pre-retirement counselling** prepares individuals to deal with the realities of leisure, as well as outlining details about social security benefits and company pension provisions. **Need for employee** counselling arises due to various causes in addition to stress. **These causes include** emotions, inter-personal problems and conflict at place, inability to meet job demands, over-work load, and confrontation with authority, responsibility and accountability, conflicts with the superiors, subordinates and management and various family problems, health problems, career problems etc. **Today in industry**, a number of abovementioned factors create a type of imbalance in the mind of the sizeable section of the workers who are unable to make a balance between their job live and family live or personal live. **It is an adding phenomenon** to industry with its alignment towards female and aged workers, bearing most of the family burdens. **Industry wants to bring down** this problem through employee counselling which is gradually gaining its space as one of the promising recourses of tackling the same.

## Objectives of Counselling

Counselling helps a person to overcome emotional problems and weaknesses relating to performance. It involves the following objectives

1. ***Provide empathic atmosphere*** of genuine concern about employee's difficulties, tensions, worries, problems, etc., so that he or she can freely discuss and share his views with counsellor;
2. ***Help the employee to understand himself or herself better*** and thereby to gain knowledge about his or her potential, strengths and weaknesses;
3. ***Assist to gain an insight into the dynamics*** of his or her behaviour by providing necessary feedback;
4. ***Generate better understanding*** of the environment in which he or she functions;
5. ***Increase his or her personal and interpersonal effectiveness*** by assisting him or her to analyze interpersonal competence;
6. ***Prepare alternate action plans*** for improving his or her performance and behaviour.

## Characteristics of Counselling [3]

1. ***Counselling*** is an exchange of ideas and feelings between two people.
2. ***It tries to improve*** organizational performance by helping the employees to cope with the problems.
3. ***It makes organization*** be more human and considerate with peoples' problems—A Clear Humanistic Tone
4. ***Both, professionals and*** non-professionals, perform counselling.
5. ***Counselling is*** usually confidential in order to have free talk and discussions.
6. ***It involves*** both job and personal problems.

## **Counselling in Industry [4]**

*An increasingly popular form of counselling* involves employees who are about ready to retire. *It is* required for every manager to help his or her subordinates in the free exploration of their strengths, abilities, competence, interests and other related positive features. *It requires* participation from both the parties in the performance review and goal-setting process. *Thus*, performance counselling has become an important feature not only in performance review but also in the implementation of the appraisal system in the organization.

*It is* natural that subordinates need guidance, coaching or help of an experienced person. *The immediate* superior or the personnel manager may play this role. *The managers* or superiors who have to play the role of 'counsellor' can play it successfully if they develop the skill for counselling. *Such a skill* would be useful in understanding subordinates, assisting them in their efforts to grow and develop, and in improving their interpersonal relations both at work and in the society.

*Counselling* is a two-way process in which a counsellor provides help to the workers by way of advice and guidance. *There are* many occasions in work situations when a worker feels the need for guidance and counselling.

*The term* "counselling" refers to the help given by a superior to his subordinate in improving his or her performance. *It is* in effect a process of helping subordinates to achieve better adjustment with his work environment, to behave as a psychologically mature individual, and help in achieving a better understanding of others so that his dealings with them can be effective and purposeful.

### **Functions of Counselling**

The general objective of counselling is to help employees to improve their mental health and develop in self-confidence, understanding, self-control and ability to work effectively. This objective can be achieved by performing various counselling functions. They are

## **1. Advice**

One of the important functions of counselling is offering advice to the counselee. The counsellor has to understand the problem of the counselee completely, before offering advice and suggesting a course of action.

## **2. Reassurance**

In order to give courage to face a problem confidently, counselling provides employees with reassurance. Normally reassurance is not acceptable to the counselee. However, it is useful in some situations.

## **3. Communication**

Counselling will improve both upward and downward communication abilities of the counsees.

## **4. Release of Emotional Tension**

Releasing emotional tension is an important function of counselling. People feel emotional release from their frustration after counselling. Release of tension may not solve the entire problem, but flatten mental blocks to the solution.

## **5. Clarified Thinking**

Release of tension and thereby removal of mental blocks to the solution through counselling allows the counselee to think freely and objectively. Thus, clarified thinking tends to be the result of emotional release.

## **6. Reorientation**

Reorientation is not just emotional release or clear thinking, but it involves a change in the counselee's psychic self through a change in the basic goals and values.

## **Benefits**

Performance counselling takes a positive approach. The underlying philosophy is quite simple People can grow and improve their competence and performance with timely help and proper coaching. 'An effective counsellor-manager is one who helps his employees to become more aware of their strengths and weakness and helps them to improve further on the strong points and overcome weaknesses'. Counselling, generally speaking, offers the following benefits to the counselee

1. He or she learns to respond and adjust more positively to people and situations
2. He or she is able to improve his personal effectiveness
3. He or she is able to clear the mind of emotional irritants; overcome his personal weaknesses and work more effectively.
4. He or she feels more relaxed when he is able to share his concerns and problems with a trusted friend, the counsellor who assures confidentiality and extends a helping hand readily.

## **Types, Methods and Process of Employee Counselling**

The major objective of the unit of this chapter is to develop awareness about various available kinds of counselling along with the introductions of different techniques that are readily used in case specific ways as and when required. However, meaningfulness of the techniques, again, readily depends upon the way counsellor can administer the process of counselling, in reality, by making a balance between rigor and flexibility.

### **Types of Counselling**

In attempting to help an employee who has a problem, a variety of counselling approaches are used. All of these approaches, however, depend on active listening. Sometimes the mere furnishing of information or advice may be the solution to what at first appeared to be a tricky problem. More frequently, however, the problem cannot be solved easily because of frustrations or conflicts that are accompanied by strong feelings such as fear, confusion, or hostility. A manager, therefore, needs to learn to use

whatever approach appears to be suitable at the time. Flexibility is a key component of the counselling process.

### **1. Directive Counselling**

It is full counselling. It is the process of listening to an employee's problem, deciding with the employee what should be done and telling and motivating the employee to do it [5]. This type of counselling mostly does the function of advice, reassurance and communication. It may also perform other functions of counselling.

### **2. Nondirective Counselling**

In nondirective counselling, the employee is permitted to have maximum freedom in determining the course of the interview. It is the process of skilfully listening and encouraging a counselee to explain troublesome problems, understand them and determine appropriate solutions [6]. Fundamentally, the approach is to listen, with understanding and without criticism or appraisal, to the problem as the employee describes it. The employee is encouraged, through the perception of the holistic behaviours of the manager as articulated by the attitude and reactions for his or her verbal and non-verbal expressions. He or she will sense free to express mental impressions without fear of shame or embarrassment, or reprisal.

The free expression that is encouraged in the nondirective approach tends to reduce tensions and frustrations. The employee who has had an opportunity to release pent-up feelings is usually in a better position to view the problem more objectively and with a problem-solving attitude.

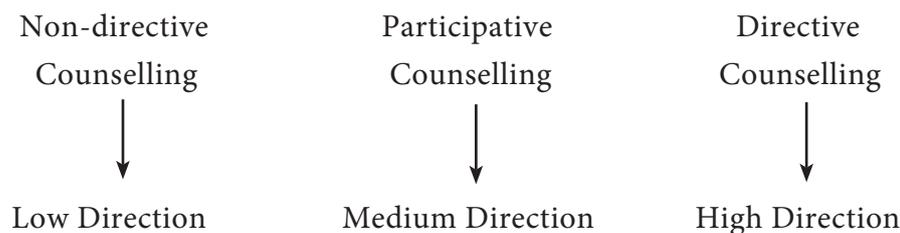
### **3. Participative Counselling**

Both directive and non-directive methods suffer from limitations. While independent employees do often not accept the former, the latter needs professionals to operate and hence is costly. Hence, the counselling used in most situations is in between these two.

This middle path is known as participative counselling. Participative is a counsellor-counselee relationship that establishes a cooperative exchange of ideas to help solve an employee's problems.

It is neither wholly counsellor-centered nor wholly counselee-centered. Counsellor and counselee mutually apply their knowledge, perceptions, skills, perspectives and values to find out the solution(s) of the problem(s).

These methods of counselling can be used depending upon the problem, employee, situation, availability and ability to employ professional counsellors.



Source: Davis, Keith. A. and Newsroom, John .W. (1985).*Human behaviour at work Organizational behaviour* (7th Ed.), New York McGraw- Hill, p.498.]

### Methods of Counselling [7]

Effectiveness of counseling largely depends on the methods and techniques as well as the skills used by the counselor. Methods and techniques change from person to person and from situation to situation. Some of the assessment tools are Psychological testing, Statistical methods, Attitude Measurement, Caring Relationship Inventory, Interpersonal Behavior Surveys, Observation, Taylor-Johnson Temperament Analysis, etc. Counseling involves the following methods

1. **Desensitization** According to Desensitization, once an animal has been shocked in a particular situation, it will continue to avoid it indefinitely. This is quite true in respect of human beings also. Once an individual is shocked in a particular situation, he gives himself no chance for the situation to recur. This method can be used to overcome avoidance reactions, to improve the emotional weak-spots. If an employee were once shocked by the behaviour, approach or action of his superior, he would continue to avoid that superior. It is difficult for such superiors to be effective counsellors, unless such superiors prove otherwise through their behaviour or action on the contrary. Similarly, once an employee is shocked by a particular situation, he can be brought back to that situation only if

he will be convinced through desensitization that the shock will not to take place further. Counsellor can make use of desensitization in such situations.

2. **Catharsis** Discharge of emotional tensions can be called catharsis. Emotional tensions can be discharged by talking them out or by relieving of the painful experience that engendered them. It is an important technique as a means of reducing the tensions associated with anxiety, fear, hostility, or guilt. Catharsis helps to gain insight into the ways an emotional trauma has been affecting the behaviour.
3. **Insight** With the help of insight, one may find that he has devalued himself unnecessarily, or his aspirations were unrealistic, or that his childish interpretation of an event was inaccurate. Then he can overcome his weakness.
4. **Developing the new patterns** Developing new patterns becomes very often necessary when other methods to deal with weak spots remain ineffective. In order to develop new, more satisfying emotional reactions, the individual needs to expose himself to situations where he can experience positive feelings. The manager who deals with such individuals may motivate or instigate them to put themselves into such situations, so that their self-confidence may increase. Every counsellor must concentrate his full attention on two aspects viz., using of assessment tools, and utilizing counseling methods, choice of which differs from person to person, situation to situation, and from case to case.

### **The Process of Counselling Sequential Steps [8]**

The counselling process has three phases **Rapport building**, **Exploration and Action Planning**, these are discussed below:

1. **Rapport Building** Initially the counsellor-manager should level himself with his employee and tune himself to his orientations. General opening rituals like offering a chair, closing the door to indicate privacy, asking the secretary not to disturb are all important in demonstrating the manager's genuine interest in employee's problems. The counsellor must listen to the feelings and concerns of the employee carefully and attentively. Leaning forward and

eye contact are important signs of active listening. The employee must feel that he is wanted and the counsellor is interested in him genuinely.

2. **Exploration** Besides active listening, the counsellor should help the employee find his own weaknesses and problems through open and exploring questions. He should be encouraged to open up fully and talk more on the problem. Open questions may help the employee to visualize the problem from different angles.

#### Examples of Open Questions

1. Why do people pick arguments with you?
2. On what occasions did you try to get ahead in the race?
3. Who are coming in your way and why?

This would enable both parties to uncover various dimensions of the problem clearly. Once the key issue is identified, (e.g., inability to get along with colleagues, not being promoted despite hard work, boss does not like his work etc.) it should be diagnosed thoroughly. The whole exercise is meant to generate several alternative causes of a problem.

3. **Action Planning** Counselling should finally help the employee find alternative ways of resolving a problem. The list of alternatives could be generated after two or three brain storming sessions. The merits and limitations of each course of action could also be identified and the best course of action picked up keeping the background factors (boss, colleagues, work-related issues, competitive pressures etc.) in mind. The employee should be encouraged to self-monitor the action plan without seeking further helps from the counsellor. The counselling sessions could be monitored and reviewed at regular intervals later on.

#### *Effective Counselling [9]*

Counselling is an art. It requires serious effort on the part of the counselee to learn from each situation and stand on his own. The counsellor

is there to lend a helping hand, clarify things, enable the counselee look at the picture himself clearly, show the alternative paths and suggest action plans for improvement.

The prerequisites for effective counselling are as follows

1. Open two-way communication between the counsellor and the worker.
2. Genuine concern of the counsellor for providing necessary help to the worker and develop him further; and
3. Influence by the counsellor by recognizing worker's feelings, by sharing his experience and ideas, by posing questions that stimulate his thinking, and by helping him to solve his problems.

The counsellor should give sufficient importance to the communication process by listening carefully to what the subordinate has to convey and by, being responsive to the same. Any movement, which distracts the subordinate's attention, should be controlled e.g. fidgeting with paperweight, clip, pencil, rubber etc. Moreover, it is essential to generate the necessary confidence in the subordinate and to assure him the counsellor's interest in helping him.

### ***Employee Counselling Problems***

A manager has to deal with various types of problems in dealing with his subordinates' employees and particularly the problem employee(s). No employee is a problem employee, except hereditary and inborn perversions, criminal tendencies, addictions, and nervous and psychological breakdowns. Once an employee turns to be a problem employee, the employer has mainly two options viz., repair and recover, or replace. For the purpose of repairing, recovering, and rehabilitating, counselling has an important role to play. Problems are generally associated with the causes like

1. ***Inferiority and Low Self-Esteem*** Inferiority feeling of an employee may play great havoc in individual life and work. However, a mild form of inferiority in certain persons may help them to work hard and overcome the inferiority. However, very often, inferiority complex

may lead a person to utter disappointment and depression leading to withdrawal perversion, absenteeism and even psychosomatic and psychotic problems. Inferiority is a feeling of inadequacy in comparison with others, or a feeling of being inferior to others. When the inferiority feelings in a person become overwhelming and persisting, it may develop into a state, which Adler called “inferiority complex”. Recently thinkers started believing that inferiority can be overcome with the help of self-esteem, and effective counselling helps in gaining self-esteem. Self-esteem is closely linked with self-image, self-worth and self-concept. Self-concept and self-image are the terms which represent the picture which we have of ourselves. Self-image and self-concept may include a list of character traits, physical features, attitudes, feelings, strengths, weaknesses etc. Self-esteem refers to the evaluation that an individual makes of his worth, competence, value and significance.

When a person loses self-esteem, he develops inferiority in him, which grows into an inferiority complex. Such people do not feel worth of themselves. Hence, the basic task of a counsellor is to improve self-esteem in such counselees.

2. ***Injustice or Ill-treatment*** Very often injustice or ill-treatment makes considerable impact in their minds resulting in behavioural problems, inferiority and low self-esteem. Depriving an employee of adequate wages, leave, or any perks, giving him an arrogant treatment, depriving a legitimate promotion, promoting somebody overlooking the legitimate candidate; may such incidents take place in organizations very often which may result in inferiority feeling or feeling of low self-esteem and low morale affecting the efficiency of the aggrieved employee. As far as possible, such incidents must be avoided. Once such a situation arises and an employee is aggrieved, it is better to rectify it. However, if the aggrieved employee is counselled and rectification is promised later, he or she can be brought back to the proper track.
3. ***Premarital Anxieties and Sexual Perversions*** Premarital anxieties are common in many young employees. Once the marriage is arranged and the person is engaged, his anxiety increases. Two people of different family backgrounds, different cultures, different

environments, etc., are bound to have anxieties before they come together. If one happens to wait unmarried after a particular age too, one's anxiety is bound to increase. Similarly, there are possibilities for sexual perversions in not only young employees but even in married employees. There are people with broken relationships who are tempted to be subject to sexual perversions and resulting guilty conscious. In all such cases, the concerned employee needs counselling before a total breakdown and collapse of personality. Such people can be spiritually motivated, educated, kept under the close contact of an influence group, and so on.

4. **Alcoholism** It is, perhaps, the largest threat to the human element of organization. In fact, alcoholism is a serious social, moral and health problem. It ruins careers, disrupts families, affects productivity and efficiency, destroys bodies, and leads to untold human misery. Many traffic accidents are caused by alcohol abuse.

#### **a. Causes of Alcoholism**

Many causes lead to alcoholism. Prominent among them are (i) *Hereditary drinking*; (ii) *Executive culture*; (iii) *Executive stresses*; (iv) *Physiological reasons*; (v) *Broken family set up*; (vi) *Environmental influence*; (vii) *Low job satisfaction and morale*; (viii) *Tasks involving strenuous physical exertion*; (ix) *Perpetuating influences* ; (x) *Feelings of depression and stagnation*; and (xi) *Feeling of isolation and loneliness*.

A counselor's job is not easy as far as an alcoholic is concerned. One or a few counseling sessions may not yield any considerable effect. However, a sincere effort on the part of an executive-counselor may help an alcoholic employee, at least in the long-run. Some medical intervention may also be helpful along with counseling.

5. **The problem of Addictions** Another important employee problem, which deserves counseling, is addictions. Addiction is a very dangerous problem, which torments the social and work environment of today. Drug addiction has gone beyond proportions among youngsters now days. Many people are addicted to alcohol, pornographic materials, television, sexual immorality, smoking, compulsive spending, overeating, and gambling, and so on. Some

people are addicted to earning money and amassing wealth by any means. There are workaholics who have addiction to work, due to which there are many broken families in the urban society. Addiction is any habit, practice, behavior or even thinking, which is habitually or compulsively attached to a person, and which exerts more and more control and power over him. There can be *many causes for addiction*; Some of which are

- (i) Inadequate parental care
- (ii) Broken family atmosphere
- (iii) Bad company
- (iv) Peer or other social influence
- (v) Feeling of emptiness in life; depression or stresses
- (vi) Low self-esteem and deception
- (vii) Psychological problems.

Both drug addiction and alcohol abuse involve behaviour change, physical deterioration, family stresses, financial problems, career destruction, increasing psychological disintegration, lawlessness and so on. Addiction affects both the victim and his family. Even the psychologists and counsellors may exhaust and drain themselves out by constant pressure of dealing with addicts.

Hence, it is not an easy task for executives to deal with such cases. However, very tactful approach on the part of the executives and managers may make a considerable effect in helping them if they act in time. "A stitch in time saves nine".

6. ***Mental Conflict in Union Rivalries*** In recent times, many employees lose their confidence, mental peace, job satisfaction and productivity due to union rivalries. Many right thinking and unattached employees become the victims of such rivalries. Some militant trade union leaders and their henchmen even manhandle assault and ill-treat such employees. Their legitimate promotions and claims are blocked by such trade unionists. Sometimes even management becomes helpless in doing justice to such employees due to the obstructions and resistances created by such union leaders. In such situations victims are bound to be disappointed, disgruntled and aggrieved resulting in depression and stress.

Executive counsellors and human resources executives have great role to play in rebuilding the personality and career through counselling and timely intervention.

They can be recovered, and revitalized through counselling and timely guidance. They can then be exposed and developed through training followed by redeployment and a change in placement.

**7. Breakdown in Interpersonal Relationships** Breakdown in interpersonal relationships is another important problem which creates low morale and depression in work-life which deserves timely intervention and counseling. There are many stress situations in one's work life. Organizational causes of stress are occupational demands, role conflict, role ambiguity (stress from uncertainty), stresses from overload and under load, responsibility for others, stresses from evaluation, poor working conditions, unwanted changes, and such other factors lead to personal stresses. Interpersonal stresses make more impact in work life. Strains and breakdowns in interpersonal relationships have direct relationship with individual stresses. When cordial relationships exist in the work place, impact of other stresses may be effectively tackled. However, when stresses from strained interpersonal relationship in the work environment increase, the individual's effectiveness, balance and productivity can get affected. In all such occasions, counseling and guidance would become necessary to help the individual to control his problem emotions and sustain himself to be effective in the group.

**8. Low Job Satisfaction and Morale** Another important cause, which affects the human behavior in organization, is low job satisfaction backed by low morale. Low job satisfaction leads to low morale and vice versa. According to Kolasa [10], "morale and job satisfaction are closely tied to the basic concepts of attitudes and motivation". Katz and associates[11] have identified four measures of general job satisfaction viz.,

- (1) Pride in work group;
- (2) Intrinsic job satisfaction;
- (3) Company involvement; and
- (4) Financial and job status satisfaction.

Wages have been found to be the basic determinant of job satisfaction. However, once the monetary needs are considerably met by the wages, other aspects like self-actualization, fulfilment, working conditions, security of employment, prestige, agreeability of the job, group cohesiveness, expertise, etc., also determine the job satisfaction. Some researchers have thrown light on the positive relationship between occupational level and job satisfaction. Accordingly, to some other scientists, job satisfaction has a considerable relation with the promotion possibility. Superior-subordinate relationship and cooperative and affectionate attitude and approach of the superior may influence the job satisfaction level of the subordinates, though much empirical work has not been done in this area.

Low job satisfaction and low morale must be tackled at the root. Immediate supervisor or superior may first come to know about the problem in his subordinate and initiate timely and sincere counseling efforts. At times, assistance of professional counselors can be sought. Every manager must make up his mind to nip in the bud all such problems that adversely affect job satisfaction and morale with the help of skillful counseling.

**9. Breakdown in Family Life** Every individual, rich or poor, has to face many family problems, some of which can seriously affect the peace of mind, happiness, achievement motivation and efficiency. Those who have broken family lives and serious family problems may possibly become unsuccessful in their work life too. Very often problem which affect the family life can convert a good employee into a problem employee. Studies have already proved that some alcoholics and drug addicts are the products of broken families. In fact, breakdown in family life very often affects the work life. Hence, if such employees are provided with ways to release their tension, their efficiency can be improved. Counseling is of great importance in such cases once such employees can be brought to proper track with the help of counseling, their personality, behavior and performance can be improved with the help of exposure in training, T-group formation, etc., so that better sense of cohesion and commitment to organization can be ensured.

## Summary

*This chapter, precisely, tells in the beginning* to include three parts.

*The first one provides a synopsis of employee* counselling in terms of its concept, objectives, characteristics, functions and benefits. *Second part deals with the types, methods and process* in employee counselling that in other way justifies its operational relevance. *The last part roughly draws a range of problems* that incite the employee to opt for the counselling.

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books in the references].

\*\*\*\*

---

## Lesson 3.2 - Consultative Bodies – Tripartite and Bipartite

---

### Learning Objectives

This lesson comprises three units. The first unit dwells upon the evolution of different tripartite bodies. The second unit takes care of bipartite bodies to resolve the conflicts. The third unit discuss about the bipartite link with tripartite and mutual contribution to each other.

### Tripartite Bodies Prelude

Tripartite is 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. It has a long history in India as it was set up as early as 1942. The Indian Labour Conference (ILC) and the Standing Labour Committee (SLC) are two main forums for Tripartite Consultation. The objectives of Tripartite Consultation could be mentioned as under

- i. To uphold standardization in labour legislation.
- ii. To put down a practice to resolve industrial disputes.
- iii. To consider matters those are important to both the management and the employees.

Tripartite forums evolve norms or standards in the form of guidelines. 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. Some important measures agreed by the Indian Labour conference in past are

1. **Introduction of bipartite works committees**, joint consultative and production committees.
2. **Adoption by employers and unions** of a voluntary code of discipline;
3. **Summarization of proper grievance** and disciplinary procedures;
4. **Determination of norms for fixing need** based wages;
5. **Rationalization and revision of wage structures** for important industries through non-statutory wage boards; and
6. **Encouragement for voluntary arbitration** for the settlement of industrial disputes.

Industrial relations in India have been shaped largely by principles and policies evolved through tripartite consultative machinery at the industry and national levels. The purpose of the consultative machinery is to draw the parties closer for the intention of resolving the differences, mutually, under an atmosphere of co-operation and amity. The role of the tripartite machinery has been summarized by the Planning Commission thus "...labour policy in India has been evolving in response to the specific needs of the situation in relation to industry and the working class and has to suit the requirements of planned economy.

A body of principles and practices has grown up as a product of joint consultation in which representatives of government, the working class and the employers have been participating at various levels. The legislative and other measures adopted by government in this field represent the consensus of opinion of the parties vitally concerned and thus acquire the strength and character of a national policy, operating on a voluntary basis." [1]

A large number of tripartite bodies have been set up by the government to provide a forum of discussion and consultation on various labour-related issues. Among these bodies, a few notable ones are

1. The Indian Labour Conference (ILC);
2. The Standing Labour Committee (SLC);
3. The Committee on Conventions;

4. The Industrial Committee; and
5. Other bodies of tripartite nature, dealing with various aspects of labor problems.

There are 44 tripartite committees at the national level. Additionally, in the public sector, there is national-level bipartite machinery in selected core industries, such as banking, coal, oil, port, transport and steel. Such bipartite arrangements also exist at the industry-cum-region level in jute, engineering, plantations, textiles, etc., which are predominantly in the private sector.

### **Evolution of Tripartite Bodies**

The need for consultation on labour matters on the patterns set by the I.L.O. was recommended by the Whitley Commission in 1931. It envisaged a statutory organization that should be sufficiently large to ensure adequate representation of the various interests involved; but it should not be too large to prevent the members from making individual contributions to the discussion. The representatives of employers, of labour and of government should meet regularly in conference. The commission also recommended that registered trade unions should elect labour members and employers' representatives should be elected by their associations [2].

However, the recommendation was not implemented and nothing could be done in this respect until the outbreak of the Second World War, which necessitated the need for maintenance of industrial peace. During the Second World War, separate consultations with the representatives of labour and employers were held in 1941 and 1942 by the Government of India to finalize post-war labour programmes. The experience of these consultations highlighted the necessity of holding joint meetings of the representatives of the government, workers and employers, thus, providing a common platform for the resolution of differences between the employers and workers by means of discussion and mutual understanding.

Accordingly, the Fourth Labour Conference was held in August 1942. It arranged permanent tripartite collaboration machinery and constituted a Preliminary Labour Conference (later named as the Indian Labour Conference – ILC) and the Standing Labour Advisory Committee

(which subsequently dropped the word Advisory from its title SLC). Initially the ILC consisted of 44 members whereas the SLC was about half the size of the ILC. *The pattern of representation was made in the line of International Labour Conference. It ensured*

- i. equality of representation between the government and the non-government representatives;
- ii. parity between employers and workers;
- iii. nomination of representatives of organized employers and labourers was left to the concerned organizations; and
- iv. representation of certain interests (unorganized employers and unorganized workers) and these were done on an ad hoc basis through nomination by government. The delegates were free to bring one official and one non-official adviser with them [3].

### ***Tripartite Bodies***

Both ILC [***Indian Labour Conference***] and SLC [***Standing Labour Committee***] are two important organs of tripartite bodies. They play a vital role in shaping, the I.R. system of the country. A brief account of these two and other bodies is discussed here

#### **(1) Indian Labour Conference [ILC]**

The objectives of the Indian Labour Conference (ILC) are

- a. To endorse uniformity in labour legislation;
- b. To put down a modus operandi for the completion of industrial disputes; and
- c. To talk about all issues of national significance between employers and workers.

The role of the ILC is to counsel the central government on matters that are referred to it for recommendation. In the course of giving the opinions, ILC takes the views of the provincial government, the state and delegates of the associations of the workers and the employers.

## (2) Standing Labour Committee [SLC]

The Standing Labour Committee's (SLC) key task is to study and explore such issues as may be passed on to it by the Plenary Conference or the Central Government. The committee, in the process, is to provide opinions on these issues that are, again, crafted on the basis of the proposals made by various governments, workers and employers.

The **Central Government** in consultation with the all-India organizations of workers and employers nominates the representatives of the workers and employers to these bodies. The **Labour Ministry** clears up the agenda for ILC/SLC meetings. The ministry prepares the agenda on the strength of the suggestions of the member organizations. These two bodies work with minimum procedural rules to aid open and comprehensive debates among the members. The ILC meets once a year whereas the SLC convenes its meeting as per the requirements. Observations of the National Commission on Labour on these two bodies spin around the accomplishments of the same in achieving their respective goals. So to say, these bodies have helped in the passing of central legislations on labour-centric issues that are enforced on all the states and union territories and thus they are the prime-movers in bringing the uniformity in labour legislations across the country. Tripartite considerations have promoted accord on statutory fixation of wages, pushing of a health insurance scheme, ratification of the Standing Order Act, 1946, I.D. Act, 1947, Minimum Wages Act, 1948, ESI Act, 1948, Mines Act, 1952, Provident Fund Scheme, 1950 etc. Aside these, tripartite bodies have emphasized on several issues that are connected with the interests of the workers. These are

1. Workers' education
2. Workers' participation in management
3. Employee training
4. Clear wage policy
5. Code of discipline
6. Registration procedures of the unions

It is to be noted here that though the suggestions of the tripartite bodies are nothing but the recommendations forwarded to the government yet the proposals have considerable bearings upon the associations of the

workers and the employers as well as the government, both central and the state. Here we mention some of the noteworthy sessions of ILC and SLC. These are 30<sup>th</sup> and 31<sup>st</sup> sessions of ILC [30<sup>th</sup> session held on September 7-8, 1993 at New Delhi. After deliberations, it arrived at a number of conclusions [4]; 31<sup>st</sup> session of ILC held at Delhi on 3<sup>rd</sup>-4<sup>th</sup> January, 1995]. Specifically 31<sup>st</sup> session of ILC was very important because it endorsed the resolutions of 32<sup>nd</sup> session of the Standing Labour Committee in respect of the social clause, removal of child labour and bonded labour. So there is the need to give a little elaboration of the 32<sup>nd</sup> Session of Standing Labour Committee. It has supported a number of issues involving employment, vocational training, child labour, bonded labour, labour standards and international trade. It has accepted three significant resolutions that have impacts on the labour standard on international market and child and bonded labours in the national context. These three significant resolutions are on ***social class, child labour and bonded labour***.

- (a) ***Social Clause*** It was agreed that the government along with employers and labour organizations would resist in I.L.O. and all other foray any attempt to introduce “Social clause”, in relation to carrying our marketing at the international level, contingent upon enforcement of labour standards. Further, it advocated sustained national and international action for upgrading labour standards without any trade linkage.
- (b) ***Child Labour*** With respect to child labour, it remarked that the “Central and State Governments and Organizations of employers and workers should take co-ordinated action for the elimination of child labour in hazardous occupations by the year 2000 and in other employments progressively”. It also emphasized that both Central and State Governments should implement time bound and action plans to take away children from work and provide them education, primary vocational training, health and nutrition and concurrently provide to the parents of such children gainful employment.
- (c) ***Bonded Labour*** It exhorted that all states should take fresh surveys for the identification release and rehabilitation of bonded labour. Besides this, measures shall be initiated to check the relapse of bondage of such labour.

Eventually, in the event of the 32nd session of SLC the role of 31st session of ILC comes into sharp focus. In this session, ILC has approved the move of SLC on social class, child labour and bonded labour. Last but not the least, the 31st session of ILC, while praising the new International Economic Order to upgrade the living standards, has come out with the caution to entertain the risk in terms of the formulation and implementation of economic policies. If planning and execution of the economic policy are not being done in a proper way so as to minimize human distress [5] then country cannot claim for the economic betterment.

### **(3) Committee on Conventions**

This is a three-man tripartite committee set up in 1954. The object was “(i) to examine the ILO conventions and recommendations which have not so far been ratified by India; and (ii) to make suggestions with regard to a phased and speedy implementation of ILO standards”.

### **(4) Industrial Committees**

The eighth session of the ILC (1947) decided to set up Industrial Committees “to discuss various specific problems special to the industries covered by them and submit their report to the Conference, which would co-ordinate their activities.” These committees are tripartite bodies in which the number of workers’ representatives is equal to the number of employers’ representatives. They do not meet regularly. Meetings are considered afresh each time a session is called. The committees that were set up immediately after independence related to plantations, cotton textiles, jute, coal mining, mines other than coal, cement, tanneries, and leather goods manufactures, iron and steel, building and construction industry, chemical industries, road transport, engineering industries, metal trades, electricity, gas and power, and banking.

The Ministry of Labour constituted a special tripartite committee on November 1991 to study the impact of the new industrial policy on various labour and other problems and for making useful recommendations. The committee in its meetings on December.21, 1991 and January.21, 1992 took a note of the analysis of the performance of public sector units made by the department of public enterprises in its monograph on performance status central public sector enterprises and recognized

that some of the public sector units are chronically sick, required radical treatment. The committee decided to set up of ***Tripartite Industrial Committees*** to examine sick units and suggest preventive measures [6]. As per the recommendations of special tripartite committee six industries committees viz...

- (1) Cotton textiles,
- (2) Jute,
- (3) Chemicals,
- (4) Engineering,
- (5) Electricity, (generation and distribution),
- (6) Road transport etc. were revived.

On the major conclusion of this tripartite committee was that there should be case by case discussion on sick unit for their revival and before taking a final decision on sick PSUs, BIFR should be urged to consider the views of tripartite committees. Another important conclusion of the tripartite committees was that at the enterprise level workers and management should prepare a joint revival plans on the basis of data supplied by the concerned administrative ministry/management. The revival proposal would then be considered by the zonal tripartite committee [7].

### ***Other Committees***

- (1) ***Committee on N.T.C. Turnaround*** The Labour Ministry constituted a special committee to consider the turn-around strategy for NTC on June 26, 1993. On the recommendation of this committee, a sub-committee was constituted to consider the implementation of turnaround strategy. It had eight rounds of meetings. This committee led to the final agreement on April 9, 1994 for the modernization of N.T.C
- (2) ***Committee on Plantation*** For the effective amendment of the Plantation Labour Act, 1951, a Tripartite Committee on Plantation was reconstituted. The first meeting of the committee took place on April 27, 1994. A sub-committee of the tripartite committee also considered the specific issue relating to medical facilities

was held on April 27, 1994. The consensus arrived at meetings called for amendment in Plantations Labour (Amendment) Bill 1992 (that was earlier introduced by the government in the Rajya Sabha). The 41<sup>st</sup> session of the Labour Ministers conference was held in New Delhi, on August 13, 1992, under the chair of Union Minister of State for Labour. After deliberations on various issues, it arrived at the following conclusion

- (i) The Ramanujan Committee report on trade unions was considered by the conference it was decided to place the report before the next I.L.C.
- (ii) It was decided to appoint a committee of labour ministers to go into the recommendations of National Commission on Rural Labour (NCRL) pertaining to
  - (1) Social Security, (2) Central legislation for agriculture labour, (3) Central legislation for construction workers, (4) Appointment of National Commission on Bonded Labour etc.
- (iii) It was decided to convene a labour minister conference to consider the question of improvement of quality of medical services rendered under the E.S.I.C.
- (iv) It was held that restriction on the employment of outsider and the problem of interstate migrant worker needs serious consideration and therefore be referred to interstate and even to the national integration council.

For safeguarding the interest of child labour, it was emphasized that the Child Labour (Prohibition and Regulation) Act, 1986 needs more effective implementation. The conference also called for the amendment of the Act.

#### **(5) Other Tripartite Committees**

Besides the various committees discussed earlier, all those committees that have been playing a vital role in the implementing a uniform and co-ordinate labour policy in the country are discussed under this head. A few important committees are

- (a) ***Steering Committee on Wages*** It was set up in 1956 as a study group on wages and was subsequently reconstituted as the steering committee on wages. It consists of representatives of state governments, employers and workers and an economist. The functions of this committee are:
- (i) to study trends in wages, production and prices;
  - (ii) to plan collection of material for drawing up a wage map of India; and
  - (iii) to draw up reports from time to time for laying down principles which will guide wage fixing authorities”.
- (b) ***Central Implementation and Evolution Machinery*** The 18<sup>th</sup> session of the Standing Labour Committee in 1957 recommended the setting up of special machinery at the Centre as well as in the states to ensure proper implementation of labour awards, agreements and Code of Discipline. The implementation machinery at the Centre consists of an Evaluation and Implementation Division and a tripartite implementation committee, consisting of 4 representatives from each of central employers’ and workers’ organizations with the union labour minister as chair.
- (c) ***Central Boards of Workers’ Education*** It was constituted to encourage the growth of strong and well-informed trade union movement conducted by the workers themselves on responsible and constructive lines. This consists of representatives of employers and workers, and of central and state governments.
- (d) ***National Productivity Council*** It consists of representatives of the government, employers’ associations, labourers’ organizations and certain independent experts. It encourages the productivity in the country.

### **Bipartite Bodies Prologue**

Bipartite bodies constitute a system of industrial relations where social and labour issues are discussed between trade unions and management, usually at the enterprise level.

The bipartite consultative machinery comprises two important constituents, viz., ***the works committees and the joint management***

**councils.** These are purely consultative and not negotiating bodies. This consultative joint machinery, with equal representation of the employers and the workers, has been set up exclusively for dealing with disputes affecting the plant or industry

### **Evolution of Such Bodies**

The importance of bipartite consultative machinery was first recognized as early as in 1920, when a few joint committees were set up in the presses controlled by the Government of India. They were also introduced in Tata Iron and Steel Company at Jamshedpur.

The First-Five-Year Plan highlighted the importance of bipartite consultation that maintained further.

*“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”[8] .*

The second Plan also stressed the need for *“joint consultation and progressively associating the workers and technicians, wherever possible, in management” [9].*

### **Bipartite Bodies**

The two important constituents of bipartite consultative machinery are (A) *Works Committee*, (B) *Joint Management Councils*. A brief review of these bodies is given here

#### **A. Works Committees**

These committees have been regarded as the most effective social institution of industrial democracy and as a statutory body, established within the industrial units with representatives of the management and workers, for preventing, and settling industrial disputes at the unit level. The works committee can be formed by any enterprise, employing 100 or more workers. Its objectives 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 [10]**

These committees give labour a greater sense of participation and infuse a spirit of co-operation between the two parties without encroaching upon each other's sphere of influence, rights and prerogatives. They establish a channel of close mutual interaction between labour and management which, keeping tension at a low level, generates 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. To accomplish this goal, the works committees are entrusted with a number of functions that are of benefit to management as well as employees.

### **Bipartite Link with Tripartite Introduction**

Bipartite is complementary to tripartite at national and other levels. Bipartite and tripartite bodies are the two sides of the same coin. Both mutually reinforce each other. The prerequisites for the success of both bipartite and tripartite bodies are similar. These are equality among partners, freedom of association, the right to collective bargaining,

and democratic decision-making. National and centralized tripartite consultations are usually more influenced by political considerations and state support. Bipartite arrangements, particularly in the context of the current trend towards decentralized firm/plant-level bargaining, adjustment to structural and other changes, and economic crisis, are influenced more by economic considerations.

The institutional framework for industrial relations influences substantially, the relative roles of tripartite and bipartite mechanisms in responding to economic changes/policies at macro level.

### **Tripartite Contribution to Bipartite Mechanism**

Tripartite consultations and agreements can exercise profound influence in directing and shaping collective bargaining and industrial relations. The three-tier frame work of industrial relations proposed by Kochan, (1987) [11] suggests a direct and active role for tripartite consultation at macro level, to be reinforced by bipartite consultations, collective bargaining, communication, information sharing, and employee participation at industry and firm/plant level.

Whether it was the arrangements for the avoidance/settlement of disputes relating to procedures for recognition of unions, grievance redressed, consultations and cooperation at work place, or collective bargaining on a host of matters relating to industrial relations and human resources, tripartite initiatives played a substantial role in setting up international labour standards, enactment of national legislations, and conclusion of national agreements. In the Indian context, for instance, the following tripartite declaration played a useful role, at least for a number of years, in influencing bipartite relations and agreements relating to union recognition, automation, and modernization.

- 1 Code of discipline,
- 2 Code of Conduct,
- 3 Automation Without Tears.

## Bipartite Contribution to Tripartite Mechanism

Bipartite or more importantly, collective bargaining, which is a key instrument of bipartite mechanism, may reduce the need for tripartite interventions. In some cases, tripartite mechanism begins where bipartite mechanism fails. For instance, when bipartite dialogue does not result in dispute avoidance or settlement, then tripartite interventions such as conciliation/mediation and arbitration/adjudication become imperative. Bipartite arrangements can contribute in the following ways to facilitate meaningful and effective tripartite social dialogue at industry and national level

1. In countries like us the representative character of the social partners is very much limited. This is so because the predominant character of the economy brings forward the prevalence of large unorganized and in formal-sector in it. Thus, the outcomes of tripartite discussions do not necessarily reflect the wishes of the large majority of the working population. Under the condition, it is better to adopt a bottom-up approach through bipartite dialogue at enterprise level.
2. The interests of employers and workers are affected by government policies in areas other than industrial relations such as fiscal, monetary, trade, taxation, licensing, etc. The effects of these aspects is ;more closely and effectively reckoned and evaluated in bipartite consultations, particularly collective agreements, than in tripartite dialogue.
3. Consensual approaches are best planned and implemented if parties at the grass root level i.e., plant level develop them. The parties/ persons directly affected should be involved in the dialogues with each other with an aim to reach to a consensus. Externally imposed consensus through tripartite declarations often may not work effectively at industry / enterprise level.

### Summary

*This chapter draws attention on three issues* while trying to depict the important roles of the Consultative Bodies. *The first issue resides* upon the growth of diverse tripartite bodies. *In the process, the chapter*

*projects the importance* of a few notable tripartite bodies, set up by the government, in establishing effective industrial relations.

*The second issue, equally, identifies the* significance of bipartite bodies, particularly Works Committees and Joint Management Council, in inculcating a spirit of co-operation between the two parties. *The third issue highlights the linkage of bipartite* and tripartite where by one facilitates the effectiveness of the other and vice-versa.

.....  
[NOTE Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books in the references].

\*\*\*\*

---

## Lesson 3.3 - IR Strategies - a Discussion

---

### Learning Objectives

This lesson comprises three units. The first unit explains IR decisions, IR strategies- trade unionism, grievance procedure and disciplinary procedure. The second unit deals with the role of collective bargaining with reference to IR strategy. The third unit describes about the various machineries of settlement of disputes like mediation, conciliation, voluntary arbitration, adjudication, employers association.

### IR Strategy Introduction

It is necessary to have a clear-cut strategy for IR, although the management of IR is essentially an automatic reaction to events and problems and is, therefore, far removed from the world of strategic thinking and planning. Since employer-employee relations are usually presumed to be satisfactory until they get out of hand, managers, rarely, feel the need to act before the trouble breaks out [1]. This reactive disposition spins around the traditional approach of IR. However, in present day the rapid changes of the environmental forces including the growing rise of competition demand proactive measures to shape the industrial relations in a manner so that adaptation processes can be faster than before with very minimum resistances, whatsoever. Today, industrial enterprises need to be ensured by the commitments of the employees and for this, industrial relations insist upon proactive appraisals of the employee-employer consistent activities towards the accomplishment of enterprise goal or set of goals under the assured condition of mutual compatibility of interests. It can be conjectured then that the aim of IR strategy within the framework of change is to generate optimal efficiencies of the fraternal relations of trade unions and the management that in other way can make certain a work climate of readiness across the enterprise to accept the changes as and when required. It is needless to mention here that a holistic IR strategy is the synergistic outcome of several strategies related to different IR issues in reality. The overall IR strategy is to be based upon the principles,

the organization should draw before hand to promote harmonious and effective relationships among the stakeholders with special focus on the employee-employer relations.

### **Factors Affecting Employee Relations Strategy**

Two sets of factors, internal as well as external, influence an IR strategy. *The internal factors* are[2]

1. The attitudes of management to employees and unions;
2. The attitudes of employees to management;
3. The attitudes of employees to unions;
4. The inevitability of the differences of opinion between management and unions;
5. The extent to which the management can or wants to exercise absolute authority to enforce, decisions affecting the interests of employees;
6. The present and likely future strength of the unions;
7. The extent to which there is one dominating union or the existence of multiple unions leading to inter-union rivalry;
8. The extent to which effective and agreed procedures for discussing and resolving grievances or handling disputes exist within the company;
9. The effectiveness of managers and supervisors in dealing with problems and disputes related to IR;
10. The prosperity of the company, the degree to which it is expanding, stagnating or running down and the extent to which technological changes are likely to affect employment conditions and opportunities.

The *external factors* affecting IR strategy are [3]

1. The militancy of the unions-nationally or locally;
2. The effectiveness of the union and its officials and the extent to which the officials can and do control the activities of supervisors within the company;

3. The authority and effectiveness of the employer's association;
4. The extent to which bargaining is carried out at national, local or plant level;
5. The effectiveness of any national or local procedure agreements that may exist;
6. The employment and pay situation-nationally and locally;
7. The legal framework within which IR exists.

### **IR Strategy a Sense of Direction within the Framework**

To this, end the IR strategy with its proactive action orientations strives to induce a work culture that asserts on:

1. the recognition of the better side of the relationships with thrust on fraternal role of trade union,
2. the quick implementation of remedial measures coming out of grievances and dispute settlements,
3. the intended bargaining structure for cooperative bargaining,
4. the harmonization of the relations through the execution of effective policy for discipline [ An effective policy is one which flattens the progress of harmonious relations and make the organization-wide awareness to accommodate changes quickly],
5. the architectural flexibility of the organization to get it prepared to counter the environmental uncertainties[Architectural flexibility manifests the simultaneous flexibilities of the structure and function so that the enterprise takes least time to accept the changes as per the demand of the contingencies],
6. the employee participation in a way that can add values in the respective work-linked activities.

IR strategy therefore tries to evolve its sense of direction within the framework of the traditional industrial relation system. So to say, this sufficient condition allows the proactive strategic move of IR towards its projected direction amidst the foundation of a work culture that operates with the above assertions. Nevertheless, IR strategy needs to be understood based on the essential components of traditional IR System.

## 1. Trade Unionism

Trade unions are voluntary organizations of workers formed to promote and protect their interest through collective action. Trade unions have always played a powerful role in improving the lot of workers in India, using aggressive bargaining tactics. Trade union constitutes one of the stakeholders in IR. They are not confined to mere striking and negotiating on behalf of workers. Their role is much wider. Trade unions in India have been recognized as legitimate social organizations and have become part and partial of industrial organizations.

Trade unions aim at achieving various objectives primarily protecting the social and economic interest of the worker. Trade unions play a vital role in protecting worker's interests. Under traditional IR System, they have to undergo with serious stress, bargain with the management and even, sometimes fight with the employers by organizing strikes of different kinds, threatening to the management etc., before they could achieve legitimate demands of workers. Trade unions adopt various strategies to safeguard workers interest. These strategies include representation of the issues/ demands through grievance procedure, disciplinary procedure, collective bargaining, organizing strikes, political pressure etc.

## 2. Grievance Procedure

Grievance procedure is another method of resolving disputes. All labour agreements contain some form of grievance procedure. ***And if the procedure is followed strictly, any dispute can easily be resolved [4].*** A typical grievance procedure followed in a Bangalore-based public sector unit is as follows

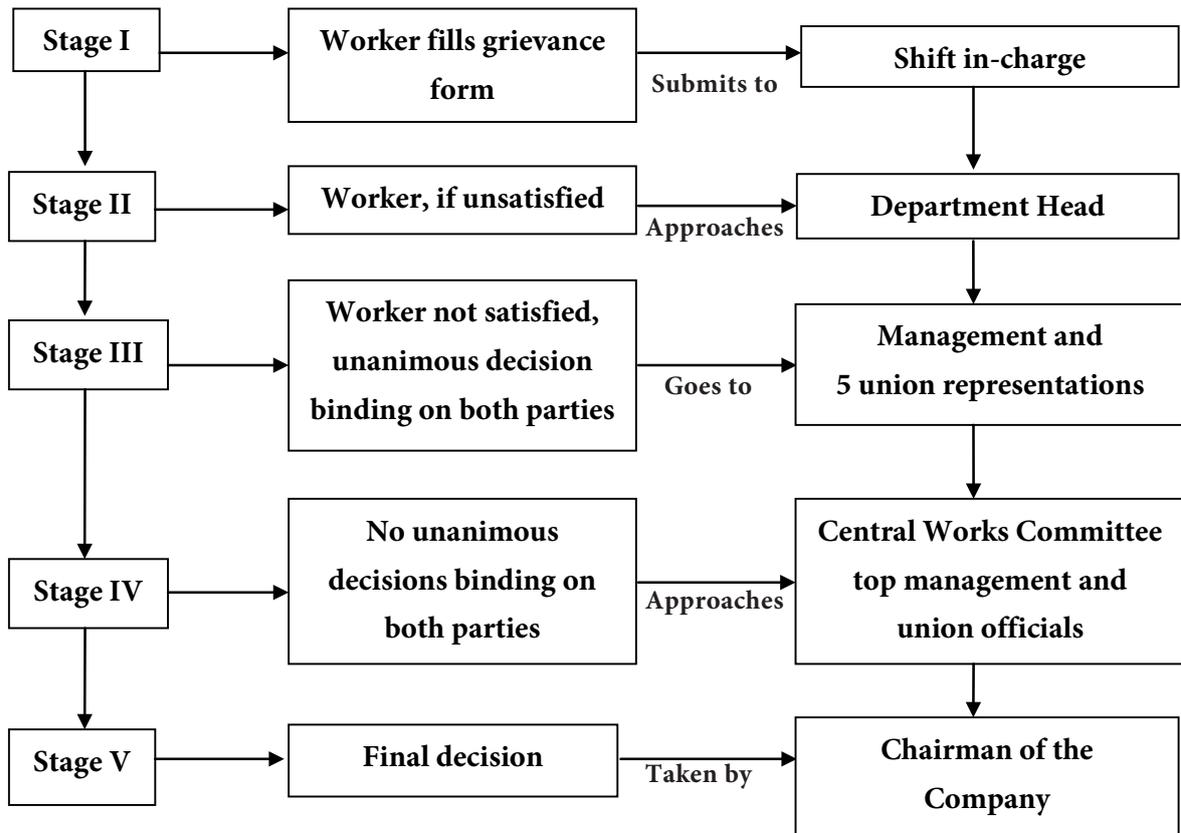
- i) ***First Stage*** The aggrieved employee shall, first submit his grievance in writing to his 'Sectional Head' in the prescribed form. The sectional head should study the grievance carefully with the least possible delay and the aggrieved employee should be given an opportunity to present his case in person if he requests for the same. If the employee so desires, he may take the assistance of a co-worker or a union representative. A written reply shall be given to the employee before the end of the fifth working day, if reply is not given before the end of the fifth working day, the concerned officer should record reasons for the delay that should be communicated to the aggrieved employee

- ii) Second Stage** In case the said employee is not satisfied with the reply of the sectional head, or if the Sectional Head fails to give a reply within the stipulated time as in First stage above, he shall be free to register his grievance in writing in the prescribed form with his Departmental Head. Departmental head shall, after careful study, give an opportunity to the concerned person to present his case before him. The head of the department should study the grievance and the points brought out by the employee in the personal hearing and give a reply at the end of the fifth working day from the day of receipt of such complaint
- iii) Third Stage** If the employee is not satisfied with the decision of the departmental head or if the latter fails to give any decision within the stipulated period, the employee will be entitled to lodge an appeal to the Divisional Head or any other officer nominated by the management for this purpose. This officer should also follow the same procedure as prescribed in Stages I and II and a reply should be given before the end of the tenth working day
- iv) Fourth Stage** If the aggrieved employee is not satisfied with the decision of the divisional head, he can refer the case to **the employee's union** within 10 days. The Union may discuss the subject if they deem fit, in the periodical management-union meetings that will be held within one month from the day, such reference is made by the Union to the management.

### **Model Grievance Procedure**

The Model Grievance Procedure suggested by the **National Commission on Labour** has provided successive time bound steps, each leading to the next in case of lack of satisfaction. At the outset, an aggrieved worker shall approach **the foreman and informs his grievance orally** and seeks the redressal of his grievance. If it is not redressed to his satisfaction, he approaches **the supervisor** who has to give reply to the complaint of the worker **within 48 hours**. If the decision (answer) is not acceptable to the worker or if the superior does not give an answer, **the worker can go to the next step**. At the third stage the worker either can, in person or accompanied by his departmental representative, **approach the head of the department who has to give an answer before the expiry of three days**. **If the department head fails to do so or if the decision** given by him is not acceptable to the worker then the worker can resort to the

*Grievance Committee that comprises of the representatives of employers and employees.* This Committee shall communicate its recommendations to the manager within seven days of the grievance reaching it. If there are unanimous decisions, these shall be implemented by the management. In case, unanimous decisions have not been arrived at, the views of the members of the Committee shall be recorded and all the relevant records shall be placed before the manager for decision. The manager shall communicate his decision within three days. The worker has got a right to appeal against the manager's decision. These appeals shall be decided within a week. If the aggrieved desires, he or she can take along with him or her union official for discussion with the authority. In case a decision has not been arrived at, at this stage, the union and management may refer the grievance to voluntary arbitration within a week of receipt of the management's decision by the worker. At this stage, the union and management may refer the grievance to voluntary arbitration within a week of receipt of the management's decision by the worker. The Tata Iron and Steel Company (works), for example, has grievance procedure, which consists of several stages [5].



***Grievance Procedure of The Tata Iron and Steel Company (works),***

Source: Monappa, A.(1985).*Industrial relations*, NewDelhi TataMcGraw-Hill,pp.153-55.]

### 3. Collective Bargaining

Collective Bargaining is a process in which representatives of two groups (employers and employees) meet and try to negotiate an agreement which specifies the nature of future relationship (pertaining to employment) between the two. Collective bargaining is a bipartite mechanism where union on behalf of the employee and management on behalf of the employers sit together to initiate a process whereby both the parties attempt to agree on something the first party cares in exchange of some other thing the second party concerns about. Usually in industry the collective bargaining moves around employment conditions and HR policy-centric matters to wage and compensation linked issues. Thereby, collective bargaining establishes some kind of relation between employees' union and the employers where both the parties try to settle the dispute through amicable negotiation. A dispute is a very natural because under such condition one party thinks that other is going to affect the interests of the same. Collective bargaining is a state of affairs that resolves the differences between the employers and the employees relating to indispensable issues of employment provisions and through face to face interactions of the representatives of the workers and the employers within the process of bargaining, both the parties try to settle up the disparities, amicably, with the avoidance of mutually incompatible interests as far as possible (Yoder, 1975). ***Features of Collective Bargaining***

The essential features of collective bargaining are as follows

- (i) It is joint or collective process. The representatives of both the management and the employees participate in it.
- (ii) It is a continuous process. It establishes regular and stable relationship between the parties involved. It involves not only the negotiation of the contract, but also the administration of contract. When we say that collective bargain includes the administration or application of the contract also, it means that bargaining is a day-to-day process.
- (iii) It is a dynamic process. The parties have to adopt a flexible attitude throughout the process of bargaining.
- (iv) It is a form of industrial democracy.

- (v) It is an adjustment formula based on give and take approach of both sides.
- (vi) It is an attempt to achieve and maintain discipline in industry.

#### **4. Disciplinary Procedure**

Maintenance of harmonious human relations in an organization depends upon the promotion and maintenance of discipline. No organization can prosper without discipline. Discipline has been a matter of utmost concern for all organizations. Maintenance of effective discipline in an organization ensures the most economical and optimum utilization of various resources including human resources. Thus, the objective of discipline in an organization is to increase and maintain business efficiency [6]. Effective discipline is a sign of sound human and industrial relations and organizational health.

##### ***Approaches to Discipline***

The different approaches to discipline include:

- (i) human relations approach
- (ii) human resources approach
- (iii) group discipline approach
- (iv) the leadership approach and
- (v) judicial approach.

The employee is treated as human being and his acts of indiscipline will be dealt from the viewpoint of values, aspirations, problems, needs, goals behaviour etc. Under human relations approach the employee is helped to correct his deviations. The employee is treated as a resource and the acts of indiscipline are dealt by considering the failure in the areas of development, maintenance and utilization of human resources under the human resources approach. The group as a whole, sets the standards of discipline, and punishments for the deviations. The individual employees are awarded punishment for their violation under the group discipline approach. Every superior administer the rules of discipline and guides, trains and controls the subordinates regarding disciplinary rules under the leadership approach.

In Judicial approach, the disciplinary cases are dealt on the basis of legislation and court decisions. The Industrial Employment (Standing Orders) Act, 1946, to a certain extent, prescribes the correct procedure that should be followed before awarding punishment to an employee in India. No other enactment prescribed any procedure for dealing with disciplinary problems. However, over a period, a number of principles regarding the basic formalities to be observed in disciplinary procedures have emerged, gradually, resulting in from the awards of several Industrial Tribunals, High Courts and the Supreme Court.

### **IR Strategy Importance of Collective Bargaining**

Collective Bargaining not only includes negotiation, administration and enforcement of the written contracts between the employees and the employers, but also includes the process of resolving labour-management conflicts. Thus, collective bargaining is a legally and socially sanctioned way of regulating in the public interest the forces of power and influence inherent in organized labour and management groups.

#### **Importance of Employees**

##### Collective Bargaining *Helps the Employees*

- (i) to develop a sense of self-respect and responsibility among the employees,
- (i) to increase the strength of the workers; Their bargaining capacity as a group increases,
- (ii) to increase the morale and productivity of employees,
- (iii) to restrict management's freedom for arbitrary action against the employees. Unilateral actions by the management are discouraged, and
- (iv) to strengthen the trade union movement.

#### **Importance to Employers**

- (i) The workers feel motivated as they can talk to the employers on various matters and bargain for higher benefits. As a result, their productivity increases.

- (ii) It is easier for the management to resolve issues at the bargaining table rather than taking up complaints of employees individually.
- (iii) Collective bargaining promotes a sense of job security among the employees and thereby tends to reduce cost of labour turnover to management, employees as well as the society.
- (iv) Collective bargaining opens up the channels of communications between the top and bottom levels of organization that may be difficult otherwise.

### **Importance to Society**

- (i) To attain industrial peace in the country;
- (ii) To establish a harmonious industrial climate which supports the pace of a nation's efforts towards economic and social development since the obstacles to such development can be largely eliminated or reduced;
- (iii) As a vehicle of industrial peace or harmony, collective bargaining has no equal;
- (iv) To extend the democratic principle from the political to the industrial field;
- (v) It builds up a system of industrial jurisprudence by introducing civil rights in industry and ensures that management is conducted by rules rather than by arbitrary decisions;
- (vi) To check the exploitation of workers by the management;
- (vii) To distribute equitably the benefits derived from industry among all the participants including the employees, the unions, the management, the customers, the suppliers and the public.

There are two varieties of collective bargaining i.e., one, which is known as distributive bargaining, and the other are familiar as integrative bargaining. A distributive bargaining with its win-lose tactical move is the key technique under moderate to high strained industrial relations where both the parties are concerned with instant gains. However, integrative bargaining with its win-win approach as the chief line of a work culture, there is the articulation of fair to peak climax of cooperative industrial relations. This type of industrial relations, contrary to the first one, persists upon extensive gains over stretched range of time.

## Collective Bargaining as a Method of Settlement of Disputes

Collective bargaining is a method by which trade unions protect and improve the conditions of their members working lives. Collective bargaining brings the employer and the employees around one table to discuss and settle many contentious issues effectively. *It enables both the parties to know each other and their views, and to define their rights and obligations regarding terms of employment, working conditions, etc., through negotiations, discussions and bargains. ILO's remark is very relevant here* [7]. Until now, collective bargaining has been taken as a means of arriving at an agreement. It establishes rules that the management is bound to implement. Specifically, collective bargaining is

- A rule-making or legislative process, in the sense that it formulates the terms and conditions under which labour and management will cooperate and work together over a certain stated period,
- An executive process; both management (supervisor and supervisory officials) and trade union officials share the responsibility of enforcing the rules.
- A judicial process i.e., in every collective agreement there is a grievance procedure to settle any dispute concerning the application of the agreement. Where the agreement does not specifically cover the disputes, it may be settled according to the unwritten norms of shop practices. The decisions in these cases act as precedents in a manner similar to the common laws and interpretation of the legislation by the court.

After a dispute has erupted, collective bargaining acts as a peace treaty between the two warring groups. The treaty is invariably a compromise, but helps resolve the conflict nevertheless.

## IR Strategy Role of Industrial Dispute's Settlement Machineries

Simultaneously, attempt is made here also, to set down the approaches of the government to build meaningful industrial relations within the scope of labour laws of the country. A very prominent and common tune of all these laws revolves around democratic values that in turn assure some extents of social equity. The revelation of it is the basis

of the I.D. Act. This Act therefore generates ample scope of articulations of the measures with an aim to keep industrial peace through the exercise of democratic rights of the workers and the employers, whatsoever. The Industrial Dispute Act, 1947 offers a detailed and operative mechanism to settle the industrial disputes. It has been mentioned in chapter.4 [See. 1.4.6] that methods of resolution of disputes under this Act are of three types.

One is the kind that puts stress upon **Voluntary Settlement and Conciliation [8]**. The second deals with the **Method of Adjudication** and the third category are concerned with **Arbitration**. Precisely, the Works Committees, Conciliation Officers, Board of Conciliation and Court of Inquiry create a broad range, known as Conciliation Machinery for the resolution of disputes. These four authorities, carrying conciliation mechanism, act in the roles of facilitator to settle the industrial disputes but cannot pass any binding awards over the parties to the dispute[8]. Contrary to this, Method of Adjudication is being carried out by the Labour Courts, Industrial Tribunals and National Tribunals. These adjudication authorities have the powers of Civil Court and can adjudicate matters stipulated in the schedules of the Industrial Dispute Act. The awards of these authorities are binding upon the parties. However, in case of arbitration both the parties i.e., employer and the employee decide to refer the dispute to arbitration before going to the adjudication machineries.

The agreement of arbitration is forwarded to the appropriate government and the conciliation officer. In order to create a cooperative work climate the parties to the disputes strive to refer the issues to the conciliation machinery or voluntary arbitration. The IR strategy, thus, moves around its effort to maintain stable relationships between the management and the employees and thereby formulates the ways and means to send the disputes, if any, to the process of conciliation or to the voluntary arbitration. Because of the apprehensions of negative industrial relations it, therefore, seeks to avoid the process of adjudication, altogether. Today, both the management and the employees want to refer their dissatisfactions, complaints and grievances, as the case may be, to the mediator for settlements. The trend appears to be significant from the stand point of the changing perspectives of IR strategy which insists upon effective team work under the work climate of cooperation.

## Mediation

Mediations is a process available to the parties involved in contract negotiations by which an outside party is called in by union and management to help them reach a settlement. The neutral mediator does not ultimately resolve the dispute, but instead tries to move the parties towards agreement by maintaining communication and suggesting alternative solutions to dead-locked issues. The mediator's function is to provide a positive environment for dispute resolution by drawing on extensive professional experience in the field of labour management interaction. The mediator must possess thorough knowledge of the issues, and an ability to innovate solutions to problems. The mediator must be an effective communicator, know the importance of timing and most of all, have the confidence and trust of the parties. A mediator must possess attributes such as integrity, impartiality and fairness.

## Employers' Associations [9]

### *Introduction*

Employers' Associations came into existence because of the formation of ILO and the growing presence of Trade Unions, especially after the First World War. The Royal Commission on Labour, 1929, recommended that the Indian employers need an organization "to deal with labour problems from the employer's point of view". As rightly pointed out by Mr. Naval Tata, employers' organizations are required to

- **Develop** healthy and stable industrial relations;
- **Promote** collective bargaining at different levels;
- **Bring** a unified employers' viewpoint on the issues of industrial relations to the government in a concerted manner; and
- **Represent** in the meetings of ILC and SLC boards in conformity with tripartite approach to labour matters.

### Summary

*It is indispensable to have a definite approach* for industrial relations, even though the administration of industrial relations is a routine response to occasions and crisis and is, then, remote from the

world of strategic view and scheduling. *So to say, this lesson covers* three components

- *The first element elucidates industrial relations* decisions, industrial relations strategies- trade unionism, grievance procedure and disciplinary procedure.
- *The second item shares the role of* collective bargaining with reference to IR strategy.
- *The third element portrays about the diverse apparatus* of resolution of disputes like mediation, conciliation, voluntary arbitration, adjudication, employers association etc.

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books 1.Yoder, D.(1975). *Personnel management and industrial relations*, New Delhi Prentice Hall of India.; 2. Robbins, S.P., Judge, T.A., and Sanghi, S. (2007). **Organizational behaviour**, (12th Ed.), Delhi Pearson Education, Inc, pp.554-84]

\*\*\*\*

---

## Lesson 3.4 - Workers' Development and Participation

---

### Learning Objectives

This session contains three units. The first unit makes an endeavour to explain different aspects of workers' development. Second unit raises issues in relation to the concept, objectives and essential conditions of workers' participation in management in order to craft a work climate that induces its successful working. The last unit explains workers' participation in management in India, adopting various practices and strategies for making participation effective.

### Workers' Development

HRD has become the key factor in India, handling industrial relations to usher new industrial era. Managing men at work has been the most complex problem for management scientists. Industrial relations, now days, include those areas of HRD, which are linked to employee development so that the employees can create a work climate that insists upon

1. value addition to the respective activities;
2. respect to others under trustworthiness;
3. support to others as and when needed;
4. forming a cooperative relationships with the management and among themselves;
5. working under mutual compatibility of interests;
6. employee commitment and job involvement;
7. development of positive employee morale;
8. mutually agreed upon coordination that helps the enterprise to avail the market opportunities quickly;
9. building a relationship network with the customers

As result of some known studies\*\*, coupled with emergence of strong trade union movement and labour legislation, man- management has gone evolutionary changes. In spite of this evolution of management thought, it is still a dilemma as to which approach is best in handling industrial relations. The two extreme trends are

**\*\* Some studies are:**

1. Scientific management – 1910,
2. Time and Motion Studies – 1910,
3. Human Relations Approach – 1920,
4. Behaviour Science Movement – 1950,
5. Human Resource Management (HRD) Movement – 1980.

**Workers' Development At One Extreme**

*At One Extreme*

1. Trade Unions have become 'second-line' management. Managerial prerogatives are eroded.
2. New generation of workers is more conscious of rights and privileges rather than duties and obligations towards the organization.
3. Trade unions remain silent about workers' obligations towards organization. Forthright leaders, if talk, they are dubbed as "management men".
4. Trade unions succeed in getting more through pressures and violence than by reasoning.
5. Collective bargaining has become a pressure game. Unions are exploiting the emotions of workers.
6. Only fear and force can restore discipline.
7. Trade unions should be dealt with a heavy hand. (Authoritarian or hard approach)

## **Workers' Development At Other Extreme**

### ***At the Other Extreme***

- 1 Human beings are considered as assets and not liabilities.
- 2 Employees should be cared for, persuaded and motivated.
- 3 It is felt forced disciplined is not enduring.
- 4 Trade unions have vital roles to play, even in the presence of knowledge workers.
- 5 Conflict and confrontation to be avoided. Win-lose strategy does not work for long.
- 6 Managers should not spend much time on trade union wrangles but on preventive and proactive approaches and actions.
- 7 Environment in the organization and creation of a beneficial work climate are vested on both management and trade unions whereby both the parties in consonance with each other and of being the parts of the unified system can have the capacity to transform the environment of conflict and mistrust into the environment of cooperation and collaboration (People-centric alignments and soft approach for the course of value added outcomes)

### **Human Resource Development (HRD) Approach**

Human Resource Development (HRD) generally covers some sub-systems, e.g. training and development, counselling, performance appraisal, career planning, etc. However, HRD comes with a number of potent applications which in other way claim to be relevant in shaping the industrial relations under the growing contingencies of accelerated competitions. HRD is not a new concept though its applications appear to be new. From this point of view, it is a revitalization of earlier ways of man- management.

Due to new economic policy of liberalization, privatization and globalization (LPG), competition in the local market with MNCs' and changing technologies, there are fast changes in industrial relations scene. A number of practices are involved in organizations, e.g. restructuring of organizations, ERP, VRS, disinvestment of government shares, TQM, ISO 9000, etc. Companies are projecting certain views, which are given below.

*Certain Views of the Companies*

- I. No jobs are secured and permanent. There will never be job security.
- II. One will be employed as long as he adds value to the organization, Economic Value Addition (EVA) is the basis of employee performance.
- III. Employee should continuously find ways to add value by being innovative, risk-taking and committed to organization goals

In turn, the employee has the right to demand

- I. Interesting and important work,
- II. Freedom and resources to perform it well,
- III. Proper pay,
- IV. Training, and
- V. Employees become more responsible for their work and careers.

New deal in employee relationship calls for

- a. Less control over employees and give more authority to work in teams.
- b. No more parent-child relationship, but adult to adult. Employees are to be treated as partners with management.
- c. Use of modern approaches to job design for better job satisfaction- such as job rotation, job enrichment, quality circles, flexi-time, compressed work week, to increase skill variety, task identity, task significance and autonomy and job feed-back. These will play positive role in employee satisfaction and make him feel his work is meaningful.
- d. Workers to be moved from one job category to another to enhance their exposure and employable skills.
- e. Management to encourage training as old jobs is getting extinct. This will provide job security
- f. Management will explain to workers/unions importance of customer satisfaction, quality and low price to remain competitive.

## Workers' Participation in Management

The word 'participation' means sharing the decision-making power with the lower ranks of the organization in an appropriate manner. Participation has a unique motivational power and a great psychological value. It promotes harmony and peace between workers and management. When workers participate in organizational decisions, they are able to see the big picture clearly, i.e., how their actions would contribute to overall growth of the company. They can offer feedback immediately based on their experiences and improve the quality of decisions significantly. Since they are involved in the decisions from the beginning, they tend to view the 'decisions' as 'their own' and try to translate the rhetoric into concrete action plans with zeal and enthusiasm. Participation makes them more responsible. They are willing to take initiatives. They, thus, want to contribute in the organizational activities more with high rates of frequency and willingness. Now, this manifestation of zeal is not confined to employees, alone but the employers too, are, equally, serious to seek and articulate employees' participations in their monopolized decision-making assignments. Here we are talking about the paradigm shift of industrial relations. A swing that indicates the followings on the part of the employers

1. Employers no more hold the traditional attitudes of looking employees from the upper echelon of the pyramid;
2. The myth of the elite class does not exist today and quality decision is not the prerogative of the same;
3. It is replaced by enunciated competence to add value in the activity and this holds true for everybody as parts of the system;
4. An integrated industrial relations system [IIRS] has emerged that sustains, fruitfully, through cooperation and team work;
5. IIRS believes that quality decisions in the rapidly changing world can only be guaranteed by cross-hierarchical team where participations of employees in joint decision-making exercises enhance the possibility of cross-fertilization of the thought processes.

Fast but steady changes of the environmental forces, triggering in the mind-sets of a sizeable sections of the employers and/ or the group of their representatives i.e., the managers in relation to joint decisions with

the competent employees, have enforced upon the employers to change their attitudes towards employees. They, thereby, are willing to accept the joint participations of the employees in a meaningful way. Density of knowledge workers in the industrial premises acts as catalyst to transform the age-old attitude of the employer to modified one. I hope that then, employees reciprocate this drift by expressing extensive cooperation as and when required and psychologically are more concerned with the respective participations.

The feeling of being treated as equals, forces them to repose their confidence in management and accept plans of rationalization, expansion, etc., without raising serious objections. Since they are treated with respect now they begin to view the job and the organization as their own and commit themselves to organizational activities wholeheartedly

### **Introduction**

Output cannot be increased unless there is effective co-operation between labor and management at all levels. The way of ensuring this is to satisfy their social and psychological need besides economic ones. Workers' participation in management is one of the most significant modes of resolving industrial conflicts and encouraging among workers a sense of belongingness in establishment where they work. This is very much true for our country, also. There are two distinct groups of people in an undertaking, viz., 'managers' and 'workers' performing respectively two separate sets of functions which are known as 'managerial' and 'operative'. Managerial functions are primarily concerned with planning, organizing, motivating and controlling in contrast with operative work.

A self-employed man may carry out both these functions if the area of his operations is very small. However, in case of big organizations, these functions are to be performed by different sets of people. Workers' participation in management seeks to bridge this gap, authorizing workers to take part in managerial process. Actually, this is a very wide view of the term worker's participation in management and this is not practically possible. Participation may **take two forms**. It may be **(1) ascending participation, and (2) descending participation**. In case of ascending participation, the workers may be given an opportunity to influence managerial decisions at higher levels through their elected

representatives to joint councils or the board of directors of the company. Nevertheless, in descending participation, they may be given more powers to plan and to make decisions about their own work (e.g. delegation and job enlargement). This form of participation is quite popular in many organizations.

### **Implications of Workers' Participation in Management**

The International Labour Organization summarizes implications of workers' participation in management. These implications state the followings

1. Workers have ideas which can be useful.
2. Upward communication facilitates sound decision-making. Workers may accept decisions better if they participate in them.
3. Workers may work more intelligently if they are informed about the reasons for and the intention of decisions that are taken in a participative atmosphere.
4. Workers may work harder if they share in decisions that affect them.
5. Workers participation may foster a more cooperative attitude amongst workers and management thus raising efficiency by improving team spirit and reducing the loss of efficiency arising from industrial disputes.
6. Workers participation may act as a spur to managerial efficiency.

### **Definitions**

The concept worker's participation in management (WPM) is a broad and complex one. Depending on the socio-political environment and cultural conditions, the scope and contents of participation may change. In any case, a common thread running through all interpretations is the idea of associating employees in managerial decision-making. The view expressed by the International Institute for Labour Studies (Bulletin 5) is worth quoting here. WPM has been defined as, "*the participation resulting from practices which increase the scope for employee's share of influence in decision-making at different tiers of organizational hierarchy with concomitant assumption of responsibility*". The concept

of worker's participation in management crystallizes the concept of Industrial Democracy, and indicates an attempt on the part of an employer to build his employees into a team that work towards the realization of a common objective [1]. According to Davis, "***it is a mental and emotional involvement of a person in a group situation which encourages him to contribute to goals and share responsibilities in them***" [2].

"Worker's participation in management" is a resounding phrase, bridging the past and the future. It echoes the millennial vision of nineteenth century thinkers while heralding, simultaneously, the evolution of new forms of industrial organization under twentieth century pressures. The word 'workers' participation' is, plentifully, supplied with ideas, institutions and opinions [3]."

Mamoria defines it as a system of communication and consultation either formal or informal by which employees of an organization are kept informed about the affairs of the undertaking and through which they express their opinion and contribute to management decisions [4].

The International Institute of Labour Studies remarks "***The participation results from practices which increase the scope for employees' share of influence in decision-making at different tiers of the organizational hierarchy with concomitant assumptions of responsibility***"[5].

This becomes meaningful only in such a situation. Here it is quite evident that the participation of each should strictly be confined to the field for which he is competent and concerned with. Everybody poking his nose into everything is, therefore, not participation, but proliferation. This must have been the reason why a group of practicing managers defined 'workers' participation in management is involvement of workers only in such areas of activities of the enterprises where they can make some positive contribution for the betterment of the enterprise [6].

Such participation should facilitate effective utilization of available resources and effective execution of long-term expansion plans, including diversification. It should facilitate the day-to-day functioning as well as inventions and innovations.

## Need of Workers' Participation

*Worker's participation in management* has assumed great importance these days because of the following advantages

1. ***It reduces industrial unrest*** *Industrial conflict is a struggle between two* organized groups which are motivated by the belief that their respective interests are endangered by the self-interested behaviour of the other. ***Participation attacks*** at this very root of industrial conflict. ***It tries to remove or at least minimize the diverse and conflicting interests between the parties,*** by substituting in their place, ***cooperation, homogeneity of objects and common interests.*** Both sides are integrated and decisions arrived at becomes "ours" rather than "theirs".
2. ***It decreases misunderstanding*** *Participation helps dispelling employee's misunderstanding* about the outlook of management in industry.
3. ***It enhances organizations' balance*** *If worker are invited to share in organizational* problems, and to work towards common solutions, ***a greater degree of organizational balance occurs because of decreased misunderstanding of individual and group conflict.*** *Participation leads to increased understanding* throughout the organization. People learn that others have problems beside themselves.
4. ***It ensures higher productivity*** *Increased productivity is possible only when there exists fullest co-operation between labour and management.* It has been empirically tested that poor '*labour management relations*' do not encourage the workers to contribute anything more than the minimum desirable to retain their jobs. ***Thus, participation of workers in management is essential*** to increase industrial productivity.
5. ***It increases Commitment*** *An important prerequisite for forging greater commitment* is the individual's involvement and opportunity to express him or her. ***Participation allows individuals to express themselves at the work place*** rather than being absorbed into a complex system of rules, procedures and systems. ***If an individual knows that*** he or she can express his or her opinion and ideas, a

personal sense of gratification and involvement takes place within him or her. ***This, in turn, fortifies his or her identification with the organization*** resulting in greater commitment.

6. ***It aids in fetching Industrial democracy Participation helps to build a work atmosphere*** that nurtures the values of democracy in industry. ***It is based on the principle of recognition*** of the human factor. ***It tends to reduce class conflict between capital and labour.*** It also serves as a support to ***political democracy.***
7. ***It develops the faculties of Individuals Participation enhances individual creativity and response to job challenges. Individuals are given an opportunity to direct their initiative*** and creativity towards the objectives of the group. ***This facilitates*** individual growth.
8. ***It creates attitudes expressing less resistance to change*** When ***changes are arbitrarily introduced*** from above without ***explanation,*** subordinates tend to feel ***insecure and take counter measures aimed at sabotaging the changed move.*** However, when ***they are allowed to participate in the decision- making process,*** they have had an ***opportunity to be heard.*** They know ***what to expect and why.*** Their ***resistance to change is reduced.***

The realization of workers' need for participation in the management is influenced by the following factors

1. Technology adoption leading to complexity in production process that calls for increased worker cooperation.
2. Employees are no longer treated as subservient individuals but are to be dealt as assertive personalities, having equally potent abilities to take complex decisions.
3. Growing influence of cooperation between union and management due to increased competition in the market prevents exploitation of employees in any form.
4. There are regulations and legislations that facilitate increased workers participation in management.
5. Workers' participation crafts gradually within the mindsets of the employees some degrees of commitment and involvement with the

enterprise and the work as such that are essentially the necessary conditions of quality productions.

6. Team-linked efficient work force is the asset of the enterprise that can counter the incoming uncertainties of the market and can make the same respond quickly to the changing situations. Motivated and committed employees to this end are the vital ingredients of change who indulge upon participatory activities more to propagate their efficiencies and mark them as distinctive workers

### **Objectives of Workers' Participation in Management**

The main objectives of workers' participation in management include:

- ***Enhancement of Productivity*** To promote increased productivity for the advantage of the organization, workers and society at large;
- ***Building of employee Awareness*** To provide a better understanding to employees about their role and place in the process of attainment of organizational goals;
- ***Motivating the Employees*** To satisfy the workers' social and esteem needs; and
- ***Strengthening Cooperation between the workers and the management*** To strengthen labour management co-operation and thus to maintain industrial peace and harmony.
- ***Tapping Latent Qualities of HR through Social Education*** One of the objectives of WPM is to develop interests within the employees for social education. It imparts effective solidarity for cooperation within the workers in one hand and on the other utilizes latent qualities of human resources.
- ***Exploring the Ideology of Self Management*** WPM cultivates ideological point of view to develop self-management in industry.
- ***Improving Efficiency of the Enterprise*** WPM is considered to be an instrument to improve efficiency of the company and to establish harmonious industrial relations.
- ***Creating Distinctive Workforce*** WPM attempts to create the most dynamic and distinctive human resource within the industry.

- **Promoting Innovations** WPM's objective is to promote innovations within the employees which in other way ensure the business success of the enterprise in one hand and the economic development of the nation on the other.
- **Ensuring the Quality of Work Life** To improve the quality of working life by allowing the workers greater influence and involvement in work and the satisfaction obtained from work.
- **Enriching the Personalities of the Employees** WPM tries to develop employees' personalities in a way so that interactions produce friendly work environment within the enterprise.
- **Developing Internal Leader from within the Industry** WPM helps in the development of internal leaders from within the industry.
- **Creating Democratically Free Industrial Society** WPM comes with the promise to form egalitarian industrial society.

Essential Conditions for Successful Working of WPM The success of workers participation in management depends upon the following conditions [7].

1. The attitude and outlook of the parties should be enlightened and impartial so that a free and frank exchange of thoughts and opinions could be possible. Where a right kind of attitude exists and proper atmosphere prevails, the process of participation is greatly stimulated.
2. Both parties should have a genuine faith in the system and in each other and be willing to work together. The management must give the participating institution its rightful place in the managerial organization of the undertaking and implementing the policies of the undertaking. The labour, on the other hand, must also wholeheartedly co-operate with the management through its trade unions. The foremen and supervisory cadre must also lend their full support so that the accepted policies could be implemented without any resentment on either side.
3. The experiment of labour participation in management must be given a wide publicity in order that the idea of participation is ingrained in the minds of those who are to implement the scheme.

- Lectures, discussion, film shows, conferences, seminars and other methods of propaganda may be fruitfully employed to create enthusiasm about the scheme among the management as well as the workers.
4. Participation should be real. The issues related to increase in production and productivity; evaluation of costs, development of personnel and expansion of markets should also be brought under the jurisdiction of the participating bodies. These bodies should meet frequently and their decisions should be timely implemented and strictly adhered to.
  5. Objectives to be achieved should not be unrealistically high, vague or ambiguous but practicable of achievement and clear to all.
  6. Form, coverage, extent and level of participation should grow in response to specific environment, capacity and interest of the parties concerned.
  7. Participation must work as complementary body to help collective bargaining, which creates conditions of work and also creates legal relations.
  8. Institutional participation should be discouraged but such participation should be encouraged through changes in leadership styles, communication process, and inter-personal and inter-group relations.
  9. 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.
  10. Multiple unions in the enterprise should be restricted by legislative measures. Similarly, there should be no multiplicity and duplicity of bipartite consultative machinery at the plant level.
  11. 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.
  12. Authority should be centralized through democratic management process. The participation should be at the two or at the most three levels.

13. Programmes for training and education should be developed comprehensively. Labor is to be educated to enable him to think clearly, rationally and logically; to enable him to feel deeply and emotionally; and to enable him to act in a responsible way. The management at different levels also needs to be trained and oriented to give it a fresh thinking on the issues concerned.
14. Progressive personnel policies should ensure growth of individual workers within industry and proper policies should exist for selection, promotion, compensation, rewards and discipline.
15. Management should be prepared to give all information connected with the working of the industry and labour should handle that information with full confidence and responsibility.
16. The Follow-up action on the decisions of the participating forums should be ensured. The government may also set up machinery to act as a watch-dog for implementing the scheme.
17. Effective two-way communication is a must for the success of the programme. The shorter is the time for communication, the greater is the probability of correct interpretation.

### **Workers' Participation in Management in India**

India launched a vast programme of industrialization; the need for workers' participation is all the more important. It is in reorganization of this need that under the 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 7<sup>th</sup> plans specific measures have been suggested for worker's participation.

The scheme of Joint Management Council, popularly known as Workers' participation in management, was introduced on voluntary basis only after over a decade. However, the scheme of Joint Management Council for various reasons could not succeed. In order to meet this unhappy state of affairs and to secure greater measure of co-operation between labor and management to increase efficiency in public service, the Government of India on October 30, 1975 introduced a scheme of workers' participation in management at shop floor and plant levels. In addition to these, there are voluntary schemes of making the workers' shareholders and Directors in the Board of Management. The inclusion

of the concept of workers' participation in management in the Directive Principles of State Policy through the Constitution (42<sup>nd</sup>) Amendment Act, 1976, gave a momentum to the institution of worker's participation in management. After the constitutional Amendment the Central Government expressed its intention to amend the 1975-Scheme and to provide for effective participation of workers in production processes and accordingly amended the scheme in January 1977.

### **Introduction**

In our country, the concept of workers' participation in management is comparatively of recent origin. Workers' participation in management in India entered the Indian scene in the year, 1920, when Mahatma Gandhi had suggested that workers should participate and contribute to the organization and also share its prosperity. He advocated a relationship characterized by friendship and co-operation between the workers and the management. In India workers' participation in management is one of the Directive Principles of State Policy embodied in Article 43-A of our constitution. The Royal Commission on Labor (1929-1931) recommended the formation of works committees and joint machinery. The Tata iron and steel company (TISCO) has established joint committees in 1958. The committee under the chairmanship of Justice Rajendra Sachar suggested methods for improving workers' participation in management. The recommendations of the committee included workers' representation in board of directors and allotment of equity to workers. Similarly another committee under the chairmanship of Ravindhra Varma the then union Minister for Labour was constituted to look into various aspects, statutory and non statutory schemes and also recommended outlines or comprehensive schemes for workers' participation in management. The key recommendations of the committee included

- 1) Three – tier system of participation that is, shop-floor, plant and board levels.
- 2) Legislation for covering all undertakings with 500 or more workers. ( public or private)
- 3) Provision for extending the scheme to enterprises with at least 100 workers.
- 4) Usage of secret ballot for electing representative.
- 5) Issue of not less than 10% equity to workers.

## Forms of Workers' Participation in Management

The various forms of workers' participation in management currently prevalent in the country are

1. Works Committee
2. Joint Management Councils (JMCs 1958)
3. Joint Councils
4. Unit councils
5. Plant Council
6. Shop Council
7. Workers' Representation on
8. Workers' Participation in Share Capital

### Board of Management

- (1) **Works Committee** The tri-partite sub-committee of the 17<sup>th</sup> session of the Indian Labour Conference (1959) laid down an illustrative list of items, *which the works committee will normally deal with, namely*

*Conditions of work [such as ventilation, lighting, temperature and sanitation, including latrines and urinals]; Amenities [such as drinking water, canteens, dining rooms, crèches, rest rooms, medical and health services]; Safety, accident prevention, occupational diseases and protective equipment; Adjustment of festival and national holidays; Administration of welfare and fine funds; Educational and recreational activities [such as libraries, reading rooms, cinema shows, sports, games, picnic parties, community welfare and celebrations]; Promotion of thrift and savings; Implementation and review of decisions reached at meetings of works committees*

### *Items of Works Committee*

The sub-committee has also pointed out a list of items, which the works *committees will not normally deal with, like*

*Wages* and allowances; *Bonus and profit* sharing schemes; *Rationalization* and matters connected with the fixation of workload; *Matters connected* with the fixation of standard labour force; *Programmes of planning and* development; *Matters connected with retrenchment* and lay-off; *Victimization for trade* union activities; *Provident fund, gratuity* schemes and other retirement benefits; Quantum of *leave and national* and festival holidays; *Incentive schemes*; and *Housing* and transport services.

### *Items not of Works Committee*

The usefulness of the institution of works committee as a channel for joint consultation and for the promotion of harmonious industrial relations was stressed in the successive five-year plans. However, The National Commission on Labour (1969) has assessed the effectiveness of the works committee. According to the commission, “the general feeling among knowledgeable people in the country is that the committees have not proved effective.” The employers’ associations have attributed the failure of the works committees to factors like inter-union rivalries, conflict between union jurisdiction and the jurisdiction of the works committees, lack of positive response, and routine meetings without any worthwhile discussions. etc. In a nutshell, works committee mechanism is a failure in India. According to the NCL, the effectiveness of the committees will depend on the following factors

- i. A more responsive attitude on the part of the management
- ii. Adequate support from the unions
- iii. Proper appreciation of the scope and functions of the works committees
- iv. Wholehearted implementation of their recommendations
- v. Proper co-ordination of the functions of the multiple bipartite institution at the plant level
- vi. Conferring of right to the recognized union to nominate all worker members on this body

(2) **Joint Management Councils (JMCs 1958)** The Second Five-Year Plan recommended the setting up of joint councils of management consisting of representatives of workers and management. The

Government of India deputed a study group (1957) to study the schemes of workers' participation in management in countries like UK, France, Belgium and Yugoslavia. The Indian Labour Conference (ILC) considered the report of the study group in its 15<sup>th</sup> session in 1957 and it made certain recommendations

- a. Workers' participation in management schemes should be set up in selected undertaking on a voluntary basis.
- b. A sub-committee consisting of representatives of employers, workers and government should be set up for considering the details of workers' participation in management schemes.
- c. This committee should select the undertakings where workers' participation in management schemes would be introduced on an experimental basis.

### **Objectives and Functions of JMC**

#### **Objectives**

- To increase the association of employers and employees, thereby promoting cordial Industrial Relations;
- To Improve the operational efficiency of the workers;
- To provide welfare facilities to them;
- To educate workers so that they are well prepared to participate in these schemes; and
- To satisfy the psychological needs of workers. Criteria of the Enterprise for JMC

[As per Tripartite Sub-Committee of ILC]

- The unit must have 500 or more employees;
- It should have a fair record of industrial relations
- It should have a well organized trade union;
- The management and the workers should agree to establish JMCs;
- Employers (in case of private sector) should be members of the leading Employers' Organization; and

- Trade unions should be affiliated to one of the central federations
- It was observed by the sub-committee that if the workers and employers mutually agree they can set up JMCs even if these conditions are not met

### Functions of JMC

- a. To be consulted on matters like standing orders, retrenchment, rationalization, closure, reduction of operations etc.
- b. To receive information, to discuss and offer suggestions.
- c. To shoulder administrative responsibilities like maintaining welfare measures, safety measures, training schemes, working hours, payments of rewards.

(3) **Joint Councils** At every division/region/zonal level, or as may be considered necessary in a particular branch of an organization/ service employing 100 more people, there shall be a joint council.

#### A. The Main Features of the Joint Council

- (i) **Each organization/service shall decide the number of councils** to be set up for different types of services rendered by it in consultation with the recognized unions-or workers as the case may be, in the manner best suited to the local conditions.
- (ii) **Only such persons who are actually engaged in the organization/service shall be** members of the joint council. Each organization/service may decide the number of members in the manner suggested in item(s) but the membership should not be unwieldy.
- (iii) **The tenure of the council shall be two years. If, however, a member is nominated** in the mid-term of council to fill a causal vacancy, the member nominated shall continue in office for the remaining period of the council's tenure.

- (iv) *The chief executive of the organization/service or of its divisional/regional/zonal* branch, as the case may be, shall be the chairman of the joint council. There shall be a vice-chairman who will be chosen by the worker-members of the council.
- (v) *The joint council shall appoint one of its members as its secretary who will prepare the agenda*, record the minutes of the meetings and report on the implementation of the decisions arrived at every meeting. The management shall provide the necessary facilities within the premises of the organization/service for the efficient discharge of his functions by the secretary.
- (vi) *The joint council shall meet whenever considered necessary, but at least once in a* quarter. Every meeting shall review the action taken on the decisions of earlier meetings for an effective follow-up action.
- (vii) *Every decision of the joint council shall be on the basis of consensus and not by a process* of voting; it shall be binding on the management and workers and shall be implemented within one month, unless otherwise stated in the decision.

## **B. Functions of the Joint Council**

- *The settlement of matters which remain unresolved* by unit level councils and arranging joint meetings for resolving inter-council problems.
- *Review of the working of the unit level council for improvement* in the customer service and evolving for the best way of handling of goods traffic, accounts, etc.
- *Unit level matters which have a bearing on other branches* or on the enterprise as a whole.
- *Development of skills of workers and adequate facilities* for trading.
- *Improvement in the general conditions* of work.
- *Preparation of schedules of working hours* and holidays.
- *Proper recognition and appreciation of useful suggestions* received from workers through a system of rewards.

- **Discussion on any matter having a bearing on the improvement** of performance of the organization/service with a view to ensuring better customer service

(4) **Unit councils** Encouraged by the success of the Joint Councils scheme in manufacturing and mining units, a new scheme of workers' participation in management in commercial and service organizations in the public sector, having large-scale public dealings, was announced on 5<sup>th</sup> January 1977. The scheme envisaged the setting-up of unit councils in units employing at least 100 persons.

### Features of the Scheme

The main features of the scheme are

- (i) A unit level council, consisting of representatives of workers and management of the organization/service, employing 100 or more workers, may be formed in each unit to discuss day-to-day problems and find solutions; but wherever necessary a composite council may be formed to serve more than one unit, or a council may be formed department-wise to suit the particular needs of an organization/service.
- (ii) Every unit council shall consist of an equal number of representatives of the management and workers. The actual number of members should be determined by the management in consultation with the recognized union, registered unions or workers in the manner best suited to the local conditions obtaining in a unit or an organization but their total number may not exceed 12. It would be necessary to nominate suitable and experienced workers from various departments, irrespective of their cadre, affiliation or status, and not trade union functionaries who may not be actually working in the unit.
- (iii) The management's representatives should be nominated by the management and should consist of persons from the unit concerned.
- (iv) The management shall, in consultation with the recognized union or the registered union or workers as the case may be,

determine in the manner best suited to local conditions, the number of unit councils and the departments to be attached to each council of the organization/service.

- (v) All the decisions of a unit council shall be on the basis of consensus and not by a process of voting, provided that either party may refer the unsettled matters to the joint council for consideration.
- (vi) Every decision of a unit council shall be implemented by the parties concerned within a month, unless otherwise stated in the decisions itself.
- (vii) The management shall make suitable arrangements for the recording and maintenance of minutes of meetings and designate one of its representatives as a secretary for this purpose, who shall also report on the action taken on the decisions at subsequent meetings of the council.
- (viii) Such decisions of a unit council as have a bearing on another unit of the organization/service as a whole shall be referred to the joint council for consideration and decision.
- (ix) A unit council once formed shall function for a period of three years. Any member nominated or elected to the council in the mid-term to fill a casual vacancy shall continue to be a member of the council for the unexpired period of the term of the council.
- (x) The council shall meet as frequently as is necessary but at least once a month.
- (xi) The chairman of the council shall be a nominee of the management. The worker members of the council shall elect a vice-chairman from amongst themselves.

(5) **Plant Council** The plant council is formed in pursuance of the recommendations of the second meeting of the Group on Labour at New Delhi on 23<sup>rd</sup> September 1985. The scheme is applicable to all Central public sector undertakings, except those which are given specific exemption from the operation of the scheme by the government.

## Functions of Plant Council

The plant council shall normally deal with the following matters

### (A) *Operational Areas*

*Determination of productivity* schemes taking into consideration the local conditions; *Planning, implementation*, and attainment and review of monthly targets and schedules; *Material supply and* preventing its shortfall; *Housekeeping* activities; *Improvement in productivity* in general and in critical areas in particular; *Quality and technological* improvements; *Machine utilization*, knowledge and development of new products; *Operational performance* figures; *Encouragement to and* consideration of the suggestion system; *Matters/problems not sorted* out at the shop floor level or those that concern more than one shop; *and Review of the working* of shop level bodies.

### (B) *Economic and Financial Areas*

*Profit and loss* statements, balance sheet; *Review of operating expenses*, financial results, and cost of sales; *Enterprise performance* in financial terms, labour and managerial cost, and market conditions, etc.

### (C) *Personnel Matters*

*Matters relating* to absenteeism; *Special problems* of women workers; *and Initiation* and administration of workers' programmes.

### (D) *Welfare Areas*

*Implementation of welfare schemes*, such as medical benefits, housing and transport facilities; *Safety* measures; *Township* administration; *and Control of the habits* of gambling, drinking and indebtedness among the workers.

### (E) *Environmental Areas*

*Environmental* protection; *and Extension activities* and community development projects.

(6) **Shop Councils (Main features)** The main features of the shop council scheme are

- (i) ***In every industrial unit employing 500 or more workers, the employers shall constitute a shop council for each department or shop or one council for more than one department or shop, on the basis of the number of workers employed in different departments or shops.***
- (ii)
  - (a) ***Each council shall consist of an equal number of representatives of employers and workers.***
  - (b) ***The employers' representatives shall be nominated by the management and must consist of persons from the unit concerned.***
  - (c) ***All the representatives of workers shall be from amongst the workers actually engaged in the department of the shop concerned.***
- (iii) ***The employer shall, in consultation with the recognized union or the various registered trade unions or with workers, as the case may be determine in the manner best suited to local conditions, the number shop councils and departments to be attached to each council of the undertaking or establishment.***
- (iv) ***The number of members of each council may be determined by the employer in consultation with the recognized union. The total number of members may not exceed 12.***
- (v) ***All the decisions of the shop council shall be on the basis of consensus and not by voting.***
- (vi) ***Every decision of the shop council shall be implemented by the parties concerned within a period of one month unless otherwise stated in the decision itself.***
- (vii) ***Such decisions of the shop council having a bearing on another shop or department or the undertaking as a whole shall be referred to the joint council for consideration and decision.***
- (viii) ***A shop council, once formed, shall function for a period of three years.***
- (ix) ***The council shall meet as frequently as is necessary but at least once a month.***

- (x) ***The chairperson of the shop council shall be a nominee of the management; the worker members of the council shall elect a vice-chairman from amongst themselves.***

### **Functions of Shop Councils**

*To achieve increased production, productivity and over-all efficiency of the shop department, the shop council should attend to the following matters*

- (i) To assist management in achieving monthly/yearly production targets;
- (ii) To improve production, productivity and efficiency. Including elimination of wastage and optimum utilization of machine capacity and manpower;
- (iii) To specially identified areas of low productivity and take the necessary corrective steps at shop level to eliminate relevant contributory factors;
- (iv) To study absenteeism in the shop/department and recommend steps to reduce it;
- (v) To suggest safety measures;
- (vi) To assist in maintaining general discipline in the shop/department;
- (vii) Suggest welfare measures to be adopted for efficient running of the shop/department;
- (viii) Suggest improvements in physical conditions of working – lighting, ventilation, noise, dust, etc., and reduction of fatigue;
- (ix) To ensure proper flow of adequate two-way communication between the management and the workers, particularly on matters relating to production schedules and progress in achieving the targets that have been set;
- (x) Suggest technological innovations in the shop;
- (xi) To assist in the formulation and implementation of quality improvement programme;
- (xii) To determine and implement the work system design;

- (xiii) To formulate plans for multiple skill development programme;
- (xiv) To assist in the ;implementation of cost reduction programme;
- (xv) To supervise the group working system;
- (xvi) To ensure a periodic review of the utilization of the critical machines;

(7) ***Workers' Representation on Board of Management*** On the recommendations of the Administrative Reforms Commission made in its report on public sector undertakings, the Government of India accepted, in principle that representatives of workers should be taken on the Board of Directors of public sector enterprises. A few notable features of the scheme are

#### **Notable Features of the Scheme**

- (i) The representatives of workers on the board should be those actually working in the enterprise.
- (ii) To begin with, participation should be limited to companies which employ 1,000 or more persons (excluding casual and badli workers).
- (iii) The definition of 'workmen', as given in the Industrial Disputes Act, 1947, would be appropriate for the scheme.
- (iv) The participation at the Board level should be introduced if at least 51 per cent of the workers vote in a secret ballot in favour of this participation. In that event, the company will be legally bound to fall in line with their wishes. However, any company can voluntarily introduce this participation scheme.
- (v) Before fixing the proportion of Worker Directors on the Board, a more detailed consideration should be given to the issue by the Central Government.
- (vi) The Worker Director will be elected by all the workers of the company through secret ballot. Each voter will have cumulative voting rights.
- (vii) The pre-requisite of this scheme of participation shall be training in the business of the company. It will be the responsibility of the

government to organize this training programme. An “awareness of industrial relations and of business techniques will certainly make the workers more aware of the actual problems faced by the companies in modern society. The training of the employees must, therefore, be immediately taken in hand.”

- (viii) The presence of the Worker Director on the Board would not lead to any breach in the confidentiality of the information required by him.
- (ix) The Reforms Commission did not favour a two-tier representation, i.e., a Supervisory Board and the Smaller Management Board.

### ***Functions under the Scheme***

The employees’ representative/Worker Director participates in all the functions of the Board. Besides this, they also review the working of shop and plant councils and takes decisions on matters not settled by the council.

- (8) ***Workers’ Participation in Share Capital*** The Sachar Committee had, in its report to the government, observed “Quite a majority (was) in favour of the suggestion that, in all their future issues of shares, the companies should reserve a portion of their new shares, say about 10% to 15%, exclusively for the workers, called the workers shares. These shares, in the first instance, must be offered to the employee if the company; failing that, they should be offered to the existing shareholders or the public. For that purpose, Section 81 of the Act should be suitably amended. Section 77 of the Act should also be amended, permitting companies to give to the employees a loan up to 12 months’ salary or wages, not exceeding ₹ 12, 000, for the purchase of the shares of the company”. This scheme, however, has not found favor with the industries in India.

### **Summary**

*A wave of new understanding has emerged* that asks to change ideas of age old industrial relations. *It further talks about the value addition to the job-linked* activities with more emphasis on continuous

employee development because of high rate of knowledge obsolescence and technological innovations. *Keeping this in view, this chapter, therefore, strives to pinpoint* on three issues.

*The first issue gives the briefing on workers' development.*

*Second aspect brings to light the concept, objectives and essential conditions for successful working of workers' participation in management.*

*The last one, while endorsing the necessities of workers' participation in management in Indian context, explores different extents of usefulness of various practices and strategies for making participation effective.*

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter recognizes the helps of the cited books in the references].

### **Self Assessment Questions**

1. What is counselling? What are the needs of employee counselling?
2. What are the objectives of counselling? Also, identify the major characteristics of counselling.
3. Describe briefly the functions of counselling with references to its benefits.
4. Various types of counselling talk about different techniques—Elucidate.
5. Give a brief account of the methods of counselling.
6. Describe various methods and process in employee counselling?
7. The process of counselling follows sequential steps—Explain.
8. What are the major problems that the employees confront to go in for counselling?
9. What is the role of Indian Labour Conference and Standing Labour Committee in promoting harmonious industrial relations?

10. Consultative Bodies play key roles in bringing good industrial relations—Justify this statement with reference to their roles.
11. ‘Tripartite consultation is an important feature of India’s industrial relations system.’—Discuss with particular reference to the aim of this consultative machinery
12. Do you believe that a few notable tripartite bodies are really a forum to discuss and consult on labour-related issues? Explain.
13. Explain why bipartite consultative machinery is significant from the stand point of industrial relations.
14. In what ways bipartite is complementary to tripartite? Elucidate
15. How can bipartite arrangements facilitate effective tripartite social dialogue at industry and national levels?
16. What makes the significance if IR Strategy is more reactive than proactive in nature?
17. Write down the factors that affect IR Strategy.
18. IR Strategy gets its meaningfulness within the framework of traditional industrial relations system. Examine
19. Describe the importance of collective bargaining with reference to IR Strategy.
20. Collective Bargaining is a method of settlement of disputes. Explain
21. Describe briefly the collective bargaining process with particular reference to negotiations.
22. Give a brief account of the Industrial Dispute’s settlement machineries in relation to IR strategy
23. Give a brief explanation on workers’ development?
24. Two opposite views are prevailing on workers’ development—Discuss.
25. Worker’s participation in management [WPM] has assumed great importance these days because of its advantages – Examine the statement with particular references to the advantages of WPM.
26. What are the essential conditions for successful working of WPM?

## CASE STUDY

Unionism in public services like State Police Force, is a hot topic being discussed and debated in India recently. Some of the state Govts. Have also encouraged and introduced Unionism in their police force. It has mixed result. Other public services like telecom, Transport and fire services have unions. There were pros and cons of unionism in public services, Some of them are given below:

1. Antagonist: Public services are arteries of public welfare life. Unionism and collective bargaining go against public interest.
2. Protagonists: Lack of unionism in public services creates a second class citizenship. Fight against enjoy their rights to protect their interest; employment in public services cannot be a justification of denying this fundamental right to them.

### Questions:

- (i) What is your stand on unionism in public services? Justify your stand with reasons with social and psychological aspects.
- (ii) Do you think unionism be introduced in all public services in the same manner as that of private sector? If not, how does it be tailor made to make it more effective and at the same time minimize the inconvenience to the public life?

\*\*\*\*

## UNIT - IV

### Unit Structure

Lesson 4.1 - Employee Discipline

Lesson 4.2 - Grievance Handling Machinery

Lesson 4.3 - Conciliation - Arbitration and Adjudication

Lesson 4.4 - Collective Bargaining

Lesson 4.5 - Collective Bargaining - the Bargaining Process

Lesson 4.6 - Collective Bargaining in INDIA—Strengths and Skills

---

### Lesson 4.1 - Employee Discipline

---

### Learning Objectives

*The aim of this lesson is to familiarize the student with*

- The concept of employee discipline
- Causes for indiscipline
- The procedure for taking disciplinary action

### Introduction

No man ever grows until he is disciplined. Discipline is an inevitable correlate of organization. To be organized means to be disciplined and vice versa. The behavior of an employee is at the root of all discipline in an organization. Every manager wants this behavior to be in conformity with the required system which he has prescribed in order to achieve the organizational goals. However, not infrequently we find employees deviating from systems of behavior which they cannot easily give up when they enter as members of an organization. It is at that many problems of employer-employee relations and of individual adjustment arise.

## Causes of Indiscipline

It is very difficult to prepare an exhaustive list of the reasons which lead employees to indiscipline. In fact, a number of social, economic, cultural and political reasons contribute to indiscipline in an organization. Important among these causes are the followings

1. Ineffective leadership which cannot control, coordinate and motivate workers.
2. Low wages and poor working conditions.
3. Lack of promotional opportunities due to which people feel stagnated
4. Absence of any code of conduct to regulate behaviour on both sides.
5. Lack of timely redressal of workers' grievances.
6. Unfair management practices.
7. Defective communication system.
8. Lack of workers' education.
9. Uninteresting work.
10. Drunkenness and family problems.
11. Outside political influences.
12. Excessive work pressure.

## Types of Discipline

Discipline may be of two types *positive and negative*.

*Positive discipline or 'self-discipline' is the best discipline.* This refers to an organizational atmosphere in which subordinates willingly abide by rules, which they consider fair. The techniques followed by the management to achieve this type of discipline include positive motivational activities such as praise, participation and incentive pay.

*Negative or punitive discipline is one in which management has to exert pressure or hold out threat by imposing penalties on wrongdoers.* When this pressure becomes increasingly severe each time a man is disciplined, it is called "progressive" or "corrective" discipline.

## Arguments Against Negative Discipline or Punishment

Many people argue that punishment should be avoided as a means of trying to *Influence Behaviour*. Their *objections are as follows*

- (a) *For punishment* to be at all effective, there must be continued monitoring or surveillance, which is a very wasteful use of high-priced managerial time.
- (b) *Punishment never really extinguishes* or eliminates undesirable response tendencies, but only temporarily suppresses them. These tendencies reappear with full force when the threat of punishment is removed
- (c) *Punishment has undesirable side effects*. It may cause resentment and hostility towards the punisher with motive of trying to “get even” later through sabotage, output restriction, or doing things that make the punisher “look bad” or cause him inconvenience. The fear associated with the punishing agent may lead the punished person to avoid his very presence; this, in turn, makes it more difficult for the manager to play the desired role of coach, teacher, or counsellor. Alternatively, the reaction to punishment may be more extreme, resulting in generalized inhibition and rigidity or stereotyped behaviour in the punished person; this can make it more difficult for the person to learn new behaviour, including very desirable behaviour, or to adjust to change.

## Alternatives to Punishment

Alternatives to punishment in eliminating undesired behaviour include the following

- (a) *Extinction*. Find out what reinforces the undesired behaviour. For example, the unruly subordinate may be getting praise and recognition from peers. Then get those peers to co-operate with you by ignoring the unruly behaviour. When such behaviour is not reinforced, it will eventually lose strength and extinguish.
- (b) *Environment Engineering*. Rearrange the features of the environment so that the Stimulus situation does not evoke the

undesired response but some other response. Skinner (1953) tells the story of a manager who had a traffic problem caused by women hurrying down the corridor as soon as the end of the workday was signalled. The manager solved his problem by placing wall mirrors along the corridor. The stimulus situation that had evoked stampeding down the hallway was transformed into one which encouraged a more leisurely and orderly walk-and-stop sequence.

- (c) **Reward.** Reward either desirable or natural behaviour, which is physically incompatible with the undesired behaviour. If children are rewarded for taking exercise or for performing light outdoor chores before dinner, they are prevented from excessive snacking and television watching.
- (d) **Adjustment.** Allow adjustment, development, or maturation to take its course. New or inexperienced employees make many mistakes and do many wrong things that they will learn to avoid, given a reasonable period of adjustment punishment may not hasten this process, and it causes undue anxiety, it can actually retard this process.

### **Essentials of a Good Disciplinary System**

While punitive discipline or punishment may sometimes be ineffective in changing behaviour or may produce unwanted by-products, there is nevertheless considerable evidence that punishment can be an effective tool under certain conditions. These are as under

1. **Knowledge of Rules** The employee must be informed clearly about what constitutes good behaviour and the rewards that may emanate from it. All instructions should be clear and understandable. It is common sense that an employee will obey an instruction more readily if he understands it. The supervisor himself must know all the rules. He cannot effectively communicate with his workers if his own knowledge about rules is half baked. In fact, he needs to know more than the barest minimum that he wants his workers to know. This reserve of knowledge is essential in order to be able to answer several unexpected question from workers. In other works, a supervisor's span of knowledge and understanding of rules should be greater than that of his workers. If this is not so, the

supervisor will lose personal prestige both before his supervisors and subordinates.

2. **Prompt Action** All violations and misconducts-big and small-should be promptly enquired into. For example, a supervisor is most unwise to wait until lunch break before rebuking a worker for arriving late. Beat the iron when it is hot. This is because when the penalty is imposed immediately following the violation of a rule the person punished tends to identify the punishment with the act he committed. Accordingly, the subordinate attempts to avoid the violation in future. This is called the “law of effect”. The greater the delay the more one forgets and the more one feels that punishment is not deserved.
3. **Fair Action** Promptness of disciplinary action at the cost of its fairness is not proper. An action in order to be fair must possess the following characteristics
  - (a) All violations-big and small-should be duly punished. A violation should not be overlooked or condoned merely because it is small otherwise this will give an impression that announced rules are meaningless.
  - (b) All individuals-big and small-should receive equal punishment for equal indiscipline. If a rule is applied to one individual but not to another, the management is bound to be accused of favouritism.
  - (c) Discipline should be uniformly enforced at all times. If management soft-pedals on taking a disciplinary action when there is shortage of labour and toughens its policy when labor is plentiful it is acting arbitrarily. Similarly, if the management overlooks a wrong on one occasion and punishes it on another occasion it is acting inconsistently. Inconsistent behaviour of management leads to uncertainty in the minds of subordinates. They simply do not know where they stand.
  - (d) The alleged violation should be fully inquired into. Making a mistake by hastily administering a penalty which on the basis of facts collected later on is found to be uncalled for will mean a permanent destruction of the morale of the punished worker and general loss of face for the supervisor.

- (e) The employee should always be given an opportunity to explain his action. The common law principle that an offender is innocent until he is proved guilty beyond doubt should be followed. The burden of proving the violation always lies on the management.
4. **Well Defined Procedure** The procedure to be followed to reach to a penalty decision should be carefully laid down. It should include the following steps
- (a) The supervisor must assure himself that some violation of the rules has taken place.
  - (b) He should state precisely and objectively the nature of the alleged violation.
  - (c) He should then proceed to gather full facts about the case and maintain proper records. Facts will have to be gathered concerning the nature of the event, the participants and the surrounding circumstances. Extenuating circumstances such as ill-health, family troubles, etc., should be found out. A critical analysis should be made of the person's background such as his past service record, length of service, local practice, etc. Fact gathering is often a process of fact-sifting. Opinions should not be mistaken for facts. The methods used for gathering the fact must not smack of spying and statements should not be prejudged.
  - (d) After all the facts have been gathered, thought should be given to the various types of disciplinary action which can be taken in the case in question. It is advisable to prepare three separate lists of actions. The first list should include all types of disciplinary action to make certain that no possibility is overlooked. The second list should classify penalties according to rank in order to acquaint the executive with those actions which lie within his command and those for which he should refer the case to his superiors. The third list should include only those penalties, which the offence in question specifically calls for.
  - (e) The appropriateness of a disciplinary action should be decided in terms of its effectiveness in correcting the employee. This is

very important because the purpose of a disciplinary action is to mend an employee and not to punish him, to help him and not to harm him.

- (f) The accused employee should have the right to appeal to higher authority.

5. ***Constructive Handling of Disciplinary Action*** Disciplinary action should be handled in a constructive manner. It should be carried out by the immediate line supervisor. This employee should be told not only the reasons for the action taken against him but also how he can avoid such penalties in future. Disciplinary action should be taken in private. By exposing an employee to public ridicule the supervisor attacks his dignity and social standing. This may produce an opposite effect on the employee. He may react violently or may become obstinate to preserve his ego. It is most unwise for a supervisor to take a general disciplinary action against a group of subordinates. Disciplinary action is a matter for the individual. It is the individual who should be held responsible for any wrong. A management which takes disciplinary action against a group is likely to set off a wave of unrest associated with falling morale and even the possibility of wildcat strike. After the disciplinary action has been taken the supervisor must assume a normal attitude towards the employee. He should revert to his role of a helping hand-as if nothing has happened. This is possible only when the supervisor uses an impersonal approach in administering a penalty. He should not engage in personal ridicule, insult or even criticism. He should avoid getting into an argument. In short, he must play the role of a judge enforcing the law with impartiality.

### **Hot-Stove Rule**

This rule, so called by Douglas McGregor, draws an analogy between touching a hot stove and undergoing discipline. When a person touches a hot stove

1. The burn is immediate.
2. He had warning. Particularly if the stove was red hot he knew what would happen if he touched it.

3. The effect is consistent. Everyone who touches a red-hot stove would be burned.
4. The effect is impersonal. A person is burned not because of who he is but because he touched the hot stove.
5. The effect is commensurate with the gravity of misconduct. A person who repeatedly touches the hot stove is burnt more than one who touched it only one.

The same should be with discipline. The disciplinary process should begin immediately after the violation is noticed. It must give a clear warning that so many penalties would be imposed for a given offence. The same kind of punishment should be consistently imposed for the same offence. Punishment should be imposing regardless of status difference. In other words, it should be impersonal in application. Punishment should be commensurate with the gravity of the offence.

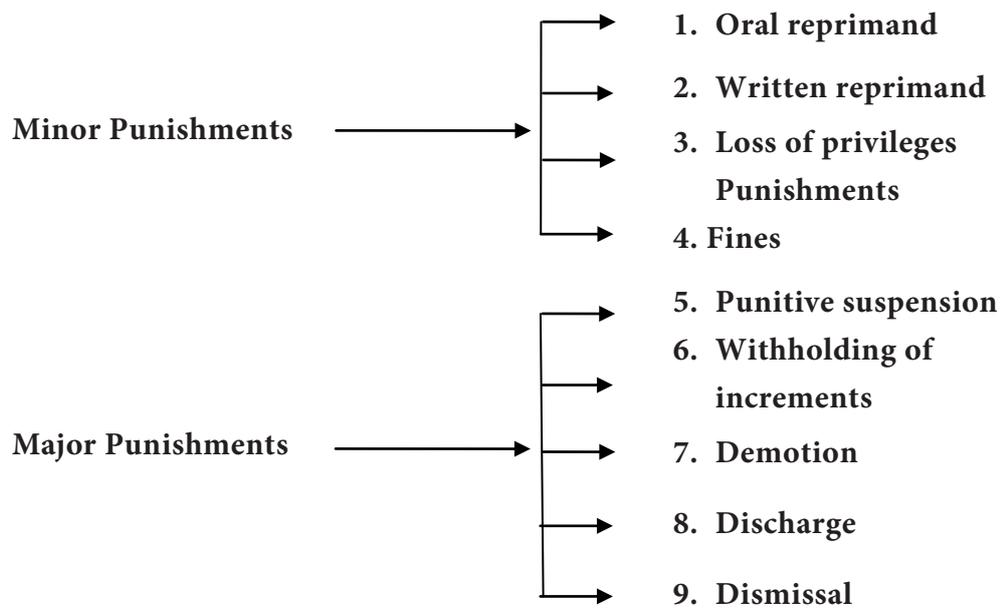
An employee found guilty of an act of minor misconduct like unpunctuality or irregular attendance should not be awarded the same punishment as may justifiably be awarded to an employee found guilty of an act of major misconduct like the theft of employer's property.

### **Kinds of Punishment**

For various types of misconduct there are various punishments which are set out below in the ascending order of their severity.

1. ***Oral Reprimand*** This is the mildest form of disciplinary action in which the superior makes it clear to his subordinate that he does not approve of the subordinate's behavior. This punishment is generally given for some minor offences such as failure to obey safety rules, smoking in a prohibited area, sleeping on the job or giving sub-standard performance.

Issue of reprimand does not involve loss of status or wages to the employee and, therefore, though it amounts to disciplinary action, it is not deemed to be a substantive punishment.



However, as people invariably value the social approval of their superiors and fellow beings a reprimand is generally effective in correcting subordinates. However, it should be used sparingly, otherwise it will not produce any effect on the subordinate. A subordinate who is continually criticized tries to cover up his mistakes, becomes tense, and loses his sense of security. He does not want to accept responsibility and on account of low morale commits further mistakes.

2. **Written Reprimand** An oral reprimand may not be sufficient in case of habitual misconduct or inefficiency. In such a situation it is desirable that it is issued in writing and brought on record so that it may support, if necessary, any substantive punishment that may have to be given to the employee in future. A written reprimand may state that certain privileges would be withheld or withdrawn if the subordinate continues with his present conduct. In some enterprises the records of an employee may be marked and the employee shown a copy of the notation to serve as a warning. A warning serves to alter the expectations of an individual by making him aware of the exact nature of punishment that awaits him following further acts of disobedience. It is not fair for a superior to warn a subordinate and later punish him more severely than was expected at the time of the warning.
3. **Loss of Privileges** For such offences as tardiness or leaving work without permission, the employee may be put to loss of various

privileges such as good job assignments, right to select machine or other equipment and freedom of movement about the workplace or company.

4. **Fines** Fine means a deduction from the remuneration of the employee by way of punishment. Power to make penal deductions from the remuneration of the employee is not an implied term of ordinary contract between master and servant and can be exercised only if especially reserved to the employer under the contract of employment or a statute.
5. **Punitive Suspension** Punitive suspension is different from the suspension pending an enquiry. Punitive suspension is inflicted on the workman as a punishment for some misconduct whereas suspension pending an enquiry is only an expedient action which a manager may find necessary to take following commission of a grave and serious misconduct. Under punitive suspension an employee is prohibited from performing the duties assigned to him and his wages are withheld for so long as the prohibition subsists. Under suspension pending an enquiry, unless the conditions of service make a contrary provision, a workman is entitled to wages for the period of suspension.
6. **Withholding of Increments** Withholding of annual increment of an employee in a graded scale is a major punishment and, generally speaking, the acts of misconduct for which this punishment may be awarded are the same as those for which the extreme punishment of dismissal may be awarded. The cumulative effect of losing an increment is considerable. It is equal to the amount of increment times twelve months times the number of the year of service still remaining.
7. **Demotion** Demotion means reduction of an employee to a lower grade from the one hitherto enjoyed by him. According to some writers since demotion implies condemnation of the employee as being unfit for the position occupied by him it should not be used as a penalty if the employee is properly qualified for the present assignment. Demotion should be used only in a case when an employee does not meet present job requirement or in the event of a cutback in the work force.

8. **Discharge** In common law, if both parties to an agreement have performed what they have agreed to do, the contract is discharged. Thus, in a contract of service if both parties have agreed to terminate the contract by giving stipulated amount of notice or by paying money in lieu thereof the contract of service can be terminated in the agreed manner for reasons which do not imply any act of misconduct; for example, an employee may be discharged owing to either redundancy, or superannuation or infirmity, etc., in accordance with his contract of service, without any fault on his part. However, in the field of industrial jurisprudence the term 'discharge' is used to denote removal of an employee from service by way of punishment. However, no stigma is attached to the expression 'discharge'. Hence, it is not a disqualification for future employment. Discharge should be distinguished from discharge simplicities which is termination of an employee's service not necessarily for any misconduct but for loss of confidence. The plea of loss of confidence should, however, be bonafide and should be supported by evidence and should not be used as a mere pretext to terminate the services of an unwanted employee. In the case of discharge simplicities the employer is not bound to hold an enquiry.
9. **Dismissal** Also referred to as industrial capital punishment, dismissal is the ultimate penalty which is rarely resorted to now days. Though discharge and dismissal both have the same result, namely, the termination of service of the employee, there are some vital differences between the two. These are as follows
- (a) While dismissal is always a punishment, discharge may or may not be a punishment
  - (b) A dismissal is more severe punishment than discharge. There is a stigma attached to the expression "dismissal" which makes dismissal a disqualification for future employment. This is not so in the case of discharge.
  - (c) A dismissal is usually summary, that is, immediate action is taken to terminate the employment contract of the employee without notice. However, in case of a discharge an agreed amount of notice may have to be given. The justification for not giving a warning lies in the general acceptance that the acts and omissions for which the punishment of dismissal may

be inflicted are socially repugnant and a management is fully entitled to protect itself against such acts.

- (d) In cases of dismissal the employee is not usually entitled to provident fund or gratuity benefits but this is not so in the case of a discharge.

The supreme punishment of dismissal is inflicted very rarely. Managers generally try to avoid it. They very often follow several other means of eliminating a person without an outright dismissal. These are as follows

- (a) The flow of work may be altered so that it goes around the particular employee; thus he may take hint and submit his resignation.
- (b) The job may be abolished and duties scattered about among other employees. Then after the employee has left the organization, the duties can be reassembled and a new employee hired to fill the job.
- (c) Resignation may be demanded by holding out threat of discharge.
- (d) In higher positions, the employee may be 'kicked upstairs' and promoted out of the way; he may be made a special consultant and never consulted. The cost of his salary may be much less than the loss from retention in his present job.
- (e) The employee may be transferred to some other department.

### **Procedure for Taking Disciplinary Action**

The Standing Orders of an organization provides the basis for the procedure of the same. They should be strictly followed for the punishment. These may be held invalid if there is any deviation from the laid down procedures.

Whether or not there are Standing Orders the procedure for taking disciplinary action against workers should be based on the following principles of natural justice

- (a) The worker charged should be given an opportunity to present witnesses of his own choice on whom he relies;

- (b) The worker should be given the right to cross examine management's evidence;
- (c) The evidence of the management should be taken in worker's presence;
- (d) No material should be used against the worker without giving him an opportunity to explain;
- (e) The enquiry against the worker should be fair and conducted by an impartial person; and
- (f) The punishment awarded should not be out of proportion to the misconduct committed.

Following should be the steps for taking disciplinary action

1. **Preliminary Investigation** The first and primary step should be to hold a preliminary investigation in order to find out whether a prima facie case of misconduct exists.
2. **Issue of a Charge-sheet.** On the prima facie case of misconduct being established the management should proceed to issue a charge-sheet to the worker. Charge-sheet is not a punishment in itself. It is merely notice of a charge that the worker is responsible for some misconduct and that the management wants to know what he has to say about it. It gives the worker an opportunity to explain his conduct. A charge-sheet is, therefore, also called a 'show cause notice. This fact should be explained to the worker also who may sometimes refuse to accept the charge-sheet on the ground that he has not done any wrong.

The following guidelines may be followed in framing the charges

- (a) Each charge must be very clear and precise. It should not be vague.
- (b) There should be a separate charge for each allegation.
- (c) There should be no multiplication of charges for the same allegation.
- (d) Charges must not relate to any matter which has already been decided upon.

On the question whether the proposed punishment should or should not be mentioned in the charge-sheet, there is divergence of opinion among various High Courts. Chennai, Andhra, Kolkata, Punjab and Haryana High Courts hold the view that if the proposed punishment is mentioned in the charge-sheet then it amounts to prejudging the issue and the proceedings are vitiated. Nevertheless, the Mumbai, Rajasthan and Allahabad High Courts seem to hold the opposite view. They observe that the mere mention of the proposed punishment mentioned in the charge-sheet does not vitiate the enquiry. It does not mean that the employer intended to punish the employee irrespective of the result of the enquiry or that he formed any opinion against the employee. It rather makes the employee aware of the seriousness of the charges against him so that he can take proper defense. To be on the safer side, however, the employer should avoid mentioning proposed punishment in the charge-sheet.

3. ***Suspension Pending Enquiry, if Needed*** If the nature of misconduct is grave and if it is in the interest of discipline and security in the establishment, the management may suspend a worker even before the charge-sheet is issued or an order of suspension may be given to the worker along with the charge-sheet.

Under Section 10A of the Industrial Employment (S.O) Act, 1946 the suspended worker is to be paid a subsistence allowance equal to one-half of his wages for the first ninety days of suspension and three-fourths of the wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against him is not due to his conduct. The Second NCL recommends that the total period of suspension of a worker should in no case exceed one year.

4. ***Notice of Enquiry*** On receipt of reply to the charge-sheet, three situations may arise (i) The worker may admit the charge in an unqualified manner. If so, the employer can go ahead in awarding the punishment without getting the matter enquired further, (ii) The worker may not admit the charge and the charge merits only minor penalty. In this case also the employer can go ahead in awarding the punishment without holding further enquiry. (iii) The worker may not admit the charge and the charge merits major penalty. In this case the employer must hold enquiry to investigate into the charge against the worker. This enquiry is classed domestic enquiry.

Proper and sufficient advance notice should be given to the worker indicating the date, time and venue of the enquiry and name of the enquiry officer so that the worker may prepare his case. It should also be notified that he should be ready with oral and documentary evidence on the date of enquiry and bring witnesses to prove his case.

**5. *Conduct of Enquiry*** This step should deal with three points

- deciding as to who should be the enquiry officer;
- deciding as how to proceed;
- deciding about the order of examining witnesses.

Standing orders may provide as to who should hold the enquiry. Otherwise, an assistant manager or labour welfare officer or company's lawyer or some outsider may be nominated. It should be remembered that for the purpose of enquiry, the enquiry officer is a judge. Therefore, it is necessary that he must be impartial and qualified to act in that capacity. An enquiry officer is disqualified on any of the following grounds

- (a) If he is involved in the incident which led to the charge-sheet.
- (b) If he has personal knowledge of the incident or himself gives or collects evidence for the very enquiry conducted by him or helps others in doing so.
- (c) If he himself has issued the charge-sheet.
- (d) If he is directly subordinate to the person accused.

If the accused employee requests for another co-worker to represent and assist him or her in the conduct of his or her defence, the enquiry officer should allow this. However, it is management's discretion to allow or not to allow the accused worker to be defended by a non-employee official of the union.

As regards the order of examining witnesses, first the management witnesses should be examined in the presence of the accused. Then fair opportunity should be given to him to cross-examine the management witnesses. Next, he himself and his witnesses should be examined. They can be cross-examined by the management.

If a worker does not turn up for the enquiry without notice or reasonable cause or refuses to participate or walks out then the enquiry officer may proceed to hold the enquiry ex parte. The person who leads evidence from the management side is called the Presentation Officer.

**6. Recording of Findings by the Enquiry Officer** At the conclusion of the enquiry proceedings the enquiry officer should decide as to whether the charges made are valid or not along with the reasons for his findings. As far as possible he should refrain from recommending punishment and leave it to the decision of the appropriate authority.

**7. Awarding Punishment** This is the task of management. The punishment should be awarded on the basis of findings of the enquiry, past record of the employee and gravity of misconduct.

It should be noted that when a dispute is pending in conciliation, arbitration or adjudication proceedings the employer has no right to punish a workman for his misconduct which is connected with the pending dispute. For example, a workman who has taken part in a gherao in furtherance of some demands covered by the dispute being guilty of misconduct connected with the pending dispute but cannot be punished by the authority. Only the authority before which the proceeding is pending can only take action against him or her (Sec. 33 of the Industrial Disputes Act). In case of 'protected workmen', prior permission for dismissal and discharge is essential even when the misconduct is not connected with the pending dispute. These protected workmen are trade union office bearers who are declared as such to save them from being victimized for raising or conducting the dispute. They are nominated by the unions, and their number is not to exceed one per cent of the total workforce, subject to the minimum number of five.

**8. Communication of Punishment** The punishment awarded to the accused should be communicated to him expeditiously. The letter communicating the punishment should contain

- reference to the letter of charges issued to the employee;
- reference to the enquiry;
- reference to the findings of the enquiry;

- decision whether to punish or not;
- date from which the punishment is to be effective.

### Summary

*The discipline revolves around the activities* of a worker in an enterprise. **Managers aspire that these activities to be in compliance** with the prescribed rules and regulations of the organization where the workers work. **Keeping this in front, the chapter portrays the salient causes** of indiscipline, essentials of a good disciplinary system and procedural measures of disciplinary action.

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons]

\*\*\*\*

---

## Lesson 4.2 - Grievance Handling Machinery

---

### Learning Objectives

*After studying this lesson you should be able to*

- Understand the concept of Grievances
- Knowing the causes of Employee Grievances
- Learn the model Grievance procedure

### Introduction

*'Grievance'* implies dissatisfaction, or distress, or suffering or grief caused unnecessarily or illegally. In labour-management relations it is a complaint or representation made in writing as regard to a company related matter arising from employment or service conditions, or from conditions involving unfair treatment by the employers, or from violation of any agreement or standing instructions. Grievance is defined as real or imaginary feeling of personal injustice that an employee has concerning his employment relation. However there are minor differences among the three terms i.e., *Dissatisfaction [Feeling of discontent]*, *Complaint [Oral expression of dissatisfaction from one worker to other]* and *Grievance [Bringing of the complain to the notice of the management]*.

Prompt redressal of grievances is a must for creating good labour-management relations and promoting efficiency at the plant level. Grievances must not be allowed to accumulate because grievances breed grievances. Piling up of grievances may create a sense of frustration, disloyalty and non-cooperation among workers who may lose interest in work and thus may affect the quality and quantity of output. This may also lead to indiscipline taking the form of increased absenteeism, go slow, and work to rule, demonstrations, gherao, violence and strikes. Proper disposal of grievance needs a serious consideration for harmonious industrial relations and maintenance of industrial peace. Employees sometimes do not know precisely what is making them dissatisfied. Their own feeling

may set up mental blocks that prevent them from interpreting correctly what is happening. They may not have sufficient knowledge of human nature or of the many social forces impinging on them. Not knowing their actual grievances but still feeling dissatisfied, they tend to file grievances about something else.

*A grievance rate* is usually stated in terms of, number of written grievances presented for 100 employees in one year. A typical grievance rate is 10 to 20 and any rate above or below that range might indicate a labour relations situation meriting further investigation. Method of handling grievances will affect the rate of grievance.

*Employees of all types and at all levels develop grievances.* Grievances are not some headache, brought about by unions but may complicate the situation and cause more grievances either temporarily or permanently. Other factors affecting grievance rate are management job conditions, government's rules, general social conditions and the home environment.

*The principal object of any grievance system is to encourage human problems* to be brought to the surface. *Management can learn about them and may try corrective action.* The social organization of a plant is very much like a complicated machine. Both need constant attention and frequent adjustments. Grievances expressed and presented formally or informally, are symptoms which should be carefully studied by management to determine the real causes of these dissatisfactions. Almost everyone agrees that it is better to prevent fire than trying to stop them after that have started and the same philosophy applies to grievances.

*Grievance system helps to solve problems before they become serious.* If problems are allowed to accumulate unsolved, their quantity may get so great that they may have adequate pressure "to blow off the lid of the whole section or department." A good grievance system can prevent the developments of unwanted system and keep social pressures within bounds.

**Within the grievance system, counselling comes with the hope to release employees' emotions. More the employee(s) can free their emotions, better they are likely to reduce their dissatisfactions. This is**

se because through the release of emotion a frustrated and aggrieved employee can put control over his or her aggressions. So, emotional release, often, plays an important role in individual grievance cases.

*Grievance procedures help to establish and maintain a work culture or way of life.* Each group has its own particular way of living together, and the grievance procedure helps to develop this group culture. A manager tends to give more care to the human aspects of the jobs because some of the actions may generate the possibilities to be challenged and reviewed and may be dragged under grievance system. In industry, today, a manager is encouraged always to develop effective ways and means to elaborate compromise mechanism and thereby, needs to learn the development and sustenance of the friendly working relationships with his group members. It is obvious that grievances are human problems and are to be handled in a human way. Every worker has the right to present his grievances to his employer and obtain the solutions. The management has to see that grievances are so received and properly settled so that the worker may get the necessary sense of satisfaction.

The following are the important steps that should be taken in handling grievances.

1. *Define, express and describe the nature of grievance at the heart of the employee's complaint as early as possible*, so that the wrong complaint may not be handled and the real grievance may not turn up again to plague the management.
2. *After locating the real issue, the next step is to gather all relevant facts, about the issue, i.e. how and where it took place and the circumstances under which it transpired.* Such fact gathering requires interviewing and listening to employees. This will, however, convince the employees that the management was sincere in seeing that justice is done.
3. *After getting the real picture of the grievance the management must make a list of alternate solutions.* If possible the suitability of this decision may be checked before taking and announcing the final decision.
4. *Gather additional information for checking tentative solutions* for finding out the best possible one. For this, or the past experience

of the executive in similar cases may be helpful. Companies own record of grievances, if maintained can also be helpful in this respect.

5. ***The decision having finally being reached should then be*** passed in clear unequivocal terms to the employees concerned. The ultimate decision is the tool of action.
6. ***Follow up the case so that it is handled satisfactorily and the trouble*** eliminated. Secondly, the manager should feel that the employees are fair in presenting their grievances, unless it is proved otherwise. Thirdly, in handling grievances, management should display a sincere interest in the problems of employees and a constructive willingness to be of help. All executives must have confidence in themselves and should be fully aware of their responsibilities and be willing to carry these burdens. Such a positive attitude must be apparent to employees in order to gain their respect and cooperation. The manager should consider the grievance, seriously enough and should not show a casual attitude. Grievances should be handled in terms of their total effects upon the organization and not merely their immediate or individual effects.

### **Organizational Responsibility**

Organizational responsibility for handling grievances should be divided and shared by all levels of management and representatives of labour unions. As a good practice or procedure the employees should be required to present their grievances to their immediate superior, even if the final decision matter rests with the higher authority. This will save the supervisor from losing his importance and respect with his subordinates. After examining and investigating the matter at his level he can pass it on to the higher level with his findings and recommendation. Similarly, action can be taken by the executives at the middle level, if the matter is beyond their jurisdiction. The top-level management has the responsibility to decide cases which are having companywide implication. In this they may be even assisted by personnel or labour officers with their advice and the information collected and maintained. The top-level management must establish the broad policies and rules, which may form the basis for handling grievances.

In some companies labour unions assume the responsibility of getting the grievances redressed, particularly at the middle and top-level management.

### **Causes of Employee Grievance**

Some important and common causes are given below. These are:

1. Promotions
2. Amenities
3. Continuity of service
4. Compensation
5. Disciplinary actions
6. Fines
7. Increments
8. Leave
9. Medical benefits
10. Nature of job
11. Payment
12. Transfer
13. Recovery of dues
14. Safety appliances
15. Superannuation
16. Supersession
17. Victimization and
18. Condition of work

The International Labour Organization (ILO) classifies a grievance as a complaint of one or more workers with respect to wages and allowances, conditions of work and interpretations of service stipulations, covering such areas as overtime, leave, transfer, promotion, seniority, job assignment and termination of service. The National Commission of Labour states “complaints affecting one or more individual workers in respect of their wage payments, overtime, leave, transfer, promotion, seniority, work assignment, and discharges would constitute grievances”.

A point to be noted is that where the issue is of a wider or general in nature, or has general applicability, and then it will be outside the purview of the grievance machinery. Policy issues relating to hours of work, incentives, wages, DA, and bonus are beyond the scope of the grievance procedure—they fall under the purview of collective bargaining.

A grievance has a narrower perspective; it is concerned with the interpretation of a contract or award as applied to an individual or a few employees.

### **Model Grievance Procedure**

The model Grievance Procedure settled by the tripartite committee has successive time bound steps, each leading to the next in case of dissatisfaction.

- 1. Under the procedure, an aggrieved employee* would first present his grievance verbally to a designated officer within 48 hours.
- 2. In case the worker is dissatisfied with the decision* or fails to get an answer within stipulated time, he or she would, personally or accompanied by his or her departmental representative, present his or her grievance to the head of the department.
- 3. If the departmental head fails to give a decision within three days* or if his or her decision is unsatisfactory, the aggrieved worker can seek relief through the “**Grievance Committee**” consisting of management and workers. This committee would communicate its recommendations to the manager within seven days of the grievance reaching it.
- 4. If the recommendation is not made within the stipulated time,* reasons there for would be recorded, and in case unanimous recommendations are not possible, the relevant papers would be placed before the manager for decision. The manager is expected to communicate his decision to the worker within three days,
- 5. The worker would have a right to appeal to the higher authorities for revision of the manager’s* decision. All such appeals have to be decided within a week of the worker’s petition. The worker, if he or she so desires, can take an union official with him or her for discussion with the appellate authority.

6. *In case of failure to settle the grievance even at this stage*, the union and management may refer it to voluntary arbitration within a week of receipt of the management's final decision

### **Laws Supporting Grievance Redressal Procedure**

Workers' grievances, more or less, got prominence in the eye of the law after the enactment of the Standing Orders Act, 1946. This Act, therefore, has opened the possibilities to the workers to go to the Certifying Officer with the complaints. This Act also permits the aggrieved parties to submit appeal to the appellate authority within 30 days from the date of receiving such order. There is no denial of the fact that Standing Orders Act does not deal with the grievance redressal procedures, directly but it acts as supportive law to strengthen the hands of the workers.

The Factories Act, 1948 also comes with the prospect of looking to the interests of the workers whereby the role of the Welfare Officer is vital in reducing the day to day grievances of the workers with references to statutory privileges, as such. To this regard, Industrial Dispute Act, 1947 and Trade Union Act, 1926 play the key roles in handling the employee grievances in indirect ways. Works committee at the shop level deals with the issues of the employment and tries to settle down the grievances as far as possible. ID Act, 1947 insists upon setting up of grievance redressal committee in the industrial establishment where twenty or more employees are working. The grievance redressal committee shall be constituted with the equal representations from the employers and the employees [the total number of members shall be six]. The chair person will be from among the employers or from among the employees on rotation basis. Nevertheless, the formation of the grievance redressal committee can in no way cease the rights of the parties to go for the settlements of dispute under other provisions of this Act. Besides, various resolutions of Indian Labour Conferences are worth mentioning, here. The very common aspects of all these portray

- the concern for the workers,
- the legal conformity of the grievance redressal procedure,
- the role of union in initiating the process of mediation , and
- the need for information about the right person to be approached for the type of grievances.

## Suggestions

*The National Commission on Labour [NCL] observed that there should be statutory backing for the formulation of an effective grievance procedure which should be simple, flexible and less cumbersome, and more or less on the lines of the pre-grievance procedure.* A grievance procedure, whether formal or informal, statutory or voluntary, has to ensure that it gives a sense of,

- (i) satisfaction to the individual worker,
- (ii) reasonable exercise of authority to the manager, and
- (iii) participation of unions.

The participation of the unions is necessary, because ultimately the unions will be answerable to members. To make procedure the effective, it is important that it should be simple and have a provision for at least one appeal. Besides, the procedure should be time-bound and have a limited number of steps. Hence, the Commission recommended that a grievance procedure should normally provide three steps

- (a) Approach to the immediate superior;
- (b) Appeal to the departmental head/manager; and
- (c) Appeal to the bipartite grievance committee representing management and recognized union

The constitution of the committee should have a provision that in case a unanimous decision is not possible, the unsettled grievance may be referred to an arbitrator. At earlier stages a worker should be free to be presented by a co-worker and an officer of the union. Considering the varying size and nature of units, the Commission suggested that it would not be desirable to be too rigid to have standardized procedure in all sizes of units. Hence, the Commission said that some informality in the approach may be required in case of small units, say units employing less than 100 workers, because in them it is easier both for the management and workers to have close contacts and personal approach. On the other hand, it would be more appropriate to introduce a formal procedure in units employing 100 or more workers.

### Summary

*Employee dissatisfaction is the basic source of grievance. In the context of industrial relations, grievance of the employee is meaningful in the sense that it induces the quality of the labour-management relationships. More precisely, the foundation of any grievance is the perceived injustice which needs immediate remedial measure. The present chapter, therefore, puts stresses upon the causes of grievance and mechanism to handle the same. A few suggestions of National Commission on Labour, covered by this chapter, appear to be relevant to this respect.*

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons]

\*\*\*\*

---

## Lesson 4.3 - Conciliation - Arbitration and Adjudication

---

### Learning Objectives

*After studying this lesson you should be able to*

- Understand the concept of Conciliation
- Know the roles of Arbitration and Adjudication in bringing the industrial peace

### Introduction to Conciliation

Conciliation is a process by which representatives of workers and employers are brought together before a third person or a group of persons with a view to persuade them to come to a mutually satisfying agreement. The objective of this method is to settle disputes quickly and prevent prolonged work stoppages if they have already occurred. The essential hallmarks of this approach are

1. *The conciliator tries* to bridge the gap between the parties, if possible.
2. *If he does not fully succeed, he tries* to reduce the differences to the extent possible. He acts as a conduit through which message are passed from one side to the other, coupled with his own interpretations facilitating the understanding of disputing parties. To the extent possible, he tries to 'clear the fog' surrounding the issue.
3. *He persuades parties to take a fresh look at the whole issues*, through a process of give and take and explore the possibility of reaching a consensus.
4. *He only advances possible lines of solutions for consideration by the disputants.* He never tries to force the parties to accept his viewpoint. He never offers judgment on the issues. If parties feel that the suggestions offered by the conciliator are acceptable, they may strike a deal.

5. *The conciliator need not follow the same path in each case. The process of conciliation*, therefore, has a certain amount of flexibility and informality built around it.

### **Meaning of Conciliation and Mediation**

The absence of permanently constituted organs of negotiations and its creation when a conflict is threatened does not solve the disputes effectively in the world of industry. Moreover, a temporary phase only provides hostility to bargaining. It deprives the employers and the employees of a feeling of partnership in a joint venture. The values of organization and work get jeopardized due to the inability of the parties in conflict to avoid extreme action. To avoid the shock in adjustment and working jointly in a cordial atmosphere necessitate the help of outsiders in negotiations. Thus, conciliation and mediation are the methods of settling industrial disputes with 'help of an outsider. It is considered necessary when mutual negotiations breaks down and issues remain unresolved.

Agreements are arrived at mutually by an intermediary who either mediates or conciliates. Conciliation is a method or a process which brings together the representatives of workers and employers before a conciliator (a third person or a group of persons). The main objective is to help mutual discussion and persuasion in order to come to an agreement. Thus, conciliation is usually employed when management and labour are in dead-lock in negotiating a trade agreement. In conciliation both parties look towards the conciliators with the intention that he should help us to agree. The conciliator's aim is to reconcile the parties bringing them to an agreement which is very much similar to that of the mediator. He offers his advice and suggests ways of resolving the controversy. The parties may or may not accept his recommendations but once they accept them, they become legally bound by them.

Again, the aim of the conciliator is to break the dead lock, if any, explain the stand and view-points of one party to the other', convey messages and generally keep the negotiation going. Suggestions may come from the conciliator or the mediator, but the parties are free to accept or reject them. It is the parties who ultimately decide the issues. They may come to an agreement or they may not. These are the methods, which are primarily based on the principles of collective bargaining. Mediator helps

the parties at their initiation or at least with the consent of both parties, but it is not necessary in conciliation. It is a passive act of intervention by a third party, i.e. the mediator. A mediator does not impose his will or judgment upon the disputants but helps the parties to agree and reach a final decision of their own making.

Thus, mediation by an outsider helps the parties towards positive settlement of a dispute without imposing any personal will or judgment. A compromise formula is suggested by the mediator with a view to bring about voluntary agreement between the parties. But the parties may or may not accept it. Thus, a mediator plays a more positive role by amending the views and interest of the parties in dispute and by advancing suggestion for compromise for their consideration.

Conciliation and mediation are similar in that neither is compulsory nor judicial. The mediator has been described as a confidential adviser and an industrial diplomat. His chief function is to help the two sides to come to an agreement of their own accord; he does not impose his will or judgment but helps the parties to reach to an agreement. Thus, it is very much similar to conciliation. Hence, the term conciliation is often used for the method which would be more properly described as mediation. Obviously, the objective of conciliation and mediation is the same that is to avert an impending rupture between the disputant or if the rupture has already taken place to bring them together as soon as possible without resorting to arbitration. It should, however, be noted that conciliation is based on mutual negotiation while mediation is based on negotiation through the third party. There is intervention of third party both in conciliation and mediation but the conciliator is more active and more intervening than the mediator.

### **Conciliation Machineries**

The conciliation machinery in India consists of the followings

#### **Works Committees [Sec.3 of ID Act, 1947]**

It is a committee formed by the representatives of workers and employers at workshop level. Thus, in any industrial establishment, by the general or special order of the appropriate government where 100 or more

employees are employed or as part of employment have been working on any day in preceding 12 months, this committee is formed. Equal numbers of employees and employers shall represent this committee at shop level.

Its basic aim is to ensure friendly relations as far as possible under democratic spirit and is significant because of its approaches in the grass root level of the corporate industrial structure.

The works committee duty is to promote measures for securing and preserving amity and good relations between employers and workers. To this end, therefore, it makes comment on matters of common interests or concerns of both the employers and employees and endeavours to compose any material difference of opinion in respect of such matters. The main function is to promote measures for securing and preserving amity and good relations and for this purpose take steps of adjustments between employers and workmen so that situation may not turn into industrial dispute.

#### **Conciliation Officers [Sec.4 of ID Act, 1947]**

The appropriate government, by notifying in the Official Gazette, may appoint any number of persons, fit to be right, as Conciliation Officers. It is a recognized way of settling mutual conflicts between the employers and the employees, either in person or in-group or in both. The conciliation officer will hold ***conciliation proceedings, investigate the disputes and send the settlement report to the government with the statements of steps taken to reach to the possible settlement.*** The employers and employees assist him to arrive at a fair and amicable settlement but in no way he has the right to adjudicate. He will submit ***detailed report*** to the government in case of no settlement. Under this condition, the said report should contain the statements that cover the facts, circumstances, reasons as barriers to settlement etc. He has the power to enter the premises of the industry and to examine necessary documents as and when required.

According to the Industrial Disputes Act, 1947, the Central and State governments can appoint a conciliation officer to mediate in all disputes brought to his notice. The officer enjoys the powers of a civil court. He can call and witness disputing parties on oath and interpret the facts of the case. He is expected to give judgment within 14 days of

the commencement of the conciliation proceedings. His judgment is binding on all the parties to the dispute. The conciliation officer has a lot of discretion over the ways and means to be followed to bring about a settlement between the disputants. He “may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of disputes”.

### **Board of Conciliation [Sec.5 of ID Act, 1947]**

The appropriate government by notification in the Official Gazette can establish a Board of Conciliation, commonly known as the Board, simply. It has a chairperson [an independent person as per the definition of the Act] and 2 to 4 members in equal representation from among the parties to the dispute.

Alike the Conciliation Officer, the Board can make the settlement of disputes and send the report of settlement to the government or full report in case of ‘no settlement’ In the process it ,also, can go to communicate the reasons to the respective parties, too. The board shall submit its report within 2 months of its date of appointment and all members of the board shall put their respective signatures in the report.

Certain disputes (where the conciliation fails) may be referred to the board. It shall investigate the dispute and try to come out with the right settlement. The board has powers of a civil court and enjoys the powers as prescribed by the C.P.C [Civil Procedure Code] .

When the conciliation officer fails to resolve the disputes between the parties, the governments can appoint a Board of Conciliation. The Board of Conciliation is not a permanent institution like the Conciliation officer. It is an ad hoc, tripartite body having the powers of a civil court, created for a specific dispute. It consists of a Chairman and two or four other members nominated in equal number by the parties to the dispute. The chairperson who is appointed by the government should not be connected with the dispute or with any industry directly affected by such dispute. The board, it should be remembered, cannot admit a dispute voluntarily. It can act only when the Government refers the dispute to it. The board conducts Conciliation proceedings in the same way as conducted by a Conciliation officer. The board, however, is expected to submit its report

within two months of the date on which the dispute was referred to it. The government these days rarely constitutes the Boards of Conciliation. In actual practice, settling disputes through a conciliation officer was found to be more flexible when compared to the Board of Conciliation.

### **Courts of Inquiry [Sec.6 of ID Act, 1947]**

The appropriate government by notification in the Official Gazette can start a Court of Inquiry, known as the Court that can start the investigations related to industrial disputes. Same as the Board, it has an independent chairperson with the members, ranging from 2 to 4. All members of the court shall deem to be the public servant. The disputes are to be referred to the court by the order of the appropriate government. Court has the exclusive power to enter the premises. Like the Board, it has the powers of Civil Court. Aside these, it has the distinctive power to engage assessors.

### **Arbitration**

Arbitration is the means of securing a definite judgment or award for any controversial issue by referring it to a third party. It may imply the existence of an authority set apart to adjudicate on industrial disputes under recognized conditions. Arbitration is by mutual consent of the parties. When the Government decides to refer a case to a Labour Court or Industrial Tribunal, it is called adjudication. Thus, compulsory arbitration is referred to as adjudication. Arbitration involves the exercise of an authority to bring about an agreement or to help the process of settlement by adjudicating on industrial disputes. The arbitrator has powers to probe and in the process becomes acquainted with the facts of the industrial situation.

Arbitration in industry shares several common features with conciliation and mediation. Just like conciliation and mediation, there is also intervention of third party. It can either be voluntary or compulsory like conciliation and mediation. The note of distinction between arbitration and conciliation is that in the former the decision is binding on the parties, while in the case of later the parties may or may not accept the decision. Arbitration is characterized by a different approach than conciliation and mediation. Arbitration procedure is more of judicial nature and the

award has the resemblance of a court's judgment. The arbitrator has his own decision and does not care for the recommendations of the parties. The procedure of conciliation is not of judicial nature and the conciliator persuades the parties towards positive settlement of dispute without imposing any personal will or judgment.

## **Methods of Arbitration**

### ***(a) Voluntary Arbitration***

The arbitration can either be voluntary or compulsory. Arbitration is voluntary, if the parties, having failed to settle their differences by negotiation agree to submit their cases to arbitrator whose decision they agree to accept. Arbitration is voluntary in the sense that the disputants are free to give their consent or to refuse to submit their differences to the decision of the arbitrator. Hence, the fundamental character of voluntary arbitration is the voluntary submission of cases to an arbitrator, and therefore, it does not necessitate the subsequent attendance, of witness, investigation and enforcement of awards may not be necessary, because there is no compulsion. Under voluntary arbitration, it is not necessary that there may be an "arbitration agreement" or "arbitration clause". The former refers to the arrangement for submission of certain types of disputes while the latter is concerned with the disputes to occur in future.

### ***(b) Compulsory Arbitration***

Compulsory arbitration or adjudication means, when the Government decides to refer the dispute to arbitration and for the parties to abide by the award of the arbitration and at the same time prohibit parties from causing work-stoppages. The main idea behind the imposition of compulsory arbitration is to maintain industrial peace by requiring the parties to refrain from causing work-stoppages and providing a way for settling the dispute.

Where parties fail to arrive at a settlement by the voluntary method, recourse is taken to compulsory arbitration. Arbitration is compulsory, when parties to the dispute are compelled to submit their cases to an outside person, board or court and the decision of such agencies is binding upon them. Thus, arbitration when compulsory follows statutory action and

necessitates the submission of case by parties to an arbitrator. Generally, when the parties fail to arrive at a settlement by voluntary methods, the Government under statutory provision refer the case to an authority for adjudication and enforces its award on the parties. Hence, adjudication is a form of arbitration, which implies compulsory arbitration. The rules and procedures of arbitration are similar to those commonly followed in courts of law.

### **Voluntary Arbitration Machinery**

#### ***Voluntary Arbitration Machinery [Sec.10-A of ID Act, 1947]***

In case of a persistent industrial dispute, the employer and the employee agree in writing to refer the same to the arbitrator. The approach is permitted, if and only if, the matter has not been referred to Labour Court, Tribunal or National Tribunal. Arbitration under Sec.10-A ensures the arbitration agreement between the management and the employees. This agreement is important from the standpoint that it determines the number of arbitrator to be appointed along with an umpire. The role of the umpire is crucial at the time of voting i.e., in case of tie, his decision will be final and binding. The structure of the arbitration agreement shall be in such manner as may be prescribed. However, the parties shall sign it thereto. The copy of the arbitration agreement shall be dispatch to the appropriate government. The publication of the arbitration agreement in the Official Gazette is mandatory on the part of the government before the commencement of the examination of the disputes by the arbitrator.

It is to be noted here that disputes ascending out of different causes like victimization of the worker(s), dismissal of them, lay-off, retrenchment etc., are to be resolved by voluntary arbitration. Voluntary arbitration is acceptable because

- 1) It is quick and simple;
- 2) It eliminates the mistrust and encourages the parties to be cordial and friendly;
- 3) It helps to reiterate the beliefs of the parties on democratic values and generates an atmosphere so that the parties involved may opt for friendly negotiation instead of litigation.

Appropriate government may issue such order to restrict the parties to go for strike or lockout with the disputed matter, referred to voluntary arbitration.

Precisely then, when conciliation proceedings fail to settle the dispute, the conciliation officer may persuade the conflicting parties to voluntarily refer the dispute to a third party known as Arbitrator, appointed by the parties themselves. The arbitrator listens to the viewpoints of both parties and delivers an award or judgment on the dispute. He, however, does not enjoy judicial powers. The arbitrator submits his judgment on the dispute to the government.

Thereafter the government publishes the award within 30 days of its submission. The award becomes enforceable after 30 days of its publication. The arbitration award is binding on all the parties to the agreement and all other parties summoned to appear in the proceedings as parties to dispute. Before delivering the judgment, the arbitrator is expected to follow due procedure of giving notice to parties, giving a fair hearing, relying upon all available evidence and records and following the principles of natural justice.

Arbitration is effective as a means of resolving disputes because it is

1. established by the parties themselves and the decisions is acceptable to them, and
2. relatively expeditious with references to courts or tribunals. Delays are cut down and settlements are speeded up.

Arbitration has achieved a certain degree of success in resolving disputes between the labour and the management. However, it is not without its weakness. *Some weaknesses are*

1. ***Arbitration is expensive.*** The expenditure needs to be shared by the labour and the management.
2. ***Judgment becomes arbitrary if there*** is a mistake in selecting the arbitrator.
3. ***Too much arbitration is not a sign of healthy IR.***

## **Adjudication Machineries**

Adjudication or compulsory arbitration is the ultimate remedy for the settlement of disputes in India.

Adjudication consists of settling disputes through the intervention of a third party appointed by the government. An industrial dispute can be referred to adjudication by the mutual consent of the disputing parties. The government can also refer a dispute to adjudication without the consent of the parties.

The Industrial Disputes Act, 1947, provides three-tier adjudication machinery – namely Labour Courts, Industrial Tribunals and National Tribunals – for the settlement of industrial disputes. Under the provisions of the Act, both Central and State governments can constitute Labour Courts and Industrial Tribunals and the Central government can constitute State governments but the National Tribunals only.

### **Labour Court (Section-7 of I.D. Act, 1947)**

The appropriate government by proper notification in the Official Gazette can form one or more Labour Courts, having the power to adjudicate the industrial disputes. It shall operate its functions with one person as the presiding officer who shall be a High Court Judge or a District Judge/ Additional District Judge with minimum 3 years' experiences or judicial service officer with minimum 7 years' experiences or presiding officer of a Labour Court with minimum 5 years' experiences.

It has all the powers of the Court of inquiry and enjoys the same power vested upon the Civil Court. It provides machinery for investigation and settlement of industrial dispute. It can pass awards, which is binding upon the parties. Award comes always in writing and signed by the Presiding Officer. Award of the Labour Court is to be published by the appropriate government within 30 days from the date of receipt of the same.

The labour court deals with disputes relating to:

- (a) the property or legality of an order passed by employer under the standing orders;

- (b) the application and interpretation of standing orders;
- (c) discharge or dismissal of workers including reinstatement of, or grant of relief to wrongly dismissed persons;
- (d) withdrawal of any statutory concession or privilege;
- (e) illegality or otherwise of a strike or lockout; and (f) all matters except those reserved for industrial tribunals.

### **Industrial Tribunal (Section-7A of I.D. Act, 1947)**

The appropriate government by proper notification in the Official Gazette can start one or more Industrial Tribunals (referred to as Tribunal) to adjudicate industrial dispute of any type and natures. However, the Tribunal is constituted for a limited period. The appointment and qualification of the presiding officer is the same as labour court.

However, Tribunal has restricted jurisdiction as proposed by the Act. It confines its jurisdiction limited to terms of reference and cannot go beyond that. The award of the tribunal can be challenged in the Supreme Court as per the provisions of The Constitution of India. It has a wider jurisdiction than the labour court. The Government concerned may appoint two assessors to advise the presiding officer in the proceedings. An industrial Tribunal can adjudicate on the following matters

- (a) **Wages** including the period and mode of payment;
- (b) **Compensatory** and other allowances;
- (c) **Hours** of work and rest periods;
- (d) **Leave** with wages and holidays;
- (e) **Bonus**, profit sharing, provident fund and gratuity;
- (f) **Shift** working, otherwise than in accordance with the standing orders;
- (g) **Classification** by grades;
- (h) **Rules** of discipline;
- (i) **Rationalization**;
- (j) **Retrenchment** and closure of establishment; and
- (k) **Any other** matter that may be prescribed.

### **National Tribunal (*Section-7B of I.D. Act, 1947*)**

The central government by notification in the Official Gazette can constitute one or more National Tribunal to adjudicate issues relating to the industries that have national importance and impacts over the society. The disputes should be of such a nature that industrial establishment situated in more than one state would likely to be interested in or affected by the same, having enormous national significance.

Under the circumstances, the central government may, regardless of whether it is the appropriate government in relation to that dispute or not, refer the dispute to a national tribunal for adjudication. Like the Tribunal, National Tribunal restricts its jurisdiction within the scope of the terms of reference and keeps its adjudication to those areas that are incidental thereto. It has the power of Civil Court and can appoint assessors. It has also the power to award costs.

This is, also, the third one-man adjudicatory body to be appointed by the central government to deal with dispute of national importance or issues, which are likely to affect the industrial establishments in more than one state.

It consists of 1 person only, who is an independent person and below 65 years of age. He should be or has been judge of a High Court or held the office of Chairman or any other member of the Labour Appellate Tribunal for a period of not less than 2 years.

The Central Government may, if it thinks fit, appoint two persons as assessors to advise the National Tribunal. Duties of a National Tribunal are to hold proceedings of an industrial dispute referred to it by the Central Government expeditiously, and to submit the award to the referred on the conclusion thereof.

When a national tribunal has been referred to, no Labour Court or Industrial tribunal shall have any jurisdiction to adjudicate upon such a matter.

## Summary

*The Industrial Dispute Act, 1947 recommends the articulations of specified and effective mechanisms to resolve the industrial disputes. Under this back drop, this chapter examines the importance of the conciliation machineries under the changing trend of industrial relations and in the process, explores the roles of the Arbitration and Adjudication in bringing the industrial democracy.*

.....  
**NOTE:** Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book Kapoor, N.D. (2011). *Handbook of industrial law*, New Delhi Sultan Chand & Sons]

\*\*\*\*

---

## Lesson 4.4 - Collective Bargaining

---

### Learning Objectives

*The present lesson familiarizes the student with*

- The concept of Collective Bargaining
- Objects of unions in Collective Bargaining
- Theories of Collective Bargaining
- Prerequisites of Collective Bargaining etc.

### Introduction

In the world of industry and commerce, a means has emerged in the past century. This is known as the practice of negotiation. Both the parties i.e., the management and the employees within industrial content and context use to go with this method to sort out differences, arising out of terms and conditions of service and thereby resolve, mutually, the disparities as far as possible. Historical review of the propagations of industrial and commercial sectors in the economy proves beyond doubt the prolific effectiveness of this procedure in establishing peaceful and orderly relations at the place of work. Thus, modus operandi of negotiation i.e., the mutual settlement of perceived discrepancies between the management and the workers acts as a facilitator to induce a process that is acknowledged as Collective Bargaining across the globe. The work atmosphere of cooperation among all those engaged in the enterprise ensures its course of success, altogether. The development of collective bargaining has been closely associated with the growth of trade unions in all countries and sometimes with the growth of employers associations, also.

The movement of trade union can be traced back to the developmental history of the crafts unions of skilled workers in the early part of the nineteenth century with references to British and European industries. Indeed, the craft unions were organized to protect workers' skills by preventing employers from under cutting jobs rates.

The craft unions discovered that it was only by strengthening their organization and forcing the issues at district and national level, the genuine standards could be achieved, and it was only at the end of nineteenth century that general unions began to build up in Britain and other countries to bargain with the employers on behalf of the employees.

A collective bargain is an agreement made by or on behalf of a group, and collective bargaining is, therefore, the method by which a group agreement is reached between the representatives of employers and the employees. Thus, collective bargaining is the process of fixing the terms of employment by means of bargaining between an organized body of employees and an employer or association of employers, usually acting through duly authorized agents. The essential thing is that collective bargaining intends to put the workers on a footing of equality with employers at the occasion of a bargaining process in regards to the terms of employment. The bargaining process within industry identifies an exchange procedure where at least two parties try to settle on the issues relating to the terms and conditions of employment, services and compensation etc. It is to be noted that in collective bargain both the interested parties mutually agreed upon to carry out this process which cannot be initiated by the decree or some other means from outside.

Beatrice Webb, a famous socialist writer and speaker, is credited with the coinage of the term “Collective Bargaining”. Accordingly, collective bargaining takes place when a number of work-people enter into negotiation as bargaining unit with an employer or groups of employers with the object of reaching agreement on conciliations of employment for the work- people concerned.

Collective bargaining has been defined in the Encyclopaedia of social Sciences as “a process of discussion and negotiation between two parties, one or both of whom is a group of persons acting in concert. The resulting bargaining is an understanding as to the terms or conditions under which a continuing service is to be performed. More specially, collective bargaining is the procedure by which an employer or employers and a group of employees agree upon the conditions of work”.

Collective bargaining has also been defined as the process of employer-union negotiation for the purpose of reaching agreement as

to the terms and conditions of employment for a specified period. The National Association of Manufactures has stated that in its simplest definition. Accordingly, the process of collective bargaining is a method by which management and labour may explore each other's problems and view points, and develop a frame work of employment relations within which both may carry on their mutual benefit.

In a workers education manual issued by the International Labour Office, collective bargaining is defined as “negotiations about working conditions and terms of employment between employer, a group of employers or one or more employers’ organizations, on one hand, and one or more representative workers’ organizations on the other, with a view to reaching agreement”. Furthermore, it is stated to be “the terms of an agreement that serves as a code, defining the rights and obligations of each party in their employment relations with one another; it fixes a large number of detailed conditions of employment ; and during its validity none of the matters it deals with care in normal circumstances give grounds for a dispute, concerning on industrial worker”. Whatever, definition may be accepted, the essence of collective bargaining, however, lies in the readiness of the parties to manifest the attitude of mutual acceptance. Collective bargaining deals with the emotions of people as well as with the logic of their interests.

### **Objectives of Unions in Collective Bargaining**

The central focus of union activity is collective bargaining i.e., the process of arriving at compromises to settle disputes between an employer and an organization of employees. It is called collective bargaining because the employees, as a group, select representatives to meet and discuss differences with the employer.

The unions’ *objectives of Collective Bargaining* may be the followings

- (1) *To establish and build up union recognition* to the authority in the work place.
- (2) *To raise workers standards of living and* win a better share in company’s profits.

- (3) *To express in practical terms the workers desire to be* treated with due respect and to achieve democratic participation in decisions, affecting their working conditions.
- (4) *To establish orderly practices for sharing in these decisions* and to settle disputes. This may arise in the day to day life of the company.
- (5) *To achieve broad general objectives such as defending* and promoting the interests throughout the country.

Thus, the primary objective of the trade unions is to safeguard the interests of the workers and to establish industrial peace in dignified manner through collective bargaining.

It is said that, ‘industrial peace’ is something more than the mere absence of conflict. The absence of strike is not necessarily an indication of real industrial peace. More adverse consequences might flow from *steady* deterioration of relations in industry than from an occasional spectacular stoppage of work.

A really healthy collective bargaining can make sure that benefits derived from industry are equitably distributed among all the parties involved—the employers, the unions, the management, the customers, the suppliers, the public.

Meaningfulness of the bargaining process by the parties, involved in it, determines the extents of success of the collective bargaining. It initiates the process of negotiation where both the parties not only present their respective problems in face to face interactions but also explore the possibilities of best possible solutions in their own favour. In the process mind sets and opinions of the parties may need some degrees of modifications with respect to nature and quality of interactions. Thus, in negotiation, both side come with the expectations to accept this dynamics of change.

Collective bargaining starts with claims advanced by both sides i.e., demands from the union and concomitant statement of alternatives by the management that spin around on fundamental tactic of accommodation of the interests of other. Both sides, therefore, try to evolve the mechanism

to reach to the optimal solutions by allowing some margin to the other. However, only the experienced bargainers can only able to yield better result than the opponent in terms of benefit-cost ratio i.e., outcome of the negotiation at the cost of margin allowed.

### **Distinction between Collective Bargaining and Joint Consultation or Cooperation through Joint Committees**

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

The main task of joint committees such as works councils is the exchange of information and suggestions on matters of common interest such as health, safety, welfare and productive efficiency, and the outcome of discussions may take the form of recommendations but the final decision is left to the management.

Even if there is resemblance between such recommendations and parts of a collective agreement still then in works councils the emphasis is mainly on cooperation based on common interests, whereas in collective bargaining it is on reconciliation of divergent interests or demands.

### **Determinants of Union Goals**

Unions have a wide range of economic and non-economic goals. All goals of them cannot be won in one instance. All goals are in conflict with each other since employers are willing to make only limited number of concessions at any particular bargaining session. Therefore, unions have to determine priorities. There are five factors that affect the main concerns of collective bargaining i.e., the target goals of the union. These factors are presented below.

- (i) Economic Conditions relevant to the Bargaining Relationship
- (ii) Precedence of Recent Major Agreements,
- (iii) Inter-union Rivalry,
- (iv) Influence of International Situation,
- (v) Intra-union Influence.

The relative importance of these factors varies from one bargaining situation to another.

- 1. *Economic Conditions*** The cost of living is used by unions as an argument for higher wages during periods of rising prices. Although unions generally give more attention to money wages than real wages, a decline in real wages, resulting from cost of living, is always used as a potent argument for a wage increase, partly because it wins public support. The cost of living and the condition of firm in terms of ability to pay are used as a basis of setting terms of contract. Finally, union always seeks to win under maximum concession from the management and thereby exploits situational opportunities as means to attain the same.
- 2. *Precedence of Recent Major Agreements*** A major agreement made in an industry does not guarantee that other unions will receive the same concessions; there will be variations around the precedence. Nevertheless, employers' resistance to similar demands of the union is lessened by the occurrence of agreement by any other employer on the same issue. Indeed, the incidence raises the likelihood of referring the agreement(s) as precedence by the union. In fact, union tries to consolidate its claims by citing the reference of the precedence strives to weaken the stands of the employer. The employer may feel compelled to grant the demand in order to maintain the morale of his workers who are aware of the concessions granted by other employers.
- 3. *Inter-union Rivalry*** The ability of a union leader to gain concessions at least equal to those won by other unions affect his status with his constituency, which of course is an important reason why major agreements affect settlements in other industries. However, inter-union rivalry has implications beyond merely following precedents. It may involve a struggle for power between leaders of two different unions, or perhaps leaders of two different factions of the same union. An ambitious local leader or regional director who wants to rise in the union hierarchy seeks to make greater gains than his rivals. So he or she gives priority to those demands which will enhance his position. In this way inter-union rivalry affects the determination of priority in collective bargaining goals.

- 4. Influence of International Situation** The increase in the international's control over bargain influences the choice between various union goals, tending to give greater emphasis to nation-wide goals as opposed to strictly local goals. The international officers and representatives are generally shrewder and more mature bargainers. They are professionals. They have a better understanding of the employer's ability to pay and the impact of any bargaining demand on the entire industry. In some cases this will cause them to bargain for larger amounts, while in other cases they may seek less than the local desire, depending on the economic conditions affecting the industry at that time. When the international experts get large amount of control in the bargaining they give less emphasis on such purely local issues as speed up of the production line, discharge of a single employee or setting the wage rate for a new job etc.
- 5. Intra-union Influences** Intra-union influences also affect the priority of collective bargaining goals. Within the union there are many actual and potential areas of conflict between different interest groups. Different skill groups within the union are liable to disagree over pay-differentials. They may take different views, of technological changes within the plant, since each group is likely to be affected differently by such changes. A conflict may develop between the more productive and the less productive workers, the former favouring an incentive pay plan which would increase their earnings, the latter supporting straight time payment. Conflict between the day shift and night shift over the amount of the differential is not uncommon. Since the employer will grant only a limited total amount of monetary concessions, a larger night differential may mean a lower average wage for the day shift. The older workers would favour pension plans, whereas younger workers have little interest in these.

Union leaders are not free to consider the problem of wages purely as an exercise of economics. They are leaders of mass movement, subject to variety of pressures and cross pressures, who meet the needs of their membership or the risk of replacement at the next election. If wage pressures are mounting, then an increase must be sought, even though they are more fearful than the membership that a lower volume of employment might result. The less skilled workers in an industrial union may keep the gains equal to all because of their numbers and voting strength.

Since most union members are apathetic, the active minority may have little or no difficulty in securing the priority of goals it desires. However, the apathetic members may rise up and unseat the leadership or revolt and form a new union if they feel cheated out of their fair share of collective bargaining rewards. The leader must be an actual politician in satisfying all competing groups.

### **Theories of Collective Bargaining**

There are three important concepts on collective bargaining which have been discussed as follows—

#### **1. The Marketing Concept and the Agreement as a Contract**

The marketing concept views collective bargaining as a contract for the sale of labour. It is a market or exchange relationship and is justified on the ground that it gives assurance of voice on the part of the organized workers in the matter of sale. The same objective rules which apply to the construction of all commercial contracts, are invoked since the union-management relationship is concerned as a commercial one.

According to this theory, employees sell their individual labour only on terms collectively determined on the basis of contract which has been made through the process of collective bargaining. Thus, collective bargaining remains a means for employees to sell their manpower through a common agent.

The uncertainty of trade cycles, the spirit of mass production and competition for jobs make bargain a necessity. The trade union's collective action provided strength to the individual labourer. It enabled him to resist the pressure of circumstances in which he was placed and to face an unbalanced and disadvantageous situation created by the employer. The object of trade union policy through all the maze of conflicting and obscure regulations has been to give to each individual worker something of the indispensability of labour as a whole. This is also called the union approach to collective bargaining.

It cannot be said whether the workers attained a bargaining equality with employers. But, collective bargaining had given a new relationship

under which it is difficult for the employer to dispense without facing the relatively bigger collective strength.

## **2 The Governmental Concept and the Agreement as Law**

The Governmental Concept views collective bargaining as a constitutional system in industry. It is a political relationship. The union shares sovereignty with management over the workers and, as their representative, uses that power in their interests. The application of the agreement is governed by a weighing of the relation of the provisions of the agreement to the needs and ethics of the particular case.

Thus, the Governmental concept/theory establishes a political relationship admitting the contractual nature of the bargaining relationship. The contract is viewed as a constitution, written by the joint conference of union and management representatives in the form of a compromise or trade agreement. The agreement lays down the machinery for making, executing and interpreting the laws for the industry. The right of initiative is circumscribed within a framework of legislation.

Whenever, management fails to conform to the agreement of constitutional requirements, judicial machinery is provided by the grievance procedure and arbitration. This creates a joint Industrial governance where the unions share sovereignty with management over the workers and defend their group affairs and joint autonomy through the exercise of external interference.

## **3. The Industrial Relations (Managerial) Concept at Jointly Decided Directives**

The industrial relations concept views collective bargaining a system of industrial governance.

It is a functional relationship. The union representatives get a hand in the managerial role. Discussions take place in good faith and agreements are arrived at jointly with company officials in reaching decisions on matters in which both have vital interests. Thus, union representatives and the management meet each other to arrive at a mutual agreement which they cannot do alone. When the terms of agreement fail to provide

the expected guidance to the parties, it is the joint objective and, not the terms, which must control. Hence, this theory recognizes the principle of mutuality, joint concern and the extension to workers of the corporate responsibilities.

To some extent, these approaches represent stages of development of the bargaining process itself. Early negotiations were a matter of simple contracting for the terms of sale of labour. Developments of the latter period led to the emergence of the Government theory. The industrial relations approach can be traced to the industrial Disputes Act of 1947 in our country, which established a legal basis for union participation in the management.

### **Constituents of Collective Bargaining**

There are **three distinct steps** in the process of collective bargaining;

- (1) the creation of the trade agreement,
- (2) the interpretation of the agreement, and
- (3) the enforcement of the agreement.

Each of these steps has its particular character and theme, and therefore, each requires a special kind of intellectual and moral activity and machinery.

- 1. *The Creation of the Trade Agreement*** In negotiating the contract, a union and management present their demands to each other, compromise their differences, and agree on the conditions under which the workers are to be employed for the duration of the contract. The coverage of collective bargaining is very uneven; in some industries almost all the workers are under agreement, while in others only a small portion of the employees of the firms are covered by the agreement. The negotiating process is the part of collective bargaining more likely to make headline news and attract public attention; wage increases are announced, ominous predictions about price increases are reduction in employment are made. And it is in the negotiating process that strikes and threats of strikes are most liable to occur, particular strikes which shut down an entire industry.

2. ***The Interpretation of the Agreement*** The administrative process is the day-to-day application of the provisions of the contract to the work situation. At the time of writing the contract, it is impossible to foresee all the special problems which will arise in applying its provisions. Sometimes, it is a matter of differing interpretations of specific clause in the contract, and sometimes, it is a question of whether the dispute is even covered by the contract. Nevertheless, each case must somehow be settled. The spirit of the contract should not be violated. The methods that management and the union pointy adopt for this purpose constitute the administrative process.
3. ***Enforcement of the Agreement*** Proper and timely enforcement of the contract is very essential for the success of collective bargaining. If a contract is enforced in such way that it reduces or nullifies the benefits expected by the parties, it will defeat basic purpose of collective bargaining. It may give rise to fresh industrial disputes. Hence, in the enforcement of the contract the spirit of the contract should not be violated.

However, new contracts may be written to meet the problems involved in the previous contract. Furthermore, as day-to-day problems are solved, they set precedents for handling similar problems in future. Such precedents are almost as important as the contract in controlling the working conditions. In short, collective bargaining is not an on-and-off relationship that is kept in cold storage except when new contracts are drafted. Rather it is continuously, going relationship that takes on new dimensions each day.

### **Prerequisites of Collective Bargaining**

Collective bargaining could be an effective instrument in the settlement of disputes and advancement of the cause of labour if certain basic conditions are fulfilled. These basic conditions have been given as follows

1. ***Existence of a truly representative***, enlightened and strong union, functioning strictly on constitutional trade union lines.
2. ***Presence of a progressive and strong management***, conscious of its responsibilities to the owners of business, the employees, the consumers and the country.

3. ***Unanimity on the basic objectives and recognition*** of mutual rights and obligations.
4. ***Delegation of authority to local management***, where there are several units of a company.
5. ***Acceptance of a fact finding approach and willingness*** to use new techniques and tools for the solution of industrial problems.

It is, thus, obvious that collective bargaining can be an effective technique of settling industrial disputes where there is a spirit of give and take between the employers and the workers. It depends upon the moral fibre of the labour leaders as well as the employer.

Face to face meeting between the representatives of workers and employers can serve a useful purpose only when the traditional prejudices are kept aside by both the parties. Hence, there should be a complete and true understanding and appreciation of each other's VIEWPOINT.

Through collective bargaining, the negotiating parties should not only try to bargain for gains but also try to find out ways and means for solving problems in a satisfactory manner. The approach at the bargaining table should not be a fighting but a problem solving approach.

### **Collective Bargaining Agreements at Different Levels**

Collective bargaining agreements have been concluded at various levels in India—at plant level, industry level and national level.

#### **At Plant Level**

A collective agreement at plant level is reached only for the plant for which it has been drafted, and its scope and extent are limited only to that particular unit or undertaking. The agreement generally provides for certain common norms of conduct with a view to regulate labour management-relations and to eliminate hatred and misunderstanding.

It contains provisions for a quick and easy solution of those issues which require immediate and direct negotiation between the two parties, and lays down a framework for their future conduct if and when controversial issues arise.

### **Plant Level Agreements**

Since 1955, a number of plant level agreements have been reached. These include The Bata Shoe Company Agreement, 1955, 1958 and 1962; The Tata Iron & Steel Co. Agreement, 1956 and 1959; The Modi Spinning and Weaving Mills Company's Agreement of 1956; The National Newsprint Nepanagar Agreement of 1956; The Belur Agreement of 1956 (between the Aluminium Co. and its employees); The Metal Corporation of India Agreement of 1960 and 1961; The agreement reached between Caltex India and its workmen in 1959, and The one arrived at between the Hind Mercantile Corporation and the workers of the manganese mines at Chikangyakam Haiti, in 1968; The Bhilai Steel Plant and its workers.

### **Case Highlights of the Agreement between the Tata Iron & Steel Co. and Its Workers' Union**

The highlights of the agreement between the Tata Iron & Steel Co. and its workers' union, which was concluded in 1956 "to establish and maintain orderly and cordial relations between the company and the union so as to promote the interests of the employees and the efficient operation of the company's business", are

- (i) The company recognizes the Tata Workers' Union as the sole bargaining agent of the employees at Jamshedpur. It agrees to the establishment of a union membership security system and the collection of union subscriptions which would be deducted at the source from the wages of all employees, except from the salaries and wages of the supervisory staff.
- (ii) The union recognizes the right of the company to introduce new and/ or improved equipment and methods of manufacture, to decide upon the number and locations of plants, and the nature of machinery and/ or equipment required for them, subject to the condition that the union would be consulted beforehand if the interests of the employees are likely to be affected adversely.
- (iii) The union recognizes the right of the company to hire transfer promote or discipline employees after the normal procedure for this' purpose has been gone through; to fix the number of men

required for the normal operation of a section or a department; and to abolish change or consolidate jobs, sections, departments, provided that' when the employees' interests are likely to be adversely affected the management shall consult the trade union before any decision is taken.

- (iv) The company assures the union that there shall be no retrenchment of existing employees. The employees required for the various jobs shall, wherever necessary, be trained on the specific jobs; and if any employees are transferred or put under training, their present average earnings shall be guaranteed to them.
- (v) The company and the union agree to a programme of job evaluation as the basis of a simplified and rational wage structure.
- (vi) The company agrees that promotions to vacancies in the supervisory and non-supervisory staff shall be made, wherever possible, internally. It further agrees that the grievance redressal procedure, formulated in consultation with the union, shall be introduced in all the departments, and shall be strictly followed. The top management of the company and of the union shall intervene only in exceptional cases.
- (vii) The company agrees that the amount of dearness allowance will be included in the wages of employees at the time of the calculation of gratuity to be paid to them.
- (viii) The company and union agree to negotiate revised wages and emoluments separately for the workers in the plant, for the supervisory staff and for employees outside the works.

### ***At the Industry Level***

The best example of an industry level agreement is offered by the textile industry of Bombay and Ahmadabad.

The agreements between the Ahmadabad Mill owners' Association and the Ahmadabad Textile Labour Association, which were signed on 27th June, 1955, laid down the procedure to be followed for the grant of bonus and the voluntary settlement of industrial disputes. The salient features of the first agreement are The agreement applied to all the member mills of the Association and contained terms for the determination and set dement of

bonus claims for four years—from 1953 to 1957. It was agreed between the parties that the bonus would be payable only out of an “available surplus or profit” after all the charges had been provided for—charges for statutory depreciation and development rebate, taxes, reserves for rehabilitation, replacement and/or modernization of plant and machinery, including a fair return on paid-up capital. The fair return would be computed at 6 per cent on the paid-up capital in cash or otherwise, including bonus shares and reserves employed as working capital. The bonus would be paid to employees out of the available surplus or profit at a rate which would be not less than 4.8 per cent and not more than 25 per cent of the basic wages earned during a particular year.

The two Associations agreed that they would jointly determine the quantum of the available surplus or profit, and fix the quantum of bonus to be distributed by each mill. If there was any difference of opinion between the two Associations, the matter would be referred for decision to the President of the Labour Appellate Tribunal or, if he was not available, to an umpire to be mutually agreed upon under the second agreement or, in his absence, to a person acceptable to both the parties; and that decision would be final and binding on both.

The second agreement provided that all future industrial disputes between the members of the two Associations would be settled by mutual negotiation, failing which by arbitration, and that they would not resort to any court proceedings for the purpose of resolving their disputes. If arbitration was agreed upon, each party would constitute a panel of arbitrators and also jointly nominate a panel of umpires consisting of not less than two and not more than five independent persons. Whenever there was an industrial dispute which had not been settled by mutual negotiation each party would nominate its own arbitrator from a Board of Arbitrators. This Board would select an umpire out of the panel or from among outsiders so that, in the event of a difference of opinion between the two arbitrators, their individual decisions might be referred to him for evaluation. The award given by the umpire would then be final and binding on both the parties.

#### ***At the National Level***

*The* agreements at the national level are generally bipartite agreements and are finalized at conferences of labour and managements

convened by the Government of India. The Delhi Agreement of 7th February 1951, and the Bonus Agreements for Plantations Workers of January 1956 are example of such bipartite agreements.

The Delhi Agreement was concluded at a conference of the representatives of labour and managements and related to rationalization and allied matters. It was agreed at this conference that

- (i) Musters would be standardized and workloads fixed on the basis of the technical investigations carried out by experts selected by the management and labour. At the same time, the working conditions of labour would be standardized. When a new machinery is set up, a period of trial may be necessary before standardization is affected.
- (ii) Wherever rationalization is contemplated, fresh recruitment should be stopped; and vacancies which occur as a result of death or retirement should not be filled.
- (iii) Surplus workers should be offered employment in other departments whenever it is possible to do so. At the same time, it should be ensured that there is no break in their service and that their emoluments do not go down.
- (iv) Whenever conditions in an industry permit—that is, conditions governed by the raw materials position, the state of the capital goods and the products manufactured by a company—new machinery should be installed.
- (v) Gratuities should be offered to workers to induce them to retire voluntarily.
- (vi) Whenever there is need for retrenchment, the services of those who were employed last should be terminated first.
- (vii) Workers who are thrown out of employment as a result of rationalization should be offered facilities for re-training in alternative occupations. The period of such re-training may be extended up to nine months. A scheme for this purpose should be jointly worked out by the government, the employers and the workers.
- (viii) The maintenance of the workers during the period of their re-training would be the responsibility of the employers, while the cost of this re-training would be borne by the government.

- (ix) The fullest use should be made of surplus labour in the various projects undertaken by the government.
- (x) Incentives in the form of higher wages and a better standard of living should be offered to show the gains which have accrued as a result of rationalization. Where such gains have largely been the result of additional efforts made by the workers, the latter should have a share in them, particularly when their wages are below the living wage. The capital investment of the management should, however, be taken into account while determining the workers' share in the gains of rationalization. In this way, workers would be persuaded to accept the need for rationalization.

The bonus agreement for plantations workers was concluded in January 1956 between the representatives of the Indian Tea Association and the India Tea Planters' Association on the one hand and the Hind Mazdoor Sabha and the Indian National Trade Union Congress (INTUC) on the other. The agreement was about the payment of bonus to about one million plantation workers.

### Summary

*This chapter starts with the technique of negotiation. The lessons put thrusts on several issues like objectives of unions in collective bargaining, determinants of union goals, constituents of collective bargaining and prerequisites of collective bargaining. In the process, the chapter lays down the implications of the three theories of collective bargaining and with the main parts of the appropriate cases, it strives to show the significances of the collective bargaining agreements at different levels i.e., at plant, industry and national levels, as such.*

.....  
**NOTE:** Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book I.Robbins,S.P., Judge,T.A., and Sanghi,S. (2007).Organizational behaviour,12th Ed, Delhi Pearson Education,Inc,pp.554-84].

\*\*\*\*

---

## Lesson 4.5 - Collective Bargaining - the Bargaining Process

---

### Learning Objectives

*After studying this lesson you should be able to*

- understand the nature and content of collective bargaining, forms and functions of collective bargaining.
- aware about the union goals in collective bargaining
- learn the process of collective bargaining
- know the tactics of collective bargaining

### Collective Bargaining Nature and Content

Collective Bargaining is a continuous process. Even after an agreement is reached, a number of aspects remain incomplete for new situations to crop up, always. These situations require negotiations, interpretations and get-together. Local, industry-wide and nation-wide labour relations and developments affect the agreement, once reached. Since negotiations for a new agreement are under way, collective bargaining maintains continuity as a process.

Collective bargaining is an institutional process of representations. The chief participants in collective bargaining do not act for themselves. They are representatives of their respective institutions. Thus, collective bargaining as an institution unfolds a device for safeguarding interests of employees and employers and strengthens their organizations. It involves the maintenance of labour unions with certain objectives and group interests to act as a bargaining agent. Employers or their groups or association also develop an organization, working rules, regulations and a common discipline. Hence, in collective bargaining the employer does not deal directly with his workers. He deals with an institution (may be representatives of the unions) authorized to represent the workers purposes of negotiating and administering the terms and

conditions of employment. This representative nature of the organized union-management relationship applies to administration as well as to negotiation. Collective bargaining and state intervention co-exist in the mixed economy of India, although in theory they are contradictory to each other. Collective bargaining has been accorded acceptance not only as an instrument for maximization of production but also as a means for equitable distribution. Collective bargaining, thus, has been inter-twined with the political orientations of the labour movement that produce conditions necessitating state arbitration. Collective bargaining, therefore, is a method by which trade unions protect and improve the conditions of their members' working lives. Collective bargaining brings the employer and the employees around one table to discuss and settle many contentious issues effectively. It enables both the parties to know each other and their views, and to define their rights and obligations regarding the terms of employment, the working conditions, etc., through negotiations, discussions and bargains.

The subject matter of collective bargaining, therefore, covers a variety of issues affecting employment relationships between the workers and the management. According to Ghosh and Nath the issues covered in the collective bargaining are

1. **Recognition** of union or unions
2. **Wages** and Allowances
3. **Hours of Work**
4. **Leave** and Festival Holidays
5. **Bonus** and Profit Sharing Schemes
6. **Seniority**
7. **Rationalization** and The issues relating to the Fixation of Workloads and Standard Labour Force
8. **Programmes** of Planning and Development influencing Workforce
9. **Issues relating** to Retrenchment and Lay off
10. **Victimization** for Trade Union Activities
11. **Provident Fund**, Gratuity and other Retirement Benefit Schemes
12. **Incentive Systems**
13. **Housing** and Transport Facilities

14. **Issues** relating to Discipline and Shop Rules
15. **Grievance** Procedure
16. **Working** Conditions and Issues related to Safety and Accident Prevention
17. **Occupational** Diseases and Protective Clothing
18. **Employee** Benefits such as Canteens, Rest Rooms
19. **Medical** and Health Services and Crèches
20. **Administration** of Welfare Funds
21. **Cooperative** Thrift and Credit Societies and Educational, Recreational and Training Schemes

*The Indian Institute of Personnel Management, Calcutta*, gives the following as the subject-matter of collective bargaining

- (i) Purpose of the agreement, its scope and the definition of important terms;
- (ii) Rights and responsibilities of the management and of the trade union;
- (iii) Wages, bonus, production norms, leave, retirement benefits and terms and conditions of service;
- (iv) Grievance redressal procedure;
- (v) Methods and machinery for the settlement of possible future disputes; and
- (vi) Termination Clause.

### **Forms of Collective Bargaining [1]**

At the outset, it should be stated that there is a great deal of variation in the collective bargaining practices ranging from an informal oral agreement to very formal and detailed agreement.

Collective Bargaining takes the Following Forms

- i. It may be a *single plant bargaining*, that is, bargaining may be between a single trade union. This type of collective bargaining *prevails in the United States and India*.

- ii. It may be a **multiple plant bargaining**, that is, bargaining may be between a single factory or establishment having several plants and the workers employed in all these plants.
- iii. It may be a **multiple employer bargaining**, that is, bargaining between all the trade unions of workers in the same industry through their federal organizations, and the employer's federation. This is possible both at the local and regional levels and is generally resorted to in the textile industry.

In India, collective bargaining has been classified under four categories. These are:

- i. **Agreements that are negotiated by officers** during the course of conciliation proceedings and are called settlements under the Industrial Disputes Act.
- ii. **Agreements that are concluded by the parties themselves without reference** to a Board of Conciliation and are signed by them. Copies of such agreements, however, are sent to appropriate governments and to conciliation officers.
- iii. **Agreements, which are negotiated by the parties on a voluntary basis** when disputes are sub judice and which, are later submitted to industrial tribunals, labour courts or labour arbitrators for incorporation into the documents as parts of awards. These are known as consent awards.
- iv. **Agreements, which are drawn up after, direct negotiation between labour and management** and are purely voluntary in character. These depend for their enforcement on moral force and on the goodwill and co-operation of the parties.

However, **cooperative collective bargaining** emerges as a new form under the changing conditions. This form evokes considerable interests now days because of the changes in the attitudes of both the employers and the employees.

Consistent joint move of both the prime parties, together, generate the momentum of looking to the interest of others in the face of own interest under win-win outcome.

*In brief therefore, the working of collective bargaining assumes various forms. So to say, it covers a range from single plant to multiple plant to multiple employer bargainings. Instances in India of this industry-wide bargaining are found in the textile industry. The All India Bank Employees Federation also bargains with the management of different banks in India on a multiemployer basis.* At the end it can be deduced that an industry-wide bargaining can be favourable to the economic and social interests of both the employers and employees.

### **Functions of Collective Bargaining**

Collective bargaining is a technique of social change, some-times performing its function smoothly and at other times threatening to blow up. The performance of its function can be viewed under the following three headings.

- (1) *Collective bargaining acts as a technique* of long-run social *change*, bringing rearrangements in power hierarchy of competing groups
- (2) *Collective bargaining serves as peace treaty* between two parties in continual conflict.
- (3) *Collective bargaining establishes a system of industrial jurisprudence*, defining the rights and duties of the conflicting parties

#### **1. Long Term Social Change**

Collective bargaining, in its broader aspects, is not confined solely to economic relations between employers and employees. Collective bargaining manifests itself equally in politics, legislation, court litigation, government administration, religion education and propaganda.

When viewed as a process of social change, collective bargaining encompasses more than the direct clash between employers and unions. It refers to the rise in political and social power achieved by workers and their organization. Thus collective bargaining is not an abstract class struggle in a Marxian sense, but it is rather pragmatic and concrete. The inferior class does not attempt to abolish the old ruling class, but merely to

become equal with it. It aims to acquire a large measure of economic and political control over crucial decisions in the area of its most immediate interest and to be recognized in other areas of decision making.

Collective bargaining has no final form. It adapts- itself to the changing social, legal and economic environment. It has varied considerably from plant to plant and industry to industry, and also between and within unions. For example, a number of industrial unions have successfully bargained for higher bonus and Provident Fund benefit, why many unions in the construction industry have ignored these goals. Bargaining in some plants is characterized by comparatively frequent strikes, whereas in other plants there are long records of uninterrupted industrial peace. Wage corners have enhanced their social and economic position in absolute terms and in relation to other groups and at same time, management has retained a large measure of power and dignity. These gains were not registered in one great revolutionary change, but rather step by step, with each clash between the opposing parties settled with a new compromise somewhat different from the previous settlement. In short, collective bargaining accomplishes long-run stability on the basis of day-to-day adjustments in relation between labour and management.

## **2. Temporary Truce**

Collective bargaining may be viewed as a struggle between two opposing forces with the outcome depending on their relative strength. The inherent strength of each side is its ability to withstand a strike. This is partly an economic matter

To what extent can the union provide financial aid to the strikers? Can the workers find temporary jobs? How much will the employers' sales be reduced. ? Will his position in the product market be permanently impaired?

These are the economic factors on which the ability to withstand a strike depends. The ability to withstand a strike also depends on such non-economic factors as the loyalty of the workers to the union, their willingness to make personnel sacrifice to support its goals. The degree of loyalty, of course, is affected by the presence of factionalism within the union. For the employer or the union, a belief that some basic principle is

at stake, e.g. management right or union security stiffens the will power of the antagonists.

The compromise, then, is a temporary truce with neither side being completely satisfied with the results. Each would like to modify it at the earliest opportunity. Since the contract is always of limited duration, each begins immediately to prepare a new list of demands, including previously unsatisfied demands, and to build up its bargaining strength in anticipation of the next power skirmish.

### **3. Industrial Jurisprudence**

Collective bargaining creates a system of industrial jurisprudence. It is a method of introducing civil rights into industry that is of requiring that management be conducted by rule rather than by arbitrary decisions. It establishes rules which define and restrict the traditional authority exercised by employers over their employees, placing part of the authority under joint control by union and management. Finally collective bargaining must never stagnate if it is to serve its role of adapting labour and management institutions, and their relative power positions, to the changing socio-economic environment

#### **Union Goals in Collective Bargaining**

In approaching collective bargaining, a union has series of goals, some economic and some non-economic, not all of which can be won from the employer at one time. Furthermore, a number of the goals are in conflict with each other. Therefore, union decides to give priority to these goals, and for giving priority union may classify the goals. There are many ways of classifying the goals union seek to achieve through collective bargaining. The two categories used here are economic and non- economic, they may also be classified according to the members as individuals opposed to the unions as an institution, according to leader versus rank and file, or according to intra-union interest groups, such as the young against the old or one group of skill against another.

It follows, then, that the priority ranking of the demands by the union represents a compromise between the different pressures within the union. The compromise must, of course take into account the prevailing economic environment.

## **Economic Goals**

The union's major economic goal is to increase wages constantly. In general terms, this means "more and more than or "as much as we can get. This could mean the maximum wage rate or the maximum wage bill, or some variation of two. Generally, unions place greater emphasis on the wage rate than the total amount paid out in wages by an employer, because after a wage increase, multi plant firm might close down its less efficient plants, and marginal firms might be forced out of business. This may cause unemployment. Therefore, the best technique to enhance the economic position of the members is through raising the wage rate. However, there is some exception to this, particularly in construction and clothing industries. For example, wage increases of house painters may have a significant effect on the do it yourself trend; or a wage in unionized clothing firm may shift employment to unorganized firms.

The fact that unions generally emphasize the wage rate rather than employment does not mean that union neglect the latter. However, the approach to this goal is usually not through wage rate adjustments, but rather through regulation of hours, seniority, and working rules. Thus, whenever unemployment increases significantly as a result of increase in wage rates, unions will propagandize and bargain for shorter work weeks rather than decreased wages.

Unions also attempt to enhance the employment of their members by devising and enforcing work rules. In many cases they try to place restrictions on production, limiting the type of machinery used and the speed at which the machinery is to be operated. In some instances the work rules are designed to protect the life and limb of the employees or to avoid "speed ups" and unhealthy working for the workers. In some instances what was originally necessary for the workers safety may, after a change in the methods of production become outdated. Never-the less, the union may still insist on the working rule in order to provide more jobs for the members.

In deciding which economic goals to pursue most vigorously, unions must choose, then, between wages, hours, and working rules. More, fringe benefits should be included, since they add to the employer's labour cost.

## Non-Economic Goals

The social and psychological need centre around the workers desire to express his individuality and at the time to be an accepted members of his social group.

Workers, if they are to feel they have some distinct personal worth, must be able to complain to their employers without fear of reprisal. They want to be more than a lump of economic assets in a depersonalized enterprise.

The workers feeling of security, of protection against arbitrary or spiteful action by his supervisor, are of un-measurable value to him. For this reason union is worthwhile to many workers regardless of whether it is able to bring them higher wages than they otherwise would have received. It satisfies the need of feeling secure in their jobs and in their status as individual.

The union also provide an opportunity for the worker to become active in social organization in association with his fellow workers as equals.

The second variety of non-economic goals sought through collective bargaining is aimed at protection of the union as an institution-. When an employer threatens to break a union or when a rival union attempts to raid its membership, the fight to protect itself becomes more urgent to a union than securing immediate wage increase.

## Collective Bargaining Process

There are two stages in collective bargaining, viz., *(i) the negotiation stage and (ii) the stage of contract administration.*

### Negotiation

Negotiation, conciliation, mediation and arbitration are the four methods used for settlement of industrial disputes in India. While last three are based upon the participation by outsiders, negotiation presupposes the existence of two parties to a dispute eager to negotiate and settle mutually? [There is no scope for third party intervention It

relies only bipartite dialogue. Thus, through negotiation both parties (representatives of labour and employer) may arrive at mutually settled agreement. An agreement arrived at through negotiation or discussion between the representatives of both the parties that is through collective bargaining may be a treaty, a code, and, in some respects a contract. As a treaty, it aims at reduction of disputes. It states conditions under which work is offered and accepted, and it is supported by detailed codes for performance of that task. However, problems arise only when the negotiating machinery breaks down in practice and the issue continue to be unresolved.

### *i) Negotiation Stages*

#### *a) Identification of Problem*

The nature of the problem influences whole process. Whether the problem is very important, that is to be discussed immediately or it can be postponed for some other convenient time, whether the problem is minor that it can be solved with the other party, is acceptance on its presentation and does not need to involve long process of collective bargaining process etc. It also influences selection of representatives, their size, period of negotiations and period of agreement that is reached ultimately. As such, it is important for both the parties to be clear about the problem before entering into the negotiations.

#### *b) Preparing for Negotiations*

When it becomes necessary to solve the problem through collective bargaining process, both the parties prepare themselves for negotiations. The preparation starts with selection of representatives. Such representatives should be selected who can carry out negotiations with patience, composure and who can present their view effectively. After selection, they should be fed with complete problem and its pros and cons. His powers and authority during negotiations also should be clearly spelt out. Other preparations include fixing up time for negotiations, period of negotiations etc. However, once the parties enter into negotiations the period of negotiations may vary depending upon circumstances.

### *c) Negotiations of Agreement*

Usually there will be a chief negotiator from management side. He directs and acts as presiding officer of the process. The chief negotiator presents the problem, its intensity, nature, and the views to both the parties. Then he allows the representatives of both the parties to present their views. During negotiations, the representatives should be attentive as to find out what the other party is arguing for the purpose. The representatives tend to think about what counter arguments they can present and how to say 'no' effectively, while the other party is presenting its own views.

This is a major obstacle in the bargaining process. By understanding their problems and weighing them, sometimes a better solution may be reached, which is more acceptable to both the parties. Therefore, it is important that representatives should reach negotiating table with positive attitudes. When a solution is reached at, it is put on the paper, considering concerned legislations. Both the parties' concerned sign the agreement that in turn, becomes a binding contract for both the parties.

### *ii Contract Administration*

Implementation of the contract is as important as making a contract. Management usually distributes the printed contract, its terms and conditions throughout organization. The union takes steps to see that all the workers understand the contract and implement it. From time to time depending upon changing circumstances, both the parties can make mutually acceptable amendments

### **Tactics or Strategies in Collective Bargaining [2]**

The tactics or strategies to be adopted in any collective bargaining situation vary widely, depending upon the culture of the organization and different environmental factors, particularly the type of union operating in an industrial establishment. Nevertheless, the followings are some of the common strategies to make collective bargaining exercise more meaningful

1. ***The management has to anticipate the demands and understand the main directions in which*** the demands are going to be placed. Negotiations are best done if both the parties do their homework well. The representatives must come to the bargaining table equipped with the necessary information and supportive data regarding the company's economic status and prospects, the prevailing rates of pay and conditions of employment in comparable industries in the local areas. The management team should take into consideration the financial liability involved, the past agreements, and the impact of present negotiations in future years.
2. ***It is essential that a real team spirit is maintained throughout the negotiations.*** For this purpose, it is necessary that the roles to be played by each member of the team are properly pre-assigned, and each member knows when to take over the discussions. The team must have the confidence of facing any eventuality, which may come up during negotiations. The team must have the power of taking decisions. The team must consist of people who have confidence of the workforce and unions. It is good to have a rehearsal among the team members on such points, which can be anticipated to be made forcefully by the opposite team.
3. ***Any collective bargaining strategy should firstly separate the personalities from*** the problems for arriving at a workable and desirable agreement and secondly, explore the possibilities for harmony and compatibility.
4. ***Collective bargaining is two-way traffic. The management as well as the union must gain out*** of collective bargaining. Hence, the management team should also present their counter-proposals. For instance, the union pressure for a wage-hike may be matched by a counter demand for an increase in production, reduction in absenteeism, avoidance of wasteful/restrictive practices, industrial peace, and so on.
5. ***There is a greater necessity on the part of the management representatives to give a patient*** hearing to the demands of the union and not to react even if there is a threat of strike or work stoppage. A rational well-reasoned approach can achieve better results than an emotionally charged loud-mouthed approach.

6. ***It is also a bad strategy to depute persons of low rank without authority to commit the*** management on the negotiating table. Such a step may give an impression to the union that the management does not take the bargaining process with all the seriousness that it deserves.
7. ***It is a good practice always to classify the various demands raised by labour representatives*** distinguishing the real from the unreal. A thorough analysis and understanding of different items in the charter of demands will enable negotiators to arrive at a proper judgment.
8. ***It is a good tactic to total the cost of all the union proposals and to take up the non-cost items*** first or items on which it is easy to come to an agreement so that a suitable collective bargaining atmosphere is created for negotiating on more serious items which have financial implications.
9. ***Sometimes, the management instead of announcing its concessions at the bargaining table*** announces them before the conciliation officer as the starting point for further negotiations. This is not bargaining in good faith.
10. ***Any collective bargaining strategy must result in a good agreement*** or settlement, the characteristics of which are
  - (a) ***It must strike a proper balance*** between the various factors that go into its making in order to ensure its workability;
  - (b) ***It must be viewed as a whole*** and the interrelation of its parts must be balanced one against the other;
  - (c) ***It must be based upon experience, logic and principles*** rather than on coercive tactics, propaganda and force;
  - (d) ***It must be fair and reasonable to the workers*** as regards their emoluments and service conditions; to the management in terms of improved production and productivity; and to consumer in respect of better quality goods and services; and
  - (e) ***It must be complete and coherent in all respects*** without any ambiguity. In any event, enforcement is the crucial test of a contract's workability.

**11. As a measure of follow up**

- (a) **Evaluate prevailing environmental** changes and cultivate a healthy pragmatic approach;
- (b) **Train and develop rank and file** of working group to inculcate in them individual effectiveness and professionalism in collective bargaining;
- (c) **Develop specific action-plans for collective bargaining** based on prevailing situation.

**Summary**

*This chapter begins with the understanding of collective bargaining* and in doing so it brings together the discussions on the nature and content of collective bargaining.

*Furthermore, it elaborates different forms of collective bargaining* which in other way help one to realize the important functions of collective bargaining in different stages of agreement [i.e., plant, industrial and national levels]. *Comprehensively, it facilitates to build the awareness about* the economic and non-economic goals of the employee union in collective bargaining.

*This chapter in its attempt to depict the process of collective bargaining* has scrutinized the role of negotiation in producing the success of the same where contract administration deals with the implementation mechanism as such. *This chapter, also, presents some of the common strategies* to make collective bargaining exercise more meaningful.

.....  
**NOTE:** Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged. Also this chapter acknowledges the help of the cited book 1.Robbins,S.P., Judge,T.A., and Sanghi,S. (2007).Organizational behaviour,12th Ed, Delhi Pearson Education,Inc,pp.554-84].

\*\*\*\*

---

## Lesson 4.6 - Collective Bargaining in INDIA—Strengths and Skills

---

### Learning Objectives

*The present lesson familiarizes the student with*

- The concept of Collective Bargaining in India
- Why Collective Bargaining has not flourished in India
- Collective Agreements in India
- The future of Collective Bargaining

### Introduction

Collective bargaining in India has passed through several important phases during the last few decades. It was during the 1960s that it began to show up in some pockets across the country due to two reasons. One reason was that during this period large industries with well-developed employers' associations and trade union centres had come up in many big cities which facilitated collective bargaining. Examples were the cotton textile industry in Mumbai, Ahmadabad, Coimbatore, Kanpur and Indore, the jute industry in Kolkata, the coir industry in Kerala and the plantations in southern and eastern India. The other reason was the encouragement for bilateralism which came from the public sector comprising the banking, coal, steel and ports and docks. Collective bargaining took a back seat- as did industrial conflict – with the declaration of emergency in 1976. With civil liberties suspended and the government bestowing extraordinary powers upon itself, the environment became least congenial for collective bargaining. But as soon as the emergency was lifted in 1977 a new chapter in collective bargaining was with unions making unprecedented demands on employers.. The labour's power was at its peak like never before. It was asking for all sorts of allowances from the employers or faces a strike. The above phase continued till the late 1980s when union power began to plateau. The pendulum had taken its swing from one end to other. Now it was the employer's turn to gain upper hand. Initially employers' demands

were for increase production- they were asking for greater volumes rather than increased efficiency or productivity. But they soon began to bargain for increased productivity through lockouts. Notable lockouts were at Bata and Wimco in West Bengal and at Hindustan Lever in Mumbai. The four-month lockout at Bata compelled workers to accept sweeping changes in work methods and labour deployment. The sixteen-month lockout at Wimco forced workers to accept new production norms and the year-long lockout at Lever authorized management to modernize the plant and prune the work force as it wanted.

At present, there is a sea change in the environment. Unions which have been accustomed to making demands are now at the receiving end, with employers asking them to roll back wages and reduce benefits. Concession bargaining i.e., the practice of employers asking labour to make concessions, has become commonplace. Managements have also been attracted by Japanese work practices which focus on multi skilling, flexible deployment, and greater worker involvement in improving productivity. The centrality of the two institutions i.e., trade unions and collective bargaining which all prior theories have upheld, is suddenly in doubt. The strategic management approach to industrial relations is now demanding productivity and performance from the system.

### **Why Collective Bargaining [Bipartite Mechanism] has not flourished in India**

Collective bargaining is the ultimate in negotiations and is possible only when workers' and employers' organizations are equally strong, mature and conscious of their rights and duties. That is why in no country except Israel does one find unadulterated bipartite mechanism.. Even in the U.S.A. it is not practiced in its pure form. State steps in certain situations. In India both bipartite and tripartite mechanisms have co-existed but they generally operate at different levels. At the unit level it is generally the bipartite one that has flourished whereas at the industry and national levels it is the tripartite that has prevailed. Some reasons for bipartite mechanism, not flourishing at the national level, are that

- labour is a concurrent subject;
- there are varying conditions of work and life in different parts of the country;

- there is absence of strong central unions and employers' organizations who can represent country-wide interests; and
- there are a number of problems(e.g., layoffs and closures) which need to be looked at from the point of view of larger objectives of government policy. Hence in tackling such problems government's participation at the national level becomes unavoidable.

Even at the plant-level bipartite mechanism has not made much headway in our country due to the following reasons

- (a) ***Excessive Dependence on Compulsory Adjudication for the Settlement of Industrial Disputes.*** There is not a single piece of legislation at the national level which requires an employer to bargain or prescribes the method of indentifying a bargaining agent. There is no law requiring voluntary agreements to be registered or giving any guarantee that a rival union will not raise a dispute on the very subjects already covered by a voluntary agreement. On the other hand, what the Industrial Disputes Act provides is a system of conciliation and compulsory adjudication which, therefore, have remained the main stay for a large number of industrial organizations and trade unions in our country.
- (b) ***Reduction in the Area of Collective Bargaining.*** The area of collective bargaining has gradually receded in recent years due to the emergence of several new institutions and modes such as wage boards, statutory fixation of minimum wages and payment of bonus, regulations of fines and deductions, working hours, overtime payment, holidays, leave and other working and employment conditions including welfare and social security measures.
- (c) ***Weak Trade Union Movement.*** Trade union movement still covers only a small portion of the total industrial employment. Besides, the unions are too weak to bargain collectively on account of their small membership, poor financial resources, their multiplicity, inter-union and intra-union rivalry, politicization, poor leadership and absence of suitable legislative provisions for recognizing them as bargaining agents. In no unit, far less in an industry, do we have a union which is recognized and is recognizable as a representative

union with which an employer can negotiate a settlement in the hope that it would be acceptable to all and endure for stipulated period. And so far we have not evolved a fool-proof system to determine the majority union.

(d) **Little Government Support.** The government has shown little interest in collective bargaining because

- it does not have confidence in the bargaining strength of our trade unions,
- it has fear of strikes and lockouts,
- it has fear of the communists gaining in strength, and
- it has apprehension of the planned economy being disrupted by inflation, etc.

In a planned economy the overall industrial relations pattern is sought to be developed, taking into account the overall objectives of the nation and government's fiscal, monetary and industrial policies. Hence industrial bilateral negotiations without the State's involvement are not possible.

### **Recommendations of 1st National Commission on Labour [Suggestions to make Collective Bargaining more effective in India]**

1. **Compulsory adjudication of disputes** should be used only as a last resort.
2. **Trade unions should be strengthened both organizationally** and financially by amending the Trade Unions Act to make registration of unions compulsory, enhance the union membership fee, reduce percentage of outsiders in the union executive and among the office bearers, and increase the minimum number of members of union applying for registration of union.
3. **Legal provision may be made either by a separate** legislation or by amending an existing enactment for
  - compulsory recognition of trade unions and certification of unions as bargaining agents,
  - prohibition and penalization of unfair labour practices,

- bargaining in good faith by both employers and unions, and
  - conferring legal validity and legitimacy on collective agreements.
4. ***Workers' education should be intensified for building up internal union leaderships and making workers more knowledgeable and conscious about their rights and obligations.***
  5. ***The idea of one union for one plant*** or one industry should be popularized.
  6. ***The Government should declare its policy to allow*** and encourage the parties to settle their conflicts by bipartite consultation and negotiation consistent with public safety and interest of the society in general

### Other Suggestions

1. ***Unions should be made strong*** so that they are able to honour the terms of collective agreements. They can be made strong in the following ways
  - (a) By excluding minority unions from industrial relations rights such as right to bargain or right to carry labour disputes to conciliation or industrial tribunals. This will spur minority unions into expanding their membership. At present many of them feel why they should exert themselves when a mere 5,10 or 15 percent membership gives them all the privileges of representation, conciliation and adjudication.
  - (b) By freeing unions from political control and building new leadership. To achieve these ends there should be greater use of the local Indian languages in the matter of labour laws, adjudication proceedings, employer-union correspondence, etc. Face-to-face negotiations should take the place of conciliators, tribunals and lawyers. A real complaints procedure for settling the daily small problems of the factory must develop and the union posts should be made whole time and salaried.
  - (c) By making secret ballot vote rather check-off membership the test of a union's majority status.

2. ***Adequate statutory provisions should be made*** to make an agreement cover all the workers. At present, under section 18(1) of the Industrial Disputes Act, a collective agreement binds only those workers who are a party to it. An agreement does not automatically extend to workers who were not a party to it even though they might have obtained certain benefits under it.
3. ***On the failure of negotiations both parties should*** have equal right and freedom to strike work or to declare a lockout. It is totally unjust and inequitable to leave one party absolutely free in the exercise of its right and to impose all sorts of curbs on the right of the other party.
4. ***In addition to the existing authorities*** under the Industrial Disputes Act., one more authority should be constituted to promote collective bargaining. Its functions may include advising parties on various aspects of collective bargaining (such as procedure, content and form of agreement), helping parties in resolving jurisdictional disputes and registering agreements concluded by the parties.
5. ***Each party should cultivate the right type*** of attitude towards the other party.
6. ***Each party should develop the skill to*** understand the view point of the other party. To acquire this skill a lot of homework is required which is helpful in analyzing a problem. Failure to do sufficient homework leads to confused arguments and counterarguments and delays the whole process of collective bargaining.
7. ***A tradition of successful collective bargaining*** should be built. Every issue which is amicably settled through collective bargaining strengthens the possibility that future issues also will be similarly settled and vice versa.
8. ***Collective bargaining should usually be resorted to in settling*** disputes concerning interests only. Disputes concerning rights should not be magnified into collective bargaining issues and should be better through grievance redressal machinery

## Collective Bargaining in Public Sector Undertakings

Collective bargaining in central public sector undertakings is done according to the guidelines issued by the Department of public Enterprises (earlier known as the Bureau of Public Enterprises). This department gives the content and limits of financial commitments which public enterprise can make with the union during the course of bargaining. However, in many instances these limits are circumvented by the management by making gentleman's promises with the unions on several issues outside the written agreement and implementing these promises over a period through administrative orders. In core industries like steel, coal, ports and docks and bank, collective bargaining is done at the national level for the industry as a whole. Thus, in steel industry, one main collective agreement is entered into by the National Joint Committee comprising representatives of trade unions and the steel companies' management. This is followed by several supplementary agreements being entered into at the plant level to cover aspects not covered in the national level agreement. Such centralized bargaining has resulted in creating uniform wage structures and fringe benefit patterns in all public sector units irrespective of the nature of industry (labour or capital-intensive) and the paying capacity of a unit as determined by its financial performance. This is sharp contrast to a private sector unit where its wages and fringe benefits are more geared to its specific requirements and circumstances.

## Collective Agreements in India

*The agreement has more flexibility than lawyer-down contract.* It imposes no obligation upon an employer to offer work to a workingman to accept it. It may cover a single shop and a handful of employees in it; or it may take in entire industries and apply directly to scores of thousands of workers. But whatever form it takes, no matter what is its length or completeness of coverage, the purposes of a collective bargaining agreement i.e., to establish and maintain wages, hours, and working conditions for the work covered by this agreement and to prevent and to ensure the peaceful settlement of any and all grievances, disputes or differences that may arise, get usual prominence, what so ever.

*An agreement, generally establishes wage rates, hours of work, working conditions* and service conditions. It lays down the grievance

procedure and whether dispute arising out of it may be submitted to arbitration and thereby it specifies its own duration and the ways and mean of renegotiation. Some agreements are standardized document prepared by the international union which establishes more or less uniform conditions throughout an industry. But most agreement is as individual as ringer prints and almost every item is a product of exchange relationship. Indeed, negotiation of this type always reflects some kind of pressure as dictating factor either from the side of the union or from the side of the employer.

***Collective agreements are the result of negotiations between the representatives*** of the employer's association and trade union. These agreements can be made on matters like rate wages, hours of work, holidays with pay and the disciplinary procedure etc. In short, they relate to working and service conditions of the employment and are very important to the workers.

***In India, collective agreements were not common in the past.*** The Royal Commission on Labour found that the only attempt made to set up machinery for regulating the relations between a group of employers and their work-people was at Ahmadabad. However, the situation has changed since independence. In post independent era, the trade unions have started growing with the strong back up of the labour legislations and the positive attitudes of the government.

So trade union, as representative of the employees, used to enter with the agreements with employers. In fact, these were the common features of the industrial life after independence. A sample study made by Employers Federation of India for the years 1956-60 revealed the number of disputes settled by collective agreements during the period and broad coverage of the agreements which were mainly voluntary in character.

***In this respect, it may be mentioned here that, there*** is the trend to provide a healthy climate for industrial peace. The changing attitudes of the employers and the emergence of a new generation of employees act as catalyst to bring the new form of cooperative relations. So apart from the legal framework both sides are eager to draw the collective agreement under a climate of cooperation and collaboration.

*Most of the collective agreements have been at the plant level,* though in important textile centres like Bombay and Ahmadabad, industry level agreement has been common. These have a legal sanction under the state Act and have to be distinguished from other where no statutory sanction prevails; such agreements are also to be found in the plantation industry and in the coal industry.

*Apart from these, many technically equipped industries indulge on the voluntary agreement as the only course to settle industrial problems.*

*On the whole, the record of reaching collective agreements* has not unsatisfactory, though its extension to wider area is desirable for prevention and settlement of disputes. However, to make collective bargaining more effective it is required that the trade unions must be strong enough to ensure that bargaining under the climate of cooperation can make the enterprise sound in its efforts to fetch business success.

*The workers can be benefitted only through collective and united actions* through which they can counteract the strong bargaining powers of the employers and thus can get a fair deal in their hands. Moreover, any decision agreed upon collectively by workers cannot be treated lightly by the employers. Hence, the importance of strong trade unions and negotiations are needed to prevent and settle industrial disputes.

### **The Future of Collective Bargaining**

- *There has been a decline in the number of workers* covered by collective bargaining in several industrialized nations.
- *Bargaining coverage has declined from 70 to 47* percent of the employee force in the U.K., and from 26 to 18 percent in the U.S.A. in the course of decade from 1980 to 1990.
- *Many forces have combined to* bring about this decline.
- *Decline in trade union membership has been* the fundamental force, followed by the preferences of employers for individualized pay. There is the decline of centralized bargaining structures and the growth of enterprise level negotiations are encouraged that assure employees to get benefits in terms of the economic situation of the firm.

- *With collective bargaining, as with trade unions*, adversative climate is acknowledged to be the root of the problem.
- *There is general agreement that the future of collective bargaining* lies in its ability to transform itself from an unfavourable process to an integrative and problem-solving partnership between labour and capital.

### Summary

*This chapter portrays various issues related to the acceptance of collective bargaining in Indian context and thereby tries to identify the salient causes that act as the barriers for its expected spread in the country. It is true that collective bargaining in India has gone by numerous vital stages throughout the preceding few decades. It was in the 1960s that it started to demonstrate its innate power to settle the disputes between the employers and the employees. Both the prime parties of industrial relations across the country had accepted it as the effective instrument of settlement of disputes. One of the attributes of its initial expansion in post independent India was the development of large industrial houses which had helped in the growth of well articulated employers' and employees' associations at the early phase of independence. Indeed the early period had evinced the quick expansion of unions that facilitated the course of collective bargaining through negotiation, particularly at plant and industry levels. Needless to mention here that emergence of the public sector had also encouraged the bilateralism with emphasis upon collective bargaining. This chapter, therefore, has come out with a number of options of the National Commission on Labor to make it effective in the country. In the process, it, also, makes a review of the different forms of collective agreements which in other way indicates a trend of bipartite settlement of disputes, if any, through joint consultation. The changing attitude of the employers and the emergence of a new generation of employers and workers have also helped the collective bargaining to regain its position in the business scenario*

.....  
 [NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged.]

**Self Assessment Questions**

1. What are the differences between positive and negative discipline? Give your argument against negative discipline.
2. What are the causes of *indiscipline*?
3. What are the essentials of a good disciplinary system?
4. Explain the procedure for taking disciplinary action.
5. Describe the various kinds of punishment which are inflicted on a worker for misconduct.
6. What is Hot-stove rule? Punishment should be commensurate with the gravity of the offence-Discuss.
7. Dissatisfaction, complaint and grievance differ in the strict sense of the terms. Why? What important steps would you take to handle grievances as a corporate manager?
8. Comment on the practical utility of Grievance procedure.
9. Why are Grievances caused in an organization? How can these be redressed?
10. Define Grievance and give its characteristics.
11. The model Grievance Procedure settled by the tripartite committee has successive time bound steps—discuss.
12. Give a brief account of the legislative support of the grievance redressal procedure.
13. An effective grievance procedure should be simple, flexible and less cumbersome, and more or less on the lines of the pre grievance procedure. Do you agree? Justify your answer.
14. What is conciliation? What does the conciliator do with respect to conciliation?
15. Do you think that Conciliation and Mediation are the same methods to solve the Industrial Dispute?
16. Explain clearly the respective roles of the conciliation machineries to settle the disputes under ID Act, 1947.
17. What is Arbitration? Give a brief account of the methods of Arbitration.

## CASE STUDY

A management consultant was asked to report on the causes of low productivity and declining morale of employees in Biterman industries Ltd., the gave the following report after interviewing a crosses section of the employees working in the company.

Most of them felt that the management is first not interested in revising their wage rate, where as profits earned by the company are registering a steady increase, the wage rates continue to be those fixed about four years ago.

Shop floor workers are the worst sufferers due to sub-standard working conditions. Most of the machines are old and outdated which reduces the output per worker. Wages are paid in time without any incentive on the extra efforts made by the workers. The atmosphere on the shop floor is uncongenial. There is a lot of noise, beat and dust. The cooling system installed years ago has ceased to work and no one cared to set it right.

Management members look down on workers. There is absolutely no rapport between them. Decisions are handed down to workers who have no say in their making. Workers are scolded and reprimanded in full view of others with the result that no one dare to take initiative in his work.

In a bid to weaken the trade union, the management has authorized the senior foreman to recruit new workers from among those whom he knows well and who will toe the management line in all matters.

Suggestions and grievances of workers are seldom give any attention.

- (a) What is the nature of the problem in this case?
- (b) As a management consultant yourself, what would be your recommendation to raise productivity and morale.

\*\*\*\*

## UNIT - V

### Unit Structure

Lesson 5.1 - Labour Administration

Lesson 5.2 - Central Machinery of Labour Administration and Contemporary Trends as well as Future of IR in India.

---

### Lesson 5.1 - Labour Administration

---

### Learning Objectives

*The present lesson familiarizes the student with*

- The Labour Administration and its importance
- International Labour Organisation and functions of the principal organs of ILO
- Impact of the I.L.O on the Indian Labour
- Constitutional Provisions in relation to Labor Administration

### Introduction

Labour administration is a wide term. It is primarily concerned with labour affairs and administration of social policy. The meeting of experts on labour administration held in Geneva in October 1973 felt that to deal with the major substantive programmes of labour administration, there should be central specialized units for each of the followings

1. Labour protection (formulation of standards relative to working conditions and terms of employment, including wages);
2. Labour inspection;
3. Labour relation;

4. Employment or manpower, including training; and
5. Social security.

These bodies are either bipartite or tripartite in character.

Labour administration is not simply the responsibility of the department of labour . Many agencies and government department such as chambers of commerce, factory and mines inspectorate, social insurance directorate, and department of human resource development and education are involved in it. In some countries, the organizations of employers and workers are also involved in the administration of labor matters. But it is primarily the responsibility of the department of labor of lay down, develop and apply sound labor policies, coordinate various recommendations received from various departments which have a bearing on labor affairs.

Formulation of policy decision is based on consultation with other interested parties (particularly of Employers and workers organizations). To this end research and field investigation, also, make meaningful contributions. Most of the labour policy proposals may emanate from the ministry of labour under the direction of the minister in charge. The department of labour is the body which receives most such proposals and initiates the preparatory process. In some cases, labor courts, arbitration bodies and different ad hoc commissions can be regarded as forming parts of the labor administration machinery, though they are usually outside of the department of labor.

Most of the work done in department of labour is either professional or technical. The meeting of experts on labour administration viewed that labour administration officials in particular services should have the basic academic qualifications required for such services (especially in law, economics, sociology, administrative sciences, psychology, statistics, actuarial sciences, medicine, engineering and so forth). The exact qualifications required for each post can be determined by the government of each country. It is a part of the job of labour administrator to give effect to laws governing employment and conditions of work. Labour legislation is a necessary instrument for a government's administration of labour affairs. Standards established by legislation may be further developed, complemented or applied through administrative action. Legislation

automatically entails the prescribing of procedures for enforcement and imposition of penalties. A system of law is a guarantee for peoples' personal safety, liberties and right. To maintain respect for the law in general, the laws that are adopted must be strictly applied, without fear or favour. Labour administrators have a fundamental duty to uphold the rule of law at all times. To inculcate a respect for the law, they must also remember the old maxim that justice must not only be done, but must manifestly be seen to be done. Labour law does not consist entirely of laws produced by the law makers.

Unwritten customary usages and case law, deriving from generations of judicial practice, also play a role, particularly with regard to contracts, torts and the right to receive compensation for damages. There are countries where the entire labour legislation has been codified covering entire gamut of labour laws and labour administration. The greater number of non-statutory legal requirements, in the labour field, is derived from the practice of industrial relations. A highly developed system of collective bargaining operated by strong organizations of employers and workers can slice out much of the need for subsidiary regulations. There are various ways in which collective agreements amplify the law and serve as an alternative to statutory rule making. Two basic principles governing such collective agreement are

- (a) There should be no conflict between the agreement and the law;
- (b) Better terms and conditions will prevail, i.e., an agreement that may grant employees' conditions more favourable than the minimum lay down by the law of the land.

It is the basic principle of modern law that a contract to be valid has to involve a consideration, i.e., something in return for the other party's performance of the contract; this is usually wages, rent or purchase prices. There are various forms of contract of service, whether written or verbal.

In certain countries, collective agreements are contracts binding on the parties. However, in many countries the legislation now states that the terms of collective agreement with unions get the status of recognized bargaining and shall be deemed to be legally binding on all persons in the specified occupations within the industry or service. Therefore,

the collective agreement can be enforced in the court of law, if needed. Consequently, the role of the labour inspectors comes into sharper focus to this respect.

***Indian Context*** In the government of India (amendment) Act, 1919, the central legislature was given the power to legislate, practically, all labour subjects. The provincial Governments were empowered to legislate only in respect of those labour matters which were classified as provincial. But they were required to take the sanction of the Governor General in respect of these subjects, also. All labour legislations were enacted by the central legislature during this period. At the time of Whitely commission report in 1931, the bulk of the labour problems within the jurisdiction of the government of India was dealt with by the then department of industries and labour under the charge of a member of the governor general's executive council.

Its administrative head was a secretary to government. While industries and labour was a short title for the department, it covered a variety of subjects, such as post and telegraph, public works, civil aviation, patents and copyright and broadcasting. The department however did not wrap all labour problems within the jurisdiction of the central government. Questions relating to labour in docks transport by sea or inland water, the concern of the commerce department, matters pertaining to the railway labour etc. were taken care by the Chief Commissioner for Railways. The department of education, health and lands looked after emigrant labour. The chief inspector of mines used to give all sorts of advices in relation to mines to the department of industries and labour. However no specialist's advice was considered necessary on the conditions of work in factories, workmen's compensation, and trade union and trade disputes. Administration of such legislation, as was there on these matters, was the responsibility of the government of presidencies/provinces. In the provinces, the labour portfolio was handled by a member of the executive council who was responsible also for other subjects. Labour problems had acquired neither the vastness nor the complexity to warrant the attention of a full-time member, except in some industrially advanced provinces. These zones had their respective labour officers who were assigned with the limited responsibilities to carry on and no such specialized agency existed for administration, as such. It was in this context that the Whitley commission recommended the setting up of the office of the

labour commissioner in the provinces. On the introduction of provincial autonomy under the government of the Indian Act, 1935, labour was included in the concurrent list. Accordingly, subjects of labour, exclusively, was incorporated in the federal list and central and state legislations were given full authorities to enact laws with respect to all other labour matters.

When popular ministries took over administration under the government of India Act, 1935, labour problems started attracting more attention. The appointment of the labour commissioner in industrially important provinces, as recommended by the whitely commission, did help workers to present their problems, directly. However, problems of coordination still remained. Nevertheless, the labour ministers' conferences, the Indian labour conferences and the standing labour committee meetings which were the product of the forties, partly met this need. With the impact of the Second World War, the machinery for labour administration at the centre was enlarged.

Accordingly, the feelings and comprehensions of labour officers under the commissioners of labour to whom workers could represent their grievances were well established in most provincial governments. Likewise the government of India appointed under its chief labour commissioner, a number of regional labour commissioners and conciliation officers who were entrusted with the duties of resolving labour disputes. The chief labour commissioner governed an office which had also a separate inspectorate to supervise the implementation of labour laws. The government of India appointed labour welfare adviser in its ordinance factories. An advisory service was built up at the centre for the factory inspectorates in the states which were operating under the auspices of the state government. The labour bureau was established. A network of national employment service and training in states was getting organized. The five year programme for labour (1946) had many positive elements in it that in other way reinforced the administration towards intensifying its operations for the workers. The legislative support given to the programme resulted in

- (a) the creation of administrative machinery for the implementation of new enactments, and
- (b) the strengthening of the existing set-up to cope up with the additional functions entrusted to it. The expanding operations of the tripartite bodies also added new responsibilities.

The beginning of World War II in 1939 demanded the creation of an adequate and contented labour force in order to maximize productions for meeting the increased requirements of Indian manufactured goods. The central government therefore, assumed wide power to control and regulate the industrial labour welfare.

The labour department was boosted and a machinery to deal with industrial relations was created. An integrated resettlement organization for demobilized war personnel was established. For advising the government to improve working conditions in factories a chief advisor of factories was appointed. New department of works, mines and power were created and certain subjects, having indirect bearings on labour, were transferred to these departments.

This lessened the burden of the labour department. In pursuance of the decisions of the provincial labour ministers' conference in 1946, the central ministry of labour chalked out a five year programme of legislative and administrative measures for improving the health, efficiency and working conditions of the workers. At present there is tripartite labour machinery. It consists of the Indian labour conference, the standing labour committee, the industrial committees and a few other committees of a tripartite nature.

According to the constitution of India, the enactment and administration of labour laws are the responsibilities of both the union and the state governments.

### **Scope or Fields of Labour Administration**

The scope or fields of activities under labour administration have expanded during the course of time, initially confined to the enforcements of a few labour laws or regulations. So to say, labor administration has come to cover within its fold a wide variety of subjects. Substantial addition of the numbers and enlargement of the contents of labour laws and regulations has incited the need to establish a strong network of labour administration machineries. State regulations of labour matters, also, become necessary from the stand point of many other considerations. The broad areas, covered under labour administration today, whether statutory or non-statutory, include the followings:

### **Broad Areas under Labour Administration Today**

Contract and Terms of Employment; Wages; Working Conditions; Industrial Relations; Social Security of Employment and Non Employment; Employee Training and Development; Employment of Children and Women; Organization of workers' and employers' information; Research on Issues related to Employment and its conditions;

Specific activities within the field of labour administration take into account the followings:

### **Specific Activities within the Field of Labour Administration**

Quantum of Wages including Minimum Wages; Protection of wages; Fringe-Benefits; Bonus; Hours of Work; Workman's Compensation; Provident Funds and Pension; Gratuity; Sickness Benefits ;Medical Protection; Unemployment Benefits , Employment policy; Employment Exchange; Vocational Guidance, Measures on unfair labour practices and so on

The degrees of emphasis on the activities undertaken and the extents of intervention vary from country to country. In broader perspective, the activities of the labour administration are no more confined to the departments of centre or state governments or local bodies, only. But, labour administration embraces the roles of other agencies like workers' and employers' organizations and non-governmental agencies at various levels. A number of areas i.e., labour policy, labour laws regulations, custom and usages, manifesting operational practices at particular time in particular culture, contribute to the field of labour administration and direct the course of its activities. Needless to mention, here, that labour departments of the centre and the states under the federal architecture of the country play key roles in shaping the governance of labour management. The international labour conference suggests the following main functions of such a labour department

1. ***It should be required to provide the government*** with all useful information for or to advise it with regard to the elaboration of governments labour policy and where necessary the preparation of law and regulation;
2. ***It should be entrusted with the administration of labour laws*** and regulations, the implementation of governments' labour policy and the handling of labour questions;
3. ***It should participate at the highest level and on an accepted and reciprocal basis*** with other government departments in its attempts to elaborate policies, concerning such objectives as eradication of unemployment, industrial peace and other labour related questions; and
4. ***It should have in its disposal the competent and adequate*** staff and administrative resources in order to enable it to perform its functions efficiently and impartially.

### **Importance of Labour Administration**

Efficient labour administration is capable of responding to changing social conditions. It gains the confidence of both employers and workers by making the improvements of working conditions in one hand and on the other, accelerates the faster movement of the development of the nation. Its contribution towards development of participation through social dialogue and tripartite mechanism has been recognized all over the world. Labour administration has increasingly acquired credibility on account of the fairness of labour policies, laws and regulations which are known and applied uniformly. It also contains elements of transparency as there is openness in decision-making which generally involves consultation with and participation by the parties concerned.

Decision is generally taken after informing to the parties about the proposals. Services in labour administration are made available without discrimination. Organization for labour administration is generally open and responsible. It is accountable for its mandates and activities. In brief labour administration has come to contain elements of participation, credibility, transparency and responsibility.

About the strength of labour administration, I.L.O states that

- labour administration is an recognized performer in the expansion of government economic and social policies;
- it is a major supplier of information in its areas of proficiency to government, employers and workers that are needed to take effective decisions;
- it is an active mediator for preventing and settling industrial disputes;
- it is an updated onlooker of the drifts and progress of society by virtue of its special links with social partners;
- it is a contributor of useful solutions to the emerging needs of its users.

Some of the specific contributions of labour administration are as follows

1. **Formulation of labour policy** consistent with the needs of the society and economy and taking into account the views of the parties affected;
2. **Establishment of uniform standards** of labour and adaptation of steps for their effective observance and enforcement;
3. **Improvement of the working and living conditions** of workers and protecting those who need special protection;
4. **Maintenance of industrial peace and harmony;**
5. **Identification of the rights and obligations** of the parties and ensuring their effective compliance;
6. **Promotion of co-operation among the parties** and encouragement to consultation with and participation of the employers and workers;
7. **Penalizing those not complying with the provisions** of laws, rules or regulations; and
8. **Making available the government services for ensuring** compliance with the declared policies and programmes.

## **International Labour Organisation [I.L.O]**

*International Labour Organisation [I.L.O] was born as a result of the peace conference at the end of World War I at Versailles [the Treaty of Versailles]. It was established on April 19, 1919. India became member of ILO in 1919, as an original signatory to the treaty of peace. The ILO was the only international organization that survived the Second World War even after the dissolution of its parent body, the League of Nations. It became specialized agency of United Nations (UN) in 1946. It deals with international labour problems. The unique feature of ILO is that it is a tripartite body consisting of representations of employers, employees and the government. There are three constituents namely the governments, which finances it, the workers, for whose benefit it is created and the employers who share responsibility for the welfare of the workers*

### **Objectives of the I.L.O**

*The objectives of the ILO are enumerated in the preamble of its constitution and in the Declaration of Philadelphia (1944) charter that is supplemented by Article 427 of the Peace Treaty of Versailles (1919). The Preamble reaffirms the followings*

- *Whereas universal and lasting peace can be established only if it is based upon social justice.*
- *And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required.*
- *Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.*

Thus, ILO has been trying to endorse its admiration for the freedom and pride of the workers across the world and in the process it attempts to ensure the provisions within which freedom and pride can be completely and effectually enjoyed. *In 10<sup>th</sup> May, 1944, I.L.O in its 26th session at Philadelphia has expressed its aims, purposes and*

**guiding principles.** This was incorporated in the constitution of ILO. The conference reaffirmed the principles of ILO namely

- Labour is not a commodity,
- Freedom of expression and of association are essential to sustained progress,
- Poverty anywhere constitutes a danger to prosperity everywhere, and
- The war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare

The Declaration of Philadelphia, further, enunciated 10 objectives of ILO and insisted upon the member countries to promote these objectives in order to articulate decent conditions of work.

The Conference identifies the formal obligation of the International Labour Organization to add among the nations the world-wide programmes which will achieve

1. Full employment and the raising of standards of living;
2. The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
3. The provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
4. Policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;

5. The effective recognition of the right of collective bargaining, the co-operation of management and labour in continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
6. The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
7. Adequate protection for the life and health of workers in all occupations;
8. Provision for child welfare and maternity protection;
9. The provision of adequate nutrition, housing and facilities for recreation and culture;
10. The assurance of equality of educational and vocational opportunity.

Source: [http://www.google.co.in/#hl=en&gs\\_rn=12&gs\\_ri=psy-ab&pq=http%3A%2F%2Fwww.ilo.org%2Fglobal%2Fabout-the-ilo%2Fhow-the-ilo-works%2Fgoverning%20body%2F...](http://www.google.co.in/#hl=en&gs_rn=12&gs_ri=psy-ab&pq=http%3A%2F%2Fwww.ilo.org%2Fglobal%2Fabout-the-ilo%2Fhow-the-ilo-works%2Fgoverning%20body%2F...)(retrieved&cp=67&gs\_id=j&xhr=t&q=http //www.ilocarib.org.tt/projects/cariblex/conventions\_23.shtml-&es\_nrs=true&pf=p&scient=psyab&oq=http //www.ilocarib.org.tt/projects/cariblex/conventions\_23.shtml-+&gs\_l=&pbx=1&bav=on.2, or.r\_qf.&fp=e8cb228a72cb543b&biw=1517&bih=741]

### ***Procedure for Admission and Expulsion of ILO Membership***

The constitution of ILO provides that all the states, who are members of ILO on 1 November, 1945 and any original member of UN can become member of ILO by accepting its obligations of its constitution.

The constitution of ILO was amended in 1945, and the ILO entered into arrangement with the UN. The new rules say that

1. ***Membership of the UN does not mean membership of ILO***, any original member of the UN and any state, subsequently admitted to the membership of UN, may become member of ILO by communicating to the Director General its formal acceptance of the rules and obligations of the ILO.
2. ***If a state is not a member of the UN***, the ILO admits in the International Labour Conference (ILC – Parliamentary wing of the

ILO), the right to confess that state to membership[ ***Other states may be permitted to ILO membership with reference to a two-thirds vote of the International Labor Conference***]

In 1919 there were 45 states who were members of ILO .and as on June 20012, the ILO has 185 members in its strength. There was no ***earlier provision of expulsion of member in the ILO constitution***. But on the basis of two amendments in 1964, ILO can now expel or suspend any member that gets expulsion or suspension from UN because of its apartheid policy. At the same time , a member state can ***withdraw its membership*** by making the formal notification of its intent to do so and the same is to be effective after two years from the date of the receipt of such notification by ILO.\*\*\* [\*\*\*Source: <http://www.nationsencyclopedia.com/United-Nations-Related...-Cached> (Retrieved on 06.4.2013)]

### **Principal Organs of I.L.O**

**The ILO consists of three principal organs** namely (i) the International Labour Conference, (ii) the Governing Body is supplemented by that of Regional Conferences, Regional Advisory Committee and (iii) International labour office.

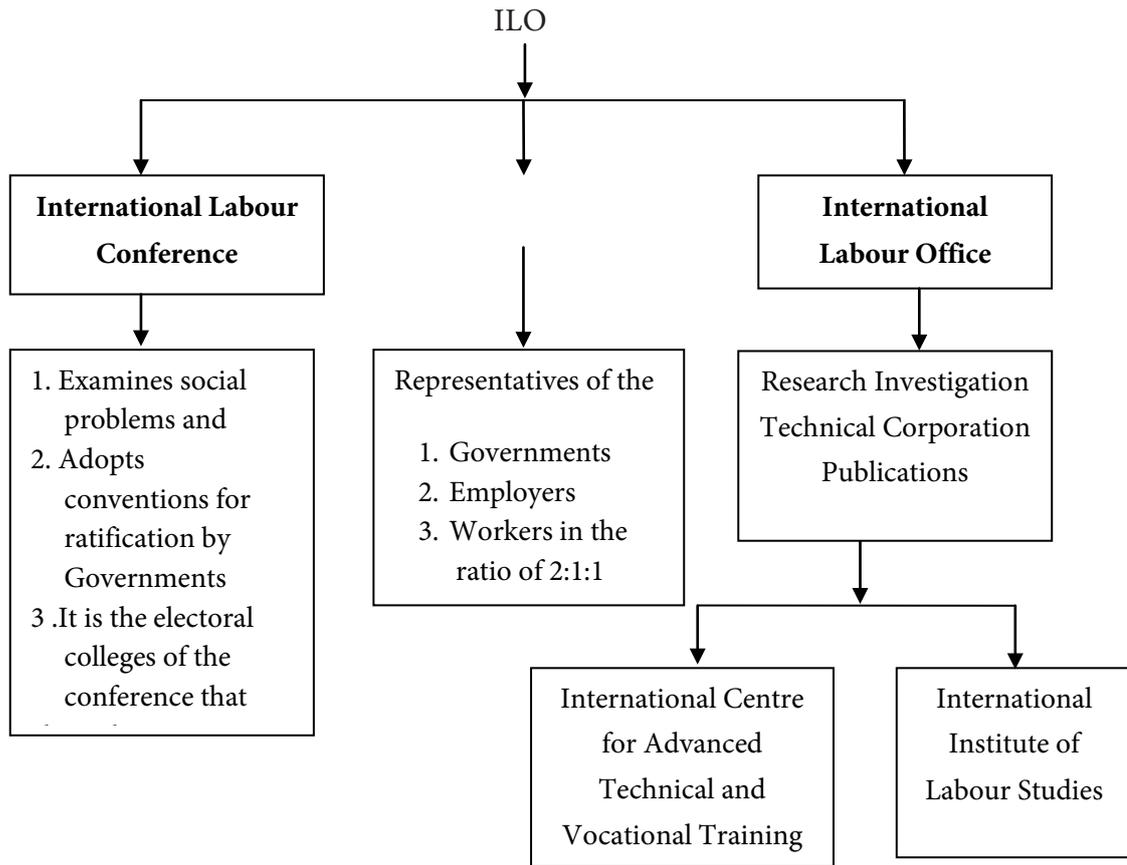
The conference is the supreme policy making and legislative body. The Governing Body is the Executive Council and (iii) the International Labour Office is the secretarial, operational headquarters and information centre.

The structure of ILO and various functions are depicted below in Chart

### ***ILC and its Functions***

*The ILC [International Labour Conference]*

It is the policy making organ of the ILO. It Comprises 3 groups representing governments, employers and workers in the ratio of 2 1 1. ILC holds its sessions once in a year. Delegates to this session may be accompanied by advisors not exceeding two for each item on the agenda.



The government delegates are mostly ministers, diplomats or government officials. As per the constitution, the government of any state in agreement with respective organizations of employers and employees sends the respective representatives and thereby this organ of ILO is tripartite in nature.

One of the primary powers of the conference is to appoint committees [tripartite in nature] to deal with different matters during each session. These committees are:

- (i) The Selection Committees,
- (ii) The Credential Committee,
- (iii) The Resolution Committee,
- (iv) A committee for the application of conventions and Recommendations,
- (v) The Drafting Committee,
- (vi) The Committed on Standing Orders,
- (vii) The Finance Committee.

### *Functions of ILC (International Labour Conference)*

2. To formulate international labour standards
3. To fix amount of contribution by the member states
4. To decide the expenditure budget estimate proposed by the director general and submitted to the governing body
5. To make amendment to the constitution subject to subsequent ratification of the amendment by 2/3 member states including 5 of the 10 states of industrial importance.
6. To consider the report of the director general giving labour problems and assist in their solution
7. To appoint committees to deal with different matters during each session.
8. To select once in 3 years members of the governing body.
9. To elect its president.
10. To seek advisory opinion from the international committee of justice.
11. To confirm the powers, functions and procedure of regional conference.

### ***ILO Governing Body***

The Governing Body happens to be the executive body of the ILO. Its office is the secretariat of the Organization. It convenes its meetings thrice a year i.e., in March, June and November. The governing body is made up of 56 titular members [28 governments and 14 each of the employers and the employees] and 66 deputy members [28 governments, and 19 each of the employers and the employees].

States of chief industrial importance occupy the 10 titular governments' seats permanently [Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States] and others are elected by the conference every 3 years. The criteria laid down for the selection of members of the chief industrial importance is the strength of its total industrial population. However the employers and the employees are elected in their individual capacities.

***The functions of this body are***

- (1) To undertake decisions on ILO policy;
- (2) To co-ordinate work of the organization;
- (3) To prepare agenda for each session and subject to the decision of the ILC to decide what subject should be included in the agenda of the ILC i.e , it fixes up the agenda of the International Labour Conference;
- (4) To elect and appoint the Director General for the office;
- (5) To scrutinize the budget;
- (6) To follow up the implementation of the conventions and recommendations adopted by the ILC by member states;
- (7) To fix the date, duration and agenda of the regional conference;
- (8) To seek advisory opinion from the international court of Justice with the consent of ILC.\*\*\*\*

Source: [http //www.ilo.org/global/about-the-ilo/how-the-ilo-works/governing body/...](http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/governing-body/)  
(Retrieved on 08.4.2013)]

**Finance of the ILO**

The budget is prepared and fixed on the recommendation of the governing body and member states make their contribution. Contribution is fixed on ad hoc basis from year to year. India contributes 2.77% of the annual budget of the ILO.

***International Labor Office of ILO***

This is the third major and important organ of the ILO. It functions as the secretariat of the ILO in Geneva. The director of general of the ILO is the chief executive of the secretariat. He is appointed by the governing body. He also acts as the secretary general of the ILO, conference. His tenure is for 10 years and his term may be extended by the governing body, further. The director general is assisted by two deputy director generals, six assistant director generals and by one director of the international institute of labor studies, one director of the international centre of advanced technical and vocational training and of the staff drawn from 100 nations.

The important functions of the international labor office are the followings

- (1) To prepare documents on the times of the agency for the conference.
- (2) To assist governments in framing legislation on the basis of the decisions of the ILC.
- (3) To carry out its functions related to the observance of the conventions.
- (4) To bring out publication with emphasis upon industrial labour problems of international interest.
- (5) To collect and distribute information of international labour and social problems.

### **Impact of I.L.O on Indian Labor Legislation**

India is a member of the ILO since its inception. It has given a tremendous boost in framing the labor legislations for the country. India has adopted many of the conventions and recommendations of international standards for the purpose of improving the conditions of the workers. India has been nominating non-government delegates and advisors to the ILC every year. One of the main functions of the ILC, the legislative wing of the ILO, is to formulate international labour standards. The ILC provides a forum for discussion and deliberation of international labor problems in order to formulate the standards in the form of conventions and recommendations. A convention is a treaty which, on approval from the member states, creates binding international obligations on them to implement the measures. A recommendation, on the other side, forms no such obligation but is essentially an offer to the nation to initiate actions. ILO has adopted a series of conventions and recommendations, covering the followings

- Hours of work;
- Employment of women, children and young persons;
- Weekly rest, holiday, leave with wages and night work;
- Industrial safety, health and hygiene;
- Social security;
- Labor-management relations and freedom of association;
- Wages, wage fixation and productivity.

One of the fundamental obligations of the member states, as per the constitution of ILO, is that they have to submit the instruments for implementation before the competent national or state authorities in writing or to take such necessary actions as might be considered practicable within a maximum period of 18 months of their adoptions of the form of conventions in the conference. India has been one of the founder members of the ILO. She has been taking active part in its deliberations right from the inception. The ILO has so far adopted 173 conventions and 180 recommendations. India has ratified 36 conventions. Needless to mention here, that ILO standards happen to be the building blocks of our labor legislation.

Considerable number of decisive labor policies of the nation, incorporated in the labor legislation, is the outcome of ILO recommendations. The ILO recommendations have significant impacts over the factory, mines, social security and wage legislations in India. The nation's commitment to the ILO is reflected in its adherence to the institution of tripartite as a novel method of researching labor-management conflicts. The ILO standards have not only influenced Indian labor legislation but at the same time there is no denial of the fact that ILO conventions have formed the sheet anchor of Indian labor legislation, especially after 1947 when the Indian national government assumed office at the center. The directive principles of the state policy in articles 34, 41, 42, and 43 of the constitution lay down policy objectives in the field of labour that has close resemblance with the Philadelphia charter of 1944.

### **Constitutional Provisions in Relation to Labour Administration**

Labour administration in the country acquired a new orientation with the adoption of the Indian constitution in 1950. Article 246 and schedule 7 of the constitution contain provisions relating to distribution of legislative powers between the central and state government. For legislative purpose the subject matters have been kept under three lists namely

- (i) Union list
- (ii) Concurrent list and
- (iii) State list.

Only parliament can enact laws on matters included in the concurrent list. Subject matters specified under state list come under the jurisdiction of state legislature. Labour matters in the three lists are as follows ***Union list that provides the central government to deal with the issues of the labour, directly, are given below*** Participation in international conferences, associations and other bodies; Implementations of the decisions of international forum through the enactments of laws as and when required; Framing the regulations for the safety of labor in mines and oil fields; Making interventions in the types of industrial dispute, having national relevance.

Creation of employee pension fund and its administration; Moderating rules for interstate migrations in favour of the workforce; and all labour problems arising out of major ports, railways, posts, telegraphs and telephones, air transport, union agencies and institutions, offering professional, vocational or technical training, special studies and research. ***Concurrent list covers*** the followings Trade unions, industrial and labour disputes; Social security and social insurance, Employment and unemployment welfares of the labor including conditions of work, provident fund, employers' liability, workmen's compensation, invalidity and old age pension and maternity benefits etc; Vocational and technical training of labor, labor issues in factories, boilers, electricity, inquiries & statistics, and economic & social planning.

***Under State list***, the state government has the power to frame rules regarding state pension and relief of the disabled and unemployables. Under articles 256 and 257, the central government is empowered to give directions to the state government in respect of laws enacted by the parliament. Under article 258, the central government can delegate powers to the state governments and impose duties on them. The central government can also transfer to the state governments the power to legislate on matters in the concurrent list.

A few clauses of fundamental rights and directive principles of state policy have also influenced subsequent courses of labour administration. The relevant fundamental rights are freedom of association (art 19), and right against exploitation which prohibits forced labour, employment of children under 14 years of age in factories, mines and other hazardous employments, and traffic in human beings (art 23). The directive

principles of state policy enjoin upon the state to direct its policies in a way so as to generate securities to all men and women and to get the rights to adequate means of livelihood. The state policy further puts stress upon the state to equal pay for equal work, and within the limits of its economic capacity and development the state is to make effective provisions for securing the right to work, education and to public assistances in the event of unemployment, old age, sickness and disablement or other cases of undeserved wants.

The state is also directed to make endeavours to secure to workers a living wage, humane conditions of work, a decent standard of life and involvement of workers in management of industries. The policy of the state is also to ensure the standard of life and involvement of workers in the decision-making process of the industries. The policy of the state is also to monitor the health and welfare of the workers and to see that the health and strength of the workers, men and women, and the tender age of children are not to be abused.

It is the concern of the state to look after that the citizens are not forced by economic necessities to enter professions that are unsuited to their age or strength. The state is further required to make sure that children are given opportunities and facilities to develop in a healthy manner and they are to be nurtured in conditions of freedom and dignity. The children and the young workers are also to be protected against exploitations and against moral and material neglects. The directive principles of state policy are the righteousness which in other way give the direction of governance of the country in general and labor administration in particular.

### **Summary**

*The chapter deals* with the issues that revolve around the labour Administration and its significance. *In continuation*, therefore, attempt is made, here, to centre on major substantive programmes of the labour administration with references to international guidelines. *Furthermore, this chapter* has delineated the structure and functions of I.L.O. because of its vital roles in shaping the labour administrations and legislations of different countries across the world including that of ours. *In the process, activities* of various functionaries of ILO are discussed in order to familiarize the students about the influences of them in building the

structure and functions of Indian labour legislation. ***Constitutional Provisions*** in relation to labour administration are dealt elaborately with a view to portray the government's positive intentions to maintain international standards.

.....  
[NOTE: Contributions of the Industrial Relations Management of e-University Home, in writing this chapter, is acknowledged.]

\*\*\*\*

---

## Lesson 5.2 - Central Machinery of Labour Administration and Contemporary Trends as well as Future of IR in India.

---

### Learning Objectives

*The present lesson familiarizes the students with*

- Central Machinery of Labour Administration
- Contemporary Trends of IR in India
- Future of IR in India

### The Main Ministry (Secretariat)

The main responsibility for labour administration of the Government of India vests with the Ministry of Labour. The Ministry presently consists of the *Secretariat*, and four *Attached Offices*, ten *Subordinate Offices*, four *Autonomous Organizations*, a number *Adjudication Bodies* and one *Arbitration Body*.

### The Secretariat

The main ministry of labour (secretariat) is the center for consideration and decision of all questions relating to labour so far as the government of India is concerned. It is the central administrative machinery for the formulation of labour policy, enforcement of labour laws and for the promotion of labour welfare. It guides, controls and coordinates the activities of all organizations and agencies involved in labour administration at the center or in the states. The government of India allocation of business rules has laid down in detail the specific subjects allotted to the ministry. The main subjects contain the followings

Labour policy including wage policy and legislation; Safety, health and welfare of labour; Social security for labour i.e., policy relating to special target groups such as women and child labour; Industrial relations and enforcement of labour laws in the central sphere; Adjudication of

industrial disputes through central government Industrial Tribunals, Labour Courts and National Tribunals; Workers' education; Labour and employment statistics; Emigration of labour for employment abroad; Employment services and vocational training; Administration of central labour and employment services; and International cooperation in matters relating to labour and employment.

### **Attached Offices**

The attached offices to the ministry of labour are

- i) Office of Chief Labour Commissioner,
- ii) Directorate General Factory Advice Service Labour Institutes,
- iii) Directorate General Labour Bureau and
- iv) Directorate General, Employment and Training

### **Office of Chief Labour Commissioner**

The headquarter of the organization is in New Delhi. The Chief Labour Commissioner is assisted by a Joint Chief Labour Commissioner, a Chief Adviser Labour Welfare, a Director training and a few deputy Chief Labour Commissioners, Regional Labour Commissioners, and a number of Regional Labour Commissioners, Assistant Labour Commissioners and Labour Enforcement officers in the field. The functionaries in the hierarchy of the organization have been designated in terms of the extents of authorities i.e., controlling authorities, appellate authorities, conciliation officers, registrar of trade unions as per requirements of various acts and according to their ranks and convenience of administration. The organization of chief labour commissioner is also known as ***Central Industrial Relations Machinery (CIRM)***

The organization is responsible for

***Prevention***, investigation and settlement of industrial disputes in the central sphere; ***Implementation of labour laws*** in industries and establishments in respect of which the central government is the appropriate government; ***Enforcement of settlements*** and awards;

**Verification of membership** of trade unions, affiliated to the central organization of workers [ This is needed for the purposes of permitting the trade unions' representations in national and international conferences and committees]; **Determination of the representative** character of the trade unions for recognition under the code of discipline, and **Investigation into breaches** of code of discipline. The labour laws enforced by the organization in industries or establishments in the central sphere include Payment of Wages Act,1936; Industrial Employment(Standing Orders) Act, 1946; Industrial Disputes Act, 1947; Trade Unions Act, 1926; Minimum Wages Act, 1948; Maternity Benefit Act, 1961; Payment of Bonus Act, 1965; Child Labour (Prohibition and Regulation) Act, 1986; Payment of Gratuity Act, 1972; Equal Remuneration Act, 1976; Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; Contract Labour (Regulation and Abolition) Act,1970, and Dock Workers(regulation of employment) Act,1948.

#### **Directorate General Factory Advice Service & Labour Institutes [DGFASLI]**

The head quarter of this organization is located at Mumbai. It functions as a technical arm of the ministry in regard to matters concerned with safety, health and welfare of workers in factories and ports and docks. It assists the central government in the formulation and review of policy and legislation on occupational safety and health in factories and ports. It maintains liaison with factory inspectorates of states in regard to implementation and enforcement of provisions of the Factories Act, 1948. It enforces the Dock Worker (Safety, Health and Welfare) Act, 1986. The organization renders advice on technical matters, and undertakes research in industrial psychology, and so forth. It provides advice training in the field of industrial safety and health and conducts one year diploma course in industrial safety and three months certificate course in industrial health. Labour institutes are located in Mumbai, Kanpur, Kolkata and Chennai.

#### **Labour Bureau**

The labour bureau is located at Shimla and Chandigarh. The organization is headed by director general. **The labour bureau is responsible for** collection; compilation and dissemination of labour statistics; construction and maintenance of working class consumer

price index numbers for selected centers and all India basis for industrial workers; construction of CPI numbers for agricultural and rural workers; maintenance of current data relating to working conditions of industrial workers; undertaking research into specific problems concerning labour with a view to supply date and information needed for the formulation of labour policy; publishing reports, pamphlets and brochures on various aspects of labour; bringing out regular publications of Indian labour journal (monthly), Indian labour year book, and pocket book of labour statistics.

Labour bureau also brings out reports on the working of a few labour laws, reviews on industrial disputes, closures; lay off, retrenchment, special publications on matters of labour interest, and a monthly news letter under the title “labour intelligence.”

### **Directorate General, Employment and Training**

The organization’s headquarter is located at New Delhi. It is headed by the Director General, employment and training. The organization is responsible for laying down the policies, standards, norms and guidelines in the area of vocational training throughout the country and also coordinates activities of the employment services, employment exchanges, industrial training institutes and a numbers of other specialized institutions both at the central or in the states/union territories. Development of these programmes at the national level, particularly in the area of evolving common policies, laying down standards and procedure of training of officers and evaluation of the programmes are the responsibilities of the directorate general of employment and training. The day-to-day administration of the employment exchanges and industrial training institutes rest upon with the state governments/union territory administration. Employment exchanges provide placement and vocational guidance services to jobseekers.

*The main training schemes operated under the organization include* craftsmen training schemes, apprenticeship training scheme, craft instructors training schemes, training of highly skilled craftsmen and supervisors, training of women, staff training and research, and development of instructional materials.

## **Subordinate Offices**

The subordinate offices under the ministry of labour are the Directorate General of Mines Safety and nine offices of Welfare Commissioners.

The Directorate General of Mines Safety is located in Dhanbad. It is entrusted with the responsibility of enforcing the Mines Act, 1952 and the rules and regulations framed under it. The organization also enforces the Indian Electricity Act, 1910 as applicable to mines and oil-fields, and Maternity Benefit Act, 1961 in mines.

The nine offices of Welfare Commissioners are located in Allahabad, Bangalore, Bhilwara, Bhubaneswar, Kolkata, Hyderabad, Jabalpur, Karma and Nagpur. The organization are responsible for the enforcement of various labour welfare funds and acts, particularly, for mica mines (1946), limestone and dolomite mines (1972), beedi workers (1976), cine workers (1981), building workers (1996) and chrome ore mines. The activities of Coal Mines Labour Welfare Organisation which were governed by the Coal Mines Labour Welfare Fund Act, 1947 were taken over by the Coal India Ltd in 1986. The organizations formulate and implement various welfare schemes for the benefit of the coal mines workers such as housing, medical and recreational facilities, water supply, education facilities, and so on. They have also undertaken schemes of scholarships for the children of the workers and accident benefits for the workers and their dependants. Most of the welfare activities are administered directly by the organizations, but loans and subsidies are also made available to the state governments, local authorities and to the employees for implementation of “Prototype schemes”

## **Autonomous Organizations**

*The autonomous* organizations of the Ministry are

1. Employees State Insurance Corporation,
2. Employees Provident Fund Organization
3. Central Board for Workers Education, and
4. VV Giri National Labour Institute.

### ***Employees State Insurance Corporation***

The Corporation is a statutory body set up under the Employees State Insurance Act, 1948. Its headquarter is located in New Delhi. The principal officers of the Corporation are Director General, Insurance Commissioner, Medical Commissioner, Chief Accounts Officer, and Actuary. There is also a standing committee which is the executive committee of the Corporation and Medical Benefit Council

The organization administers various benefits under the Act, for instance, sickness benefit, maternity benefit, dependants' expenses, funeral benefit, which are cash benefits, and medical benefit. The medical benefit has been made available to the family members of the insured employees and also to superannuated employees.

### **Employees Provident Fund Organization**

The head quarter of the organization is in New Delhi and its chief executive officer is the Central Chief Provident Fund Commissioner. The organization has a number of regional and other offices spread throughout the country. The organization is responsible for the enforcement of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and the schemes framed under it. The schemes framed and in operation under the Act are I) Employees Provident Fund Scheme, 1952. ii) Employees Deposit linked Insurance Scheme, 1976, and iii) Employees Pension Scheme, 1995. The Employees' Family Pension Scheme, 1971 was merged in the Employees' Pension Scheme, 1995.

### ***Central Board for Workers Education (CBWE)***

The Central Board for Workers Education was set up in 1958 as a tripartite society in the Ministry of Labour. Nagpur is its headquarter. The objectives of the Board are as follows

1. To strengthen among working class a sense of patriotism, national integrity, unity, communal harmony and secularism;
2. To equip all section of workers for their intelligent participation in social and economic development of the nation;

3. To develop among workers a greater understanding of the problems of their social and economic environment;
4. To build up a sense of responsibility and awareness within the workers about their rights and obligations as citizens, as workers and as members and office-bearers of trade unions;
5. To grow leadership capability within the rank-and-file of the workers;
6. To advance the possibilities of strong, united and more responsible trade unions;
7. To strengthen democratic processes and traditions in the trade union movement;
8. To enable trade unions themselves to take over ultimately the functions of workers education.

The Board conducts a variety of workers' education and training programmes in the organized, unorganized and rural sectors. Programmes for workers in the organized sector include training of the trainers, refresher courses for the trainers, personality development programme, joint educational programme, need based seminars, unit level classes, and functional adult literacy classes. Programmes for workers in the unorganized sector include arrangement of camps for the purpose of educating them in various areas and organization of special seminars. Special attention is given to the education of women and child labour and workers belonging to weaker sections. The training programmes for workers in the rural sector lay emphasis on rural educators' training courses, orientation programmes for rural educators and arrangement of rural awareness camps. Most of the education and training programmes of the organization are conducted by regional and sub-regional centers spread across different parts of the country. They organize workers' education activities in various levels i.e., at regional, unit, enterprise and village levels. There are four zonal offices of the board at Delhi, Mumbai, Kolkata and Chennai. The board has set up an apex-level training institute at Mumbai known as Indian Institute of Workers Education (*IIWE*). The institute conducts national level training programmes.

The board provides grants-in-aids to trade unions and educational institutions to undertake their own workers' education programmes of

the approved pattern and standard. The grant is available for conducting full or part-time residential and non-residential programmes. The grantees are allowed flexibility regarding subjects to be covered and number of participants. The board also publishes textual and pictorial booklets in English and Indian languages on topics of interest to the working class and a quarterly journal titled “Workers Education”.

### **V.V. Giri National Labour Institute**

The institute was set up in 1974 as a registered society with the objective of undertaking, promoting and coordinating research on labour. It is located in NOIDA. It is an autonomous organization of the Ministry of Labour. Its affairs are governed by the General Council. The general council elects an executive council which monitors the day to day functioning of the institute. Secretary, ministry of labour, is the chairman of the executive council.

Research occupies a primary place in the activities of the institute. The subject of research comprises a broad spectrum of labour related problems in both the organized and the unorganized sectors. The institute gives priority to action research projects with special emphasis on the problems and issues of labour in the unorganized sector. The institute has so far completed a number of research projects relating to labour market, employment relations, rural labour and agrarian relations, labour history and child labour.

The institute also organizes training programmes for various target groups including, labour administrators of the central and state governments, industrial relations managers, trade union leaders, social partners associated with the elimination of child labour, and representatives of the Panchayati Raj Institutions. Other activities of the institute include organizing workshops, seminars and publication

### **Adjudication Bodies and Board of Arbitration**

#### **Adjudication Bodies**

As on March 31<sup>st</sup>, 2002, central government industrial tribunals cum labour courts with a total number seventeen were established under the Industrial Dispute Act, 1947. These were functioning in the country.

Of these, two each are located in Mumbai and Dhanbad and one each in Asansol, Bangalore, Bhubaneswar, Chandigarh, Chennai, Hyderabad, Kolkata, Kanpur, Lucknow, Jabalpur, Jaipur, New Delhi and Nagpur, respectively.

### **Board of Arbitration**

The board of arbitration was set up in 1968 under the scheme of joint consultative machinery and compulsory arbitration, introduced by the Ministry of Labour in 1966. The board of arbitration consists of one full time Chairman, and two other Members, representing the staff and official sides. Members are appointed from a panel at the time of reference of a dispute to the board. The board is an institution for compulsory arbitration of disputes between employees and the government on matters relating to pay and allowance, weekly hours of work and leave of a class or grade of employees.

### **Labour Administration Machinery of State, District and Local Governments**

The machineries for labour administration in the states are similar to those operating at the center. As explained earlier in the chapter, most of the important labour subjects are in the concurrent list of the constitution. The central government is empowered to give direction to the state government and to delegate powers and impose duties on them. Many central labour laws are enforced both by the central and state governments in industries or establishments, falling under their respective jurisdictions.

Generally speaking, labour administration of the state governments is on a pattern similar to central labour administration with slight variations with references to implementation agencies, the requirements of the state enactments and non-statutory labour programmes. The main organizations for labour administration in the states comprise, department of labour and employment secretariat, office of the labour commissioner, chief inspectorate of factories, chief inspectorate of boilers, office of the chief inspector, shops and establishments, directorate of employment , training directorate ,medical services under ESI scheme, social security directorate and adjudication authorities.

## **Department of Labour and Employment Secretariat**

The responsibilities for labour administration in the states generally vest upon the department of labour and employment, the secretariat of which represents the government side. It is generally in charge of a minister, who may occasionally be assisted by a minister of state and deputy minister. On the official side, the secretary or the principal secretary is the chief executive. His team generally includes an additional secretary, and a few joint secretaries, deputy secretaries and under secretaries according to requirements. It is this organization that formulates the labour policy of the state, establishes liaison with the central ministry of labour coordinates and guides the activities of enforcing machineries and takes decisions on behalf of the government.

## **Office of the Labour Commissioner**

The office of the labour commissioner plays the anchor role in the labour administration of the states. Majority of labour laws are enforced in the state under the direction of this organization. The organization also makes efforts to prevent work stoppages including strikes and lockouts and to maintain industrial peace. The labour commissioner is assisted by joint labour commissioners, deputy labour commissioners, assistant labour commissioners, labour superintendents, labour officers and labour enforcement officers or labour inspectors, some of whom are posted in the headquarters, but majority of them operate in the different areas or centers of the state. The labour commissioner is generally a conciliation officer under the industrial disputes act, 1947, registrar of trade unions under the trade unions act, 1926 and an inspector under midst of the relevant labour laws. The labour commissioner enjoys a wide range of authority i.e., he or she is the controlling authority in one hand and the appellate authority on the other hand under a few labour laws. Of late, the organization is empowered with the special responsibility of enforcing Minimum Wages Act, 1948 in agriculture, too. In some states, a directorate of agricultural labour has been established to assist the labour commissioner. A large number of labour enforcement officers or labour inspectors have been appointed for the purpose. The labour commissioner also looks after the establishment, arbitration and several other non statutory programmes. The whole state comes under his jurisdiction. In some states, the chief inspector of factories and the chief inspector of boilers also report to him,

while in others, they function independently. The labour commissioner also guides, controls and supervises other functionaries, working under him. The joint labour commissioners, deputy labour commissioners, assistant labour commissioners, and labour superintends, and others are also designated as inspectors, conciliation officers, inspecting officers, deputy registrar of trade unions, authorities, certifying officers, workmen's compensation commissioners, appellate or controlling authorities for the purpose of relevant central and state labour laws and their areas of operation are defined.

### **Chief Inspectorate of Factories**

The chief inspectorate of factories is primarily responsible for the enforcement of the Factories Act, 1948. He is generally assisted by a few deputy chief inspectors and a number of inspectors of factories. In some states, apart from the inspectors of regular cadre, other public servants have also been designated as inspectors of factories. Besides implementing the provisions of the Factories Act, 1948, the organization has also been entrusted with the responsibilities to look after those matters that relate to safety, health, welfare, hours of work, dangerous operations, hazardous process, leave with wages etc. Aside these, the organization has also been delegated with the responsibility of enforcing the provisions of the Payment of Wages Act, 1936, Maternity Benefit Act, 1961, Child Labour (Prohibition and Regulation) Act, 1986 and the Minimum Wages Act, 1948 in respect of factories. The organization also generally looks after productivity and cooperates with the national productivity council in this area.

### **Chief Inspectorate of Boilers**

The main responsibility of this organization is the implementation of the Boilers Act, 1923.

### **Office of Chief Inspector, Shops and Establishments**

Office of chief inspector or chief inspecting officer are established in most of the states to enforce the provisions of the Shops and Establishments Acts, which are the state enactments. In most states, the acts are implemented by regular personnel of labour department, but in a few others, the responsibility has been entrusted to local bodies also.

## Directorate of Employment and Training

The organization primarily looks after the operation of employment exchanges, industrial training institutes, vocational guidance programme and some other institutions. The activities of the directorate are essentially governed by the policies, standards and procedures set by the central directorate general, employment and training.

Other activities of the organization include collection of employment market information, administration of vocational rehabilitation centers, and formulation and implementation of training for handicapped groups such as women and physically handicapped. The training wing of the department also looks after the implementation of the Apprentices Act, 1961. Generally, the directorate functions independently under labour commissioner.

## Directorate of Medical Services (ESI Scheme)

The main responsibility for the operation of medical benefit under the Employees State Insurance Act, 1948 lies with the state governments. Benefits of the ESI scheme are made available through the services of the medical and para-medical personnel. In most the states a special wing has been established for the purpose. As the medical benefit under the ESI scheme has been extended also to the family members of the insured persons and superannuated employees, the responsibility of the state governments to this regard has increased. A director, administrative medical officer or a chief medical officer under the labour department are delegated with the overall charges of this wing.

**Social Security Directorate** A few states have established social security directorates for implementing certain social security schemes for the poor, unorganized workers and bonded labourers. Rehabilitation of such labourers and implementation of the interstate migration of workers through the exercise of the appropriate act [*The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979*] are some of the responsibilities of this directorate. They also look after the implementation of national old age pension scheme, national family benefit scheme and national maternity benefit scheme.

### **Adjudication Authorities**

The state governments have also constituted labour courts and tribunals under the industrial disputes act, 1947, and a few of them have set up other adjudication authorities such as industrial courts and wages boards under state laws. As on October 31, 1998, as many as 214 labour courts, 97 tribunals and 22 labour courts-cum-tribunals were functioning in the states. Apart from the above machineries, the state government have also set up tripartite standing evaluation and implementation committee, minimum wage advisory boards, and a few of labour advisory boards, labour welfare boards and standing committees for some of the industries.

### **Industrial Relations and Its Contemporary Trends**

Dictionary defines the industrial relations as the relations between employers and employees in industry. According to Yoder (1975), industrial relations depict a whole field of collaborative interactions between men and women that arise out of employment conditions and direct the course of employment process within the industry. ILO portrays the relations within tripartite framework where varied extents of interdependence exist among the state, the employers and the employees.

These interactions, again, under broader perspective produce different combinations of relationships that in other way present a number of interconnected associations in reality, having impacts upon societal dimensions. Briefly, industrial relations use to nurture social relations within industry that affect both macro and micro environments of the industry, as such. Parties, like the state, the enterprise, the employers, the management on behalf of the employers, the employees and their union, the political groups etc, of the industrial relations through the quality of interactions determine the nature, characteristics and outcomes of IR that are linked to business success.

It can be inferred that the contemporary trend of IR uses to perceive the relations more on the social standpoint rather than legally evoked perspective of the traditional view point. Because of the competition, presence of knowledge workers, higher rates of knowledge and technological obsolescence, fast changing features of the market

etc enforce upon both sides to come closer and to move united. Clear drift of the relations between the employers and the employees is viewed distinctly in industries of the day whereby both the parties put stress upon the growth, development and sustenance of cooperation and collaboration under mutually agreed compatible interests. Today this term stands for such a wide variety of practices and has been used in such divergent contexts, that to define just the essence of it, is an extremely complicated task. However a few elements of this term have come out with distinct flairs whose legacies are embedded in the history of the trade union movements of the workers.

This is indeed required to get oneself aware about the way the present trend of IR is fixing its strong grip within the working scenario of the industries under stiff competition. In continuation, therefore, an attempt is made below to draw time-linked inclusions of relevant interrelationships within IR that in other way help to develop the insight about the changing mode of it under competition evoked business situations.

1. The term stood for employer –employee relations at the onset of machine-craft industry;
2. Later on, when the workers organized themselves into trade unions and started dealing with the employers then trade unions and their interactions with the employers were included to describe the quality of IR;
3. Still later the activities of the state were designed in such a manner so as to modify regulate and control relations between employers and employees and thus state appeared to become a part of industrial relations;
4. The term industry was no longer confined to a small of economic activity but had come to cover all gainful employments, including service under the state. The industrial relations thus yielded a new dimension to embrace the state and its governances.

Industrial relations therefore advocates cohesive move within the industry in the line of a strong bond, creating employers—government—employee association, whereby each of them performs complimentary activities with respect to others for the accomplishment of the agreed goal.

As the term indicates, industrial relations spring from the contact between employers, employees and their trade union. Such relations and contacts prevail at various levels and in various forms such as the relations between a single employer and a single of his employees, between a single employer and more than one union or between many employers organized on one side and many unions grouped under federations on the other.

Industrial enterprises under capitalist economy are driving, incessantly, to accumulate capital and the workers as one of the important factors of production in aggregation is the sine qua non of the growth, development and sustenance of the same. So under present trend, cooperation, coordination and collaboration are the essential ingredients of the friendly relations between employers and employees that gradually lessen the role of the government.

### **Dominant Aspects of Industrial Relations**

*There are two important aspects of the industrial relations in a modern industrial society One is cooperation and other is conflict [(1) Cooperation, and (2) Conflict]*

**Cooperation** Modern industrial production is based upon cooperation between labour and capital. Here labour stands for the workers who man the factories, mines and other industrial establishment or services. Capital stands for the owners of business enterprises who supply the capital and own the final product. The cooperation between the two is one of the basic requirements for the smooth functioning of modern industries and the growth of industrialization.

### **Conflict**

The second aspect of the system of industrial relations obtaining today is the existence of conflict, conflict, like cooperation is inherent in the industrial relations set up of today. The prevailing industrial unrest, the frequency of work –stoppages resulting either from strikes or lock-outs, and the slowing down of production, are the occasional expressional of the ever- present and latent conflict between workers and the management

## Future of Industrial Relations in India

The future of industrial relation in India can be re-examined from statements of the commission formed by the government for this purpose. From these selected topics are coming out which are raising questions to the three actors in the system.

1. The first is the issue of reinforcing collective bargaining. This can be done by attempting to decide on a sole bargaining agent for negotiations. The state of Maharashtra has already passed a law for the creation of a sole bargaining agency in every unit and industry. Collective bargaining comes into prominence where the parties involved have a complete understanding about each other. This, indeed, facilitates to reach to a rapid completion of dispute, between them.
2. The second **issue indicates** the gaps that are happening as an outcome of the variations in central and state legislations in so far as labour matters are concerned. Our constitution of the country put the labour matter in the concurrent list and thereby both centre and the state deal with the labour issues from different perspectives. To this end the effort of NCL is worth mentioning .It has made recommendation for forming a unified labour code for the country. Adoption of this proposal needs articulation in order to eliminate some of the problems that are faced by the labour legislation of the nation as a whole.
3. Another, most significant issue revolves around workers participation in management [WPM]. The country, after independence, is familiar with a number of schemes that talk about WPM. But none of such plans has come out with success for reasons that are not clear as yet.

The employers, the employees and the government within IIRS [Integrated Industrial Relations System], therefore, should consider that the effectiveness of it depends to a large extent on the environmental sensitivity with references to macro and micro environment. Rapid changes of environmental factors use to urge upon the industries to bring the changes from the perspective of integrating mechanism which specifies relations of cooperation within a friendly work climate. Trade unions

steadily loose the control over the workers and management, contrary to unions, gains ground to dictate the employees.

### **Self Assessment Questions**

1. Explain briefly the concept of labour administration.
2. Write about evolution of labour administration in Indian context.
3. Describe the nature and scope of the labour administration.
4. Explain the importance of labour administration.
5. Briefly explain about the ILO and its objectives.
6. Explain about the declaration of Philadelphia enunciated 10 objectives.
7. Write the procedure for Admission as a member in ILO.
8. Explain the structure of the ILO.
9. Explain the organs of ILC and its objectives.

### **CASE STUDY**

Given below is a new excerpt on the riot in the Ceramic Factory in Yanam (near Kakinada in Andhra Pradesh), a small town under the Union territory of Pondicherry but located far away from the Administration Headquarters. The denial of the factory management to accept the formation of a trade union is said to be initial cause of the riot. A strike was announced by the workers and the police interference followed with lathi charge resulted in the death of the Union leader. As the tension mounted up, the angry workers collected into a mob and killed a high level official of the factory management. The following is a news report on the incident:

What was the provocation for the mayhem at Regency Ceramics Limited factory which led to large-scale destruction and loss of two lives? A combination of political rivalry and irreconcilable differences between the management and the union as also politics of caste and police highhandedness besides the role of vested interests has caused this anarchy in this peaceful Union Territory of Puducherry town, landlocked in East Godavari district.

According to sources, the management of Regency, which is a pioneer in ceramic tiles with an annual turnover of Rs 20,678 lakh, was reluctant to entertain any union activity. This caused a lot of heartburn among the workers and employees. The immediate trigger for the violence was the transfer and suspension of some leaders of the union last January. Source: <http://articles.timesofindia.indiatimes.com>

### Questions:

1. What is the real problem and who could have stopped it?
2. How much the interference of Politics and Police is important or unhealthy to the Industry and trade unions?

### REFERENCES

1. **Aswathappa** - LEGAL SYSTEM INDUSTRIES RELATIONS  
LEGAL SYSTEMS FOR INDUSTRIAL RELATIONS
2. **Arun Monappa**, INDUSTRIAL RELATIONS, *Tata McGraw-Hill*, *NewDelhi*.
3. **Arun Monappa**, INDUSTRIAL RELATIONS
4. **Arun, Monappa (1985)**, INDUSTRIAL RELATIONS, *NewDelhi*  
*TataMcGraw-Hill*, pp.153–55.
5. Annual Report Ministry of Labour, 1994–95, p.42.
6. A Group of senior managers who participated in a workshop on workers' participation in management and equity at the Indian Institute of Management, *Calcutta*, quoted by *Sethi, Krishnan C.*, *Decisions*, Vol.5, No.3, July 1978, p.187.
7. **A.M. Sharma**, "INDUSTRIAL RELATION CONCEPTUAL AND LEGAL FRAME WORK", *Himalaya Publishing House*, 2004, p.249–250.
8. **A.M. Sharma**, ASPECTS OF LABOUR WELFARE & SOCIAL SECURITY, *Himalaya Publishing New Delhi*.