

INDUSTRIAL DISPUTES ACT, 1947

• Concept of Industrial dispute

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

The conflict of interest between management and labour ~~labor~~ is what leads to industrial disputes.

The management has a goal of profit maximization and on the other hand the workers expect rise in income, security of job, protection of their skills, improvement in their status and in the working conditions.

Those who control the factors of production require strict administration, close supervision and maintenance of strict discipline and implementation of rules, code of conduct and code of discipline.

Whereas the workers demand a share in capital, voice in management, freedom of expression, participation in management and dignity of employees.

So the people that control the factors of production and people that produce always have different or conflicting interest which gives birth to industrial disputes.

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According to the Industrial disputes Act, 1947

Sec 2(g) employer means -

(i) the head of the department, in case the industry is under the authority of Central or State Government.

(ii) the chief executive officer, in case an industry is under the authority of a local body.

(j) industry means any -

- business
- trade undertaking
- manufacture or
- calling of employers and includes
- any calling service, employment, handicraft or industrial occupation or avocation of workmen.

(R) industrial dispute means any dispute ~~bet~~ or difference b/w

- employers and employees, or b/w
- employers and workmen, or b/w
- workmen and workmen

which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any persons.

(S) WORKMAN means any person employed in an industry to do any

- manual
- unskilled
- skilled
- technical
- operational
- clerical
- or
- supervisory work

for hire or reward.

Participants

• Machinery for Settlement of Industrial Disputes

The Industrial Disputes Act, 1947 provides an elaborate and efficient machinery for the peaceful and amicable settlement of the industrial disputes. They include:

1. Works Committee (Sec 3)
2. Conciliation Officers (Sec 4)
3. Board of Conciliation (Sec 5)
4. Courts of Enquiry (Sec 6)
5. Labour Courts (Sec 7)
6. Tribunals (Sec 7A)
7. National Tribunals (Sec 7B)

1. Works Committee (Sec 3) → Each industry should have a works committee and the works committee will have equal representations from both the employer and the employee.
 - Duty is to settle the dispute through the process of mediation in the initial stage of the dispute and also time to time comments upon the matters in dispute.

2. Conciliation Officers (Sec 4) → Conciliation officers are appointed by the appropriate Government (Central, State or local body).
 - It is the duty of the Conciliation Officer to mediate and promote the settlement of dispute. The conciliation officer can be appointed either permanently or for some point of time.

3. Board of Conciliation (Sec 5) → Appointed by the appropriate Gov.
 - Duty is to promote the settlement of industrial dispute.
 - Board consists of the Chairman and two or four other members
 - Chairman is the independent person and the other persons who represent the parties in dispute shall be appointed by the party.

4. Courts of Inquiry (Sec 6) → Court of inquiry conducts inquiry upon the matter in dispute.

→ It is to be run by the independent person or persons as the appropriate Gov. thinks fit; where the court consists of two or more persons then any ^{one} of them shall be appointed to be chairman.

5. Labour Court [Sec 7] → ~~Appointed~~ ^{constituted} by the appropriate Government and appointed by the same.

→ consists of one person (Presiding Officer) whose qualification should be —

- (a) he is or has been a judge of the High Court.
- (b) has been a district judge for not less than 3 years.
- (c) has held judicial office for not less than 7 years.
- (d) has been the presiding officer of a Labour Court for not less than 5 years.
- (e) has been a Deputy Chief Labour Commissioner or Joint Commissioner of the State Labour Department, having a degree in law and at least 7 years practice experience in the labour court including 3 years of experience as Conciliation Officer.

6. Tribunal [Sec 7A] → Tribunal shall consist of one person who shall be appointed by the appropriate Government
- Duty is the adjudication of dispute
- Qualification of Presiding officer:-
- (a) is, or has been a judge of High Court.
 - (b) has been a District Judge or ADJ for not less than 3 years.
 - (c) is or has been a Deputy Chief Labour Commissioner or Joint Commissioner of the State Labour Department, having a degree in law and at least 7 years experience in the labour department including 3 years of experience as Conciliation Officer.

7. National Tribunal [Sec 7B] → Appointed by the Central Gov. for the adjudication of industrial disputes which in the opinion of the Central Gov. involves questions of National Importance or industrial dispute in one or more states involved.

→ Qualification is that the presiding officer should be or has been a judge of high court

NOTE: Presiding officer of the labour Court, tribunal and National Tribunal shall not be eligible for the post if he is not an independent person or has attained the age of 65.

• Voluntary Arbitration :

The word arbitration means settlement of industrial disputes between two or more parties by means of a decision of an impartial body when efforts in the process of conciliation and mediation have failed.

Arbitration is judicial in nature whereas conciliation is advisory in nature.

Arbitration is voluntary if the parties to the disputes have failed to settle their differences by negotiation and conciliation, agree to submit them to arbitration as prescribed under Section 10A of the Industrial Disputes Act, 1947.

Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion and the award of the umpire shall prevail.

A copy of the arbitration agreement shall be forwarded to the appropriate Government and the Conciliation Officer.

Where an industrial dispute has been referred to arbitration by the majority of each party, ~~and~~ the appropriate Gov. may give an opportunity to the parties (who are not actual parties but concerned in the dispute) to present their case before arbitrator.

The Arbitrator or Arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators.

Where an industrial dispute has been referred to arbitration under sub-sec(3-A), the appropriate Government may prohibit the continuance of any strike or lock-out in connection with such dispute.

Arbitration Act, 1996 does not apply to this section.

• Compulsory Arbitration or Adjudication :

Compulsory arbitration or adjudication, the Government requires the parties to the dispute to submit their differences to an arbitration tribunal which after considering the facts and arguments submitted to it, makes an award.

In case of voluntary arbitration it does not necessarily follow the procedure adopted by the courts.

The essentials of voluntary arbitration is that there should be voluntary submission of dispute to an arbitrator and the enforcement of an award may not be necessary and binding because there is no compulsion.

Compulsory arbitration is used when the parties fails to arrive at a settlement through the voluntary methods.

Compulsory arbitration may be at times and at certain circumstances, necessary and desirable.

The objective of state intervention in the field of industrial relations should be to do social justice and make the weaker party equally strong to enable it to settle its differences through negotiations and collective bargaining.

In compulsory arbitration the parties are forced to arbitration by the state when the parties to the dispute have failed to arrive at a settlement by voluntary method or when there is a situation of national emergency or when the country is passing through economic crisis or when the parties to the dispute are not well balanced.