

Lesson - 16

INDUSTRIAL RELATIONS - ARBITRATION - ADJUDICATION - CONCILIATION

16.0 Objective:

After completion of this lesson, you should be able to understand:

- * history of industrial disputes.
- * settlement of disputes
- * voluntary arbitration
- * compulsory adjudication
- * conciliation machineries

Structure:

- 16.1 Introduction
- 16.2 History of Industrial Disputes
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 - 16.4.1 Voluntary Arbitration
 - 16.4.2 Conditions required
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16.1 Introduction:

Relation in industries can be called as "industrial relations". It is the relationship mainly between the employer and the employee of an industry. It also involves relationship between

management and trade unions, trade unions and trade unions and so on. They arise due to the complex attitudes of management and workers in industry.

Industrial Disputes (Amendment) Act, 1984 defined the term Industrial Establishment under section 2 of the Act. It means an establishment or undertaking in which an industry is carried on:

Industry means any business, trade, undertaking, manufacture and includes calling, service, handicraft etc.

As per the decision of the Supreme Court, an industry should have:

- * a systematic activity
- * there should be cooperation between employer and employee
- * there should be production and distribution of goods and services.

According to Section 2(S) a workman means any person employed in any industry to do any skilled or un-skilled, manual, supervisors etc.

16.2 History of Industrial Disputes:

Industrial disputes are one of the major ways manifestation of industrial unrest. As per the information available most of the direct actions are resorted to by trade unions. In 1979, out of the total number of 3048 direct actions, nearly 89 percent accounted for strikes by employees and trade unions. Nearly 94 percent of the workers participated in strikes. The man days lost is nearly 82 percent of the total number of mandays. It is also observed that most of the lock - outs resorted by the managements are only to counter the strikes.

Thus, industrial relations mainly relates to the relationship between management and workman in an industry which may arise directly from union-management relationship. This relationship may lead the either industrial peace or industrial strike.

16.3 Industrial Disputes:

Before finding a solution to industrial dispute, it is important to know what constitutes an industries dispute. Controversies that take place in industrial establishments can be treated as industrial disputes. At times, such controversies may lead to industrial conflicts. Such controversies between management and workers, represented by their trade-unions, may lead to industrial conflicts and serious industrial relations problems.

It is also a conflict of difference of opinion between employer and workmen, employers and employees, or even between workmen and workmen in industry relating to employment, non-employment, terms of employment or working conditions of people in industry.

Industrial disputes may lead to industrial conflict, unrest and work - stoppages if not checked or settled in time.

Many of the industrial disputes that result in grave repercussions originate from minor grievances. If such grievances are redressed in time, a number of disputes can be prevented. It is because of this reason that a grievance procedure is stressed for maintaining cordial industrial relations.

16.4 Settlement of Disputes:

Whenever a dispute arises. The management must take immediate steps to settle it without participating in it. Before we study about the various machineries available for the settlement of disputes, it is necessary that to have some fundamental knowledge relating to voluntary arbitration and compulsory adjudication.

16.4.1 Voluntary Arbitration:

If an industrial dispute exists both the employer and the employee can consent to refer the dispute to arbitration. They may refer to arbitration in a written agreement before it is referred to labour court. If the arbitrators appointed are equally divided on the issue, then a third party is appointed as an umpire. The award of the umpire is final. Once the dispute is referred to arbitration the government will have no power to refer it to compulsory adjudication in any case. It is because the workers concerned have chosen voluntary arbitration.

16.4.2 Conditions required to refer the dispute to arbitration:

- * There should be a existing dispute
- * There should be a written agreement between the parties
- * It should be referred to arbitration before it being referred to a court.
- * The names of the persons who are to act as arbitrators should be clearly mentioned.

Where the dispute relates to dismissal or discharge of a worker and is referred to a labour court or national tribunal and the court or tribunal is not satisfied with the order of discharge it may set aside and reinstatement order may be issued under the terms and conditions, if any. The court may ever order for a lesser punishment in place of the order of discharge.

In a voluntary arbitration, a copy of the agreement should be forwarded to the conciliation officer and the concerned government has to publish the same in the official gazette within 14 days from the date of its receipt. The advantage of this method is that the parties of the dispute can have the person of their choice as arbitrator. The High Court has powers to go into the decisions of an arbitrator. However, its powers are limited to the extent of findout whether there is any error in contravention of the law.

16.4.3 Compulsory Adjudication:

Compulsory adjudication is another way of resolving problems involved in industrial disputes. Sector 10 of the Industrial Disputes Act provides for compulsory adjudication. The main object of industrial adjudication and the Standing Labour Committee are of advisory in nature. Both these bodies are concerned with cordial industrial relations.

Indian Labour Conference and the Standing Labour Committee are successful in bringing the government, employers employees and the trade unions to one common platform. Their recommendations have become the labour legislations even. The deliberations at the national level have brought in some consensus at the national level. Though these trade unions were parties to the national tripartise consensus, they were antagonistic when the recommendations reached in legislation level. Industrial Relations Bill of 1978 is a glaring example in this respect.

These tripartise bodies have advisory functions also. Often the government accepts their

recommendations with little modifications. It is clear that many of the resolutions passed at the natural tripartite meetings had not reached the stage of implementation at the unit level. At the unit level differences and conflicts between managements and trade unions arise and the “armchair decisions” face a rough weather. Even at the conference level unanimity could not be reached political influence is also dis-proportionate.

In spite of all the above difficulties, the tripartite bodies were successful in bringing together the representatives of all the three parties. They discuss matters which may not reach consensus and the trade union leaders back out when they come out. However, one can not neglect the use utility of these three national level bodies.

16.4.4 Conciliation Machineries:

They help in settlement of disputes and in preventions further disputes. Conciliation officer as provided by the Industrial Disputes Act or a Board of Conciliation is to settle disputes on principles of fair play and justice. They facilitate the growth of national recovery and ensure cordial industrial relations and industrial peace and harmony in India.

If the Government deem it necessary to make a reference in respect of the existing dispute, then it shall do so either by order or in writing:

- * refer the dispute to a Board to promote a settlement of dispute
- * refer any matter connected with the dispute to a labour court for enquiry
- * refer the dispute to the labour court for adjudication

Section 15 of the Industrial Disputes Act Empowers:

- * Labour Courts
- * Industrial Tribunals and
- * National Tribunals to adjudicate the industrial disputes. Their functions are identical to those of a court though are not courts exactly. It is the appropriate Government that makes reference of any dispute for compulsory adjudication. If any industrial dispute is within the discretionary powers of the Government, it will make a reference for compulsory adjudication. If a particular reference was disapproved by the Government on a previous occasion then the Government has to hear the employer before reconsidering to make the reference under section 10 of the Act.

16.4.5 Powers of the Tribunals:

- * to create obligations
- * to interfere with the actions of the management
- * to interfere with the decisions in domestic enquiry and
- * to give awards

The duties of both tribunals and the courts are of two fold, they are:

- * to conduct adjudication proceedings expeditiously and
- * to submit awards to the appropriate Government as soon as practicable as the conclusion of the proceedings.

The award is enforceable an expiry of 30 days from the date of publication in case its date of effect is not mentioned clearly. The appropriate Government will retain the power of either to in-operate any award partially or wholly on the grounds of affecting national economy or social justice.

16.5 Machinery for the Settlement Disputes:

The main objective of Industrial Disputes Act is the settlement of disputes without detrimental to social justice. Voluntary arbitration, compulsory adjudication and conciliation machinery have been emphasised in this respect. Among the various machineries identified for effective settlement of industrial disputes, the following settlement machineries are important:

- * Works Committees
- * Conciliation Officer
- * Board of Conciliation
- * Court of Enquiry
- * Labour Court
- * Industrial Tribunals and
- * Natural Tribunals

16.6 Government's Rule in Industrial Relations:

Like any other area of management, Industrial relations also receives the attention of the Government. The intervention of the Government in Industrial relations has become inevitable because of socialistic pattern of welfare state. The government in India is acting as a guardian of industrial relations. It is because many of the Government polices were objected by the workers and the management in the recent part. It is because of this many legislative measures involving industrial relations have failed. Any law enacted by the Government would succeed only if it gets the support from workers and the trade union. The act of the Government must view both workers and the management as the two sides of the same coin. One should not exploit the other. Strict vigilance by the Government may facilitate cordial industrial relations. The National Emergency in the year 1975 had witnessed spectacular decline of industrial unrest. During that period, the number of industrial disputes, mandays lost and involvement of workers in disputes were reduced considerably. Settlement of industrial disputes is the responsibility of the Government due to National interest. Solutions to the industrial problems can be evolved easily if the Government do not have any political motives. Therefore, the Government is supposed to establish an environment for cordial relations between workers and management.

16.7 Summary:

Relations in industry is called industrial relations. Relations in industry are mainly between workers and management. The Industrial Disputes Act of 1984 has defined the terms industry and workman. They are the result of complex attitudes and approaches of both management and workers, which are generally manifested in industrial disputes. It is one of the major ways of manifestation of industrial unrest. It is observed that majority of the disputes resulted in strikes resorted by the workers and the trade unions. The employers resorted to lock-outs as a counter to strike by the employees.

The tripartite bodies are performing important functions in this regard. The Act provides for arbitration where the workers can have their choice of arbitrators. The main aim of compulsory adjudication is advisory in nature. Besides, arbitration, adjudication and conciliation, other machineries are also available.

Government plays an important role in Industrial relations. If the government adopts neutral attitude in industrial relations, the legislations enacted will be meaningful. The intervention of Government in solving the problems of industrial disputes is essential because of the concept of welfare state. Proper effective steps should be taken to prevent industrial disputes as it leads to low productivity. Low productivity indirectly affects the National interests. Thus, the Government should check the disputes at the initial stages itself.

16.8 Self - Assessment Questions:

1. Arbitration
2. Adjudication
3. Conciliation
4. Industrial dispute

16.9 Essay Questions:

1. Explain in detail the various machineries available to settle industrial disputes in India.
2. Explain the role of compulsory adjudication in industrial disputes.

16.10 Reference Books:

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| 1. Human Resource Management & Human Relation | - | V.P. Michael |
| 2. Personnel Management & Industrial Relations | - | P.C. Tripathi |

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