

# **INDUSTRIAL SOCIAL WORK**

## **Master of Social Work (M.S.W.)**

### **Semester – IV, Paper - I**

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# **M.S.W – INDUSTRIAL SOCIAL WORK**

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## **FOREWORD**

*Since its establishment in 1976, Acharya Nagarjuna University has been forging a head in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining 'A' grade from the NAAC in the year 2016, Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 443 affiliated colleges spread over the two districts of Guntur and Prakasam.*

*The University has also started the Centre for Distance Education in 2003-04 with the aim of taking higher education to the door step of all the sectors of the society. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even to housewives desirous of pursuing higher studies. Acharya Nagarjuna University has started offering B.A., and B.Com courses at the Degree level and M.A., M.Com., M.Sc., M.B.A., and L.L.M., courses at the PG level from the academic year 2003-2004 onwards.*

*To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers involved respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.*

*It is my aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn be part of country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My congratulations to all the Directors, Academic Coordinators, Editors and Lesson-writers of the Centre who have helped in these endeavors.*

***Prof. Raja Sekhar Patteti***  
*Vice-Chancellor*  
*Acharya Nagarjuna University*

## **SEMESTER - IV**

### **401SW21: INDUSTRIAL SOCIAL WORK**

**Course Objective:** The main objective of this paper is to disseminate the knowledge on HRM, HRD, Performance Appraisal, Labour Legislation, Labour Welfare and Industrial Relations in India.

**Course Outcome:** To enlighten the students about HRM, HRD, Performance Appraisal, Compensation, Labour Legislation, Labour Welfare and Industrial Relations in India.

#### **UNIT – 1**

Human Resource Management: Concept, Scope, Evolution and Functions – Human Resource Planning – Recruitment and Selection – Human Resources Development (HRD) – Performance Appraisal – Employee Compensation System.

#### **UNIT – 2**

Welfare Legislation: Factories Act, 1948 – Mines Act, 1952; Industrial Relations Legislation: Industrial Disputes Act, 1947 – Industrial Employment (Standing Orders) Act, 1946 – Trade Unions Act, 1926.

#### **UNIT – 3**

Wage and Social Security Legislation: Payment of Wages Act, 1936 – Minimum Wages Act, 1948 – Payment of Bonus Act, 1966; Payment of Gratuity Act, 1972 – Employees State Insurance Act, 1948 – Provident Fund (Miscellaneous Provisions) Act, 1952.

#### **UNIT – 4**

Labour Welfare: Concept, Scope, Philosophy and Principles of Labour Welfare – Agencies of Labour Welfare – Labour Welfare Programmes: Statutory and Non-statutory; Intra-mural and Extra-mural – Role, Status and Functions of Welfare Officer – Role of Social Work in Industry.

#### **UNIT – 5**

Industrial Relations: Concept, Definition and Scope – Approaches to Industrial Relations – International Labour Organization (ILO): Role, Functions – Conflicts – Management of Trade Unions– Collective Bargaining, Workers Participation in Management – Globalization and Industry.

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## Lesson - 1

# HUMAN RESOURCE MANAGEMENT - AN OVERVIEW

### Objectives

- After studying this lesson, the student is able to :
- visualize the reasons for studying Human Resource Management (HRM)
- identify the principal elements of HR Programme and their importance in managing HR
- present the functions of Human Resource Management
- explain why HR Managers should be concerned with the External and Internal Environments of the organisation.

### Structure

- 1.1. Introduction
- 1.2. Meaning of Human Resource Management
- 1.3. Features of Human Resource Management
- 1.4. Importance of Human Resource Management
- 1.5. Objectives of Human Resource Management
- 1.6. Functions of Human Resource Management
- 1.7. HR policies
- 1.8. Environmental Influences on HR Department
- 1.9. Qualities of HRManager
- 1.10. Summary
- 1.11. Keywords
- 1.12. Self Assessment Questions
- 1.13. Further Readings

#### 1.1. Introduction

The Information Explosion, advances in technology, and global competition have created enormous pressure on companies to change their day to day activities. Most of the business houses are moving into a very different world, markets are changing much faster than previously. Certain sectors are shrinking while new ones are opening up. Because of these reasons corporate cultures and values are also in transition requires special skills to the persons who are working in the organisations. Because, of all factors of Production, Materials, Man, Machinery and Man, Man occupies an important place. Development of Human resources became so essential for all the organisations that world like to be dynamic and growth oriented unlike other resources human resources have unlimited potential capabilities. The potential can be used only by creating a climate that can continuously identify bring to surface nurture and use the capabilities of people. HRM aims at creating such environment

#### 1.2. Meaning of Human Resource Management

The work of Human Resource Management pervades the entire organisation. Human Resource Management is a set of activities focusing on the effective use of human resources in an organisation. It encompasses the activities of recruitment, Selection, Training, Development, Wage and Salary Administration, Health and Safety, Benefits and Services, Union - Management, Relations, Motivation, Morale, Communication so on. Thus Human Resource Management is that part of Management which is related with Management of workers and employees. It is that part of Management which arranges for the satisfactory Management of employees of an Enterprise. Human Resource

Management is the process of achieving the best fit between individuals, Jobs, organisation and the environment. It defines the relationship between Employer, Employee and employee and employee.

Some eminent authors have defined the term Human Resource Management as under :Edwin B. Flippo –

“The Personnel Function is concerned with the procurement, Development, Compensation, integration and maintenance of the personnel of an organisation for the purpose of contributing toward accomplishment of organisational goals and objectives. Therefore personnel management is planning, Organising, directing and controlling the operative Functions.”

Michel J. Jucius defines “HR Management as the field of Management which has to do with planning, organising, directing and controlling the functions procuring, developing, maintaining and utilising the work force.”

Dale Yolder defined Personnel Management as the phase of management which deals with the effective control, and use of man power as distinguished from other sources of power. The methods, tools and techniques designed and utilised to secure the enthusiastic participation of labour to represent the subject matter for study in personnel Administration.”

In the words of Brech, “Personnel Management is that part of the management progress which is primarily concerned with the human constituents of the organisation”.

### **1.3. Features of Human Resource Management**

In all these definitions, the emphasis is early on integration of individual and organisational objectives so as to attain effectiveness. On the basis of the above definitions, some basic features of HRM was given below -

1. It is concerned with employees both as individuals and as group in attaining goals.
2. It is concerned with the development of Human Resources.
3. It is concerned with managing people at work.
4. It is a continuous in nature.
5. It is concerned with both blue collared and white collared workers.
6. It is concerned with emotional, behavioral and social aspects.
7. It is concerned with the potentialities and capacities to the maximum possible extent.
8. It is universal in nature.
9. It is continuous in nature.
10. It is action oriented. It focuses on action rather than on record keeping, procedures and roles. It emphasises on the solution to the employment problems.
11. It is individual oriented.
12. It is future oriented. It tries to achieve objective by providing competent and well motivated employees.

### **1.4. Importance of Human Resource Management**

HRM helps an organisation in multifarious ways:

1. Good human resource practice can help in attracting and retaining the best

people in the organisation. Planning alerts the company to the types of people it will need in the short, medium and long run.

2. Appropriate recruitment and selection activities identify the best people for available jobs and make sure they are placed in suitable positions.
3. Performance appraisals and training develop individuals who need skills, knowledge and attitudes different from those they currently possess.
4. Good human resource practice motivates the organisational members to do outstanding work.

### 1.5. Objectives of Human Resource Management

Main objective of Human Resource Management is to manage the workers and employees of an enterprise in the best possible manner. The role of HRM is to Plan, develop and administer policies and programmes designed to make effective use of an organisation's human resources. It is that part of management which is concerned with the people at work and with their relationship within an enterprise. Its objectives are:

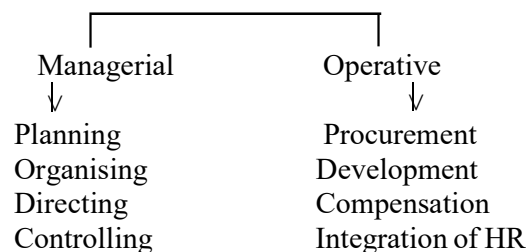
- i) The effective utilisation of human resources.
- ii) To establish desirable working relationships among all members of an organisation.
- iii) To maximize the individual development.
- iv) To establish Harmonious relations between labour and capital.
- v) To increase the welfare of Human employees.
- vi) To arrange for effective communication with Resources.
- vii) To arrange for sufficient number of efficient employees in all the Departments.
- viii) To increase the morale of the employees.
- ix) To motivate the employees to increase productivity.
- x) To provide congenial working environment.

**Activity B:** To what extent your Personnel Dept fulfilled the above objectives in your office

### 1.6. Functions of Human Resource Management

The functions of HRM can be broadly classified into two categories

#### Functions of HRM



**A. Managerial Function:** Managerial functions of HRM involve planning, organising, directing and controlling.

- a. **Planning :** It is a predetermined course of action. Planning is determining of personnel programmes and changes in advance that will contribute to the organisational goals. In other words it involves planning of human resources requirements, recruitment, selection, training etc. It also involves forecasting of personnel needs, changing values, attitudes and behaviour of employees and their impact on organisation.
- b. **Organising :** An organisation is a means to an end. An organisation is a structure and

a process by which co-operative group of human beings allocates its tasks among its members, identifies relationships and integrates its activities towards common objective. Organisation establishes relationships among the employees so that they can collectively contribute to the attainment of company goals.

- c. **Directing** : The basic function of personnel management at any level is motivating, commanding, leading and activating people. The willing and effective co-operation of employees for the attainments of organisational goals is possible through proper direction. The direction is an important managerial function in that it helps in building sound industrial and human relations.
- d. **Controlling** : Controlling also involves checking, verifying and comparing the actuals with the plans, identified deviations. Thus action and operations are adjusted to predetermined plans. Controlling also involves checking, verifying and comparing the actuals with the plans, identifying deviations, if any, correcting the identified deviations. Auditing training programmes, analysing labour turnover records, directing morale surveys, conducting separation interviews are some of the means for controlling the HRM function.

**B. Operative Functions:** The operative functions of HRM are related to specific activities of HRM viz employment, development, compensation and relations. These functions have to be performed in conjunction with managerial functions.

- i) **Employment:** Employment is concerned with securing and employing the people possessing required kind and level of human resources necessary to achieve the organisational objectives. It covers functions such as job analysis, human resource planning, recruitment, selection, placement, induction and internal mobility.
- a) **Job analysis:** It is the process of study and collection of information relating to the operations and responsibilities of a specific job. It includes
  - \* Collection of data, information, facts and ideas relating to various of jobs including men, machines and materials.
  - \* Preparation of job description, job specification (job requirements and employee specifications) which will help in identifying the nature levels and quantum of human resources.
  - \* Providing the guides, plans and basis for job design and for all operative functions of personnel management.
- b) **Human resource planning:** It is a process for determining and assuring that the organisation will have an adequate number of qualified persons, available at proper times, performing jobs which would meet the needs of the organisation and which would provide satisfaction for the individuals involved.
- c) **Recruitment:** It is the process of searching for prospective employees and stimulating them to apply for the jobs in an organisation.
- d) **Selections:** It is the process of ascertaining the qualifications, experience, skill and knowledge of an applicant with a view to appraising his/her suitability to a job.
- e) **Induction and orientation :** Induction and orientation are the techniques by which a new employee is rehabilitated in the changed surroundings and introduced to the practices, policies, purposes and peoples of the organisation.
- f) **Placement:** It is the process of assigning the selected candidate with the most suitable job. It is matching of employee specifications with job requirements.
- ii) **Human Resource Development:** It is the process of improving moulding, changing and developing the skills, knowledge, creative ability, aptitude attitude, values, commitment etc., based on present and future job and organisational requirements.
- a) **Performance appraisal:** It is the systematic evaluation of individuals with respect

- to their performance on the job and their potential for development.
- b) **Training:** It is the systematic process by which employees learn knowledge, skills, abilities or attitudes to fulfill organisational and personal goals.
  - c) **Management Development:** It is the process of designing and conducting suitable executive development programmes so as to develop managerial and human relations skill of employees.
  - d) **Career Planning and Development:** It is the planning of one's career and implementation of career plans by means of education, training, job search and acquisition of work experiences. Transfers and promotions are two important ways of personnel development in an organisation.
- \* **Transfer:** There will not be any material change in the status, responsibilities or pay of the employees.
  - \* Preparation of job description, job specification (job requirements and employee specifications) which will help in identifications identifying the nature levels and quantum of human resources.
  - \* Providing the guides, plans and basis for job design and for all operative functions of personnel management.

**Human resource planning :** It is a process for determining and assuring that the organisation will have an adequate number of qualified persons, available at proper times,

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- h) **Career planning and development :** It is the planning of one's career and implementation of career plans by means of education, training, job search and acquisition of work experiences. Transfers and promotions are two important ways of personnel development in an organisation.

**Transfer :** There will not be any material change in the status, responsibilities or pay of the employees.

- \* **Promotion** : It is the upward reassignment given to an employee in the organisation to occupy higher position which commands better status and / or pay keeping in view the human resources of the employees and the job requirements.
- \* **Demotion** : It deals with downward reassignment to an employee in the organisation, to lower level position.

**Organisation development** : It is an organisation wide, planned effort, managed from the top, with a goal of increasing organisational performance through planned interventions. Organisation Development seeks to change attitudes, values, organisation structures, and

- i) managerial practices in an effort to improve organisational performance.
- iv) **Compensation Management** : It is the process of providing equitable and fair remuneration to the employees. It includes job evaluation, wage and salary administration, fringe benefits.
- v) **Job evaluation** : It is the process of determining relative worth of jobs.
- vi) **Wage and salary administration** : It is the process of developing and operating a suitable salary and wage programme.
- vii) **Incentives** : It is the process of formulating, administering and reviewing the schemes of financial incentives in addition to regular payment of wages and salary.

**Integration of Human relations** : It is the process of interaction among human beings.

- i) Human relations is an area of management practice in integrating people into work situation in a way that motivates them to work together productively, cooperatively and with economic, psychological and social satisfaction.
- ii) **Personnel Research** : It is the process of evaluating the effectiveness of human resources policies and practices and developing more appropriate ones.
- iii) **Personnel audit** : It refers to an examination and evaluation of policies, procedures and practices to determine the effectiveness of human resource management.

### 1.7. HR Policies

In the beginning of the present century the words personnel policy and personnel departments were unheard. The immediate supervisors, were responsible for the hiring and firing of employees. Training, promotions and other benefits were handled by supervisors without any rationale. The haphazard and adhoc manner in which personnel problems were handled in the past is now recognised as unsatisfactory by executives, in the fields of industry, hotel, business or hospital.

Regardless the size of an organization, it is difficult to run the organization without having well defined personnel policies in operation as an integral part of the management function. One may wonder what place personnel policies have in the delivery of health care, which is now considered to be a right of all citizens. Every employee in an organisation wants to know the terms and conditions of his employment, the regulations which govern his employment and the principles which guide the administration of an organisation in its relationship with him. The body of such principles, rules and regulations are known as the personnel policies. The personnel policy would be founded on three social principles i.e. justice, human needs and democratic approach.

**Need for HR Policies** : Employees have aspirations in business or industry. They seek individual recognition, opportunity for promotion, a fair wage, good working conditions, and other benefits of employment. For one or the other reasons personnel policies are very important,

as they provide a basic set of rules for orderly goal achievement in the process of delivering goods or services.

The employee expects a fair day's pay for a fair days work, equitable treatment as accorded to fellow employees, equal opportunities for promotions based on skill and ability with fringe benefits comparable to those found in profit making organisation. The employee further expects his conduct on the job to be governed by a set of rules determined by management and giving fair consideration to the dignity and rights of all employees. In addition, the employee assumes that management will provide orderly channels for the solution of problems and grievances. He seeks direction from top and middle management - indeed he depends upon it - especially in applying personnel policies uniformly to all employees.

Personnel policies are essential to the operation of large scale organizations, because it is not feasible for management to work effectively with each employees as an individual concerning his de- sires and his dislikes. For example, it is obvious that no organisation can permit its employees to come to work or to leave the job at their own convenience.

Every organisation needs personnel policies to ensure consistency of action and equity in its relations with employees. Personnel policies constitute the basis for sound personnel policies. Personnel policy is the yardstick by which accomplishment of programmes can be measured.

**Formulation of HR Policy :** The existence of a carefully formulated personnel policy rests on the attribute of the top management. If the top management is clear about its responsibilities and objectives its policies are likely to reflect the same. The effectiveness of personnel management dependent on the clarity of policy formulation. Policy which is skillfully drafted also facilitates implementation. The process of developing personnel policy involves assessing its appropriateness to the organisation. It must be acceptable in all situations as a basis for decision making and tested against each of the major functions to ensure that all considerations bearing on management have been taken into account. It should also be tested against community practices to ensure that the reputation of the organization is maintained at a level consistent with business and financial conditions. In fact, formulating personnel level consistent with business and financial conditions. In fact, formulating personnel policy today requires much broader persecute to be kept in view than ever before due to changing values and environment.

**Activity C :** Give some important HR Policies of your organisation.

### **1.8. Environmental Influences on H R Department**

HR Manager can't perform his duties in isolation. Environment influences the HR Department in many ways. These Environmental challenges can be divided into two.

- a. External
- b. Internal

External challenges are having profound impact on working of HR Department. For Example, technological changes in manufacture of transistor, the famous company, Motorola opened a research facilities in two different places to study new technology. As a result motorola recruited 20,000 employees. They have subsequently trained, oriented and compensated.



Some external challenges evolve gradually and some gives immediate effect. HR Professionals gives immediate effect. HR Professionals deal with these changes by following the different steps.

- i) **Monitoring Environment** : One has to monitor likely changes in the Environment.
  - ii) **Evaluate Impact** : Specialist must diagnose the problems and they must evaluate the results.
  - iii) **Proactive Measures** : Specialists has to implement approaches that help the organisation reach its goals.
  - iv) **Analyse feed back** : Feed back to be taken that the desired out comes to be reached.
- a) **External Challenges :**
- i) Technological Challenges
  - ii) Governmental Challenges
  - iii) Economic Challenges
  - iv) Cultural Challenges
  - v) Demographic Challenges
- b) **Technological Challenges :** Technological Challenges results in requirement of technical personnel, skilled personnel and machine operators to our organisation. The technology of cars and aeroplanes modified transport industry. Automobile industries grew. Growth created to the existing Employees. Promotions has given to the existing employees. It give adverse effect on rail transport. Here employment opportunities shrunk. Personnel Departments reduced their work force and created early retirement systems. Automation is another way which effected the personnel department. The Introduction of Computers in banks has given tremendous changes in employment needs. Before computers, personnel specialists recruited is large number of semi skilled and unskilled labourers where as computers required highly skilled programme and system analysts.
- Economic Challenges :** As economy changes during expansion and contraction of business cycle, organisations must modify their plans. These plans gives demands on personnel specialists to change their plans according to economy. If they recruit workers during expansion stage it is very difficult to remove them when cycle turns down. Thus it is duty of HR specialists to anticipate economy changes. Some times H R departments can even develop proactive policies that anticipate changes. The economic policy of the Govt.
- c) has a very great impact on business. Some type of business are favourably affected by Govt. policy some adversely affected while it is neutral in respect of others. Ex : Liberalisation, Privatisation and Globalisation led to competition among MNCs.
- d) **Cultural Challenges :** Attitudes towards work course new challenges for HR departments. Increased participation of woman is example for a cultural change. The concept of culture is of great significance to business. Business is based on ethos of people. Culture trains the people to act in a particular way, tending to put a personality stamp on them. It does mean that all people are alike in a particular culture. There are sub cultures in a culture. People have their own peculiarity of temperament, mental constitution, cultural experience, family experience, and unique personal experience. Culture determines the type of goods and services a business should produce. The type of food people eat, clothes they wear, the beverages they drink varies from culture to culture and form time to time in the same culture. The expectations and tastes of customers are changing. These changes will have impact on the role of HR Manager. The factors directly or indirectly influence

- the Human Resource Management of an organisation through its human resources.
- e) **Political Factors :** Political stability, political parties and their ideologies formation of new parties, splits in and amalgamations of existing parties naturally affect the trade union in an organisation. This intern, results in intra and inter union rivarley, formation of new trade unions rivelary, etc. These charges is trade union's structure and functioning complicate the functioning of HR Department.
  - f) **Demographic Challenges :** The Structure, Values, Cast System, Class Structure, Education levels of human resources in the country influence the HR function of any organisation. The Manpower composion also influence the HR function considerably.
  - g) **Internal Environment :** Internal Environment exerts considerable pleasure on human resource management. These pressures include company objectives. The policies of the organisation.Unions of the enterprise etc.

The company objectives may effect the HR Department, Management should operate the establishment with clear understanding of the overall objective. The company with creative environment encourage new ideas and this needs highly skilled workers. They must be recruited and selected to bring about technological advancement. Constant attention to training and development. Good compensation should be maintained. On the other hand, a policy is a predetermined guide established to provide direction in decision making. This effect the organisation's HR department in different way. Unions represent an actual challenge in unionised companies and a potential challenge to those that are not. Employers with unions sign on a agreement that specifies compensation, working conditions and working hours. These agreements effects the HR Departments. Here challenge for the Department is toachieve objectives without violating agreement.

**Activity D :** Do you think your organisation is influenced by Environment. Justify your statement.

### 1.9. Qualities of a H R Manager

- i) A HR Manager must have the mental ability of the High Standard. He must possessimmense tact, practical mind and cool temperament.
- ii) HR Manager must be free from bias attitude. He should be known for his honesty, integrity, character, justice and fair play.
- iii) A HR Manger must be a good leader and organiser.
- iv) HR Manager should have high character. He should aware of social responsibilities.
- v) HR Manager must be able to communicate his ideas and opinions effectively and clearly sothat all the employees understand the messages.
- vi) HR Manager must be trained in behaviural sciences so that he predicts and controls thehuman behaviour.
- vii) HR Manager must be able to predict the human problems in advance.

**Activity E :** Study the your Personnel Manager and listout his qualities.

### 1.10. Summary

Human resource management is considered to be the important area in the present day environment. HR M is a set of activities focusing on the effective use of human resources in an organisation.

It encompasses the activities of recruitment, selection, training, development, compensation, health and safety, benefits and services, union - management relation, motivation, morale etc.

The H R manager make decisions to meet the organisation's economic and social objectives. Because of several changes and development in the society, the HR manager has to face several challenges. The H R manager should have the qualities like mental ability, judgment, dignity, loyalty, skills of communication, free from bias to deal with the employees of an organisation.

### 1.11. Keywords

**Human Resource Management:** It is the science of planning, organizing, controlling with various operative functions of procuring, developing, maintaining and utilizing the labour force.

**Employment:** It is concerned with securing and employing the people possessing the required kind and level of human resources necessary to achieve the organizational functions.

**Policies:** General Statements that guide decision making.

**Procedures:** These are meant to be guides to action rather to thinking. These state exactly what to do. These are steps to be taken to get through that action.

**Rules:** These are specific instructions of what may or may not be done.

**Environment:** Aspects, conditions, or objects surrounding an organization. It consists of both external and Internal. The external Environment consists of those factors which affect an organizations human resources from out side the organization. On the other hand, Internal environment affects the job of a personnel Manager.

### 1.12. Self Assessment Questions

- 1) Define the term "Human Resource Management" ?
- 2) Enumerate the objectives of Human Resource Management
- 3) What is significance and scope of Human Resource Management.
- 4) What are the various Functions of Human Resource Management ? Explain.
- 5) Explain the qualities of HR Manager.
- 6) What is personnel policy ? Describe how personnel policies affect the job of personnelManager.
- 7) Explain how HR M is important to organisations ?
- 8) Personnel Management involves two categories of functions - Managerial and operative. Describe in detail.
- 9) What is environment ? Explain in detail the internal and external Environment affectingHRM in an organisation.
- 10) Give qualities of a Good HR Manager .

### 1.13. Further Readings

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## Lesson - 2

# HUMAN RESOURCE PLANNING

### Objectives

- After studying this lesson, the student is able to :
- describe the basic approaches to Human Resource Planning
- Explain the process of forecasting the personnel requirements
- Preview the process of Human Resource Planning
- Study the methods and techniques of demand and supply and identifying human resource requirements.

### Structure

- 2.1. Introduction
- 2.2. Meaning and Definitions
- 2.3. Significance of Human Resource Planning
- 2.4. Reasons for current Interest
- 2.5. Objectives of Human Resource Planning
- 2.6. Human Resource Planning Types
- 2.7. Need for Human Resource Planning
- 2.8. Problems in Human Resource Planning
- 2.9. Human Resource Planning Process.
- 2.10. Summary
- 2.11. Key words
- 2.12. Self Assessment Questions
- 2.13. Further Readings

### 2.1. Introduction

The long run success of any organisation ultimately depends on having right people in the right job at right time. Organisational goals have meaning only when people with the appropriate talent, skill and desire are available to execute the tasks needed to realise goals. Human Resource Planning is the system of matching supply of the people with openings in the organisations expected over a given time. Thus Human Resource Planning means to see whether the persons to whom some work is assigned are capable to do it or not. The ability and the capability of employees changes with the change of time and circumstances, therefore, the management should study the abilities of its employees and plan the capability of its man power accordingly. The essence of Human resource planning is the right man on the right job and the right job for the right man.

If a person is appointed at a post requiring more ability than the ability of a person, he will not be able in discharging his duties according to the requirements of the post. Similarly, if the person possess- ing higher abilities is appointed at a post not requiring that much ability, he will feel dissatisfied with his job and the enterprise (will not be able in the enterprise) will not be able in exploiting his best abilities.

Manpower is regarded as the quantitative and qualitative measurement of labour force required in an organisation and planning in relation to manpower may be regarded as establishing objectives to develop human resources in line with the broad objectives of the organisation. In other words, Human Resource Planning may be expressed as a process by which the organisation ensures the right number and right kind of people at the right place at the

right time doing the right things for which they are suited for the achievement of goals of the organisation. It is a two phased process by which management can project the future manpower requirements and develop action plans to accommodate the implications of projections. Thus Human resource planning is the process of developing and determining objectives, policies and programmes that will develop. Utilise and distribute man power so as to achieve the goals of the organisation.

## 2.2. Meaning and Definitions

Human Resource Planning is the process by which a management determines how an organisation should move from its current manpower position to its desired manpower position. Human Resource Planning is the double edged weapon. If used properly, it leads to the maximum utilisation of human resources, reduces the excessive labour turnover and high absenteeism. It improves productivity and aids in achieving the objectives of the organisation. If it is faultily used, it leads to disruption in the flow of work, lower production, less job satisfaction, high cost of production and constant headaches for the management personnel.

Mc beath defines Human Resource Planning as “It involves two stages. First stage is concerned with the details of planning man power requirements for all types and levels of employees through out the period of plan and second stage is concerned with the planning of manpower supplies to provide organisation with right type of people from all sources to meet the planned requirements.”

According to Geisler, “Human Resource Planning is the process - including forecasting, developing, implementing and controlling - by which a firm ensures that it has the right number of people and right kind of people at right place, at right time, doing things for which they are economically more suitable.”

Stainer defines Human Resources Planning as a strategy for acquisition, Utilisation, improvement, and preservation of an enterprises human resources. It relates to establishing job specifications or the qualitative requirements of jobs determining the number of personnel required developing sources of supply of manpower.

Thus Human resource planning consists of projecting future man power requirements and developing man power plans for the implementation of the projections.

**Activity A :** Identify and present number of personnel at various levels in your organisation.

## 2.3. Significance of Human Resource Planning

- i) Helps in the selection and Development of the employees as it ensures that adequate persons are selected well in advance so that they may be developed for anticipated openings.
- ii) It helps in procurement of personnel
- iii) Human Resources Planning helps in formulating managerial succession plans as a part of the replacement planning process.
- iv) Manpower forecasting, which highlights critical shortage of important skills, helps the management in avoiding disruption of production programmes and under utilisation of plant capacity by timely corrective action.
- v) It also helps in identifying areas of surplus personnel.
- vi) Helps in managerial succession plans as a part of the replacement planning process which is necessitated when job change plans for managers are formulated.

#### 2.4. Reasons for current Interest

- i) The changes in production technologies, marketing methods and management techniques have been extensive and rapid. These changes are causing problems relating to redundancies retaining and redeployment. All these contribute to the need to plan the human resource needs intensively.
- ii) Acute shortage of a variety of skills emphasises the need for effective recruitment and retaining people.
- iii) Cyclical fluctuation, discontinuities are effecting the man power requirements and require strategic consideration.
- iv) Changes in demographic profile of the work force in terms of age, sex, literacy, technical inputs and social background have implications for Human resource planning.
- v) Legislative controls and Hire and Fire policies and also responsible to give relook into human resource planning.
- vi) Pressure groups such as unions, politicians, persons displaced from land by location of giant enterprises have been raising contradictory pressures on the management.

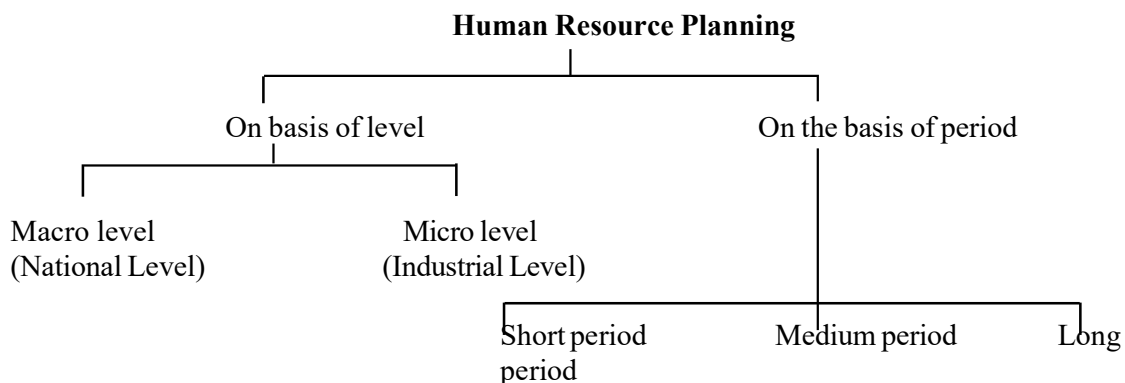
#### 2.5. Objectives of Human Resource Planning

- i) To ensure optimum use of human resources currently employed.
- ii) To recruit and retain the human resources of required quantity and quality.
- iii) To foresee employee turnover and make arrangements for minimising turnover.
- iv) To meet the needs of programmes of Expansion.
- v) To improve standards, skills, knowledge etc.
- vi) To assess the surplus or shortage of human resources.
- vii) To prepare recruitment policy.
- viii) To promote the personnel policy.

#### 2.6. Types of Human Resource Planning

Types of Human Resource planning can be distinguished by two criteria :

- a) Can the basis of the level at which it is done
- b) Can the basis of period for which it is done.



**Fig 3.1 : Types of Human Resource Planning**

#### 2.7. Need for Human Resource Planning

Human Resource Planning anticipates not only the required kind and number of

employees but also determines the action plan for all the functions of Human Resource Management.

- i) It helps to satisfy the individual needs of the employees for promotions, transfers, better benefits etc.
- ii) It helps in anticipating cost of salary, cost of human resources for facilitating the formulation of budgets.
- iii) It tries to foresee the need for redundancy and plan to check it.
- iv) It helps in foresee the changes in values, aptitude and attitude of human resources.
- v) It helps in planning for physical facilities, working conditions, the volume of fringe benefits like canteen, schools, hospitals etc.
- vi) It gives idea of type of tests to be used and interview techniques in selection based on the level of skills, qualifications, intelligence, values etc.
- vii) It provides scope for advancement and development of employees through training, development etc.
- viii) It causes the development of human resources to meet the organisational needs.

### 2.8. Problems in Human Resource Planning

Though H R P is beneficial to the organisation, employees and Trade Unions, some problems crop up in the process of Human Resource Planning. Important among them are,

- i) Most employees resist H R P as they think that it increases the cost of manpower. Trade unions and employees also resist H R P as they view that it increases the work load of the employees.
- ii) Uncertainties like absenteeism, seasonal employment, labour turnover etc., technological changes, marketing conditions are making human resource planning less reliable.
- iii) Due to low status given by the Indian Industries, Information system regarding human resources has not yet fully developed. Further reliable data regarding economy, other industries, labour market, trends in human resources are not available.

### 2.9. Human Resource Planning Process

Human Resource Planning Process consists of the following areas :

- a) Analysing the organisational objectives.
- b) Forecasting the Human resource needs.
- c) Projecting the Human resource supply.
- d) Estimating the net Human resource requirements.
- e) Planning for policies and programmes
- f) Evaluating effectiveness.

**a) Analysing the organisational objectives :** The Organisation must specify the clear cut objectives before starting Human resource planning. It must be the point of the corporate planning. It must be integrated with the overall organisational plans. Human Resource Planning should be done carefully as it has got long term impact. If wrong forecast for the future man power inventory are made, it may not be possible to rectify the errors in the short run. Hence the H R planning should be more concerned with filling future vacancies with right kind of people rather than with matching existing personnel with existing jobs.

**b) Fore Casting Future Human Resource Needs :** The demand for labour is derived from the demand for an organisation's goods and services. If other factors are held constant, the increased demand for goods and services leads to an increased demand for labour. Inversely, a decreased demand for goods and services generally results in a decreased demand for labour. Forecasts of the demand for human resources can be shortage, mid range or long range, depending on how far the future goals are set.

**c) Projecting Human Resource Supply :** Projections are estimates of the number of kinds of employees that can be expected to constitute an organisation's work force at some future point in time. Projections are based on a careful assessment of an organisation's current supply, plus consideration of employee movement into and out of the organisations.

Generally human resource planners make use of variety of techniques to project future person-nel needs. These techniques range from judgement to sophisticated quantitative models.

**Some of the techniques are :**

- i) Judgement and Experience.
- ii) Budgetary planning,
- iii) Work standards
- iv) Key predictive factors.

**d) Estimating the Net Human Resource requirement :** The next major step in the Human Resource Planning process is comparing the forecast needs for human resources with the projections of internal supply. By subtracting the projected supply from the forecast needs, planner can determine an organisation's net employee requirements for as future point in time. No employee requirements should be determined for each job in an organisation as well as for the organisation as a whole.

**Planning policies and programmes :** After employee requirements are

e) determined action plan for redeployment, redundancy and retrenchment or, action plan for recruitment, Development etc is to be initiated. It is new stage where planners generate and evaluate alternative resources policies and programs to handle anticipated surplus or shortages.

If the future supply of human resources from all the external sources is estimated to be inadequate or less than the recruitments, the man power planner has to suggest the management to alter the organisational plan.

In view of shortage of certain categories of employees, the organisation has to take care not only of requirements but also retention of existing employees.

**Activity B :** Identify and study the Manpower planning process in the organisation where you are working or your are familiar with.

**Retention plan should include :**

- 1) Adjustment of salary levels with those of the comparable industries.
- 2) Providing opportunities for career development.
- 3) Providing extensive training



4) Providing scope for extensive participation.

**f) Evaluating the H R P effectiveness :** Organisations should evaluate their H R P efforts to determine their effectiveness in helping to achieve organisational goals and objectives. Evaluating in terms of costs and benefits is difficult. Though planning has definite costs, its benefits are more intangible and very difficult to measure.

- 1. Job Design :** Job design is a process of deciding on the content of a job in terms of its duties and responsibilities, on the methods to be used in carrying out the Job in terms of techniques, systems and procedures, and on the relationships that should exist between the Job holder and his Superiors, Subordinates and colleagues.

**Major objectives of Job design are :**

- i) To satisfy the requirements of the organisation for productivity, operational efficiency and quality of produce or service.
- ii) To satisfy the needs of the individual for interest, challenge and accomplishment.
- iii) To integrate the needs of the individual with the organisational requirements.

**Job design involves four sets of decisions -**

- a) Deciding what tasks will be performed by the work force.
- b) Deciding how these tasks will be grouped together and assigned to individuals.
- c) Deciding how individuals will relate to each other so that their work can be co-ordinated.
- d) Deciding how they will be rewarded for their performance as members of the organisation.

**Activity A :**

Think of the extent to which, according to you, these objectives are fulfilled by the personnel Dept. in your office suggest for further improvements.

**2. Factors affecting Job design :**

- i) Proven values of specialisation and repetitive operations.
- ii) Changing Technology
- iii) Trade Union policies
- iv) Abilities of present personnel
- v) Available supply of potential employees.
- vi) The interaction requirements among jobs within the system.
- vii) Psychological and Social needs of human beings that can be met by the Job.

Job Specialisation, Job enlargement and Job enrichment are three major psychological approaches in Job design. The other minor approaches such as Job rotation, variable work schedule, flexitime, four day work weeks, to Job design for making Jobs more attractive.

**2. Job Specialisation :**

It has been widely accepted by most management in both private and public sectors since the time of Adam Smith. Advocates of specialisation has contended that high speed, automated, low cost mass production that has greatly contributed to our improved standard of living is largely due to specialisation in industries. Also a worker is easily trained to get him specialised to perform his assigned task with greater satisfaction. As a result, the Job is performed most economically and greater output is obtained compared to non specialisation.

**3. Job Enlargement :**

In recent years, it has been established that the Job specialisation is not always the best and the most economical way to perform a Job. The alternative approach suggested is Job enlargement which is the opposite of Job specialisation. Job enlargement is the expansion of Job content to include a wider variety of tasks and to increase the workers freedom of pace,

responsibility for checking quality and discretion formethod. Thus Job enlargement concentrates on the motivational issues. A Job is said to be enlarged horizontally if the worker performs a greater number or variety of tasks without increasing their responsibility or complexity, and is said to be increased vertically if the worker is involved with greater ability, responsibility, skill and autonomy required from Job holders as in planning organising his own work.

#### **4. Job Rotation :**

It provides variety without assuming entirely unfamiliar and more demanding responsibility to workers by rotation or transfer with in a work group requiring the same basic skills and receiving the same wages. This voluntary rotation among identical class of work groups fosters a greater feeling of team work, provides opportunity for training in different type of jobs by associating with different work groups, and makes the work force more adoptive and flexible.

#### **5. Variable work :**

Schedule makes a Job more attractive and satisfying by allowing workers a certain freedom to work what ever hours theywant. Some times two part time employees share a Job, one working the first half and the other working the second half shift according to their choice.

#### **Flexi time**

It allows workers to come early or late and leave early or late so they put in specified number of hours in a day. They may even take time out of their working hours for their personal business.

#### **6. Job Enrichment :**

Though Job Enlargement brought about diversity in over specialised jobs, it did little to instill challenge or meaningfulness to a worker's activity. Job enrichment was introduced to deal with short comings of Job enlargement. Many organisations employ a large number of people in jobs that have a relatively limited scope of responsibility i.e. Jobs that require little initiative or decision-making, that provide little feed back on results and that large establishment offer limited intrinsic motivation for effective performance and productivity. Some of the key ingrediants of Job enrichment include more responsibility, control of employees over decision making, well defined job, opportunity to learn Job, more variety in Job, and opportunity to use skills and abilities. In particular, Job enrichment is concerned with designing jobs that incorporate a greater variety of work content, require a higher level of knowledge and skill, and give the workers more autonomy and more responsibility for planning.

#### **Techniques of Job Enrichment**

- i) Increasing the responsibility of the activity.
- ii) Providing wider scope, more sequence and increased pace of the work.
- iii) Giving a natural unit of work either to an employee or group of employees.
- iv) Providing the freedom of work by minimising controls.
- v) Allowing the employees to set their own standards.
- vi) Providing the employees the control information and allow them to monitor their own performance.
- vii) Encouraging employee participation in planning, creations and innovations.
- viii) Introducing new, difficult, creative tasks to the employees.
- ix) Assigning specific tasks.

**Procedure of Job Enrichment**

- i) Selecting jobs which permits close relation between motivation and Job performance.
- ii) Introducing on a pilot scheme basis.
- iii) Starting with the assumption that these jobs can be changed.
- iv) Brain storming a list of charges that may enrich the jobs.
- v) Concentrating on motivational factors such as achievement, responsibility, self control etc.
- vi) Trying to change the content of the Job rather than changing the employees from their Job.
- vii) Providing adequate training, guidance, encouragement and help.
- viii) Introducing with care as Job enrichment programmes may be resisted by employees.
- ix) Preparing the specific programmes for each project and ensure the control information to monitor the performance.

**Dimensions of Job Enrichment**

There are five core dimensions that provide enrichment of jobs. They are

- a) Task variety.
- b) Task identity.
- c) Task significance.
- d) Autonomy.
- e) Feed back.

It is desirable for a Job to have all the five dimensions. If one is missing, workers are psychologically affected and motivation tends to be reduced.

The core dimensions tend to improve motivation, satisfaction, and quality of work. Admittedly, there are large individual differences as to how employees react to the core dimensions but the typical employee finds them basic for internal motivation.

- ix) Preparing the specific programmes for each project and ensure the control information to monitor the performance.

**7. Dimensions of Job Enrichment :**

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The core dimensions tend to improve motivation, satisfaction, and quality of work. Admittedly, there are large individual differences as to how employees react to the core dimensions but the typical employee finds them basic for internal motivation. of indepth examination of the duties, responsibilities and works relating to a particular Job. It is a complete and thorough knowledge of the responsibilities and requirements of a particular Job.

**According to Flippo :**

“Job Analysis is the process of studying and collecting information relating to the operations and responsibilities of a specific Job. Micheal J. Jucius defines Job Analysis as "It refers to the process of studying the operations, duties and organisational aspects of jobs in

order to derive specifications or as they are called by some Job descriptions.” This Job analysis is a process in which information regarding all the activities and responsibilities attached with a particular work assigned to an individual employee are collected and examined. The complete Job Analysis contains information relating to the following five factors - work products, necessary worker activities or behaviour required by the Job, equipment used, factors in the work environment, personal characteristics required to do the Job.

### **Uses of Job Analysis:**

Job Analysis is a procedure and tool for determining the specific tasks and requirements for each Job. It refers to anatomy of the Job. Thus Job Analysis is major input to fore cast future human resources. The information provided is essential in almost every phase of employee relations.

The importance of Job analysis may be summarised as under :

- i) It is helpful in organisational planning.
- ii) It provides realistic basis for hiring, training, placement, transfer and promotion of personnel.
- iii) It helps in determining wage and salary Admn.
- iv) It provides information which enables us to change jobs. It is concerned with operational Analysis, motion study, work simplification methods.
- v) It aims at reducing labour costs.
- vi) It helps in improving efficiency.
- vii) It helps in establishing clear cut standards.
- viii) It provides opportunity for identifying hazardous conditions and unhealthy environmental factors.
- ix) Helps in redesigning Job.
- x) It acts as basis for Job Evaluation.
- xi) It helps in vocational selection.

### **8. Job Description :**

A Job description is awritten statement that explains duties, working conditions and other aspects of a specified Job. It contains both organisational and functional information. It defines the scope of the Job activities, Major responsibilities, positioning of a Job in the organisation. It provides the worker, analyst and supervisor with a clear idea of what the worker must do to meet demands of the Job.

### **9. Job Specification**

It iswritten statement of qualifications, traits, physical andmental characteristics that an individual must possess to perform the Job duties and disagree responsibilities effectively. Job specification translates the Job description into terms of the human qualification which are required for a successful performance of a Job. They are intended to serve as a guide in hiring and Job evaluation.As a guide in hiring, they deal with such characteristics as are available in an application blank, and also with testing, interviewing and checking of reference.

The first step in a programme of Job specification is to prepare list of all jobs in the company and where they are located. The second step is to secure and write up information about each of the jobs in a company. The items to be included in Job specification vary according to the nature of the organisation and the uses towhich they are put.However, items like age, sex, experience, skill, education, dexterity are invariably included in it.

## 2.10. Summary

Human Resource planning concerned with the utilisation of human resources to help attain an organisations objectives. H R P ensures right man to right job at right time at right place. It is needed because of expected changes in technology, environment, management plans etc.

## 2.11. Key words

**Man Power Planning:** Estimating how many employees and what types of employees an organization require at some time in the future and making plans to meet those requirements.

**Human Resource Forecast:** It is a determination of the demand for different categories of employees with appropriate skills for specified time periods in the future.

**Basic Factor:** It means a variable to which manpower demand is related.

**National Level HRP:** Generally Government at the central level plans for the human resources at the national level. It forecasts the demand for and supply of human resources. It takes steps to adjust the demand by altering its economic, industrial and agricultural policies and adjust the supply through its population policy.

**Age Inventory:** It includes age wise number and category of employees. It indicates age wise imbalances in present inventory, which can be correlated in future selections and promotions.

**Redundancy Plan:** It includes type and number of employees, time of and place of retrenchment, type of help to be extended to retrenched employees in the form of compensation, help in getting new job, Priority in filling future vacancies.

## 2.12. Self Assessment Questions

1. Define Human Resource Planning ? What are its objectives ?
2. Explain the process of Human Resource planning ?
3. What are the techniques for Human Resource planning ?
4. What do you understand by Human Resource planning ? How would you draw up a manpower plan for an organisation.
5. What factors do you consider while forecasting manpower needs of the organisation ?
6. What are the benefits of Human Resource planning ?
7. Review the major activities of Human Resource planning ?

## 2.13. Further Readings

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## LESSON - 3

# RECRUITMENT AND SELECTION

### Objectives

After reading this lesson, you should be able to:

- Understand the nature and policy of Recruitment and Selection
- Explain and evaluate various methods of Recruitment and Selection
- Describe the recruitment practices in India.

### Structure

- 3.1 Introduction
- 3.2. Policy of Recruitment
- 3.3. Sources of Recruitment
- 3.4. Methods of Recruitment
- 3.5. Evaluation of Recruitment Programme
- 3.6. Recruitment practices in India
- 3.7. Concept of the Selection
- 3.8. Selection Process
- 3.9. Selection Methods
- 3.10. Summary
- 3.11. Key words
- 3.12. Self Assessment Questions
- 3.13. Further Readings

### 3.1 Introduction

Once the required number and kind of human resources are determined, the organisation has to find where the required human resources are available and also find the means of attracting them towards the organisation Recruitment is the process of discovering potential applicants for actual or anticipated organisational vacancies.

### 3.2 Policy of Recruitment

Recruitment is a continuous function which involves the following stages

- Recruitment policy
- Organising for recruitment
- Forecasting manpower requirements
- Discovering appropriate manpower sources.
- Different techniques used for utilising these resources
- Evaluating the recruitment programme

Recruitment is defined as a process to discover the sources of manpower to meet the requirements of the staffing schedule and to employ effective measures for attracting that manpower in adequate numbers to facilitate effective selection of an efficient work force". Edwin B Flippo defined recruitment as "the process of searching for prospective employees and stimulating them to apply for jobs in the organisation. Flippo viewed recruitment both as "positive" and negative activity, It is often termed positive in that it stimulates people to apply for jobs to increase the hearing ratio, the number of applicants for a job. Selection on the other hand tends to be negative because it rejects a good number those who apply leaving only the best to be hired.

A "recruitment policy" in its broader sense involves a commitment by the employer to

such general principles as

- To find and employ the best qualified persons for each job
- To retain the best and most promising of those hired
- To offer promising opportunities for full-time working
- To produce programmes and facilities for personal growth on job.

According to Yodanis the recruitment policy is concerned with quality and qualifications of manpower. It establishes broad guidelines for the staffing process. Recruitment policy of any organisation is derived from the personnel policy of the organisation. Recruitment policy should take into consideration the government's reservation policy, policy regarding sons of soil etc., personnel policies of other organisations.

A good recruitment policy must contain the following elements; organization's objectives both in short-term or long-term must be taken into consideration.

- Identification of the recruitment needs
- Preferred sources of recruitment
- Criteria of selection and preferences
- The cost of recruitment and financial implications of the same

### **Impact of personnel policies on Recruitment policies:**

As said above Recruitment policies are mostly drawn from personnel policies of the organisation. These general personnel policies provide a variety of guidelines to be spelt out in recruitment policy. After formulation of the recruitment policies, the management has to decide whether to centralise or decentralise the recruitment formation. Some organisations prefer centralized recruitment (government and commercial banks) while some organisations prefer decentralized recruitment practice (Railways). Most organisations have a policy on recruiting internally (within company or organisation) or externally (outside the organisation). Generally, the policy is to prefer internal sourcing, as external employees know the organisation, well and they can easily fit to the organisation's culture. In multinational corporations, there is the policy relating to the recruitment of local citizens, because they can understand local languages, customs and business practices better.

### **3.3 Sources of Recruitment:**

The sources of recruitment are broadly divided into internal sources and external sources.

**Internal sources:** Internal sources include personnel already on the pay-roll of the organisation. This source also includes personnel who were once on the pay-roll of the organisation but who plan to return or whom this organisation would like to rehire and those who quit voluntarily or production lay-offs.

Merits of Internal Sources

- i. It promotes loyalty among the employees
- ii. Morale of the employees can be improved
- iii. It provides a sense of job security and opportunity for advancement
- iv. It is less costly compared to outside sources
- v. It is used as a technique of motivation
- vi. It is a training device for developing middle and top-level managers
- vii. Loyalty, commitment, a sense of belongingness, and security of the present employees can be enhanced.

**Demerits**

- i. It often leads to inbreeding, and discourages new blood from entering an organisation.
- ii. It is dysfunctional to the organisation to utilise inferior internal sources when better candidates are available outside.

**External Sources:** External sources lie outside the organisation, they include a) public employment exchanges b) private employment agencies c) management consultants d) campus recruitment e) casual applicants f) professional organisations and g) other sources.

**a) Public Employment Exchange:** The government setup Public Employment exchanges in the country to provide information about vacancies to the candidate and to help the organisation in finding suitable candidates. The employment Exchange Act, 1959 makes it obligatory for public sector and private sector enterprises in India to fill certain types of vacancies through public employment agencies.

**b) Private Employment Agencies:** Private employment agencies perform the recruitment function on behalf of a client company by charging fee. They also provide complete time of services which include advertising position, screening the applicants and going guarantee to employees.

**c) Management Consultants:** They specialise in middle and top level executive placements. These agencies act as a buffer in screening the candidates and keeping the prospective employee anonymous. In the final state senior executive of the prospective firm move into negotiation with applicants and determine degree of natural interest.

**d) Campus Recruitment:** Universities and Institutions, Colleges provide facilities for campus recruitment and selection. They maintain the bio-data and performance required of the candidates. Organisations seeking to recruit the candidates from this source can directly contact these colleges and universities directly.

**e) Professional Organisations:** professional organisations or associations maintain bio-data of their members and provide the same to various organisations on requisition. Organisation find these source more useful to recruit the experienced and professional employees like executives, managers, engineers etc.

**f) Casual Applicants:** This source provides an excellent supply of stock piled applicants. Depending upon the image of the organisation, its prompt response, level of employment, potential candidates apply casually for jobs through mail or hand over the applications in Human Resource Department.

**g) Other Sources:** Friends and relatives of present employees are also a good source for which employees may be drawn. Trade unions also provide manual and skilled workers. Voluntary organisations like social organisation, non-profit organisations associations also provide employees ñhandicapped, widowed women, old persons, retired people, etc, in response to advertisement potentials of utilising workers is older age group is an important source of additional supply. This source provides an opportunity to gain fullest benefits from employment of the nature and old workers.

**3.4 Methods of Recruitment:**

Dunn and Stephens summaries the recruiting methods into three categories direct, indirect and third party.

**a) Direct methods:** These include sending recruiters to educational and professional institutions for campus recruitment. The placement office of a college, usually provides help in attracting students arranging interviews, furnishing space, and providing student resumes. Sometimes, organisations firms directly solicit information from the concerned professors about students with an outstanding record. Other direct methods include sending recruiters



to conventions and seminars, setting up exhibits or fairs, and using mobile office to go to the desired centers for managerial, professional and sales personnel, campus recruitment is the best methods.

**b) Indirect methods:** Indirect methods involve mostly advertising in newspaper, on the radio, in trade and professional journals, technical magazines and brochures, Television and Internet, Advertisements are most popular methods of communicating public job vacancies. Advertiser provides the candidates the information about the job and organisation and encourages them to apply for jobs. Radio and Television only are used by government departments only. Companies in the private sector are hesitant to use the media because of higher cost. Radio and television can be used to attract skilled workers. And Internet is used to reach technical personnel like software and hardware people.

**c) Third Party Methods:** These include the use of commercial or private employment agencies, state agencies, placement after college, professional associations, management consultancy firms, friends and relatives.

### Modern Sources of Recruitment

A number of modern recruitment sources are being used by the organisations in addition to traditional sources. These sources are walk-in, consult in, Body shopping, Internet recruitment.

**a) Walk-in:** Modern Organisation advise the advertise a potential candidates to attend for an Interview directly in without a prior application on a specified date, time and at a specified place. The potential candidates from among the interviews will be selected for appointment after screening the candidates through tests.

**b) Consult in:** Organisation encourage the potential job seekers to approach them personally and consult them regarding the jobs, and select the suitable candidates through the selection process.

**c) Body shopping:** Professional Organisation and hi-tech training institution develop the pool of human resources for the employment. These professional and training institutions are called body shoppers and their activities are known as body shopping the body shopping is used mostly for computer professionals.

**d) Internet Recruitment:** Information Revolution helped the organisations to use Internet as a source of recruitment and advertisement. Organisation advertise the vacancies through world wide web (www) and the potential applicants send their application through e-mail

### Evaluation of Recruitment process:

The recruitment process has the objective of reaching for and obtaining application from job-seekers keeping this in mind, the evaluation of Recruitment process include,

- Return rate of applications sent out
- Number of suitable candidates for selection
- Retention and performance of the candidates selected
- Cost of the recruitment process
- Time lapsed data.

### Recruitment Practices in India:

The different sources of recruitment in India are:

- i) Internal sources or within the organisation
- ii) Temporary workers
- iii) Casual workers
- iv) Employment Exchanges
- v) Advertisements

- vi) Candidates introduced by friends and relatives
- vii) Campus recruitment like IIM, IIT, IIS and NITI.
- viii) *Sons of the soil* : The Government of India issued directives to public sector enterprise to recruit local candidates on primary basis. The national committee on labour, in this connection, recommended for providing employment to local persons. Public sector organisations and multinational corporations have started providing jobs to son of the soil on primary basis.
- ix) Labour contractors
- x) *Specified communities and categories*: According to the Government directives the organisations, particularly public sector have to recruit candidates to the specified extent from the scheduled castes, scheduled tribes, backward communities and from specified classes like physically handicapped, ex ñ servicemen, and women etc.

### 3.5. Concept of Selection

Selection is the process of examining the applicants with regard to their suitability for the given job, and choosing the best from the suitable applicants and rejecting the others. The process of selection involves three stages namely recruitment, screening and selection. The organizational practices in India with regard to selection vary from public sector to private sector concept, objectives and significance of selection.

The selection procedure is concerned with securing relevant information about an applicant. The Objective of selection process is to determine whether an applicant meets the qualifications for a specific job and to choose the applicant who is most likely to perform well in that job. Selection is a process of thinning a pool of qualified applicants. All selection activities exist for making effective selection decisions. Each activity is a step in the process that forms a predictive exercise - decision makers seeking to predict which job applicants will be successful if hired. Successful, means preparing well on the intend the organisation uses to evaluate personnel.

According to Yadev “The having process of one or many ‘go, no, go’ gangs. Candidates are screened by the application of these tools. Qualified applicants go on to the next hurdle, while the unidentified are eliminated”

### 3.6. Selection Policy:

While formulating a selection policy, due consideration should be given to organizational requirements as well as technical and professional dimensions of selection process. Yodev is as suggested “Selection is usually regarded as a negative process i.e. rejection of candidates for a position”.

### 3.7. Selection Process:

Selection process is a crucial, complex and continuing function. The ability of an organisation to attain its goals effectively and to develop its a dynamic environment largely depends upon the effectiveness of its selection programme. If right personnel are selected, the management of personnel becomes easier, the employee contribution and commitment will be at optimum level. If the right person is selected he becomes a valuable asset to the organisation and if faculty selection is made, the employee will become a liability to the organisation.

Selection process typically follows a standard pattern, beginning with an initial screening interview and concluding with the final employment decision. The traditional

selection process includes preliminary screening; Application Scrutiny, employment tests; comprehensive interview; back ground investigations, physical examination and final employment decision to hire.

*The following are the steps in selection process.*

**a. Initial screening or preliminary interview :**

This is a storing process in which prospective applicants are given the necessary information about the nature of job and also, necessary information is elected from the candidates about their education, experience, skills, etc. If the candidate is found to be suitable, he is selected for further process. It is a process of reducing the applicants to a few who have better chance of selection than those screened out.

**b. Application Scrutiny :**

The applicant is asked to give details about age, mental status, educational qualification, work Experience and reference. Different types of application forms may be used by this same organisation for different types of employees e.g. one for clerks, the other for managers. An application form should be designed to serve as an effective preliminary screening device.

**c. Selection Tests :**

Tests attempt to measure certain characteristics of individual applicants some important tests are : knowledge tests, ability tests, aptitude tests and simulation tests.

**d. Employment Interview:**

An interview is a face to face observational and personal appraisal method of evaluating the applicant. An employment interview should serve three purposes 2) i) Obtaining information ii) giving information and iii) motivation.

**e. Reference checks and Recommendations or Background information**

The applicant is asked to mention in his application the names and addresses of his previous employers, friends or professional colleagues. They are approached by mail or phone and requested to furnish their frank opinion about the candidate. These reference checks indicate past behavior and how well the applicant did at this lost job.

**f. Physical examination:**

Certain jobs require unusual stamina, strength or tolerance of hardworking conditions A physical check -up reveals whether or not a candidate possess these qualities the basic propose of a physical examination is to place persons in jobs which they can handle without injury or damage to their health. Candidates are medically examined either by the company's physician or by a medical officer approved by the company for the purpose.

**g. The Selection or final Decision:**

Applicants who cross all the steps are finally considered by the organisation. If there are more persons than the number required for a job the best ones i.e, those with the harvest scores are finally selected.

**3.8. Selection Methods:**

There is no standard selection process that can be followed by all the organisations. Organisations may follow different selection methods depending upon the side of the organisation, natures the business, government rules and regulations. Thus, each organisation

may follow any one or the possible combinations of methods of selection in the order suitable to it. Following are the selection methods generally followed by the organisations.

**a) Application Form:**

An applicant form is a traditional, widely accepted device for getting information, from a prospective applicant which will enable a management to make a proper selection. It serves as a convenient device for circulating information about the applicant to appropriate members of management and as a useful device for storing information for later reference. Organisations use different applications forms for different jobs at different levels. For technical and managerial personnel, the form may receive detailed answers to questions regarding the candidate's education, experience, etc. Information is generally required on the following items in the applicant forms.

- 1) Personal background information
- 2) Educational qualification
- 3) Work experience
- IV) References.

**b) Weighted Application form:** Some organisations analyze the information on an application blank and determine statistically its relation to later success in the job. Under this method, certain points of weights are assigned to the answers given by the applicant in the application form. Those with scorers that minimum attained by past or present successful employees will be finished.

**c) Employment tests:** A test has been defined as a systematic procedure for comparing the behaviour of two or more persons. It is a sample of an aspect of an individual's behaviour, performance or attitude.

**Purpose of Tests :**

Psychological tests are used for more than one purpose. They are used for the purpose of

- Selection of candidates for an organisation.
- study the human behaviour and personality
- guiding and counselling students seeking admission into schools and colleges.
- eliminating the possibility of prejudice on the part of the interviewer.
- measurement of jobs - related abilities and skills accurately and adequately.

According to Wendell, tests are used in business for three primary purposes.

- i) The selection and placement of new employees.
- ii) In appraising employees for promotional purpose and
- iii) For counselling employees.

**Concepts of Testing :** Testing concepts include job analysis, reliability and validity.

**a. Job Analysis:**

Job analysis provides basic information about the type of the candidate needed by the organisation by indicating the specific requirements of each job. Job analysis provides a realistic basis for hiring, training placement and promotion of personnel. Job description provides both organisational information and functional information. Job specification translates the job description into terms of the human classifications which are required for a successful performance of a job. Thus, employee specification is the basis to decide upon a particular test or tests and minimum acceptable score in order to test whether the candidate possesses the required amount and degree of behaviour and qualities like intelligence, aptitude to perform the job successfully.

**b. Reliability :**

Test reliability is the consistency of scores obtained by the same person when retested with the identical test or with an equivalent form of test. If a person obtains same or similar scores in the test conducted in different times, under the same conditions, the test is said to be reliable. Generally as suggested by Beach the reliability coefficient should be between .85 to 1.00. In general, higher reliability can be obtained from written tests.

**c. Validity:**

Validity refers to the extent to which a test measures what it is designed to measure. Each selection test aims at finding out whether a candidate possessed that particular skill or not for exza short - hand test, should accurately measure a persons ability to take dictation. According to Dale S. Beach, there are five kinds of validity viz., concurrent validity predictive validity, content validity constant validity and face validity.

**Types of tests :** Tests are classified into five types they are i) Aptitude tests ii) Achievement tests iii) Situational tests iv) Interest tests v) Personality tests vi) Graphoogy tests and vii) Polygraph test.

**i) Aptitude Tests:**

These tests measure whether an individual has the capacity or latent ability to learn a given job if given adequate training. Aptitudes can be divided into general and mental ability or intelligence and specific aptitudes such as mechanical clerical and mental capacity etc.

**a) Mental tests measure intelligence quotient of a candidate**

. These tests measure capacity for comprehension, reasoning, word fluency, variable comprehension, numbers, memory and space.

**b) Mechanical Aptitude Tests :**

These tests measure the capacities of spatial visualisation, perceptual speed, and knowledge. These tests are useful for selecting apprentices, skilled, mechanical employees, technicians, etc.,

**c) Psychomotor tests :**

These tests measure abilities like manual dexterity, motor ability and eye- hand coordination of candidates. These tests are useful to select semi-skilled workers.

**ii) Achievement Tests:**

These tests measure the skill or knowledge which is acquired as a result of training programme and on the job experience. These tests are classified into a) Job knowledge test and b) work sample test.

**a) Job knowledge Test**

These are administered to determine knowledge of typing short-hand and in operating computers, or simple mechanical equipment. Such tests are useful for office workers, supervisors, stenographers, sales girls etc.,

**b) Work sample test**

Under this test a price of actual work is given to the candidate as a test and the candidate is asked to do it. For example, a typing test would provide the material to be typed and note the time taken and mistakes committed.

**iii) Situational Test:**

Situational test evaluates a candidate in a similar real life situation. In this test the candidate is asked either to cope with the situation or solve critical situations of the job.

**iv) Interest Test:**

These tests are designed to discover a person's areas of interest and to identify the kind of work that will satisfy him. The purpose of this test is to find out whether a candidate is interested or disinterested in the job and to find out in which area of the job / occupation the candidate is interested.

**v) Personality Tests:**

These tests measure a projective employees motivation in a particular working environment and prise deeply to discover elves to are individual's value system, his emotional reactions and motivation and his characteristic mood.

The assess his motivation interests, his ability to adjust himself to the stresses of every day life and his capacity for inter - personal relations and self - image. Examples of such tests are Bell's Adjustment inventory, the California test of Personality scale, Minnesota multiphasic personality inventory thematic perception test, heThurstone temperaments survey, and guild ford - zimmerman temperament survey.

**a) Objective tests:**

These tests measure neurotic tendencies, self - sufficiency, dominance - submission, and self - confidence. Most personality tests are objective tests as they are suitable for group testing and can be scored objectively.

**b) Projective tests**

Candidates are asked to project their own interpretation of certain standard stimulus situations basing on ambiguous pictures, figures etc., under these test. The way in which he responds to these stimuli depends on his own values, motives and personality.

**vi) Graphology test**

It is designed to analyse the hand writing of an individual. An individual's hand writing can suggest the degree of energy, inhibitions and spontaneity, and elements of balance and control. For example, big letters and emphasis on capital letters indicate a tendency towards domination and ompetitiveness. A slant to the right, moderate pressure and good legibility show leadership potential.

**vii) Polygraph tests:**

These tests are designed to ensure accuracy of the information given in the application. These tests record on paper posological changes in blood pressure, pulse, skin, sensitivity caused by stress.

**d) Employment interviews:**

The interview is a selection tool which enables the employer to view the total idividual and directly appraise him and his behaviour. By 'interviewing' is meant deliberate, active testing with a purpose to draw the other person out, to discover what he really wants to say and to give a chance to express himself freely. According to Scoot and others an interview is a purposeful exchange of ideas, the answering of question and communication between two or more persons." An employment interview should serve three purposes i) obtaining information ii) giving information and iii) motivation.

**3.9. Types of interviews:**

The types of interviews are

- i) Informal interview
- ii) Formal interview
- iii) Planned interview
- iv) Patterned interview
- v) Non- directive interview
- vi) Depth interview
- vii) Stress interview
- viii) Group interview and
- ix) Panel interview.

**i) Informal Interview:**

This is the interview which can be conducted at any place by any person to the basic and non-job related interview. The interaction between the candidate and the personnel manager to examine about the vacancies or additional particulars in connection the employment advertisement.

**ii) Formal Interview:**

This is held in a more formal environment by the employment officer help of and questions this for discussion are items and experts are allotted different structured areas and questions to be asked.

**iii) Planned Interview:**

This is a formal interview planned carefully. The interview has a plan of action worked out in relation to time to be devoted to each candidate, type of information to be sought, information to be given, etc.,

**iv) Patterned Interview:**

This is the most common method of interview. It is also a planned interview but planned to a higher degree of accuracy and precision. In this type of interview, every pertinent detail bearing on what is to be accomplished what kind of information to be sought or given, how the interview is to be conducted, and how much time is to be allotted to it, must be worked at in advance. A list of questions and areas is carefully prepared and interviewer goes down the list of questions, asking them one after another, with very little deviation.

**v) Non - directive Interviews:**

This is designed to let the candidate speak his mind freely. It is unstructured and is relatively non-planned. In this interview the candidate is given freedom to tell about himself by revealing his knowledge on various areas his back ground and expectations and interest etc. The purpose of such interview is to determine what kind of person a candidate really is.

**vi) Depth interview:**

In this type of interview, the candidates would be examined extensively in core areas of knowledge and skills of the job. It is designed to intensively examine the candidates' background and thinking so that a corrective evaluation and decision may be made.

**vii) Stress Interview:**

This is designed to test the candidate and his conduct and behaviour by putting him under conditions of stress and strain. In the stress interview, the interviewer puts the candidate on the defensive by trying to annoy him. Interviewer tests the candidate by putting him under stress and strain by interrupting the applicant from answering criticizing his opinions, asking

questions pertaining to unrelated areas, keeping silent for long period and putting him in an awkward situation by dropping some thing on the floor and asking him to pick it up. Accusing him that he is lying and so on.

**viii) Group Interview:**

This is designed to see the candidates react to and against each other. All the candidates are brought into one room and one topic is given for discussion to the candidate and they are asked to discuss the topic in detail. Their type of interview helps the interviewer in appraising certain skills of the candidates like initiative, inter - personal skills, dynamism, presentation leading etc.

**ix) Panel Interview:**

This is done by members of the interview board or selection committee.

(The candidate may be asked to meet the panel individually) A panel of experts interviews each candidate, judges his performance individually and prepares a consolidated judgement based on each

experts' judgement. This is done usually for manager and managerial positions. It pools the collective judgement and wisdom of members of the panel.

**e) Physical Examination:**

Certain jobs require certain physical qualities like clear vision, perfect hearing, unusual stamina, clear tone, tolerance of hardworking conditions etc., Medical examination reveals whether or not a candidate possesses these qualities.

**f) Reference checks:**

After completion of the final interview and medical examination, the personnel department will engage in checking references. Candidates are required to give their names of references in their application form. There may be his previous employer friends or professional colleagues. They are approached by mail or phone and requested to furnish their opinions about the candidate.

Selection is considered as a negative process, whereas placement is a positive one. Once the employee is accepted, he must be introduced to his job, fellow employees and his work environment.

A proper placement reduces employee turnover, absenteeism, accident rates and improves morale. Selection is usually regarded as a negative process i.e., rejection of candidates for a position. Placement, on the other, is a positive process and consists of filling positions with qualified candidates. When once the candidate reports for duty, the organisation has to place him initially in that job for which he is selected. The candidate will be trained in various related jobs during the probation period.

Probation period generally varies between six months to two years. Placement is the determination of the job to which an accepted candidate is to be assigned and his assignment to that job. It is a matching of what the superior has reason to think he can do with the job demands, it is a matching of what he imposes, and what he offers in the form of payroll, companionship with others, promotional possibilities etc.

### **3.10. Summary**

Recruitment is an important HRM Function, without attracting adequate number of qualified people the organisations cannot be expected to work effectively. Rational



recruitment necessitates sound recruitment policy and effective procedures for discovering sources and techniques for tapping them and continuing evaluation.

The selection involves three stages - recruitment, preliminary screening and selection. The selection process includes - preliminary screening; application scrutiny, employment tests, comprehensive interview, back ground investigation, physical examination and final employment decision to here. In each stage different tests are conducted to predict the job success of the candidate.

Placement is a positive process and consists of filling positions with airlifted candidates. Selective placement offers benefits to both organisation and undiluted. Orventation Induction is introducing newemployee to his job, his fellow employees and to his work environment.

### 3.11. Key words

**Recruitment:** It is the process of searching for prospective employees and stimulating them to apply for job in organization.

**Recruitment sources:** Internal and external: Internal means recruitment of personnel within the organization, externals sources include attracting people through advertisement, campus inter- views, employment exchanges, private agencies etc.

**Third Party Methods:** These methods include commercial and private employment agencies, state agencies, and placement offices of schools, colleges and professional associations, recruit-ing firms, management consulting firms, friends and relatives.

#### **Selection**

It is the tool in the hands of management to differentiate the qualified and unqualified applicants by applying various techniques like interviews, tests etc. It is the process in which candidates are divided into two classes those who are to be offered employment and those who are not.

#### **Psychological testing:**

It is systematic procedure for comparing behaviour of two ormore persons.

#### **Performance Tests:**

In this test, the applicant is asked to demonstrate his ability to do the job.

#### **Aptitude tests:**

An aptitude test measures the potential ability of a candidate to learn a new job.

#### **Personality test :**

These tests seek to assess an individuals motivation, adjustment to the stresses of every day life, capacity for interpersonal relations and self image. These are expressed in terms of the relative significance of such traitswithin the person as self confidence, ambition, decisiveness, optimism, patience, fear and distrust.

#### **Interviews:**

It is a conversation between the interviewer and interviewee to access the potentialities of the later by gestures, facial expressions and other communicative behaviour.

#### **Stress Interview:**

It is a deliberate attempt to create pressure to observe how an applicant performs under stress.

### 3.12. Self Assessment Questions :

- 1) Explain recruitment policy?
- 2) Discuss relative merits and demerits of source and methods of recruitment?
- 3) Explain the recruitment process?
- 4) What are the modern sources of recruitment?
- 5) What is meant by Recruitment? What are characteristics of good Recruitment Policy?

- 6) Describe the procedure of recruitment in a industrial concern.
- 7) Discuss the various sources of personnel supply and a particular methods or techniques of recruitment of manpower giving suitable examples from India.
- 8) Evaluate the relative problems and merits of private VS public sources of personnel or manpower supply.
- 9) Examine the merits and limitations of recruitment from within, recruitment through advertisement.
- 10) What is selection? Examine its significance
- 11) Which types of tests are most useful in employee selection?
- 12) Define selection - Explain the process of selection.
- 13) Discuss the main principles of selection.
- 14) Present the procedure for selecting the personnel.

### **3.13. Further Readings**

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## **Lesson 4**

# **HUMAN RESOURCE DEVELOPMENT**

### **Objectives**

After reading this lesson, you should be able to:

- To discuss the Concept of HRD
- To Study the Aims and objectives of HRD
- To Understand the Need and Nature of HRD
- To Discuss the HRD as a total system

### **Structure**

- 4.0 Introduction
- 4.1 Meaning
- 4.2 Evolution
- 4.3 Concept of HRD
- 4.4 Aims
- 4.5 The objectives of HRD
- 4.6 Nature of HRD
- 4.7 Need of HRD
- 4.8 HRD as a total system
- 4.9 Value-Anchored HRD Processes
  - 4.9.1 The Individual Employee
  - 4.9.2 The Role
  - 4.9.3 The Dyad
  - 4.9.4 Teams
  - 4.9.5 Inter-teams
  - 4.9.6 The Organisation
- 4.10 HRD System and Sub-Systems
- 4.11 Summary
- 4.12 Key words
- 4.13 Self Assessment Questions
- 4.14 Suggested Readings

### **4.0 Introduction**

The effective performance of an organization depends not just on the available resources, but its quality and competence as required by the organization from time to time. The difference between two nations largely depends on the level of quality of human resources. Similarly, the difference in the level of performance of two organizations also depends on the utilization value of human resources. Moreover, the efficiency of production process and various areas of management depend to a greater extent on the level of human resources development. HRD assumes significance in view of the fast changing organizational environments and need of the organization to adopt new techniques in order to respond to the environmental changes.

Human Resource Development (HRD) is that part of Human Resource Management which specifically deals with the training and development of employees. It helps the employees in developing their knowledge, skills and abilities to achieve self-fulfillment and aid in the accomplishment of organizational goals.

HRD can be defined as organized learning activities arranged within an organization in order to improve performance and/or personal growth for the purpose of improving the job, the individual, and/or the organization.

HRD includes the areas of employee training, career development, performance management, coaching, mentoring, key employee identification, talent development and organization development. Developing a highly productive and superior workforce is the aim of HRD activities.

The role of human beings in an organization's success is deeply recognized. Many formal and informal methods are used for developing the employees. HRD strives for the improvement of not just the individual workers, but for the growth of the group and organization as a whole.

#### **4.1 Meaning**

HRD is the process of helping people to acquire competencies. In an organizational context HRD "is a process which helps employees of an organization in a continuous and planned way

- i.** Acquire or sharpen capabilities required to perform various functions associated with their present or expected future roles.
- ii.** Develop their general capabilities as individuals and discover and exploit their inner potential for their own and/or expected future roles.
- iii.** Develop an organizational culture in which supervisor-subordinate relationships, team work, and collaboration among sub-units are strong and contribute to the professional wellbeing, motivation, and pride of employees.
- iv.** HRD process is facilitated by mechanisms like performance appraisal, training, organizational development (OD), feedback and counseling, career development, potential development, job rotation and rewards.
- v.** Employees are continuously helped to acquire new competencies through a process of performance planning, feedback, training, periodic review of performance, assessment of the development needs, and creation of development.

#### **Definition**

HRD is defined as activities and process undertaken by an organisation to formulate the intellectual, moral, psychological, cultural, social and economic development of the individuals in an organisation, in order to help them to achieve the highest human potential as a resource for the community. It means to bring about a total all-round development of the working human, so that they can contribute their best to the organisation, community, society and the nation.

HRD does not cover only a set of mechanisms or techniques but it is a process by which employees acquire or sharpen capabilities to perform the various functions, develop their general capabilities as individuals and exploit their own inner potentials, develop team work and collaboration. HRD concept is much wider and embraces almost all areas of an organisation.

In the context of banking, HRD means not only the acquisition of knowledge and skills but also acquiring capabilities to anticipate and manage both internal and external environment and obtaining, self- confidence and motivation for public service. Further, HRD

is not a piecemeal or a one-time exercise, it is a continuous process requiring to keep pace with the changes and developments, taking place.

#### **4.2 Evolution**

The process of development had been different from time to time. Earlier it used to be the responsibility of the individual to develop himself on his own or under the guidance of a GURU. Training by ACHARYA had been the instrument in past which made successful kings, warriors, courtiers, engineers and architects.

Industrial revolution gave a new dimension to the concept of Human Resource Development. The skilled artisans were developed through “learning while doing” or “on the job training” methodology. The process started increasing skill and knowledge of the worker and supervisors.

In west, the concept was first evolved by Robert Owen who emphasized human needs of workers in 1803. He taught the work place cleanliness and improvement methods. Andrew Ore emphasized the need of welfare activities to improve the worker efficiency.

FW Taylor, a pioneer of scientific management, stressed the incorporation of scientific standards in management. Elton Mayo emphasized the human values. Likert also stated that better utilization of human resources is also possible by treating them as human. HRD began to focus intensive supervisory training in human relations.

Malcom Knowles and Leonar Nadler have also contributed in developing this concept. Knowles emphasized human approach oriented learning instead of content centered and experimental instead of exclusively didactic learning. Nadler’s writing made distinction between Human resources management and Human Resource Development.

Pareek and Rao stressed up the integrated approach to this process of HRD by giving due weightage to performance appraisal, training of individual and organizational development, feedback, counseling, career planning, potential development, reward etc.

#### **4.3 Concept of HRD**

HRD is mainly concerned with developing the skills, knowledge and competencies of people and it is people-oriented concept. When we call it a people-oriented concept, the question arises, whether people will be developed in the larger or national context or in the smaller organisational context? Is it different at the macro and micro level? HRD can be applied both for the national level and organisational level.

The concept of HRD is not yet well conceived by various authors though they have defined the term from their approach as it is of recent origin and still is in the conceptualizing stage. It is an understanding of the term i.e., new or rather was new. HRD is not Training and Development

The concept of HRD was formally introduced by Leonard Nadler in 1969 in a conference organised by the American Society for Training and Development. Leonard Nadler defines HRD as “those learning experiences which are organized for a specific time and designed to bring about the possibility of behavioural change.”

Among the Indian authors, T. Ventateswara Rao worked extensively on HRD. He defines HRD in the organizational context as a process by which the employees of an organisation are helped in a continuous, planned way to-

- (i) Acquire or sharpen capabilities required to perform various functions associated with their present or expected future roles;
- (ii) Develop their general capabilities as individuals and discover and exploit their own inner potentials for their own and/or organisational development purposes;
- (iii) Develop an organisational culture in which superior-subordinate relationship, team work and collaboration among sub-units are strong and contribute to the professional well-being, motivation and pride of employees.

According to Pulapa Subba Rao, HRD from the organisational point of view is a process in which the employees of an organisation are helped/motivated to acquire and develop technical, managerial and behavioural knowledge, skills and abilities and mould the values, beliefs and attitudes necessary to perform present and future roles by realising the highest human potential with a view to contribute positively to the organizational, group, individual and social goals.

Technical skills and knowledge are provided through training, managerial skills and knowledge are provided through management development and behavioral skills and knowledge are provided through organisation development.

A comparative analysis of these definitions shows that the third definition seems to be comprehensive and elaborate as it deals with the developmental aspects of all the components of human resources. Further, it deals with all types of skills, the present and future organizational needs and aspects of contribution not only to organizational but also other goals.

The analysis of the third definition further shows that there are three aspects, viz.- employees of an organization are helped/motivated; acquire, develop and mould various aspects of human resources and contribute to the organizational, group, individual and social goals. The first aspect deals with helping and motivating factors for HRD.

These factors may be called 'Enabling Factors' which include: organization structure, organizational climate, HRD climate, HRD knowledge and skills of managers, human resources planning, recruitment and selection. The second aspect deals with the techniques or methods which are the means to acquire develop and mould the various human resources.

These techniques include- Performance appraisal, Potential appraisal, Career planning and Development, Training, Management development, Organizational development, Social and Cultural programmes, and workers' participation in management and quality circles. The third category includes the outcomes' contribution of the HRD process to the goals of the organization, group, individuals and the society.

#### **4.4 Aims**

The major aims of HRD may be stated as:

- i. Improve performance of individual on present job
- ii. Improve competence of individual to perform future jobs
- iii. Improve group dynamism and effectiveness
- iv. Improve individual's attitude

- v. Integrate goal of individual with the goal of the organization
- vi. Optimize the available human resource in an organization
- vii. Encourage creativity
- viii. Provide opportunities and facilities to individual for full expression of their talent potential
- ix. Improve interpersonal relationship and work culture
- x. Bring industrial harmony
- xi. Increase productivity.

#### **4.5 The objectives of HRD are:**

- i. To prepare the employee to meet the present and changing future job requirements.
- ii. To prevent employee obsolescence.
- iii. To develop creative abilities and talents.
- iv. To prepare employees for higher level jobs.
- v. To impart new entrants with basic HRD skills and knowledge.
- vi. To develop the potentialities of people for the next level job.
- vii. To aid total quality management.
- viii. To promote individual and collective morale, a sense of responsibility, co-operative attitudes and good relationships.
- ix. To broaden the minds of senior managers by providing them with opportunities for an interchange of experiences within and outside.
- x. To ensure smooth and efficient working of the organisation.
- xi. To provide comprehensive framework for HRD.
- xii. To enhance organisational capabilities.
- xiii. To create a climate that enables every employee to discover, develop and use his/her capabilities to a fuller extent in order to further both individual and organisational goals.

#### **4.6 Nature of HRD**

##### **1. Learning**

The essence of HRD is learning. The very purpose of HRD is to make the employees acquire knowledge, learn newer concepts and develop their skills. The core of HRD is to enhance the quality of workforce by creating an environment which fosters constant learning.

##### **2. Career Development**

HRD helps in the career development of individuals by matching employee characteristics with job requirements. Growth of the organization is achieved through growth and development of individual employee.

##### **3. Specific Duration**

Any particular HRD programme would have a specific duration. It could be for a short, medium or long duration.

##### **4. Improves Performance**

The performance of employees is improved as a result of HRD. The training programmes enhance the capabilities of employees and improve their productivity.

##### **5. Organizational Development**

HRD aims at not just the development of the human resources, but at the progress of the organization as a whole. Positive changes in work culture, processes and organizational structure are made.

## **6. Long-Term Benefits**

HRD is a very future oriented concept. The results of HRD can be experienced only after some time following its implementation. But it benefits the employee and the organization for a long time in the future.

## **7. Continuous Process**

HRD is a continuous process. Different HRD programmes are to be implemented in the organization according to changes in the work environment. Human behaviour needs to be monitored regularly to enable them to adjust themselves according to environment dynamics.

## **8. Employee Welfare**

The organization attempts to provide all the facilities which are vital for the physical and mental well-being of the employees to facilitate HRD. Measures like canteen facilities, crèche, medical insurance, etc. are provided as part of employee welfare.

## **9. Development of Team Spirit**

HRD creates a healthy work environment which helps to build team spirit and coordination among various groups and the department. Team spirit is necessary for fostering loyalty and belongingness among employees.

### **4.7 Need of HRD**

#### **1. To Achieve Goals**

People need competencies to perform tasks. Higher degree and quality of performance of tasks requires higher level of skills. Continuous development of competencies in people is essential for an organization to achieve its goals. Competent and motivated employees are essential for organizational survival, growth and excellence.

#### **2. To Maintain a Level of Growth**

Over a period of time, an organization may achieve a saturation point in terms of its growth. Even to maintain such a saturation level of growth employee competencies need to be sharpened or developed as organizations operate in environments that keep changing requiring the employees to acquire new competencies.

#### **3. Improve Effectiveness**

Any organization interested in improving its services and its effectiveness in cost reduction, reduction in delays, increased customer satisfaction, improved quality and promptness of services, market image needs to develop the competencies of its employees to perform the tasks needed to bring about such improvements.

### **Prerequisites**

Reorganising the training systems, introducing appraisal system in phases on the next stages is the process of HRD introduction. HRD is an integral part of every manager's responsibility and need not be looked upon merely as the responsibility of the personnel department. The top management, personnel department and the branch manager have their respective roles in promoting HRD in banks.

The role of top management in HRD is in the following areas:

- (i) Developing corporate policy
- (ii) Developing management leadership style
- (iii) Action planning



- (iv) Appointment of competent persons for HRD functions
- (v) Examine appraisal systems
- (vi) Starting organisational development exercises
- (vii) Developing training policy
- (viii) Developing HRD climate
- (ix) Developing HRD personnel
- (x) Exercising patience with HRD

#### **4.8 HRD as a total system**

Increasingly, more importance is being given to “people” in organization’s. This is mainly because organizations are realizing that human assets are the most important of all assets or resources. This emphasis can also be partly attributed to the new emerging values of humanism and humanization. Moreover, with the increased emphasis on creativity, and autonomy, which people are increasingly acquiring and enjoying in the society, the expectations of people are fast changing. People cannot be taken for granted any more. In the past, people working in organizations were given attention merely in administering the necessary conditions of work. The traditional concept of personnel management was based on a very narrow view of human motivation. The basic assumption underlying that view was that human beings are primarily motivated by comforts and salary, and necessary attention may be given to rationalise these, so that people do not get dissatisfied. Most of the attention, therefore, was on administration of salary and other benefits. It is now being increasingly realized that people working in organizations are human beings. They have their own needs, motivation and expectations, and that their contribution to the organization is much more than that of any other resource being used. The concept of Human Resource assumes that human beings are a great asset to an organization. They are not merely necessary evils to be reckoned with; in fact they can contribute a great deal to the achievement of organizational goals. This positive view of people working in the organizations as an asset with unlimited potential is the core of the concept of the human resource system. Human Resource Development (HRD) is a recent new systematic approach to proactively deal with issues related to individual employees, teams and the total organization. The decade of the 1980s saw in India the culmination of HRD efforts, started in the 1970s, both in terms of innovative practices by a large number of organizations, leading to the emergence of the National HRD Network, and publications of conceptual and experience-based materials.

#### **4.9 Value-Anchored HRD Processes**

The main characteristics of HRD work in India, both in terms of the concepts and practices, is based on value-anchored processes and systems.

The concept of human resources in HRD is not value-free. Broadly speaking, there are three meanings attached to the concept of HRD. In the first place, persons working in organization’s are regarded as a valuable resource, implying that there is a need to invest time and effort in their development. Second, they are human resources, which means that they have their own special characteristics and, therefore, cannot be treated like material resources. The approach focuses on the need to humanize organizational life and introduce human values in the organization. Third, human resource development does not merely focus on employees as individuals, but also on other social units and processes in the organization.

These include the role or the job a person has in the organization, the dyadic unit (consisting of the person and his supervisor), the various teams in which people work, inter-team processes, and the total organization. Therefore, six distinguishable human units are

included in human resources, namely, persons, jobs or roles, dyads, teams, inter-teams and the organization. The emerging developmental processes of the six “human units” are briefly discussed below.

#### **4.10. HRD System and Sub System**

##### **4.10.1 The Individual Employee**

The individual employee is the key unit in an organization. HRD is primarily concerned with the development of persons working in the organisation, so that they may be able to have their own fulfillment and contribute to the goals of the organization. There are three important processes relevant to the development of persons or individuals in organization's.

##### **a) Self-Management**

The person working in an organization should develop competencies to manage his/her work effectively. This would involve learning to set realistic goals: the goals must be achievable yet challenging. The individual should also learn to analyse the performance process in terms of the factors responsible for the success or failure in achieving the performance results. Some of these factors are related to the employee (self), while others may be concerned with external conditions (extraneous to self). Self-management would also involve using information and competency to improve one's performance in future. An appropriate performance management system in the organisation can play a supportive a role. In fact, many organizations design their performance management system with this approach.

##### **b) Competence Building**

The main contribution of HRD to the individual development is in terms of building competencies required for better performance on the job. The individual employee comes with his/her educational background and personal strengths and weaknesses. While working in the organization, he/ she learns new skills that help him/her to work effectively to achieve organisational goals.

##### **c) Advancement**

Every employee wants to advance his/her career in the organisation. HRD should help in the process of such advancement.

Advancement of employees involves a two-pronged approach:

- (i) identifying their potential for use in higher responsibilities in the organization, and
- (ii) helping them to develop further potential to take up new challenges progressively.

##### **4.10.2 The Role**

Although individual employees perform various complex roles in the organisation, it is necessary to pay attention to these roles independently. Role is neither synonymous with the job nor is it synonymous with status or position in the organisation. Role is the position a person occupies, as defined by expectations from different. Significant persons who have direct interactive relationship with the role occupant. There are three main aspects of the development processes of roles.

##### **a) Optimum Stress**

Each role must have enough stressors which may help the role occupant to stretch himself/herself to meet the challenge. In the role where the scope is limited to routine work,

the role occupants do not perceive any challenge. Such a situation is not likely to motivate the role occupants to do their best. They will feel under-worked.

While every role has some routine elements, challenge can also be incorporated into every role. However, the challenge should not exceed an optimal limit, otherwise it may produce dysfunctional stress, resulting in poor performance or damage to the health of the employees in the long run. Metaphorically, building optimum stress in the role is like setting the strings of a musical instrument at a level where they are stretched enough to produce music, but not too much to break.

#### **b) Linkages**

While roles in organisations are occupied by individual employees, it is necessary to build linkages amongst the roles, as well as linkages of different roles with challenging goals. If the roles get isolated and produce a feeling in the role occupants that their work is very narrow and not of much use to wider groups, it might have damaging effects on the individuals, as well as on the organisation.

#### **c) Autonomy**

If individuals who occupy various roles feel that they have enough scope to take initiatives or solve problems or do creative work, the role occupants and the organisation benefit a great deal. HRD must attempt to develop a sense of autonomy of this kind in every role, even at the lowest level in the organization.

### **4.10.3 The Dyad**

The dyadic unit, defined in terms of an employee and his supervisor, is the basic building block in an organisational structure. The stronger the dyads are, the stronger the organization will be. The focus of development of dyads in an organization would involve developing the following three processes.

#### **a) Trust:**

Effective work cannot be done in an organization unless a trusting relationship is established between the employee and his immediate superior. Trust does not develop easily; enormous effort is required to develop such a relationship.

#### **b) Mutuality:**

Effective dyads will require free exchange of help between the employee and the supervisor. A helping relationship is not a one-way process. The supervisor should take help from his employees, as much as he would give he help needed by them. Mutually in relationships will also involve support to each other.

#### **c) Communication:**

Developing effective dyads will also involve improving communication between the members (the employee and the supervisor). Both should be able to give and take feedback. More importantly, the employee should improve his ability to receive feedback. Similarly, the supervisor should improve his competence to coach the employee.

### **4.10.4. Teams**

Effective teams are quite important for the performance and adaptive strength of the organisation. As far as team development is concerned, there are two primary areas on which HRD efforts must focus:

a) Cohesion: The team should be cohesive. Well-knit teams produce synergy and are able to utilise individual competencies and stimulate innovations.

b) Resource Utilisation: Effective teams maximise the use of resources available amongst members of the team. This would satisfy the members, because each member will contribute whatever resources he has, and help the team to produce effective results. Poor teams rely on and use the resource of only a few members, resulting in limited opportunities for other members.

#### **4.10.5 . Inter-teams**

The main emphasis of inter-teams is to develop cooperation amongst various groups in the organisation (for example, departments, divisions, functions) so that they are able to work effectively towards the common objectives. The main focus of HRD activity for such cooperation is to develop a corporate identity. When the teams are strong, but work to achieve their own narrow goals, there is a possibility of unhealthy inter-team competition, leading to a weak organisation. While teams should work on their own goals, their linkages with other teams, as well as the organisation should be achieved through various measures.

#### **4.10.6. The Organisation**

As far as the organisation is concerned, the following three processes deserve attention of HRD:

##### **a) Growth**

Every organisation looks forward to growing. The growth of an organization would involve increase in its size, activities and operations. Even when an organization is not growing in size, it may be concerned with augmentation of service quality or maintaining a leadership position in its field of operations.

##### **b) Impact**

Each organisation would like to have some impact on outside organisations or customers. Impact may be in terms of developing new markets, developing services or products, introducing new technology that others can follow, and so on.

##### **c) Self Renewal**

The organisation must examine its working from time-to-time, and take steps to update its technology. It should also analyse the present and potential problems imminent in its growth, and take proactive steps to prepare itself to meet these challenges. Self-renewal competency is necessary for organisational effectiveness and survival.

#### **The Individual**

In other words, the scope of HRD is to develop i.e., to increase effectiveness and potential of these human units (the individual, employees, roles, teams, inter-teams, and the organisations). Relevant HRD processes, as briefly mentioned above, help in enhancing effectiveness of these human units. However, it is necessary to have a formal and systematic way of achieving this. Such formal way of developing human resources (various human units) is the HRD system. HRD system can be broken down into sub-systems. An integrated combination of all these sub-systems is the HRD system. We describe below the main HRD Sub-systems.

Over the years several HRD practices have emerged in India. There is no unified way to classify HRD activities and efforts. A classification system is suggested here, based on

both the new emerging trends in the HRD work in India, and a conceptual understanding of the main foci of HRD activities. It should be concerned with developing systems of making individuals (and the roles), and the organization (and the teams) more effective. The systems that are primarily concerned with individual employees (and their roles) relate to their appraisal, their advancement, and their training; and the systems concerned with the development of the organization (and its teams) relate to its design, management of culture, and renewal of the organization.

### **1) Performance Management System**

Performance Appraisal (PA) systems are widely used in the Indian organizations. More recently these have been renamed as Performance Management (PM) Systems. The main difference between them is their respective emphasis and spirit, PA emphasizing more the appraisal aspect, while PM's stress being on performance improvement.

In both systems performance coaching or counseling has an important place. Indian organisations have paid more attention to performance appraisal. However, in many cases in the absence of performance coaching performance appraisal or management system becomes a ritual. Larsen and Toubro, State Bank of India (SBI), and Crompton-Greaves were amongst the first companies to adopt a systematic performance coaching system (called counselling at that time).

### **2) Career System**

Career systems are concerned with the advancement of the individual employees in their careers in the organization. The first step is taken by introducing career development plans so that employees joining at an any point are helped to go through various experiences which may help them to move up in the organization. and may give them opportunities to prove themselves capable of taking up higher responsibilities. For example, ITC prepares a career development plan for each employee within the framework of the organization's business plans. The first input is a "base plan" under which each unit prepares a checklist of minimum common inputs that should be made available to each executive in the first ten years (approximately) of his growth, from induction through secondments, and specialized programmes to general development programmes and interpersonal effectiveness labs. Career planning is concerned with charting career paths for the individual employees who have spent enough time in the organization, and have proved their competence.

Succession planning is a part of this type of career planning. One of the most successful succession planning systems is in Hindustan Lever, where succession plans are prepared for all key roles several years in advance.

The third element, which has been used only in a few organisations in India, is mentoring that ensures individual attention to young potential employees (protégées) for their possible fast growth in the organization

### **3) Reinforcement System**

A very important motivating factor for people joining and continuing in an organisation is the kind of work they get, and whether they are valued in the organisation. Unless the organisation satisfies one of the basic psychological needs of being valued and appreciated, people may not like to continue there. One indicator of being valued is the recognition received by the employees for their contribution and their special strengths. Rewards perform this function. In general, individuals tend to do whatever is rewarded in a

system. Rewards can reinforce (strengthen) the desired behaviours in a system. If psychophancy is rewarded, people will spend their energy in pleasing individuals in power. If performance is rewarded, people will attempt to have high performance. Rewards can reinforce the values and other norms in an organization. Reward system is a powerful tool, but is complex and needs to be used with care and adequate planning.

#### **4) Development System**

One important function of the organization is to develop individuals, roles and teams. The training system is probably the oldest and most well known element of HRD, used for development, and does not require much discussion.

Although training has been used for development of employees for a long time in all organizations, it is being very inadequately treated in most organisations. Identification of training needs, preparation of a training strategy, development of training methods (pedagogy), curriculum designing (to meet specific needs), evaluation and follow-up, and post-training work need systematic attention for human resource development. Although large budgets are spent on training, training is not taken seriously. Training can be an effective instrument of change. Details of training as a part of HRD, with emphasis on strategy and systems, and with examples from some organisations in the Asian countries, can be found in Lynton and Pareek (2000).

#### **5) Culture System**

Cultural System has remained the most neglected part of HRD, but has attracted some attention in the last few years. Interest in culture has been aroused by the examples of Japanese successes. Some organisations in India have adopted Japanese practices, notable among them being Maruti Udyog and Sundaram Clayton. Maruti Udyog adopted some practices because of the positive pressure of Suzuki. These practices are a 7 hours 45 minutes shift, zero-defect production, cost cutting, and discipline. This helped in the development of a new organisational culture.

Organisational culture can be defined as cumulative ways of thinking and behaving which the values, attitudes, rituals, and sanctions in an organisation shape. Operationally, development of culture would involve developing a strong corporate identity, development of important values, building healthy traditions and developing consistent management practices. Cultural systems are concerned with development of appropriate organizational culture. Creating conducive organizational climate. Improving communication and evolving effective reward systems. It is to be noted that whatever is rewarded in an organization gets reinforced. Therefore, a reward system (including incentives) both for individuals and teams deserves careful attention. Rewards can facilitate and promote good work but if not designed properly, can do a great deal of harm to the organization. Systematic attention has been given to the reward systems in the construction group of L&T, where a need-based system was evolved.

Organizational climate is another concept close to culture that has received attention in recent years. Different approaches have been adopted to create a climate conducive to work. An instrument for assessing appropriate HRD climate has been developed and used in many organisations and some instruments to measure ethos and, atmosphere are available.

Development of appropriate culture has attracted a great deal of academic attention in the past few years. Some companies have paid deliberate attention to developing an appropriate culture (viz. C-Dot, Modi Xerox, Sundaram Clayton, Eicher). Some have made

attempts to improve their cultures viz. Procter and Gamble, Ballarpur Industries Ltd., Indian Farmers' Fertiliser Cooperative (IFFCO). Development of culture takes a long time and involves complex processes. The following aspects deserve attention in this regard.

a) **Strong Corporate Identity:** The sense of identity with the organisation develops when the employees have a sense of belonging, and they feel proud to belong to the organization. Identity develops as a result of interaction of the employees with the organization. The following action ideas help in developing strong corporate identity.

i) Developing an attractive booklet, giving basic information about the company. Indo-Burma Petroleum Company (IBP Co.) and several other organisations have developed good induction material.

ii) Films on success experiences in organizations, if shown on special occasions, may help build corporate identity. "Manthan" directed by Shyam Benegal for NDDB is a good example of such a film. By inviting suggestions from the key divisions of an organization, the HRD Department can prepare a list of such video films to be developed.

iii) Company newsletters giving information about business development and significant information about the employees are being published by many organizations.

iv) Mobility of people (corporate field, division-unit, inter-division) has been used among other things for the development of organizational identity.

**b) Developing Important Values:** Values related to organizational culture, such as values of excellence and human consideration do not develop through mere didactic exercises like lectures, talks, or writing, but by demonstrating these values in action by the key role holders. The following practices have helped the development of relevant values.

i) Survey feedback of values, in particular, feedback on the gap between "espoused values" and "values in action" as reflected in the management practices. Seminars can be held at different levels to deal with the data generated on these gaps.

ii) Special value-orientation programmes in developing appropriate values, in which, instead of teaching what values are good, the programme helps participants to examine the relevance and functionality of certain values and openly questions and discusses the desirable value system and the one that they see in action. Such programs on value clarification help people to internalise values by stating their own values without hesitation, by examining openly and frankly the desirability of a different value system, and also by developing specific ideas of practicing such values in the workplace.

iii) Examining the various operating systems in the organisation. As for example, a content analysis of the budgetary, MIS, appraisal, promotion, career planning and rewards system can indicate what values they reinforce. The concerned groups can then examine the data for insight and development of appropriate action plan(s).

iv) Special OD intervention in developing collaboration and concern for excellence may help in anchoring appropriate value orientation through such exercises as team building, achievement and extension motivation programmes and so on.

**d) Building Healthy Traditions and Practices:**

Traditions in an organisation are built on the basis of important rituals. Rituals or celebrations associated with the transition of people from one state to another are important avenues for identifying a culture. In Indian society for example, about 16 rituals are associated with transition from one phase of life to another. These rituals do contribute to the development of social, and family traditions. Attention should be given to the identification of functional rituals within the organisation. Some interesting practices have already been found useful in some companies.

i) Induction programme for new entrants help the employees to develop a sense of belonging. Detailed planning is needed to help them develop pride and joy in becoming a member of the company that will reinforce the sense of belonging and identification with the company. Sundaram Clayton's "acculturation workshops" for new entrants are very well designed and exemplary.

ii) Promotions need to be treated as an important event of transition of a person from one stage to another. Instead of only written communication of promotion, a face-to-face conversation with the concerned chief may be useful, before it is communicated in writing; the information of promotion is shared with the concerned employee along with its implications.

iii) Rituals associated with old age and retirement of people should also receive due attention from the HRD wing. The Malayala Manorama group has evolved some rituals associated with an employee's death and old age. For example, "senior members" (employees having completed certain years of service) are taken free on a Bharat darshan trip along with their spouses. ("senior couples").

iv) The exceptional behaviour of an employee in helping the organisation or in solving different problems and so on, must be recognized, rewarded and made visible. This may help to develop the tradition of indulging in such behavior more frequently. People find reasons to repeat a behaviour that is rewarded, and thereby, they are reinforced by the organization. A behavior repeated by one is internalized over a period of time, and these internalize materials in the collective sense from a sub-culture and eventually integrate with the culture in the organisation.

v) Celebrations of incidents significant to individual employees and the organisation are important. Some interesting experiences in some organisations have shown that these may help not only to develop a strong organisational identification and thereby contribute to culture, but may also make organisations more akin to the Indian culture in a broader sense.

Following are two such examples. Petrofils. A successful and fast expanding company in the joint sector has been using rituals involving the top management, the employees, and their families. For instance, record breaking performances are celebrated by rewarding everyone in the company, so as to symbolize the contribution of all the employees.

Transition from one productive year to the next is marked by a committee of employees selecting a gift for everyone. For example, in 1985, a new record for sales was set, when a profit of Rs.36 crores on an investment of Rs. 67 crores was made. That year everyone took home a mixer-grinder. A number of such rituals are being designed, and care is taken to ensure that they remain meaningful and do not degenerate into mechanistic rituals.



Another interesting ritual is the celebration of birthdays in the Board room for all employees, from the Chairman to the Khalasi (helper), to strengthen the feeling of the company being a family. Everyone is given a gift worth Rs.51 and the item for the year is selected by a group of about 40 employees. Steel Tubes of India (STI) has evolved a governance-system suited to the Indian culture, consisting of joint committees (representatives of management and workers, elected by the entire work force) and Jan Sabha (representing elected members, departmental councils, best workers awarded during the past seven years, employees with over 20 years service, senior managers, departmental heads and directors of the company).

**e) Communication:**

Many organisations have paid attention to communication. Over the years, some innovative and successful practices have been evolved in a number of Indian organizations. For example, in BHEL (Bhopal Unit), Management Employees Communication Meetings (MECOMs) have been effectively used. A MECOM as an open forum, in which more than 700 persons participate. It has contributed to mutual sharing of information and concerns and better understanding between management and employees. It has helped in effective implementation of decisions. Establishing this system was not easy: a great deal of OD work had to be done prior to and during the evolution of MECOM.

**6) Self-renewal System**

An organization should be concerned not only with its growth, but also with its health. It needs to diagnose its problems from time-to-time and take steps to develop new competencies to cope with the various problems and challenges it would be facing. This can be done through action research that is concerned with development of competencies through effective teams to diagnose the problems and initiate the process of collaborative work to deal with such problems. In OD, the focus is on developing process competency to increase organizational effectiveness. Organization Development (OD) aims at maintaining profiles of organizational health, monitoring organizational health, assisting sick departments, helping interested units and departments in self-renewal, conflict management, creation of strong teams and so on, and establishing processes that build a climate to promote enabling capabilities in the organization. Organization Development in the earlier years, mainly in the 1960s (and partly in the 1970s), was T-group-based. Most of the OD interventions in organizations started with deep process work beginning at the top level. OD has now widened considerably. It is no more confined to managers; OD has been attempted with workers also. Attention has also been given to organizational learning, to develop the competence of an organization to analyse its experience and learn from it. This has been discussed in Unit 13. The third aspect of self-renewal is research orientation in HRD, which means consciously and continually collecting data in order to understand the various issues, and designing on-going interventions based on such data. For example, data were collected and used effectively in L&T on the working of the appraisal system including counselling. Such data can help to improve implementation of the appraisal system. HRD related research is important; it helps in analysing data and information generated by the HRD sub-systems. HRD in L&T has already established the orientation and several other organisations are in the process of introducing such "Research-orientation". For example, data related to HRD are being systematically analysed in Eicher on a regular basis. Unit 8 deals with Self-renewal System in details. OD has generally neglected blue-collar workers and worker organizations. OD should also be concerned with management of collective power. Traditionally industrial relations have been dealt in the framework of Industrial and labour laws. Unions and associations of

employees use collective power to bargain with the organisations. Although this aspect is undergoing a lot of change, it is still very important, needing a different approach.

#### 4.11. Summary

Human Resource Development (HRD) isn't a new thing, and indeed it's not going out of trend soon. Even though its main objective keeps shifting according to scenarios, its primary function remains the same – to make Human Resources' working life better in the organization. Making the workplace more competent, HRD pushes employees to their working limits while still keeping them efficient and happy. Thus, we need to recognize the importance of HRD.

#### 4.12. Key words

**HRD-** HRD is mainly concerned with developing the skills, knowledge and competencies of people and it is people-oriented concept

**Career Development-** HRD helps in the career development of individuals by matching employee characteristics with job requirements. Growth of the organization is achieved through growth and development of individual employee.

**The Dyad-** The dyadic unit, defined in terms of an employee and his supervisor, is the basic building block in an organisational structure

**Cohesion-** The team should be cohesive. Well-knit teams produce synergy and are able to utilize individual competencies and stimulate innovations.

**Inter-teams-** The main emphasis of inter-teams is to develop cooperation amongst various groups in the organisation (for example, departments, divisions, functions) so that they are able to work effectively towards the common objectives.

**Performance Appraisal (PA)** systems are widely used in the Indian organizations. More recently these have been renamed as Performance Management (PM) Systems

#### 4.13 Self Assessment Questions

1. Briefly Explain and Discuss the Concept of HRD?
2. Examine the aims and objectives of HRD?
3. Discuss the Need of HRD?
4. Define HRD Describe the Nature of HRD?
5. Discuss how the HRD as a total System?

#### 4.14. Suggested Readings

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## Lesson- 5

# EMPLOYEE COMPENSATION SYSTEM

### Learning Objectives

- To Discuss the Objectives, Principles of Employee compensation
- To know the significance of Employee Compensation
- To Study the factors that influencing the compensation Management

### Structure

- 5.0 Introduction
- 5.1 Compensation
  - 1.1.1 Definition of Compensation
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### 5.0. Introduction

The term compensation represents the exchange between employees and organization, both gives something in return for something else. In the past, the compensation issues were often confidential and govern by individual employer's preferences and choices. However in today's competitive world the compensation policies are more transparent and the employees take their own choices based on the compensation package. Thus, balancing the cost of compensation and retaining the employees have become the most important priority for the organization (Bhattacharyya 2009).

### 5.1. Compensation

The compensation is a substitute word of wages and salaries and it has recently originated. The literature of wages and salaries' are enormous but it considers the issues from a legal viewpoint. However, wages have now become very significant as a cost factor (Bhattacharyya 2009).

Compensation is the remuneration received by an employee in returns of their contribution to the organization. The compensation management is an organized practice

which is important for balancing the work and employee relationship by providing monetary and non-monetary compensation to employees. Compensation includes all form of pay given to the employees which arise from the employment. The one of the strapping feature of the organizations is compensation management and they used it to attract and retain the most important and worthy assets. The compensation management is considered to be a complex process which requires accuracy and precision and if not carried out properly may lead to employees' dissatisfaction.

An ideal compensation policy motivates the employees to work harder and with more determination. It also helps the organizations to set the standards for job that it is related, realistic and measurable. Compensation policies should have a sound integration with practices of HRM. One of the key functions of compensation management of any company is to create a hearty competition among the employees in order to attain more efficiently and provide growth opportunities to its employees (Khan, Aslam, Lodhi, 2011).

### **5.1.1. Definition of Compensation**

According to Cascio (1995) the "Compensation includes direct cash payments and indirect payments in form of employees benefits and incentives to motivate employees to strive for higher levels of productivity".

According to Milkovitch and Newman (2005) the "Compensation is all forms of financial returns, tangible services and benefits employees receive as part of an employment relationship." The phrase "financial returns" refers to an individual's base salary, as well as short- and long-term incentives. "Tangible services and benefits" are such things as insurance, paid vacation and sick days, pension plans, and employee discounts.

### **5.2. Objectives of Compensation**

Bhatta charay (2009) had provided the following objectives of compensation or wages as given below:

#### **Equity**

The first category is equity which may take several forms. It include income distribution through narrowing of inequalities, increasing the income of lowest paid employees, protecting real wages (purchasing power), and the concept of equal pay for work of equal values. Compensation management strives for internal and external equity. Internal equity requires pay related to the worth of similar job so that similar job gets similar pay.

External equity means paying worker what other firms in the labour market pay comparable workers. Compensation differentials, based on differences in skills or contribution, are all to the concept of equity.

#### **Efficiency**

The objective of efficiency are reflected in attempts to link a part of wages to productivity or profit, group or individual performance, acquisition and application of skills, and so on. Arrangement to achieve efficiency may also be seen as being equitable (if they fairly reward performance) or inequitable (if the reward is viewed as unfair).

#### **Macro-economic Satiability**

It can be achieved through high employments level and low inflation. For instance, an inordinately high minimum wages would have an adverse impact on levels employment, tough at what level these consequences would occur is a matter of debate. Although

compensation policies influence macro-economic stability and contribute to the balanced and sustainable economic development.

### **Efficient Allocation of Labour**

The efficiency allocation of labour in the labour market implies that employees will move to wherever they receive a net gain. Such movement may be from one geographical location to another or from one job to another (within or outside an enterprise). The provision or availability of financial incentive causes such movement.

### **Motivating the Employees**

Employees may have talent but they will not be motivated to use their talent unless they know that they will be rewarded duly for their contribution towards organizational objectives or be punished for not contributing as per the demands of the job.

### **Acquired Qualified Employees**

Compensation needs to be high enough to attract applicants. Pay levels must respond to supply and demand of workers in the labour market since employers compete for workers.

### **Retain Current Employees**

Employees may quit when compensation levels are not competitive resulting in higher turnover. Therefore, one of the important objectives of Compensation Management is retaining the human capital or talent of the organization.

### **Reward Desired Behaviour**

Pay should reinforce desired behaviour and act as incentive for those behaviours to occur in future.

### **Control Cost**

A rational compensation system helps the organization obtain and retain workers at reasonable cost.

### **Comply with Legal Regulations**

A sound wage and salary system considers the legal challenges imposed by the government and ensures the employers compliance.

### **Facilitate Understanding**

The Human Resource specialists, operating managers and employees should easily understand the compensation management.

### **Further Administrative Efficiency**

Wages and salary programs should be designed to be managed efficiently, making optimal use of HRIS i.e. Human Resource Information System.

## **5.3. Principles of Compensation**

There are following seven principles of Compensation Formulation (Jain, 2014):

- i.** The organization should have a unambiguous plan to determine differential paylevels in terms of different job requirements involving varied skills, exertion, responsibility and working conditions.
- ii.** An attempt should be made to keep the common level of wages and salaries of the organization in line with that obtained in the labour market.

iii. Adequate attention should be taken to distinguish people from the jobs. Although people are paid in terms of rate embodied in specific jobs, some exceptions should be allowed in the cases of professional and executive personnel by paying them in terms of their abilities and contributions.

iv. The care should be taken irrespective of individual considerations to ensure that equal pay for equal work.

v. There should be a plan to adapt an unbiased measure for identifying individual differences in capacity and contribution in the form of rate ranges within the grade increments, wages incentive schemes and a system of job promotion.

vi. There should be proper procedure for handling the wage grievances in organization.

vii. Adequate care should be taken to inform the employees and the union, if any, about the procedure followed in determining wage rates. There were no confidential wages and the employees should have a clear understanding of their wage or salary structure. This will enhance employee satisfaction with wages.

There are certain guiding principles which provide the foundation for effective reward management.

#### **5.4. Components of Compensation**

The components of a compensation system include (hr-guide, 2014):

##### **Job Description**

The job description is the written responsibilities, functions, duties, requirements, conditions, environment, location and other facets of jobs.

##### **Job Analysis**

The process of analyzing the job is job analysis and job descriptions are also developed from it. Job analysis techniques include the use of interviews, questionnaires, and observation.

##### **Job Evaluation**

It is a process of comparing jobs for the determining adequate compensation for individual jobs or job elements.

##### **Pay Structures**

The pay structure includes the several grades and each grade containing a minimum salary, increments and grade range.

##### **Salary Surveys**

It is a collection of survey of salary and market data and also includes inflation indicators, average salaries, cost of living indicators, salary budget averages. Companies may purchase results of surveys conducted by survey vendors or may conduct their own salary surveys.

##### **Policies and Regulations**

Compensation is supposed to be as fair if it is contained the system of components to develop and maintain internal and external equity in organization.

#### **5.5. Job Evaluation**

Job evaluation is the output provided by job analysis. Job evaluation uses the information of job analysis to evaluate job and valuing its components and ascertaining

relative job worth to formulate proper wages or salary structure (Elcher & David, 1974). So it is a process through which jobs are evaluated in organization (cited in Mamoria & Ganker, 2011).

When job is evaluated then the relative worth of a given collection of duties and responsibilities to the organization is assessed. This process is adopted to help a management to maintain high level of employees' productivity and employees' satisfaction. If job valued is not properly studied, it is very likely that jobs would not be properly priced, i.e. high valued job received less pay than less valued job. When employees' relies this then they will become dissatisfied and they may leave the organization, reduce their efforts or perhaps adopt other modes of behaviour detrimental to the organization. Therefore, in modern society a great deal of attention is paid to the value of a job. In other words, a person is paid for what he brings to a job- his education, training and experience provided that these are related to the requirements of the job which he is assigned (Mamoria & Ganker, 2011).

#### **5.5.1. Definition of Job Evaluation**

International Labour Organization defines Job Evaluation as "An attempt to determine and compare the demands which the normal performance of particular jobs make on normal workers without taking into account of the individual abilities or performance of the workers concerned." (Mamoria & Ganker, 2011).

The Bureau of Labour Statistics, U.S.A. (1973), says that "Job evaluation is the evaluation or rating of jobs to determine their position in the job hierarchy. The evaluation may be achieved through the assignment of points or the use of some other systematic method for essential job requirements, such as skills experience and responsibility".

According to the French & Wendell (1977), "Job evaluation is a process of determining the relative worth of the various jobs within the organization, so that differential wages may be paid to the jobs of different worth". The relative worth of the job means value produced by such factors as responsibilities and other requirements.

#### **5.5.2. The Job Evaluation Process**

The basic procedure of job evaluation is to compare the content of jobs in relation one another and also in terms of their skills or responsibility or some other requirement. In India, the National Institute of Personnel Management has laid down the following steps which should be taken to install a job evaluation program: (Mamoria & Ganker, 2011).

##### **i. Analyze and Prepare Job Description**

This requires the preparation of a job description and also an analysis of job requirements for successful performance.

##### **ii. Select and Prepare a Job Evaluation Plan**

This means that a job must be broken down into its component parts, i.e., it should involve the selection of factors, elements needed of factors, elements needed for the performance of all jobs for which money is paid, determining their value and preparing written instructions for evaluation.

##### **iii. Classify Jobs**

It required organizing the jobs in a correct order in terms of value to the firm and relating the job in terms of money to determine their relative worth.



**iv. Install the Program** This involves explaining it to employees and putting it into operation.

**v. Maintain the Program** Jobs cannot continue without updating new jobs and job changes in obedience to changing conditions and situation.

### **5.6 Significance of employee compensation**

Compensation includes direct and indirect monetary and non-monetary rewards given to employees on the basis of the value of the job, their personal contributions, and their performance. These rewards must meet both the organization's ability to pay and any governing legal regulations.

As per law, compensation is a pecuniary remedy that is awarded to an individual who has sustained an injury in order to replace the loss caused by said injury, such as workers' compensation. Wages paid to an employee or, generally, fees, salaries, or allowances. The payment a landowner is given to make up for the injury suffered as a result of these injuries, when the government through eminent domain takes his or her land.

Compensation basically is the act or state of compensating. The most well known form of compensation is Worker's compensation, which is a type of insurance, which offers compensation for workers who have been injured in the course of employment.

### **5.7 Wage and Salary Management**

Though methods vary among jurisdictions, provision can be made for weekly payment in the form of wages, compensation for economic loss, reimbursement and payment of medical bills, general damages for pain and suffering and benefits payable to the family of the employee killed during work.

Cash benefits are recognized according to state formulas like utmost benefit level. These benefits are managed on a state level, mainly by the state department for labour. The laws of compensation are a characteristic of highly advanced industrial societies, put into practice after long and hard fought struggles made by trade unions.

Compensation has been an extremely important issue for both, the employer and employee. This is because money is a crucial incentive and directly or indirectly related with fulfilment of all human needs. Employees sell their hands and brain in order to fulfil their primary needs and employers hire them to achieve their organisational objectives. Therefore, the employer's and employee's perspectives vary on matters concerning compensation. From a cost perspective alone, effective management of compensation becomes critical because of the total operating costs. Another perspective from employer's point of view is to assess its impact on a wide range of employees' attitude, behaviours, and ultimately its effectiveness on organisation's success.

Compensation directly influences key outcomes like job satisfaction, attraction, retention, performance, skill acquisition, co-operation and flexibility etc. While employer's objective is concerned with primarily productivity the employee's emphasis may be on higher compensation to offset their increased cost of living and perhaps the price his skill will fetch in the competitive job market.

Compensation, therefore, remains one of the most strategic and important functions of human resource management. Over the years, compensation has become a complicated issue. Not only are the problems of internal equity and external parity important, but also the larger issues of the wider economy and society impinging on the problem of compensation. Therefore, students of management must develop a clear insight into the different facets of management of compensation, as also reward.

Compensation is provided with basically two objectives – as a reward for the past services to the organisation and as stimulus to increase performance in future. The progressive organisations are utilizing compensation and so that they are able to appreciate the problem in its proper perspective. rewards system as effective tools to develop, build and maintain “human capital” for competitive advantages by the following ways:

Compensation can serve to attract qualified applicants to the organisation. Other things being equal, an organisation offering a higher level of pay can attract larger number of qualified applicants than its competing units.

Compensation helps to retain competent employees in the organisation. Although retaining competent workers is contingent on many factors, compensation policies help by maintaining a fair internal pay structure and by providing attractive benefits. Turnover is thus reduced, along with costs associated with recruiting, selecting, and training replacements.

Compensation serves as an incentive to motivate employees to put forth their best efforts. Manufacturing and sales organisations, for example, use monetary incentives to attain higher levels of production or sales without hiring additional employees.

When employees put forth their best efforts, average productivity of labour increases. With increased productivity, fewer employees are needed to achieve the same level of output. Thus, labour costs are reduced and organisational profitability is increased.

### **1.8 Wage Determination Process**

The steps involve in determining wage rate are: (Mamoria & Ganker, 2011)

#### **i. The process of Job Analysis**

Results of job descriptions lead to job specification. A job analysis describes the duties, responsibilities, working conditions and inter-relationships between the jobs as it is and the other jobs with which it is associated. It attempts to record and analyze details concerning the training, skills, required efforts, qualifications, abilities, experience, and responsibilities expected of an employees. After determining the job specifications, the actual process of grading, rating or evaluating the job occurs. A job is rated in order to determine its values relative to all the other jobs in the organization which are subject to evaluation.

#### **ii. Wages Surveys**

When the worth of job is resolute by job evaluation then the definite amount to be must paid and it is determined by wage or salary surveys in the concerned area. Such survey seek to answer questions like what are other firms paying? What are they doing by way of social insurance? What is the pay level which is offered by other firms of similar occupation? etc., by gathering information about ‘benchmark jobs’, which are usually known as good indicators. Such wage surveys provide many kinds of useful information about difference in

wage level for particular kinds of occupations. This can have great influence on an organization's compensation policy.

### **iii. Relevant Organizational Problems**

In addition to the results of job analysis and wage surveys, several other variables have to be given due to consideration in establishing wage structure. For example, whether there exists a well-established and well-accepted relationship among certain jobs which can upset job evaluation, whether the organization would recruit new employees after revised wage structure; are the prevailing rates in the industry or community inconsistent with the results of job evaluation? What will be the result of paying lower or higher compensation; and what should be the relationship between the wage structure and the fringe benefit structure?

Belcher has listed 108 variables which can affect levels of compensation and the wage structure.

### **iv. Preparation of Wage Structure**

The next step is to determine the wage structure. For this several decisions need to be taken, such as:

- (a) Whether the organization wishes, or is able, to pay amount above, below, or equal to the average in the community or industry;
- (b) Whether wage ranges should provide for merit increases or whether there should be single rates;
- (c) The number and width of the 'pay grade' and the extent of overlap;
- (d) Which jobs are to be placed in each of the pay grade;
- (e) The actual money value to be assigned to various pay grade;
- (f) Differentials between pay plans; and
- (g) What to do with salaries that are out of line once these decisions have been made.

There are though no hard and fast rules for making such decisions, and procedure commonly used is the two-dimensional graph on which job evaluation points for key jobs are plotted against actual paid against actual amounts paid or against desired levels. Plotting the remaining jobs then reveals which jobs seem to be improperly paid with respect to the key jobs and each other.

## **5.9. Factor Influencing Compensation management**

According to the Jain the number of factors influences the remuneration payable to employees. They can be categorized into:

- (i) External and
- (ii) Internal factors.

### **5.9.1 External Factors**

Followings are external factors which influence compensation:

#### **i. Labour Market**

Demand and supply of labour influences the fixation of wage and salary. A lower wage fixed when the labour demands were less than the labour supply. A higher wage will have to be paid when the labour demand more than labour supply it happened as in the case of skilled labour. A paradoxical situation is prevailing in our country—excessive unemployment is being juxtaposed with shortage of skilled labour.

## **ii. Cost of Living**

Next in importance to labour market is the cost of living. This matters is criterion during periods of rising prices but it is forgotten when prices are stable or falling. When the cost of living is rise and it required to be remunerated by payment of dearness allowance, basic pay to continue uninterrupted.

## **iii. Labour Unions**

The presence or absence of labour organizations often determines the substantial wages paid to the employees. Employers of non-unionized organization enjoy the liberty to fix wages and salaries as they want. Because of larger-scale unemployment, these employers hire workers at little or even less than legal minimum wages. An individual nonunionized company may be pay more to its employees if they want to discourage them from forming one. The employees of strongly unionized companies too have no freedom in fixation of wage and salary. They are forced to vintage the pressure of labour representatives in revision and determination of pay scales.

## **iv. Union Influences on Compensation Decisions**

Unions and labour relations laws also influence compensation design. The various labour legislations and court decisions were legitimized the labour movement.

## **v. Labour Laws**

We have a various labour laws at the central and as well as at the state levels. These legislations are for protection of employees interests.

## **vi. Society**

Compensation paid to employees is imitated the prices fixed by an organization for their goods and services. The Supreme Court, from its very inception, has had to adjudicate industrial disputes—particularly disputes relating to wages and allied problems of financial concern to the worker- an ethical and social outlook liberally interpreting the spirit of the Constitution.

## **vii. The Economy**

The economy has its impact on wage and salary fixation is the state of the economy. While it is possible for some organizations to thrive in a recession, there is no question that the economy does not affect remuneration decisions.

### **5.9.2 Internal Factors**

Following are the internal factors which influence compensation:

#### **i. Business Strategy**

The overall strategy of a company which pursue the determination of employees compensation. The strategy is to sustain and protect current profit because of the declining fortunes of the company the compensation level were needs to be average or even below average.

#### **ii. Performance Appraisal**

The Performance appraisal helps to reward, compensation hike for the employees who show better performance.

#### **iii. The Employee**

Several employee-related factors interact to determine his or her remuneration. These include performance, seniority, experience, potential, and even sheer luck.

### **5.10. Criteria of Effective Compensation Program**

There were seven criteria to judge the effectiveness of compensation: Jain, 2014; Bhattacharay, 2009)

**Adequate:** Minimal governmental, union, and managerial levels should be met.

**Equitable:** Each person should be paid fairly, in line with his or her effort, abilities and training.

**Balanced:** Pay, benefits and other rewards should provide a reasonable in total reward package.

**Cost Effective:** Pay should not be excessive, considering what the organization can afford to pay.

**Secure:** Pay should be enough to help an employee feel secure and aid him or her in satisfying basic needs.

**Acceptable to the Employee:** The employee should understand the pay system and feel it is a reasonable system for the enterprise and himself or herself.

**Incentive providing:** Pay should motivate effective and productive work.

### **5.11. Types of Compensation**

Compensation is of two types Direct Compensation and Indirect Compensation.

#### **5.11.1. Direct Compensation**

Direct compensation refers to monetary compensation provided to employees in returns of their services to the organization. It includes, TA, DA, HRA, LTA, special allowances, bonus, etc. They are given at a regular interval at a definite time (naukrihub, 2014).

##### **i. House Rent Allowance (HRA)**

Company either provides housings facility or they provide house rent allowances to its employees.

##### **ii. Dearness allowance**

The payment of dearness allowance facilitates employees and workers to face the price increase or inflation of prices of goods and services consumed by him.

##### **iii. Leave Travel Allowance (LTA)**

The employees are given allowances to visit any place they wish with their families.

##### **iv. City Compensation Allowance**

City compensation allowance is paid to the employees in certain cities to compensate the cost of living. It varies from city to city & it is highest in metropolitan cities.

##### **v. Incentives**

Incentives and variable compensation can be among the most important drivers of individual performance. An incentive is something that motivates an individual for goodperform.

##### **vi. Bonus**

Bonus is paid to the employees during festive seasons to motivate them and provide them the social security.

##### **vii. Special Allowance**

Special allowance such as overtime, mobile allowances, meals, commissions, travel expenses, reduced interest loans; insurance, club memberships, etc are provided to employees

to provide them social security and motivate them which improve the organizational productivity.

### **5.11.2 Indirect Compensation**

Indirect compensation are refers to non-monetary compensation provided to employees in return of their services to the organization (naukrihub, 2014).

#### **i. Leave Policy**

It is the right of employee to get adequate number of leave while working with the organization. The organizations also provide for paid leaves such as, casual leaves, medical leaves (sick leave), maternity leaves and statutory pay, etc.

#### **ii. Overtime Policy**

Employees were provided with the adequate allowances and facilities during their overtime.

#### **iii. Medical Benefits**

The employees were provided allowances to get their regular check-ups and also provide medical-claim for their family.

#### **iv. Insurance**

Organizations also provide for accidental insurance and life insurance for employees. This gives them the emotional security and they feel themselves valued in the organization.

#### **v. Leave Travel Allowances**

The employees are provided with leaves and travel allowances to go for holiday with their families.

#### **vi. Retirement Benefits**

Organizations provide for pension plans and other benefits for their employees which benefits them after they retire from the organization at the prescribed age.

#### **vii. Holiday Homes**

Organizations provide for holiday homes and guest house for their employees at different locations. These holiday homes are usually located in hill station and other most wanted holiday spots.

#### **viii. Flexible Timings**

Organizations provide for flexible timings to the employees who cannot come to work during normal shifts due to their personal problems and valid reasons.

### **5.12 Summary**

Compensation is the process of providing equitable and fair remuneration to the employees. Compensation Management includes 1)Job evaluation, 2)Wage and Salary Administration 3)Incentives 4) Bonus 5) Fringe benefits and 6)Social security measures, etc. One of the most important factors in Personnel/ Human resource Management is Compensation Management. The soundness of compensation management depends up on the amount of wage and salary paid to the employee for a fair days work. Formulation and administration of sound compensation policy to attract and retain personnel in right position is the prime responsibility of my organization (right person for right job with fair remuneration).The main objective of compensation management is to bring cost-effective structure which attract, motivate and retain competent employees. Compensation System is classified into two types, Direct Compensation and Indirect Compensation.

### **5.13 Key words**

**Compensation-** Compensation includes direct cash payments and indirect payments in form of employees benefits and incentives to motivate employees to strive for higher levels of productivity”.

**Job Evaluation-** Job Evaluation as “An attempt to determine and compare the demands which the normal performance of particular jobs make on normal workers without taking into account of the individual abilities or performance of the workers concerned

**Job Description-**The job description is the written responsibilities, functions, duties, requirements, conditions, environment, location and other facets of jobs.

**Job Analysis-**The process of analyzing the job is job analysis and job descriptions are also developed from it. Job analysis techniques include the use of interviews, questionnaires, and observation.

**Wages Surveys-** When the worth of job is resolute by job evaluation then the definite amount to be must paid and it is determined by wage or salary surveys in the concerned area

#### **5.14 Self Assessment Questions**

- 1) Define compensation and discuss its importance.
- 2) What is meant by compensation System ? Explain its objectives?.
- 3) Briefly describe factors that influencing the Compensation Management?
- 4) Explain the Types of Compensation?

#### **5.15 Suggested Readings**

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## Lesson-6

### LABOUR LEGISLATION & FACTORIES ACT, 1948

#### Objectives

After studying this unit, you will be able to:

- Discuss factors influencing labour legislation
- Explain establishment of ILO
- Describe nature of labour legislations
- State the principles of modern legislation
- Explain objectives of labour legislations
- Discuss agencies for the welfare work
- Explain classification of labour legislation
- Describe labour welfare officer
- Analyse statutory and non-statutory welfare measures

#### Structure

- 6.1 Introduction
- 6.2 Introduction to Labour Welfare
- 6.3 Factors Influencing Labour Legislations
- 6.4 Establishment of ILO
- 6.5 Nature of Labour Legislations
- 6.6 Principles of Modern Labour Legislation
  - 6.6.1 Principle of Protection
  - 6.6.2 Principle of Social Justice
  - 6.6.3 Principle of Regulation Notes
  - 6.6.4 Principle of Welfare
  - 6.6.5 Principle of Social Security
  - 6.6.6 Principle of Economic Development
- 6.7 Objectives of the Labour Legislations
- 6.8 Agencies for Welfare Work
- 6.9 Classification of Labour Legislations
- 6.10 Objectives of ILO
- 6.11 International Labour Standards
- 6.12 Labour Welfare Officers
  - 6.12.1 Qualifications of Welfare Officer
  - 6.12.2 Role and Responsibilities of Welfare Officer
  - 6.12.3 Functions and Duties of Labour Welfare Officer
- 6.13 Statutory Welfare Schemes
- 6.14 Non-statutory Welfare Facilities Notes
- 6.15 Summary
- 6.16 Keywords
- 6.17 Self Assessment
- 6.18 Review Questions

#### 6.1 Introduction

As we all know that Welfare includes anything that is done for the comfort and improvement of employees and is provided over and above the wages. Welfare helps in keeping the morale and motivation of the employees high so as to retain the employees for



longer duration. The welfare measures need not be in monetary terms only but in any kind/forms.

The need for the labour laws and the labour welfare organizations arose because of the industrial revolution. The industrial society brought the excessive exploitation of the working classes by the employers who took the advantage of the individual dispensability of the workers and wanted maximum profit on their investments. Hire and fire rule was prevalent and the general law of contract used to contract the relation between the worker and the employer, its terms were verbal.

Employee welfare includes monitoring of working conditions, creation of industrial harmony through infrastructure for health, industrial relations and insurance against disease, accident and unemployment for the workers and their families. Labor welfare entails all those activities of employer, which are directed towards providing the employees with certain facilities and services in addition to wages or salaries.

## **6.2 Introduction to Labour Welfare**

Labour sector addresses multi-dimensional socio-economic aspects affecting labour welfare, productivity, living standards of labour force and social security. A participatory planning process is an essential pre-condition for ensuring equity as well as accelerating the rate of growth of economy. To raise Living standards of the work force and achieve higher productivity; skill upgradation through suitable training is of utmost importance. Manpower development to provide adequate labour force of appropriate skills and quality to different sectors is essential for rapid socioeconomic development. In order to address the concerns of equity in a sustainable manner it is necessary to ensure significant improvements in the quality of labour, productivity, skill development and working conditions, and to provide welfare and social security measures particularly, to those in the unorganized sector. Employment generation in all the productive sectors is one of the basic objectives. In this context, efforts are being made for providing the environment for self-employment both in urban and rural areas. During the Ninth Plan period, elimination of undesirable practices such as child labour, bonded labour, and aspects such as ensuring workers' safety and social security, looking after labour welfare and providing of the necessary support measures for sorting out problems relating to employment of both men and women workers in different sectors has received priority attention.

The improvement of labour welfare and increasing productivity with reasonable level of social security is one of the prime objectives concerning social and economic policy of the Government.

The resources have been directed through the Plan programmes towards skill formation and development, monitoring of working conditions, creation of industrial harmony through infrastructure for health, industrial relations and insurance against disease, accident and unemployment for the workers and then families. The situation of surplus labour and workers in the unorganised segment of the economy give rise to unhealthy social practices such as bonded labour, child labour and adverse working conditions. In the year 1999, Workmen Compensation Act has been revised to benefit the workers and their families in the case of death/disability. The labour laws enforcement machinery in the States and at the Centre are working to amend the laws which require changes, revise rules, regulations orders and notifications.

### 6.3 Factors Influencing Labour Legislations

There are a number of factors that had direct or indirect influence on the labour legislations. They are:

1. **Early Exploitative Industrial Society:** The early phase of industrialization was an era of unbridled individualism, freedom of contract and the laissez-faire, and was characterized by excessive hours of work, employment of young children under very unhygienic and unhealthy conditions, payment of low-wages and other excesses. The conditions of life and labour in the early periods of industrialization in India were extremely rigorous – hours of work were excessive, and the industrial labour drawn from the rural areas was severely exploited.

The early factory and labour legislation in India resulted from the need for protecting the interests of the foreign industrialists and investors. In the tea plantations of Assam and Bengal, where life and work became extremely intolerable, workers started deserting their place of work for their village homes.

The earliest labour legislation, the Tea District Emigrant Labour Act, 1832 and Workmen's Breach of Contract Act, 1859 were designed more for the purpose of ensuring a steady supply of labour to the tea gardens in Assam than for protecting the interests of the laborers. The latter Act made the desertion of the tea gardens by the laborers, a criminal offence. This was despite that fact that the conditions of life and work in the tea gardens were extremely difficult and strenuous.

The first Factory Act of 1881 resulted from the complaints of the Lancashire textile magnates, against competition by the cotton textiles produced in the Indian mills because the labour employed by them was extremely cheap. The main idea behind this legislation was to increase the cost of production of Indian textiles by reducing the hours of work and improving other working conditions, but they were incidental to the main purpose of the protection of the interests of the Lancashire industrialists.

2. **Early Administrators and the Civil Servants in India were drawn from England:** They brought with them the pragmatism of the British society and were steeped in the English tradition. So, the pattern of Indian labour legislation has closely followed that of England with a big time lag. The cotton textile industry was the first to come under the purview of the Factories Acts in both the countries, though their scope at the early stages was very restricted. Other pieces of labour legislations enacted during the period such as the various amendments to the Factories Act, the Workmen's Compensation Act, 1923, the Indian Mines Act, 1923, the Indian Trade Unions Act, 1926, the Payment of Wages Act, 1936, the Employment of Children Act, 1938, among others, have followed the British pattern. Naturally, such excesses could not have continued for long without protest and without demand for reforms.

3. **Growth of Trade Unionism:** The Trade Union movement which springs from industrial revolution has been another factor that quickened the growth of labour legislations. On the one hand, their demands for protection of the interests of the working class led to legislations in the field of wages, hours of work, women's compensation, social security and other areas; on the other hand, their growth necessitated legislations for the regulation of industrial disputes, their prevention and settlement and trade union rights and privileges. Trade unions have been as much conditioned by labour legislations as they have conditioned them.

**4. Political Freedom End of Colonial Rule and Extension of Adult Franchise:** Gradual extension and adoption of universal adult suffrage placed in the hands of the working class, a powerful instrument to influence the cause of state policy. Their representatives started espousing the cause of labour and getting progressive legislations passed. The workers used their political powers for betterment and amelioration of their lots.

**5. Rise of Socialist and Other Revolutionary Ideas:** The exploitation of labour was inherent in the capitalist economic system, so, the revolutionists advocated overthrowing the capitalist system. The echo of the slogan, "the workers of the world unite, you have nothing to lose but your chains", reverberating throughout the capitalist world, sent a shudder among the conservative and capitalist circles to protective labour legislations came as safe alternatives. They readily grasped labour legislations as antidote to the spread of revolutionary ideas. The Fabian Society of England, the establishment of socialist and communist parties in many countries and first and second internationals strengthened the trend for progressive labour legislations.

#### **6.4 Establishment of ILO**

ILO, through Conventions and Recommendations, has undertaken the task of creating international minimum standards of labour which constitute the International Labour Code. They cover issues related to wages, hours of work, annual holidays with pay, minimum age of employment, medical examination, maternity protection, industrial health, safety and welfare, social security, freedom of association, right to organize and bargain collectively, employment conditions of seamen and employment.

The ILO standards have influenced Indian Labour Legislations to a great extent. ILO standards have formed the sheet-anchor of Indian Labour Legislations, especially after 1946 when Indian National Government assumed office. The Directive Principles of State Policy in Articles 39, 41, 42, 43 and 43A of the constitution, lay down policy objectives in the field of labour having close resemblance and influence to the ILO Constitution and the Philadelphia Charter of 1944. Thus, the ILO both directly and indirectly has had a great influence on the Indian Labour Scene and Labour Legislation.

#### **6.5 Nature of Labour Legislations**

1. The labour legislations are the products of Industrial Revolution and they have come into being to take care of the aberrations created by it. They are different from common legislations, because they come to alleviate special disorders created by specific circumstances. Therefore, they are specific and not general in orientation, philosophy, and concept.
2. Labour legislation regards individuals as workers, whereas the general legislation regards him a citizen. The principles governing labour legislations are more influenced by the postulates of social justice than general justice. Workers are the weaker class of industrial society and have suffered long at the hands of employers. Therefore, these sets of legislations go out of the way in protecting workers and securing justice to them. The influences of 'discriminative justice' and 'distributive justice' can be clearly seen over them. All the labour legislations are heavily skewed towards labour and they are specifically designed like that.
3. Labour legislation seeks to deal with problems arising out of occupational status of the individual. Consequently, such problems as hours of work, wages, working conditions, trade unions, industrial disputes etc. come to be the main subject matter of labour legislations. Thus, the behaviour of the individual or his groups is the function

of labour legislation as of any other legislation. But under labour legislation, the individual is affected in the capacity of a worker or an employer. Therefore, the persons who are neither the employers nor the workers are least affected directly by labour legislation. To make the point clear, a few examples are necessary. A legislation regarding working conditions such as the factory legislation or laws regarding payment of wages or compensation for work injury or employment of women or children impinges upon the individuals as workers and the employers. On the contrary, a law regarding ownership of property or a law relating to the marriage or sales tax affects him as a citizen.

4. Individuals have different roles to perform and different laws are designed for regulating the different roles. It is the role-relation that determines whether a particular legislation falls under the category of labour legislation, social legislation or general legislation. All these legislations try to meet the specific objectives of their respective target groups that are (a) to provide subsistence, (b) to aim at abundance, (c) to encourage equality, and (d) to maintain security.
5. As labour legislations are to regulate the conditions of labour in the industrial milieu, it is required to be adjusted as per the changing requirements of industry. This has to be done more frequently than the general legislation where changes are not that swift. Unless labour legislations are subjected to frequent revision and not left to continue as they are, they become obsolete and irrelevant. The Indian Labour Legislations are the best example. Most of them have become outdated as the required revisions have not been affected and gaps have been created between the expectation of industrial society and the institution of labour legislation.
6. (a) Not only contractual obligations, but beyond it by creating new rights and obligations. (b) Labour Law can operate along with General Law. A 'theft' can be dealt by Labour Law as well as IPC  
(c) No jurisdiction of civil courts

### **6.6 Principles of Modern Labour Legislation**

The principles of labour legislation have been categorized as social justice, social welfare, national economy and international solidarity.

1. The principle of social justice includes: abolition of servitude, freedom of association, collective bargaining and industrial conciliation.
2. The principle of social welfare covers: development of childhood, opportunity of education, conservation of womanhood and improvement of environment.
3. The principle of national economy is concerned with development of industry, control of working conditions, regulation of wage payment and social insurance.
4. The principle of international solidarity has been explained in terms of the compliance of the provisions of Conventions and Recommendations adopted by ILO.

On the basis of a study of the objectives behind the enactment of labour laws in a global perspective, certain generalizations may be drawn in respect of the principles. These principles of labour legislation may be classified and explained as follows:

#### **6.6.1 Principle of Protection**

The principle of protection suggests enactment of labour legislation to protect those workers who are to protect their interests on their own and also workers, in particular industries against the hazards of industrial process. The workers lacking organized strength were not in a position to raise an effective voice against their hardships and sufferings.

As industrialization spread, a large number of factories with varying processes and products came to be set up. These created new hazards for the workers. Some of the areas where legislative protection in factories and other industrial establishments was needed included: health hazards, unsanitary and strenuous physical working conditions, long hours of work, low wages, malpractices relating to mode and manner of wage-payment, insufficient leave and holidays, exploitation of children of tender ages and women, and others. The minimum wage and payment of wages legislations also seek to protect workers in matters concerning wages.

**Example:** Protective labour laws in India are:- Factories Act, 1948; Mines Act, 1952; Plantation Labour Act, 1951; Child Labour (Prohibition and Regulation) Act, 1986; Beedi and Cigar Workers, (Conditions of Employment) Act, 1966; Contract Labour (Regulation and Abolition) Act, 1970; Payment of Wages Act, 1936 and Minimum Wages Act, 1948.

### 6.6.2 Principle of Social Justice

The principle of social justice implies establishment of equality in social relationships. It aims at removing discrimination suffered by particular groups of labour. The disabilities and discrimination suffered by slaves, serfs, indentured and migrant labour, bonded labour, etc. is well-known. Discrimination against women workers when compared to their men counterpart, in matters relating to wages and other terms and conditions of employment, has continued till date. The preamble to the constitution of ILO recognises that "universal and lasting peace can be established only if it is based upon social justice" and its Philadelphia Charter of 1944 asserts, "All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". The Indian Constitution has prohibited discrimination on the basis of caste, race, sex and religion. The Constitution also abolishes 'untouchability' in any form and prohibits beggars and forced labour. The Directive Principles of State Policy also direct the state to strive to promote the welfare of the people by securing and protecting a social order in which justice - social, economic and political, shall inform all institutions of the national life.

**Example:** Labour laws enacted keeping in view the principle of social justice are: Indian Slavery Act, 1843; Equal Remuneration Act, 1976; Bonded Labour System (Abolition) Act, 1976 and Contract Labour (Regulation and Abolition) Act, 1970.

### 6.5.3 Principle of Regulation Notes

The principle of regulation seeks to regulate the relationships between the employers and their associations and workers and their organizations. As the relationships between the two groups have repercussions on the society, the law aims at safeguarding the interests of the society against the adverse consequences of collusion or combination between them. Thus, the principle of regulation seeks to regulate the balance of power in the relationships of the two dominant groups in industrial relations. When the employers were the stronger side, laws were enacted to confer upon workers' organizations, new rights and privileges. On the other hand, when the workers' organizations started misusing their strength, laws were enacted to curb their undesirable activities.

When industrial actions – strikes, lock-outs – started causing hardships to consumers and society at large, the state had to intervene and enact laws to provide for machineries for the settlement of industrial disputes. The specific areas in which state regulation through

legislative measures have become necessary includes: workers' right to organize, registration of trade unions and rights of registered trade unions, recognition of representative unions, collective bargaining, settlement of industrial disputes, conciliation, adjudication and arbitration machineries, redressal of grievances and grievance procedure, industrial actions such as strikes, lock-outs, picketing, unfair labour practices, workers' participation in management and tripartite bodies.

**Example:** Laws enacted on this principles are: Trade Unions Act, 1926; Industrial Disputes Act, 1947 and Industrial Employment (Standing Orders) Act, 1946 in India; Industrial Courts Act, 1919; Industrial Relations Act, 1971 and Trade Union and Labour Relations (Consolidation) Act, 1992 of Great Britain; and National Labour Relations Act, 1935 (Wagner Act).

#### 6.6.4 Principle of Welfare

The protective and social security laws have the effect of promoting labour welfare, special labour welfare or labour welfare fund laws have also been enacted, with a view to providing certain welfare amenities to the workers and to their family members. The main purpose behind the enactment of labour laws on this principle is to ensure the provision of certain basic amenities to workers at their place of work and to improve the living conditions of workers and their family members.

**Example:** Laws enacted with this principle in view are: Mica Mines Labour Welfare Funds Act, 1946; Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976; Beedi Workers Welfare Fund Act, 1976; Dock Workers (Safety, Health and Welfare) Act, 1986; State Labour Welfare Fund Acts and Welfare Provisions under the Factories Act, 1948; Mines Act, 1952 and Plantation Labour Act, 1951.

#### 6.6.5 Principle of Social Security

In industrial societies, income insecurity resulting from various contingencies of life such as disablement, old age and death has become a serious problem. During such contingencies, the income of the earners either stops altogether or is reduced substantially or becomes intermittent causing hardships to the earners and their family members. Social security legislation may be kept under two broad categories – social insurance legislation and social assistance legislation. In social insurance, benefits are generally made available to the insured persons, under the condition of having paid the required contributions and fulfilling certain eligibility conditions. The fund for social insurance schemes usually comes from contributions of the beneficiaries and their employers, often supplemented by state grants.

Under social insurance, the beneficiaries receive benefits as a matter of right. The benefits are not linked to the economic needs of financial conditions of the beneficiaries who receive these at the rates established by law. In social assistance also, the beneficiaries receive benefits as a matter of right, but they do not have to make any contributions. The finance is made available by the state or a source specified by the state. Social assistance benefits are generally paid to persons of insufficient means and on consideration of their minimum needs.

**Example:** Social security laws includes: Workmen's Compensation Act, 1923; Maternity Benefit Act, 1961; Employees' State Insurance Act, 1948; Coal Mines Provident Fund and miscellaneous Provisions Act, 1948; Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

### 6.6.6 Principle of Economic Development

Labour laws are enacted for economic and industrial development of particular countries. Improvement of physical working conditions, establishment of industrial peace, provision of machineries for settlement of industrial disputes, formation of forums of workers' participation in management, prohibition of unfair labour practices, restrictions on strikes and lock-outs, provision of social security benefits and welfare facilities, certification of collective agreements and regulation of hours of work have direct or indirect bearing on the pace and extent of economic development.

### 6.7 Objectives of the Labour Legislations

Labour legislation in India has sought to achieve the following objectives:

1. Establishment of justice – Social, Political and Economic.
2. Provision of opportunities to all workers; irrespective of caste, creed, religion, beliefs; for the development of their personality.
3. Protection of weaker sections in the community.
4. Maintenance of industrial peace.
5. Creation of conditions for economic growth.
6. Protection and improvement of labour standards.
7. Protect workers from exploitation.
8. Guarantee right of workmen to combine and form association or unions.
9. Ensure right of workmen to bargain collectively for the betterment of their service conditions.
10. Make state interfere as protector of social well being than to remain an onlooker.
11. Ensure human rights and human dignity.

### 6.8 Agencies for Welfare Work

There are a number of agencies involved in the labour welfare work. Beside Central Government and State Governments, there are other agencies which help in providing the welfare amenities to the workers. They are:

1. **Central Government:** It laid down certain regulations in the forms of Acts extending to the health, safety and welfare of the workers. Factories Act, 1948, Mines Act, 1952, Motor Transport Workers Act, 1961, etc. provides for crèches, canteens, shelters, restrooms etc. for the workers. Statuary welfare funds are created to provide housing, recreational facilities and medical facilities to the workers.
2. **State Government:** Different State Governments' offers different facilities to the workers in the state. In Gujarat and Punjab, there are Labour Welfare Centres for providing the welfare functions to the workers. In Assam, a statutory welfare fund is created for offering the medical, educational and recreational facilities.
3. **Employers:** Big corporate giant like TATA, TISCO, L&T, Bajaj, etc have undertaken the welfare activities for their workers. Ratan Tata has created a number of hospitals, and education institutes for the workers of his factory. In this way a number of corporates help in extending these basic welfare activities in factories.
4. **Trade Unions:** In some companies like Ahmedabad Textile Labour Association, Indian Federation of Labour are the organizations that have provided the welfare activities and facilities for the workers like running schools, sports centres, recreation facilities, cultural centres, legal cells, etc. Though poor finances and multiple unionisms create problems for the trade unions in establishing the welfare amenities for the workers, so much cannot be expected from them.

## 6.9 Classification of Labour Legislations

On the basis of specific objectives, the labour legislations can be classified into following categories:

1. Regulative
2. Protective
3. Wage-related
4. Social security
5. Welfare both inside and outside the workplace

**1. Regulative Labour Legislation:** The main objective of the regulative legislation is to regulate the relations between employees and employers and to provide for methods and manners of settling industrial disputes. They regulate the relationship between the workers and their trade unions, the rights and obligations of the organizations of employers and workers as well as their mutual relationships.

- a. The Trade Unions Act, 1926
- b. The Industrial Disputes Act, 1947
- c. Industrial Relations Legislations enacted by States of Maharashtra, MP, Gujarat, etc.
- d. Industrial Employment (Standing Orders) Act, 1946.

**2. Protective Labour Legislations:** These legislations have a primary purpose to protect labour standards and to improve the working conditions. Laws laying down the minimum labour standards in the areas of hours of work, supply, employment of children and women, etc. in the factories, mines, plantations, transport, shops and other establishments are included in this category. Some of these are the following:

- a. Factories Act, 1948
- b. The Mines Act, 1952
- c. The Plantations Labour Act, 1951
- d. The Motor Transport Workers Act, 1961 **Notes**
- e. The Shops and Establishments Acts
- f. Beedi and Cigar Workers Act, 1966

**3. Wage-related Labour Legislations:** Legislations laying down the methods and manner of wage payment as well as the minimum wages come under this category. They are:

- a. The Payment of Wages Act, 1936
- b. The Minimum Wages Act, 1948
- c. The Payment of Bonus Act, 1965
- d. The Equal Remuneration Act, 1976

**4. Social Security Labour Legislations:** They cover those legislations, which intend to provide to the workmen, social security benefits under certain contingencies of life and work.

- a. The Workmen's Compensation Act, 1923
- b. The Employees' State Insurance Act, 1948
- c. The Coal Mines PF Act, 1948
- d. The Employees' PF and Miscellaneous Provisions Act, 1952
- e. The Maternity Benefit Act, 1961
- f. Payment of Gratuity Act, 1972

**5. Welfare Labour Legislations:** Legislations coming under this category aim at promoting the general welfare of the workers and improving their living conditions. All labour-laws can be said to be promoting the welfare of the workers and improving their living conditions and



though many of the protective labour laws also contain unit on labour welfare; the laws coming under this category have the specific aim of providing for improvements in the living conditions of workers.

- a. Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
- b. The Mica Mines Welfare Fund Act, 1946
- c. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
- d. The Cine Workers Welfare Fund Act, 1981.
- e. Beedi Workers Welfare Fund Act, 1976

**6. Miscellaneous:** There are other kinds of labour laws, which are very important. Some of these are:

- a. The Contract Labour (Regulation and Abolition) Act, 1970
- b. Child Labour (Prohibition and Regulation) Act, 1986
- c. Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
- d. Apprentices Act, 1961
- e. Emigration Act, 1983
- f. Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
- g. Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979
- h. Sales Promotion Employees (Condition of Service) Act, 1976
- i. Working Journalists and other Newspapers Employees (Condition of Service and Miscellaneous Provision) Act, 1955.

### 6.10 Objectives of ILO

The Declaration of Philadelphia set forth 10 objectives, which the ILO was to further and promote among the nations of the world. The theme underlying these objectives is social justice. The objectives are as follows:

1. Full employment and the raising of standards of living,
2. The employment of workers in the occupation in which they can have the satisfaction of giving the fullest measure of their skill, and make their 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 earning, bonus 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 protection,
5. The effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in 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 creation and culture, and
10. The assurance of equality of educational and vocational opportunity.

### **6.11 International Labour Standards**

The International Labour Standards, in the progress towards higher social and economic objectives, continues to be the principal means at the disposal of the ILO to achieve social justice throughout the world. The International Labour Conference, the legislative wing of the ILO provides a forum for discussion and deliberation of international labour problems and this formulates the standards in the form of conventions and recommendations. The conventions and recommendations are collectively known as the International Labour Code.

Conventions are obligation-creating instruments, Recommendations are guidance providing instruments. Once the Conventions are ratified by the member state, they become binding international obligations, whereas Recommendations are essentially guides to national action and do not create international obligations. As the standards improve, the Conventions are revised and fresh amendments with higher labour standards are adopted.

### **Countries with Higher Labour Standards**

Countries having standards of labour higher than those envisaged under International Labour Conventions, experience a special problem of ratification. In such countries, acceptance of Conventions prescribing standards lower than the existing ones may involve considerable political effort, as there is obviously little interest in the subject. Besides, it is feared that the approval given to lower minimum standards will impair the authority of the higher national standard. In case where ratification of a Convention necessitates a change in the law of the land, legal difficulties are also encountered.

### **6.12 Labour Welfare Officers**

Labour welfare is a generic concept, subsuming several fields of development that fall under economic development, Industrial growth, social justice and democratic growth. Welfare of the labour is considered to be the key factor in the growth and development of any industry. For looking after the welfare of the workers, a welfare officer is appointed in a factory. This position is originated by the recommendation made by the Royal Commission on Labour which was later on reiterated by the Labour Investigation Committee. The factories Plantation Labour and Mines Act provides for the welfare officers as the statutory obligations for the employees, employing 500 or more workers. The State is also empowered to prescribe the duties, qualifications and conditions of the services. The Central Model Rules, 1957, laid down certain duties for the labour welfare officers which are confined to the welfare work.

In every factory here there are more than 500 workers employed, the occupier of the factory is required to appoint the welfare officers in the factory. If the numbers of the workers are less than 4000, then atleast two welfare officers are appointed, one with Grade-II and other with Grade-III. But if the numbers of workers are less than 6000, then atleast three welfare officers are appointed with Grade-I, Grade-II and Grade-III respectively. This is as prescribed by the State Government.

If the total number of workers includes 300 or more women workers, then, there should be one women welfare officer of Grade-III has to be appointed in addition to the number of welfare officers already prescribed in these rules.

If one occupier has more than one factories situated at different places and the total number of workers in such factories are 500 or above, all these factories shall be treated to be a single factory for the purpose of section 49 and in such case the occupier shall be deemed to

have applied to the State Government for declaration of all such factories under his control to be a single factory under section 4 for the purpose of section 49 only.

### **6.12.1 Qualifications of Welfare Officer**

A labour welfare officer should have a minimum of a Master Degree or an equivalent diploma from a recognized institute with the knowledge of the local language. According to the legislation, he is to have the status of the head of the department. If his services have to be terminated for the reasons other than those of the contract, Government permission is required.

### **6.12.2 Role and Responsibilities of Welfare Officer**

Based on the regulations provided by the Central Model Rules, 1957, the role and responsibility of the welfare officer is clearly designed.

1. He supervises the provision of the welfare amenities in respect of law and in matters of safety, health, housing, recreation facilities, sanitary services, grant of leaves with wages, etc.
2. He acts a counselor in personal matters and problems of adjustment, rights and privileges.
3. He assists the management in formulating labour and welfare policies, development of fringe benefits, conducting workers education and training programmes, etc.
4. He helps different departmental heads to meet their obligations under the various acts.
5. He is the liaison between the establishments and outside agencies such as factory inspectors and medical officers.
6. He helps in the enforcement of the various acts.
7. He helps the workers to make better use of the community services.

### **6.12.3 Functions and Duties of Labour Welfare Officer**

Some functions and duties prescribe under Factory Act, 1948 for the welfare officer are:

1. To establish contracts and hold consultations in order to maintain harmonious relations between the factory management and workers.
2. To bring to the notice of the factory management the grievances of workers, individual as well as collective, to securing their expeditious redress.
3. To Act as liaison officer between the management and labour.
4. To study and understand the labour view point so as to help the factory management to shape and formulate the labour policies.
5. To interpret the policies to the workers in a language they can understand so as to bring about the implications of the same to them.
6. To secure welfare provisions among workers and management by providing the basic welfare amenities at the workplace.
7. To watch industrial relations to have influence in the event of dispute between the management and workers and to bring about a settlement by persuasive effort.
8. To advise on fulfillment by the management and the concerned departments of the factory of obligations, statutory or otherwise, concerning regulation of working hours, maternity benefit, medical care, compensation for injuries and sickness and other welfare and social benefit measures.
9. To advise and assist the management in the fulfillment of its obligations, statutory and concerning prevention of personal injuries and maintaining a safe working environment.
10. To promote relations between the concerned departments of the factory and workers which will bring about productive efficiency and to help workers to adjust and adopt themselves to their working environment.

11. To encourage the formation of works and joint production Committees, Co-operative Societies and Welfare Committees and to supervise their work.
12. To encourage provision of amenities such as canteens, shelters for rest, crèches, adequate latrine facilities, drinking water, sickness and benevolent scheme payments, pension and superannuation funds, gratuity payments, granting of loans and legal advice to workers.
13. To help the factory management in regulating the grant of leave with wages and explain to the workers the pulsing relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of application for grant of leave.
14. To advise a provision of welfare facilities such as-housing facilities, food-stuffs, social and recreational facilities, sanitation, advice on individual personnel problems and education of children.
15. To advise the factory management on questions relating to training of new starters, apprentices, workers on transfer and promotion instructions and supervisors' supervision and control of notice board and information bulletin to further education of workers.
16. To suggest measures to raise the standard of living of workers and promote their wellbeing.
17. He can oversee the implementation of the labour laws for the benefit of the workers. So, a Labour Welfare Officer is entrusted with the advisory, supervisory, policing, functional and service-oriented functions and responsibilities to establish a cordial environment in the factory premises.

### **6.13 Statutory Welfare Schemes**

Various kind of statutory requirement and welfare schemes are:

1. To provide drinking water facilities at all the working places including dock areas. Safe hygienic drinking water points are provided.
2. Sufficient number of latrines and urinals are provided in the dock area and office premises. Same are maintained in a neat and clean condition & separately for male & female workers.
3. In every work place, such as ware houses, store places, in the dock area and office premises where employees/workers are deployed, spittoons are provided in convenient places and are maintained in a hygienic condition.
4. At all the working places in the dock area, sufficient lights are provided for working.
5. For the circulation of fresh air, and maintaining the normal temperatures sufficient number of ventilators are provided in dock area, where workers are required to work in three shifts, such as ware houses, and office premises in dock area.
6. Adequate washing places such as bathrooms, wash basins with tap and tap on the stand pipe are provided in the port area in the vicinity of the work places.
7. Adequate first-aid boxes are provided on the working places in the dock area and port premises and same are accessible. First-aid treatments are readily available during the working hours to the workers at the working places and the ambulance is also provided with the full equipment and qualified nursing staff.
8. Adequate changing rooms are provided to the male and female workers separately to change their cloth in the dock area and office premises. Adequate lockers are also provided to the workers to keep their cloth and belongings, etc.
9. Adequate no. of rest rooms are provided in the dock area to the workers with provisions of drinking water, wash basins, toilets, bathrooms, etc. for those who are working in the night shift.
10. The canteens are provided in the dock area and other places of working for giving nutritious valued food to the dock workers.

**Statutory Welfare Measures**

Under different laws for the welfare & labour security in India, various statutory provisions are established by government for the workers & made it mandatory for the employers to provide them to their workers.

***Factories Act 1948***

The factories have to provide the following facilities & services to its workers under factories Act, 1948

1. Separate washing facilities for its male & female workers & they should have sufficient number of latrines & urinals in clean & maintained conditions in the dock area & office premises.
2. For every 150 workers, the factory owner has to provide one the first aid box or cupboard as a safety measure.
3. If there are more than 250 workers, canteens have to be provided for the workers.
4. If there are over 150 workers employed, then shelters, rest-rooms & lunch rooms are mandatory.
5. If the factory has 30 or more female workers, then crèche facility has to be provided for their small kids.
6. If a factory employs 500 or more workers, then a welfare officer has to be appointed.
7. Apart from this, the facilities for storing & drying clothes for workers has to be provided
8. Facilities for the workers have to be provided for occasional rest for workers who work in a standing position for long hours.

**Plantation Labour Act, 1951**

Under the Plantation Labour Act, 1951, following facilities are mandatory & they have to be provided by the owner-

1. A welfare officer has to be appointed if there are 300 or more workers.
2. A canteen has to be provided if 150 or more workers are employed.
3. Crèche facility if 50 or more women workers are employed.
4. Educational arrangements in the estate if there are 25 or more children of workers, between the age group of 6 and 12.
5. Recreational facilities for workers & their children
6. Housing facilities for every worker & his family residing in the estate.
7. Medical aid to workers & their families; sickness & maternity allowances.
8. Providing umbrellas, blankets, raincoats to workers as a protection against rain or cold.

**Mines Act, 1951**

Under the Mines Act, 1951, following facilities needs to be provided to the workers:

1. If 50 or more workers are employed, then, shelters for taking food & rest have to be provided.
2. First aid boxes & first aid rooms have to provide if there are 15 or more workers are employed.
3. Canteen facility for workers when there are 250 or more workers.
4. Crèche facilities where the establishment has 50 or more workers.
5. Pit-head baths equipped with showers, sanitary latrines & urinals have to provide for the workers.
6. Welfare officer has to appointed if there are 500 or more workers employed in the establishment.

**Motor Transport Workers Act, 1961**

Under the Motor Transport Workers Act, 1961, following statutory measures have to be provided:

1. Canteen facility if establishment has 100 or more workers.
2. First aid equipment in each transport vehicle.
3. Medical facilities at the operating & halting centres
4. Comfortable clean, ventilated & well-lighted rest rooms at every place where motor transport workers are required to halt at night.
5. Uniforms, rain coats to conductors, drivers & line checking staff for protection against cold & rain.
6. Prescribed amount of washing allowance to the above staff members.

**6.14 Non-statutory Welfare Facilities Notes**

The non-statutory welfare facilities are:

1. Housing facilities should be provided to the workers if possible as the step taken by the big corporates like TATA, etc. Apart from providing official accommodation House Building Advance are also given to the eligible employees who desire to construct their new houses or acquire ready build flats/houses.
2. In-house training programs on various aspects of jobs, safety precautions, etc. through the faculties specialized in the field should be organized in order to increase the efficiency of the workers. Imparting training in computer and other administrative matters is an on going process.
3. Workers should be nominated and released for training under the workers education scheme of the Central Government on the various labour related topics wherein each employee should be given an opportunity to interact with the experienced faculty members and other participating employees. During the training period the trainee employees are treated as on duty.
4. The transport facility should be provided to employees and their dependents. The transport should be provided to the children studying in various Schools/Colleges in different locations.
5. The scholarships should be awarded through attractive Scholarship Schemes with a view to motivate the children of the employees for excellence in education. The Scholarship Scheme should be applicable from Std. I to Std. XII and recognized Degree/Diploma Courses of not less than 1 year duration including Post Graduate Degree/Diploma Course.
6. A significant amount of welfare fund should be created to provide financial assistance to sick employees suffering from chronic ailments, monthly reimbursements towards the tuition fees of mentally retarded children of employees, and to meet the expenses if employee/Officer dies as a result of any fatal accident while on duty.
7. The construction of schools, playgrounds, and all other maintenance are being carried out by the administration in order to promote the welfare for the workers.
8. Setting up ladies club for the women employees and for the wives of the employees for conducting various programs for the upliftment of the women workers.

**6.15 Summary**

- ILO standards have influenced Indian Labour Legislation, directly and indirectly.
- The blueprint of our labour policy is based on ILO's Standards.
- The Indian Labour Conference and Standing Labour Committee – resemble the two main
- structures of ILO.
- Influence of ILO has been perceptible in Labour Legislations in India.

- Labour welfare is an important aspect of the factory life.
- Role and responsibility of welfare officers are clearly defined in Acts.

### 6.16 Keywords

**Collective bargaining:** It is the process of negotiation between representatives of a union and employers (represented by management, in some countries by employers' organization) in respect of the terms and conditions of employment of employees.

**Fundamental Rights:** They acts as a guarantee that all the Indian citizens can & will lead their life's in peace as long as they live in Indian democracy.

**ILO:** International Labour Organisation

**Labour welfare:** Services, facilities and amenities extended for the intellectual, physical, moral and economic betterment of the workers.

**Laissez Faire System:** Lets not interfere system

**Law:** It is an instrument for the control, restrain and guide the behaviour & course of action of the individuals.

**Security:** Protection of the employer facilities and employees protection while on work premises.

**Trade Union:** Any combination whether temporary or permanent formed primarily for the purpose of regulating the relations between workmen and employers.

### 6.17 Self Assessment

Fill in the blanks:

1. .... is an instruction to control restrains and guide the behaviour and courses of action of individuals & their groups looking on a society.
2. Law has a ..... role that of an anchor providing stability as well as of accommodating changes.
3. ILO stands for .....
4. The person engaged in providing the welfare measures for the workers in the factory is called .....
5. The principle of ..... seek to maintain the balance of powers in the relationships of employees & employers.
6. .... are the guidelines providing the instruments to the national actions.

Choose the appropriate answer:

7. They are the obligation-creating instruments binding by the international obligations.

They are called:

- |                   |                      |
|-------------------|----------------------|
| (i) Principles    | (ii) Laws            |
| (iii) Conventions | (iv) Recommendations |

8. Industrial revolutions led to the development of these measures for the welfare of the Workers. They are:

- |                         |                    |
|-------------------------|--------------------|
| (i) Labour legislations | (ii) Labour laws   |
| (iii) ILO               | (iv) All the above |

9. Labour legislations regards individual as:

- |              |                    |
|--------------|--------------------|
| (i) Worker   | (ii) Citizen       |
| (iii) Labour | (iv) All the above |

10. When the employers have to provide the welfare facilities to the workers under the law they are called:

- |                            |                                |
|----------------------------|--------------------------------|
| (i) Statutory requirements | (ii) Non-statutory requirement |
|----------------------------|--------------------------------|

- |                   |                        |
|-------------------|------------------------|
| (iii) Labour Acts | (iv) None of the above |
|-------------------|------------------------|

11. The requirement of the labour welfare officer is recommended by this committee:

(i) ILO  
(iii) State Government

(ii) Royal Commission on Labour  
(iv) Trade Unions

### 6.18 Review Questions

1. Discuss the objectives of the ILO. What are conventions and recommendations?
2. As an incharge of the personnel division of a company, what are the various facilities you would like to provide to your workers for their social and general welfare?
3. Do you think the role of welfare officer is essential in organizations? Elaborate.
4. The Indian labour laws have been greatly influenced by ILO's conventions and recommendations. Do you agree? Justify.
5. The government needs to play an active role in the labour welfare. Elaborate.
6. "The labour legislations are the natural children of industrial revolution." Do you agree? Justify.
7. "The principles of social security may be considered to be a part of the principle of welfare". Justify.
8. Explain the qualifications, duties and responsibilities of a labour welfare officer.
9. What do you mean by labour welfare? Bring out the need for providing welfare facilities to workers.
10. Are the services offered by the various agencies, in your opinion, satisfactory or not? Justify.
11. Taking the example of any Indian firm, analyse the statutory and non-statutory welfare measures provided by the companies to their workers.
12. Analyse the various principles of labour legislation giving the examples of various laws and acts under them.
13. Critically analyse the various statutory and non-statutory measures to be taken by the corporates now-a-days.
14. Examine the need for the establishment of the labour legislations in India. Do you think are they successful? Justify.
15. Being the welfare officer of the company, how will you classify various labour legislations on the basis of the objectives? Explain.

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## **Lesson- 7**

### **MINES ACT, 1952**

#### **Objectives**

- After reading this unit you should be able to:
- appreciate the legislative background
- explain the scope and coverage of the Act
- develop an understanding about the administration and enforcement of the Act
- explain the provisions as to health and safety
- describe the provision for working hours, holidays and leave.

#### **Structure**

- 7.1 Development of Mining Legislation
- 7.2 Scope and Coverage
- 7.3 Mining
- 7.4 Administration of the Act
- 7.5 Enforcement of the Act
  - 7.5.1 Inspectors
  - 7.5.2 Certifying Surgeons
- 7.6 Health and Safety
- 7.7 Hours and Limitation of Employment
- 7.8 Leave with Wages
- 7.9 Self-Assessment Test

#### **7.1 Development of Mining Legislation**

Mining is an ancient activity in India, but it is fair to say that mining, primarily coal mining, as a large scale industrial activity, was first introduced in the country in the early 19th century. Although mines appeared sometimes before the first cotton mills came into existence, they were not subjected to labour legislation until 1895. We may conveniently divide the history of mining legislation into three major periods; the early, pre-1920 period, the period between 1920 and 1947, and the post-Independence period.

##### **7.1.1 The Pre-1920 Period**

The first Act was the Indian Mines Act, 1901, introduced in 1889. It was amended in 1910 and 1914

##### **7.1.2 1920-47**

During This period legislation included the Indian Mines Act, 1923, the Indian Mines Acts of 1925, 1927, 1928, 1935, 1937, 1940, 1945 and 1946.

##### **7.1.3 The Post-Independence Period**

The post-Independence period reflects a great expansion of industrial activity and is of interest in industrial labour that marked the War and the post-War period, as well as an increased acceptance of socialist policies and the welfare State. The Mines Act, 1952 (The Act was amended in 1959 and 1983) covered i) all borings, bore holes and oil wells; ii) all shafts, in or adjacent to and belonging to a mine; iii) all levels and inclined planes in the course of being driven; iv) all open cast workings; v) conveyors or serial rope-ways provided for the bringing into or removal from a mine or minerals or other articles or for the removal of refuse therefrom; vi) all adits, level, planes, machinery, works, railways, tramways and sidings, in or adjacent to and belonging to a mine; vii) all workshops and stores situated

within the precincts of a mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management; viii) all power stations for supplying electricity solely meant for working the mine or a number of mine under the same management; ix) any premises exclusively occupied by the owner of the mine for being used for depositing refuse from a mine or in which any operation connected with refuse is carried on; and x) any premises on which any process ancillary to the getting, dressing or preparation for the sale of minerals or of coke is carried on. These provisions, however, do not apply to any mine a) in which excavation is being made for prospecting purposes only, and b) engaged in the extraction of Kankar, Murrum, laterine boulder, gravel, shingle, ordinary sand, clay, building stone, road-metal, earth, fuller" earth and lime stone, under certain conditions.

In order to give effect to the aforesaid recommendation of the National Commission of Labour the Mines Act was amended in 1983. The amended Act prohibited the employment of persons below 18 years of age. Further Section 9-A provides for entitlement for an alternative employment to a worker found medically unfit, which is directly ascribable to his employment, and for payment of disability allowance as well as lump sum amount when he desires to leave the employment. Moreover, while under Section 52(1)(a) a person employed below ground would be entitled to annual leave with wages at the rate of one day for every 15 days of work performed by him, Section 52(10), grants proportionate leave or wages in lieu of leave. The other amendments mainly related to: i) the removal of certain practical difficulties experienced in its enforcement; ii) provision for additional safety regulations; iii) closer association of workers with safety measures; iv) provisions for minimum penalty and v) increase in levy of the cess for effective administration.

### **7.2 Scope and Coverage**

The Act extends to whole of India. It applies to every "mine" which means:

any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes-

- i. all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;
- ii. all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
- iii. all levels and inclined planes in the course of being driven;
- iv. all open cast workings;
- v. all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;
- vi. all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;
- vii. all protective works being carried out in or adjacent to a mine;
- viii. all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;
- ix. all power stations, transformer substations, converter stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;
- x. any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection

with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine:

- xi. any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on

The aforesaid definition of mine is very wide. It includes every kind of operation. [Tarkeshwar a Dar Doss Dey, (1979) 3 SCC 106.] It also include a quarry. [Rani Umeshwari v Member Board of Revenue, (1967) 1 SCA 413.]

However, "Mine" does not include office of a mine even though situated at the surface of the mine itself. [Serajuddin a Workmen, Air 1966 SC 921: (1962) 1 LLJ 450.1

### **Mineral**

Under the Act "mineral" means all substances which can be obtained from the earth by mining, digging; drilling, dredging, hydraulicing, quarrying or by any other operation and includes mineral oils, which in turn include natural gas and petroleum.

### **Open Cast Working**

"Open cast working" means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground.

### **Non-applicability of the Act**

The Act is not applicable to:

- i. any mine or part thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale:
- ii. any mine engaged in the extraction of kankar, murrum, laterite boulder, gravel, shingle, ordinary sand (excluding moulding sand, glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, slate, road metal, earth, fullers earth, marl chalk and limestone:

### **Coverage**

A person is said to be "employed" in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not-

- i) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of dispatch and of gathering sand and transport thereof to the mine);
- ii) in operations or services relating to the development of the mine including construction of plant therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;
- iii) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;
- iv) in operating, within the premises of the mine, of loading for dispatch of minerals;
- v) in any office of the mine;
- vi) in any welfare, health, sanitary or conservancy services required to be provided under this Act, or watch and ward, within the premises of the mine excluding residential area, or
- vii) in any kind of work, whatsoever which is preparatory of incidental to, or connected with, mining operations.

### 7.3 Mining

#### Notice to be given of mining operations

Section 16 imposes an obligation upon the owner, agent or manager of a mine that he shall, before the commencement of any mining operation give notice to the Chief Inspector, the Controller, Indian Bureau of Mine and the district magistrate of the district in which the mine is situated. The notice should be in writing in prescribed form containing prescribed particulars relating to the mine. Such notice shall be so given at least one month before the commencement of any mining operation.

#### Managers

Every mine shall be under a sole manager having the prescribed qualifications and the owner or agent of every mine shall appoint a person having such qualifications to be the manager. The owner or agent may also appoint himself as manager if he possesses the prescribed qualification. The manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

#### Duties and responsibilities of owners, agents and managers

- 1). The owner and agent of every mine shall each be responsible for making financial and other provision and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and others made thereunder.
- 2). The responsibility in respect of matters provided for in the rules made under clauses (d), (e) and (p) of Section 58 shall be exclusively carried out by the owner and agent of the mine and by such person (other than the manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.
- 3). If the carrying out of any instructions given under Sub-section (2) or given otherwise than through the manager under Sub-section (3) of Section 17, results in the contravention of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder, every person giving such instructions shall also be liable for the contravention of the provisions concerned.
- 4). Subject to the provisions of Sub-section (1), (2) and (3), the owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the regulations, rules, bye-laws and orders made thereunder.
- 5). In the event of any contravention by any person whatsoever of any of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder except those which specifically require any person to do any act or thing or prohibit any person from doing as aforesaid, besides the person who contravenes, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention :-
  - i) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;
  - ii) the manager of the mine;
  - iii) the owner and agent of the mine;
  - iv) the person appointed, if any, to carry out the responsibility under Sub-section (2):

Provided that any of the persons aforesaid may not be proceeded against if it appears on inquiry and investigation, that he is not prima facie liable. However, R shall not be a defence

in any proceedings brought against the owner or agent of the mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Act or that a person to carry the responsibility under Sub-section (2) has been appointed.

## **7.4 Administration of the Act committees**

### **1. Constitution**

- 1) The Central Government is required to constitute a committee consisting of-
  - a) a person in the service of the Government, not being the Chief Inspector or an Inspector, appointed by the Central Government to act as Chairman;
  - b) the Chief Inspector of Mines;
  - c) two persons to represent the interests of miners appointed by the Central Government;
  - d) two persons to represent the interests of owners of mines appointed by the Central Government;
  - e) two qualified mining engineers not directly employed in the mining industry, appointed by the Central Government.

### **2. Functions of the Committee**

The Committee constituted shall-

- a) consider proposals for making rules and regulations under this Act and make appropriate recommendations to the Central Government;
- b) enquire into such accidents or other matters as may be referred to it by the Central Government from time to time and make reports thereon; and
- c) hear and decide such appeals or objections against notices or orders under this Act or the regulations, rules or bye-laws thereunder; as are required to be referred to it by this Act or as may be prescribed.

### **3. Powers of the Committee**

1. A Committee constituted under Section 12 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purposes of discharging its functions under this Act.
2. A Committee constituted under Section 12 shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely; -
  - a) discovery and inspection;
  - b) enforcing the attendance of any person and examining him on oath;
  - c) compelling the production of documents; and
  - d) such other matters as may be prescribed.

### **4. Recovery of Expenses**

The Central Government may direct that the expenses of any inquiry conducted by a Committee constituted under Section 12 shall be born in whole or in part by the owner or agent of the mine concerned.

## **7.5 Enforcement of the Act**

### **7.5.1 Inspectors**

#### **i) Appointment of Chief Inspector and Inspectors**

The Central Government is empowered to appoint such a person as possesses the prescribed qualifications to be Chief Inspector of Mines for all the territories to which this Act extends and such persons as possess the prescribed qualification to be Inspector of Mine

subordinate to the Chief Inspector. But no person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office, who is or becomes directly or indirectly interested in any mine or mining rights in India.

The district magistrate may also exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government.

#### **ii) Functions of Inspectors**

- 1). The Chief Inspector is empowered after seeking the approval of the Central Government to authorise any Inspector named or any class of Inspectors specified in the order to exercise such of the powers of the Chief Inspector under this Act (other than those relating to appeals) as he may specify.
- 2). The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named or any class of Inspector specified in the order of any power conferred on Inspectors under this Act.

#### **iii) Powers of Inspectors of Mines**

- 1) The Chief Inspector and any Inspector is empowered to;
  - a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;
  - b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night. However, the power conferred by this clause shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine;
  - c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws. for time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the person employed in- the mine, and take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out purposes of this . Act;
  - d) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf.

#### **iv) Facilities to be provided for occupational health survey**

1. The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf may, at any time during the normal working hours of the mine or at any time by day or night as may be necessary, undertake safety- and occupational health survey in a mine after giving notice in writing to the manager of the mine; and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant and machinery, for the collection of samples and other data pertaining to the survey and for the transport and examination of any person employed in the. mine chosen for the survey) to such Inspector or officer.
2. Every person employed in a mine who is chosen for examination in any safety and occupational health survey under sub-section (1) shall present himself for such examination and at such place as may be necessary and shall furnish all information regarding his work and health in connection with the said survey.

3. The time spent by any person employed in a mine who is chosen for examination in the safety and occupational health survey, shall be counted towards his working time, so however that any overtime shall be paid at the ordinary rate of wages.
4. Any person who, on examination under Sub-section (2), is found medically unfit to discharge the duty which he was discharging in a mine immediately before such presentation shall be entitled to undergo medical treatment at the cost of the owner, agent and manager with full wages during the period of such treatment.
5. If, after the medical treatment, the person referred to in Sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before presenting himself for the said examination and such unfitness is directly ascribable to his employment in the mine before such presentation, the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit:
6. The rates under the provisos to Sub-section (5) shall be determined having regard to the monthly wages of the employees, the nature of disabilities and other related factors.

### **Secrecy of information obtained**

All the copies of and extracts from, registers or other records, appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection [or survey] of any mine under this Act or acquired by any person authorised under Section 8 or Section 9-A in the exercise of his duties thereunder; shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

### **7.5.2 Certifying Surgeons**

- 1). The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purpose of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.'
- 2). A certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.
- 3). No. person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.
- 4). The certifying surgeon is required to carry out such duties as may be prescribed in connection with-
  - a) the examination of persons engaged in a mine in such dangerous occupations or processes as may be prescribed;
  - b) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where-
    - i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other, conditions of work prevailing in the mine.

## **7.6 Health and Safety**

### **i) Drinking water**

1. In every mine effective arrangements shall be made to provide and maintain at suitable points conveniently situated a sufficient supply of cool and wholesome drinking water for all persons employed therein.

All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within six meters of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

### **ii) Conservancy**

- 1) There shall be provided, separately for males and females in every mine, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

### **iii) Medical appliances**

- 1). In every mine there shall be provided and maintained -so as to be readily accessible during all working hours such number of first-aid boxes or cupboards equipped with such contents as may be prescribed.
- 2). Nothing except the prescribed contents shall be kept in a first-aid box or cupboard or room.
- 3). Every first-aid box or cupboard shall be kept in the charge of a responsible person who is trained in such first-aid treatment as may be prescribed and who shall always be readily available during the working hours of the mine.
- 4). In every mine there shall be made so as to be readily available such arrangements as may be prescribed and who shall always be readily available during the working hours of the mine.
- 5). In every mine wherein more than one hundred and fifty persons are employed, there shall be provided and maintained a first-aid room of such size with such equipment and in the charge of such medical and nursing staff as may be prescribed.

### **iv) Notice to be given of accidents**

- 1) Whenever there occurs in or about a mine-
  - a) an accident causing loss of life or serious bodily injury, or
  - b) an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or
  - c) an influx of inflammable or noxious gases, or
  - d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or
  - e) an over winding of cages or, other means of conveyance in any shaft while persons or materials are being lowered or raised, or
  - f) a premature collapse of any part of the workings, or
  - g) any other accident which may be prescribed,

the owner, agent or manager of the mine shall give notice of the occurrence to such authority in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.



**v) Power of Government to appoint court of inquiry in cases of accidents**

- 1) When any accident of the nature referred to in any of the clauses of sub-section (1) of Section 23 occurs in or about a mine, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such. inquiry and may also appoint one or more persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

**vi) Notice of certain diseases**

Where any person employed in a mine contracts any disease notified by Central Government in the Official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

**vii) Power to direct investigation of causes of disease**

The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (1) of Section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

**7.7 Hours and Limitation of Employment****i) Hours of work above ground**

- 1) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day.

**ii) Hours of work below ground**

- 1) No adult employed below ground in a mine shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day,

**iii) Extra wages for overtime**

- 1) Where in a mine a person works above ground for more than nine hours in any day, or works below ground for more than eight hours in any day, or works for more than forty-eight hours in any week whether above ground or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favourable to him.

**iv) Prohibition of employment of certain persons**

No person shall be required or allowed to work in a mine if he has already been working in any other mine within the preceding twelve hours.

**v) Limitation of daily hours of work including overtime work**

Save in respect of cases falling within clause (a) and clause (e) of Section 39, no person employed in a mine shall be required or allowed to work in the mine for more than ten hours in any day inclusive of overtime.

**vi) Employment of persons below eighteen years of age**

No person below eighteen years of age shall be allowed to work in any mine or part thereof. However apprentices and other trainees, not below sixteen years of age, may be

allowed to work, under proper supervision, in a mine or part thereof by the manager with prior approval of the Chief Inspector or an Inspector shall be obtained before they are allowed to work.

**vii) Prohibition of the presence of persons below eighteen years of age in a mine**

No person below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.

**viii) Employment of women**

- 1) No woman shall, notwithstanding anything contained, in any other law, be employed;
  - (a) in any part of a mine which is below ground;
  - (b) in any mine above ground except between the hours of 6 a.m. and 7 p.m.
- 2) Every woman employed in a mine above ground shall be allowed an interval of not less than eleven hours between the termination of employment on, any one day and the commencement of the next period of employment.

**7.8 Leave with Wages**

**i) Annual leave with wages**

- 1) Every person employed in a mine who has completed a calendar year's service therein shall be allowed during the subsequent calendar year, leave with wages, calculated-
  - a) in the case of a person employed below ground, at the rate of one day for every fifteen days of work performed by him, and
  - b) in any other case, at the rate of one day for every twenty days of work performed by him,

**ii) Payment in advance in certain cases**

Any person employed in a mine who has been allowed leave for not less than four days, shall, before his leave begins, be paid the wages due for the period of the leave allowed

**iii) Mode of recovery of unpaid wages**

Any sum required to be paid by the owner, agent or manager of a mine under this Chapter but not paid by him shall be recoverable as delayed wages under the provision of the Payment of Wages Act, 1936.

**7.9 Self-Assessment Test**

1. Are the following "mine"
  - i. Quarry
  - ii. Office of the mine
2. What are the functions of the Committee?
3. What are the duties of Certifying Surgeons?
4. How are Inspectors appointed? What are their powers?
5. What are the provisions regarding working hours for adult?
6. What are the provisions for annual leave with wages?

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## **Lesson-8**

### **INDUSTRIAL DISPUTES ACT, 1947**

#### **Learning objectives**

- To know the Cause of Industrial Disputes
- To Duties of the Conciliation officers
- To outline the Methods of Resolving Industrial Disputes
- To study the Code of Discipline and code of conduct

#### **Structure**

- 8.1 Introduction
- 8.2 Recognition
- 8.8 Causes of Industrial Disputes
- 8.4 Machinery for Settlement of Industrial Disputes
  - 8.4.1 Works Committee
  - 8.4.2 Conciliation Officers (Sec 4)
  - 8.4.8. Board of Conciliation (Sec.5)
  - 8.4.4. Court Of Enquiry (Sec. 6)
  - 8.4.5. Labour Courts (Sec.7)
  - 8.4.6. Tribunals (SEC. 7A)
  - 8.4.7 National Tribunals [Sec. 7 (B)]
- 8.5 Methods Of Resolving Industrial Disputes
  - 8.5.1 Negotiation
  - 8.5.2 Conciliation
  - 8.5.8 Mediation
  - 8.5.4 Arbitration
- 8.6 Code of Discipline and Code Of Conduct
- 8.7 Summary
- 8.8 Key words
- 8.9 Self Assessment Questions
- 8.10 Suggested Readings

#### **8.1 Introduction**

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. It has always been the case of mixed blessing. The conflict of interest between management and labour 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 o f their skills, improvement in their status and in the working conditions. Those who control the factors of production require strict administration, closer 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.

According to the Industrial Dispute Act, 1947. Section 2 (K) “Industrial Disputes mean any dispute or difference between employers and employees or between employers and

workmen or between workmen and workmen, which is connected with the employment or non - employment or terms of employment or with the conditions of labour of any person”.

Industrial disputes can be classified into four major types, known as interest disputes, grievance disputes, unfair labour practices disputes and recognition disputes. Interest disputes are also called disputes of interest or economic disputes. In most cases the disputes arises from the demands or proposals for improvement in wages, benefits, job security or terms or conditions of employment. Interest disputes must be properly negotiated or bargained or compromised and test of economic power should be avoided as far as possible. These disputes should be settled through conciliation as far as possible.

Grievance or Rights Disputes are also called as conflict of rights or legal disputes. These disputes take place from day to day working relations in the undertaking. It is a protest by the workers against the act of management that deprives the rights of the employees. The grievance disputes arises out of payment of wages, fringe benefits, working hours, over time, promotions, demotions, seniority, safety, and health related aspects. If grievance dispute as are not sorted out in accordance with a procedure that is accepted by the parties it often results in disturbing the working relationship between the management and employees. The government also encourages voluntary arbitration for this type of dispute settlement.

The most common Labour type of dispute is the disputes over Unfair Practices in industrial relations. The management many times discriminates against workers on the ground that they are the members of the trade union and they participate in the activities of the union. Unfair labour practice includes pressure on employees when they exercise their rights to organize, take part in union activity, refusal to bargain, recruiting new employees during a strike which is not illegal, creating an environment or actually creating an act of force or violence or stop communication etc. Such disputes can be settled through conciliation or such disputes are settled according to the normal procedure laid down under the Industrial Disputes Act 1947.

## **8.2 Recognition**

Disputes arises when the management of an organisation refuses to recognize a trade union for the purpose of collective bargaining or to represent its member employees in case of a conflict or dispute. When the management dislike a particular union it refuses to accept that trade union for the purpose of negotiations or bargaining and then it becomes a case of trade union victimization. This also happens when there is already an existing trade union or it is a case of multiple trade unions and each making a claim for recognition. Recognition Disputes also arises when a particular trade union does not have sufficient representatives. Recognition disputes are settled through the guidelines given by the government for recognition of trade union or with the help of Code of Discipline which has been voluntarily laid down by the government.

## **8.8 Causes Of Industrial Disputes**

Industrial disputes are a common feature of all industrialized economies, whether it is a capitalist economy or socialist economy or mixed economy. Industry and industrial dispute always go hand in hand infact they are the two sides of the same coin. The employees who give their services and time to the industry are interested in higher wages, good working conditions and want to have a voice in management. The employers on the other hand are more interested in profits, productivity, quality and control of cost. With both these forces

acting in opposite direction there is a maximum possibility of disputes and so industrial disputes has become a major feature of industrialization.

Industrial disputes may arise out of economic, political, social or from socio – economic background. At the same time the attitude of the employers and employees is also responsible to a great extent. The factors leading to industrial disputes may be industry related, management related, government related or union related.

The most common causes of industrial disputes can be listed as:

1. Wages and Allowances
2. Personnel Policies
3. Retrenchment
4. Lay off
5. Leave and hours of work
6. Bonus
7. Indiscipline
8. Violence
9. Inter Union rivalry.
10. Non-implementation of awards or agreements
11. Non-fulfillment of demands
12. Workload
13. Work standards
14. Surplus labour
15. Working conditions
16. Change of manufacturing process
17. Violation of rules or codes
18. Shift working
19. Political motives
20. Closure or lockouts
21. Inability to communicate effectively
22. Refusal to recognize unions
23. Authoritarian or autocratic attitude of management.
24. Non-implementation of labour law.

Whatever may be the reason for an industrial dispute what disturbs the most is the amount of loss to the nation. A developing country with pressure of population, per capita income, poor infrastructure and low standard of living cannot afford to have such out of proportion disputes and loss of man days.

The Indian Labour Year Book states that in the year 1998 the number of disputes in India in the public sector were 288 and in the private sector it was 814 that means in total there were 1,097 disputes. The numbers of man days lost in the public sector were 7576000 and 14486000 in the private sector which means a total of 22062000 man days were lost in a single year 1998. The magnitude of industrial disputes and man days lost in public sector enterprises are less compared to the private sector. In many cases there is no direct action and so the mandays are not lost but when trade unions adopt strategies like go slow, tools down, pen down, work to rule etc. productivity is lost.

#### **8.4 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 Committees (Sec 8)
2. Conciliation Officers (Sec 4)

8. Board of Conciliation (Sec5)
4. Courts of Enquiry (Sec6)
5. Labour Courts (Sec 7)
6. Tribunals (Sec 7A)
7. National Tribunals (Sec 7B)

#### **8.4.1 Works Committee**

In case of an industrial establishment in which on hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner, a works committee consisting of representatives of employers and workmen engaged in the establishment, so however that the number of representatives of workmen or the committee shall not be less than the number of representatives of the employers. The representatives of the workmen engaged in the establishment and in the consultation with their trade union, if any and registered under the Indian Trade Union Act, 1926.

#### **Duties of the Works Committee**

It shall be the duty of the works committee.

- a) To promote measures for securing and preserving amity and good relations between the employer and workmen.
- b) To comment upon matters of their common interest or concern and
- c) To endeavour to compose any material difference of opinion in respect of such matters.

#### **8.4.2 Conciliation Officers (Sec 4)**

The appropriate Government may appoint such number of persons as it thinks fit, to be conciliation officers, by notification in the Official Gazette.

A conciliation officer may be appointed for a specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

#### **Duties of Conciliation Officers**

1. In every industrial dispute, existing or apprehended, the conciliation officer shall hold the conciliation proceedings in prescribed manner.
2. The conciliation officer for settling the dispute without delay shall investigate the dispute and may do all such things to make the parties to come fair and amicable settlement of dispute.
3. The conciliation officer shall send a report on the settlement of the dispute to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.
4. If no such settlement is arrived at, the conciliation officer shall as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute, and bringing about a settlement thereof together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at.
5. If, on a consideration of the failure report referred above the appropriate Government is satisfied, that there is a case for reference to a Board, Labour Court, Tribunal or National Tribunal it make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons there of

6. A report under Sec. 12 shall be submitted within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

Provided that subject to the approval of the conciliation officer. The time for the submission of the report may be agreed upon in writing by all parties to the dispute.

6. A report under Sec. 12 shall be submitted within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

Provided that subject to the approval of the conciliation officer. The time for the submission of the report may be agreed upon in writing by all parties to the dispute.

#### **8.4.3. Board Of Conciliation (Sec.5)**

The appropriate Government may as the occasion arises by notification in the Official Gazette constitute a Board of conciliation for promoting the settlement of an industrial dispute. A Board shall consist of Chairman and two or four other members, as the appropriate Government thinks fit.

The Chairman is an independent person and other members are representatives of the parties to the dispute in equal numbers.

#### **8.4.4 Duties of Board of Conciliation (Sec 18):**

1. Where the dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute [Sec. 18(1)].

2. If a settlement of dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute. [Sec.18(2)]

3. If no such settlement is arrived at, the Board shall as soon as practicable after the close of investigation send to the appropriate Government a full report on the steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof. Report shall also contain a full statement of such facts and circumstances and the reasons on account of which, in its opinion a settlement could not be arrived at. [Sec.18(3)]

4. The board shall submit its report within 2 months of the date on which the dispute was referred to it or within such shorter period as may be fixed by the appropriate Government. [Sec. 18(4)]. Thus, where conciliation fails, board of conciliation takes over. The functions of the Board of Conciliation are the same as those of the conciliation officers. The purpose of constituting boards of Conciliation is to bring about settlement of individual disputes.

The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Enquiry for enquiring into any matter appearing to be connected with or relevant to an industrial dispute. A court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman. Court shall not be able to act unless minimum number of members required to transact business i.e. quorum is present. Absence of chairman or any member or any vacancy

of its member will not affect the validity of the proceedings of the Court if they are otherwise valid and regular.

**Duties of Court of Enquiry:**

A court shall enquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of 6 months from the commencement of its enquiry.

**8.4.5. Labour Courts (Sec.7)**

The appropriate Government may, by notification in the Official Gazette constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the second schedule and for performing such other functions as may be assigned to them under this Act. A Labour Court shall consist of one person only to be appointed by the appropriate Government.

**Jurisdiction of Labour Courts [Sec.7(I)]**

The Labour Courts adjudicate the following disputes relating to matters specified in the second schedule;

1. The propriety or legality of an order passed by an employer under the standing order,
2. The application and interpretation of standing orders ,
3. Discharge or dismissal of workmen including reinstatement of or grant of relief to workmen wrong fully dismissed.
4. Withdrawal of any customary concession or privilege.
5. Illegality or otherwise of strike or lock-out and
6. All matters other than those specified in the Third schedule.

**Duties of Labour Court:**

The Labour Court shall hold its proceedings expeditiously and shall as soon as practicable on the conclusion thereof submit its award to the appropriate Government. (Sec.15)

**8.4.6. Tribunals (SEC. 7A)**

The appropriate Government may by notification in the Official Gazette, constitute one or more tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second schedule or the Third schedule. A Tribunal shall consist of one person only to be appointed by the appropriate Government. It shall discharge judicial functions, though it is not a court.

**Jurisdiction of Industrial Tribunals [Sec.7 (A)(I)]:**

Industrial tribunals have a wider jurisdiction than a Labour Court. It has jurisdiction over any matter specified in Second or Third Schedule. The following matters are specified under the Third schedule:

1. Wages, including the period and mode of payment.
2. Compensatory and other allowances.
3. Hours of work and rest intervals.
4. Leave with wages and holidays.
5. Bonus, Profit sharing, Provident Fund and gratuity.
6. Shift working otherwise than in accordance with standing orders.
7. Classification by grades.
8. Rules of discipline.
9. Nationalization.
10. Retrenchment of workmen and closure of establishment, and



11. Any other matter that may be prescribed.

Duties of a Tribunal:

The duties of a tribunal are the same as those of a Labour Court.

#### **8.4.7 National Tribunals [Sec. 7 (B)]**

The Central Government may by notification in the Official Gazette, constitute one or more National Tribunals for the adjudication of industrial disputes which in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one state are likely to be interested in, or affected by such disputes. A national tribunal shall consist of one person only to be appointed by the Central Government. The duties of a National Tribunal are the same as those of a Labour Court or an Industrial Tribunal. [Sec.7B (2)]

A Person shall not be qualified for appointment as the presiding officer of a National Tribunal unless he is or has been a judge of a High Court. [Sec. 7B (8)] The Central Government may, if it thinks fit, appoint 2 persons as assessors to advise the National Tribunal in the proceeding before it [Sec.7B(4)].

#### **Duties of Labour Courts, Tribunals and National Tribunal:**

Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall within the period specified in the order referring such industrial dispute or the further period extended under the second provision to sub-section (2-A) of section 10 submit its award to the appropriate Government (Sec. 15).

### **8.5 Methods of Resolving Industrial Disputes**

There are various methods of resolving industrial disputes like negotiations, conciliation, mediation and arbitration. Every organization or management or the trade union has the right and freedom to choose anyone method to resolve the industrial disputes. What is important here is that Industrial disputes must be solved as early as possible, it must be settled at the level which it has occurred. Both the management and the union should change their attitude and keep their ego aside and resolve the disputes as early as possible. When disputes are not settled relations further become strained and complicated. There should be a WIN - WIN situation, if both management and unions are to be happy. If one wins and one loses relations do not and can never improve. Pending awards can lead to less productivity and losses for both employer and employees. Both the parties as far as possible should resort to negotiations instead of tribunals or conciliation.

#### **8.5.1 Negotiation**

For resolving industrial disputes one of the best methods is negotiation. It is in negotiation the two parties that is the employer or management and workers or their unions depend upon themselves for the settlement of disputes. Both the parties have faith and confidence in each other and do not feel the need of a third party. This method of resolving disputes gives importance to dialogue or bipartite dialogue without the government intervention. This method of resolving disputes shows a higher level of maturity in the relationship between management and unions. This is possible when both the parties are well organized, having faith in each other, ready to recognize each other, ready to recognize each others position and dignity. Things become more easy for negotiations when both the parties are ready to adjust and accommodate each others point of view. To resolve disputes both the parties reach to a written agreement through dialogues backed by moral sanctions. The written agreement

between management and the workers union gets more acceptance from both the sides, disputes are resolved and at the same time relations are intact. In the process of negotiations if the negotiation machinery breaks down the issues between the parties remain unresolved. In such situations both the parties come to a point of deadlock and then direct confrontation between the two parties begin, definitely resulting into conflict and disharmony. Such conflict and disharmony results into loss of time, money, energy poor industrial relations, loss to the organization and a subject of greater concern for the society and the state.

### **8.5.2 Conciliation**

In this method of resolving disputes both the employer and the employees union take the help from outside such as the government agency. The government agency tries to bring the two parties the management and unions together for discussion and help them in their negotiations. The main objective of conciliation is to reunite the two conflicting groups in the industry to avoid further problems of production, disinterest and strained industrial relations. This method of resolving industrial disputes is adopted when the parties cannot reconcile their differences on their own and still want to avoid the problems of open conflict. Conciliation is a practice by which the services of a neutral third party are used in the dispute, to make the disputing parties come to an amicable settlement. Conciliation process takes place under the guidance of a conciliator. Conciliation machinery consists of a conciliation officer and board of conciliation.

Under section 12(2) of the Industrial Dispute Act of 1947 the conciliation officer shall be involved for the purpose of bringing about a settlement of the dispute. The conciliation officer plays the role of an innovator, protector, discussion guide, leader, advisor and communication link between the two parties. If the conciliation does not get results in the course of conciliation proceedings then the conciliation officer sends a report to the appropriate government a failure report informing that a settlement cannot be arrived at. To make conciliation more effective the National Commission on Labour has recommended that "Conciliation machinery should be a part of the Industrial Relations Commission, which will make it free from other influences. The independent character of the machinery will alone develop greater confidence and will be able to evoke more cooperations from the parties.

### **8.5.3 Mediation**

Many times when the two parties to the dispute start making negotiations cannot come to a consensus or when they are unable to find the right solution mediation becomes an important tool. Mediation is a method of settling industrial disputes with the help of an outsider. The mediator is very positive in its approach and also plays a positive role by collecting information from both the parties the management and the union, makes a proper assessment of their views and interest and on the basis of this offers suggestions for arriving at a solution or for making a proper compromise.

Both in mediation and conciliation there is a role for an outsider and in both the cases a lot depends upon understanding between the parties involved in the dispute. In both the case conciliation and mediation a lot depends upon adjustments for common gains. Both mediation and conciliation are advisory and not judicial in nature. The mediator plays a role of a guide and shows the parties to the dispute new areas of agreement which otherwise they themselves could not have discovered.

### 8.5.4 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 dispute 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. 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 fail to arrive at a settlement through the voluntary methods. Compulsory arbitration may be at times and under 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 or when the unions are weak and ill-organized or when the employers are very well-organized and more powerful or when industries of strategic importance are involved or when there is a general public dissatisfaction with the existing industrial relations.

In India where industrial disputes are concerned. The Industrial Disputes Act, 1947 is a very important one. The principle objectives of the Act are:

To promote measures for securing good relations between employers and employees.

To minimize the difference between the employer and employee and get the disputes settled through adjudicatory authorities.

- a. To provide suitable machinery for investigation and settlement of industrial disputes.
- b. To prevent illegal strikes and lockouts.
- c. To provide relief to workmen in matters of lay-offs, retrenchment, wrongful dismissals and victimization.
- d. To give the employees the right of collective bargaining and promote conciliation.
- e. The Industrial Dispute Act is a milestone in the historical development of industrial law in India. With the passage of time a number of new principles relating to industrial relations have been introduced in the country such as:
  1. A permanent machinery for speedy and amicable settlement of industrial disputes.
  2. To expedite the conciliation proceedings, maximum time limit has been prescribed within which the machinery must be set in motion.
  3. Compulsory arbitration in public utility services, including the enforcement of arbitration awards has been recognized.
  4. Prohibition of strikes and lockouts during the pendency of conciliation and arbitration proceedings.
  5. Specific time limit for various stages of conciliation and arbitration to eliminate delays.
  6. An obligation on employers to recognize and deal with representative trade union has been imposed.

Works Committee to provide machinery for mutual consultation between employers and employees have been set up.

Industrial disputes may be referred to an Industrial Tribunal where both parties to the dispute apply for such reference or where the appropriate government considers it necessary to do so. The Industrial Disputes Act, 1947 provides three - tier system of adjudication.

1. Labour Courts
2. Industrial Tribunal
8. National Tribunal

One or more labour courts may be constituted by the appropriate Government for adjudicating industrial disputes specified in the second schedule of the Act, and for performing any other function assigned to them. The duties of the labour court are to hold the adjudication proceedings and submit the awards to the appropriate Government after the conclusion of the proceedings. The labour court usually deals with matters arising in day to day working.

In the three-tier system of adjudication provided by the Industrial Dispute Act of 1947 after Labour Court is the Industrial Tribunal. The appropriate Government may appoint one or more Industrial Tribunal for adjudication of industrial disputes relating to any matter whether specified in the Second Schedule or the Third Schedule. Industrial Tribunal may be for a limited period or permanent. The Industrial Tribunal has all the necessary attributes of a court of justice. It may create new obligations or modify contracts in the interest of industrial peace, to protect the rights of the trade union, prevent unfair practices and victimization. Industrial Tribunals have a wider jurisdiction than a Labour Court.

The third in the three tier system of adjudication of the Industrial Dispute Act of 1947 is the National Tribunal. The Central Government may by notification in the official Gazette constitute one or more National Tribunals for the adjudication of industrial disputes which in the opinion of the Central Government involves question of national importance or any matter which will affect the industrial establishment in more than one state. When a National Tribunal has been referred to, no Labour Court or Industrial Tribunal shall have any jurisdiction to adjudicate upon such a matter.

### **8.6 Code Of Discipline and Code Of Conduct**

Code of Discipline forms the Gandhian philosophy to industrial relations to bring employees and trade union to a moral agreement for promoting peace and harmony. Shri Guljarilal Nanda the then Union Labour Minister, a true Gandhian took efforts to bring out a Code of Discipline in 1957 and 1958. It was at his instance that the code was formulated. The code was formally adopted in the 16<sup>th</sup> session of 1958 Indian Labour Conference. National representatives of both employers and trade unions were parties to it. This code was a special one formulated to voluntarily regulate Labour Management relations. The Code of Conduct was discussed to regulate the inter-union relations and a Code of Discipline was discussed at the Indian Labour Conference to regulate Labour Management relations. After a great deal of persuasion by Shri Guljarilal Nanda the inter union "Code of Conduct" was voluntarily adopted on 21<sup>st</sup> May 1958. The four central organizations of labour who were representing the Indian Labour Conference that is Indian National Trade Union Congress. All India Trade Union Congress., Hind Mazdoor Sabha and United Council of Trade Unions agreed to comply with the code. The adoption of the "Code of Discipline" was announced in June 1958. The code of discipline is highly comprehensive and ethical in its approach to the industrial relations system. The "Code of Discipline" ensures that the employers and workers should utilize the existing machinery for the settlement of disputes and avoid direct action. It also explains that both labour and management should recognize the rights and

responsibilities of each other. It also explains the obligations of employers and workers. The code does not support any unfair practices but support prompt action for settlement of grievances and implementation of settlements and awards.

The National Commission on Labour thinks that the code has only a limited success and thus it is not a solution to problems of industrial relations.

### 8.7 Summary

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. It has always been the case of mixed blessing. The conflict of interest between management and labour 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, closer 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.

### 8.8 Key words

**Conciliation** In this method of resolving disputes both the employer and the employees union take the help from outside such as the government agency. The government agency tries to bring the two parties the management and unions together for discussion and help them in their negotiations.

**Mediation** Many times when the two parties to the dispute start making negotiations cannot come to a consensus or when they are unable to find the right solution mediation becomes an important tool. Mediation is a method of settling industrial disputes with the help of an outsider.

**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

**Negotiation-** For resolving industrial disputes one of the best methods in negotiation. It is in negotiation the two parties that is the employer or management and workers or their unions depend upon themselves for the settlement of disputes.

**National Tribunals** - The Central Government may by notification in the Official Gazette, constitute one or more National Tribunals for the adjudication of industrial disputes which in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one state are likely to be interested in, or affected by such disputes.

**Tribunals** - The appropriate Government may by notification in the Official Gazette, constitute one or more tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second schedule or the Third schedule

**Court Of Enquiry**-The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Enquiry for enquiring into any matter appearing to be connecting with or relevant to an industrial dispute

### **8.9 Self Assessment Questions**

1. Briefly Explain the causes of Industrial Disputes
2. Explain the Duties of Conciliation officers
8. Discuss the Methods of Resolving Industrial Disputes
4. Outline the Code of Discipline and code of conduct

### **8.10 Suggested Readings**

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## **Lesson-9**

# **INDUSTRIAL EMPLOYMENT STANDING ORDERS ACT, 1952 & TRADE UNIONS ACT, 1926**

### **Learning Objectives**

- To study The Industrial Employment (standing orders) Act 1996
- To know the purpose and significance of the Industrial Employment Standing Orders Act, 1996
- To understand the role of Industrial Employment Standing Orders Act, 1996 in
- Industrial Relations
- To study The Trade Union Act, 1926

### **Structure**

- 9.1 The Industrial Employment (standing orders) Act 1996
- 9.2 The Industrial Employment (standing orders) Act 1996 Features
- 9.3 Purpose and Significance of the Industrial Employment Standing Orders Act, 1996
- 9.9 Industrial Employment Standing Orders Act, 1996- A Vital for the Workers
- 9.5 Role of Industrial Employment Standing Orders Act, 1996 in Industrial Relations
- 9.7 Trade Union Act, 1926

### **9.1 The Industrial Employment (standing orders) Act 1996**

The Industrial Employment Standing Orders Act, 1996 is an act of the Parliament of India that provides a framework for regulating conditions of employment in certain industries. It was enacted as a part of the post-independence labour reform efforts. The Act applies to establishments employing ten or more workers and defines an 'industrial establishment' as one where at least 50 persons are employed at any time during the preceding 12 months.

A standing order is a rule made by an employer establishing a system or method of working or regulating any aspect of employment in an industrial establishment. The standards ensure that employees have access to safe working conditions, social security benefits, education facilities etc. These agreements must be registered with a labour officer, who can enforce compliance with them.

The Industrial Employment Standing Orders Act seeks to improve the living and working conditions of workers by providing better pay and benefits such as leave, health care, etc. It also aims to ensure that employers do not abuse their power by making unilateral decisions about wages, benefits or other conditions of employment without consulting workers' representatives (if any).

The Act provides for the establishment of a code of minimum wages and other conditions of employment for workers in factories and commercial establishments that employ the workers. The Code was originally enacted in 1996 by the Central Legislature as a result of the efforts of the labour movement led by the leaders of our nation to improve the working conditions of industrial workers in India.

### **9.3 The Industrial Employment (standing orders) Act 1996 Features**

The Industrial Employment Standing Orders Act, 1996 regulates working hours, holidays, wages, and other conditions of service for workers employed in industrial establishments. It also prescribes procedures for the settlement of disputes between employers and employees and provides for arbitration machinery to deal with such disputes.

It was enacted to promote a better understanding between the employers and the industrial workers on matters relating to employment and payment of wages, hours of work, leave with pay, holidays with pay, termination of service rules etc.

The definition of the factory under the Industrial Employment Standing Orders Act includes not only factories but also workshops and mines established for extraction of coal or other minerals from the earth by means of machinery or otherwise than by manual labour; docks; railway wagons, aircraft and tramways whether propelled by mechanical power or otherwise; vessels navigated by steam or other mechanical power; electric light plants; cinematograph films showing apparatus or devices for exhibition or reproduction of pictures or images; cinemas and theatres; gas works; electric light works; textile mills, oil mills and sugar refineries.

The Industrial Employment Standing Orders Act, 1996 is an act of the Parliament of India which provides for the regulation of conditions of service of industrial workers in India. For each schedule within the Act, the Parliament of India issues the written instruction of standing orders which provide for minimum wages, maximum hours of work and working conditions. The main features of this Act are:

- It applies to all factories, mines and other establishments where 20 or more workmen are employed or were employed on any day of the preceding twelve months
- It provides for minimum wages, maximum hours and other conditions of employment, such as leave with wages, overtime allowance etc., to be determined by the appropriate Government by notification from time to time
- It also provides for a provision of maternity relief and medical relief, and insurance cover against accidents for all the industrial workers covered by the Act
- Due compensation will be furnished to the workers under the provision of this Act as per their defined shift timings between 6 am to 6 pm, respectively.

### **9.4 Purpose and Significance of the Industrial Employment Standing Orders Act, 1996**

The Industrial Employment Standing Orders Act, 1996 aims to provide for the fixation of minimum rates of wages, hours of work, holidays with pay and leave with pay in factories, workshops and other establishments or undertakings which employ ten or more workers. It also provides for the regulation of facilities like medical aid and welfare schemes to be extended by employers to their employees.

It was enacted to monitor and regulate the terms and conditions of industrial employment in India. It made provisions for the security of employment and payment of wages by cash or through cheque etc. The Act also provides for machinery for adjudicating disputes regarding violation of such terms and conditions. A Standing Order is a document setting out terms and conditions of employment for workers in an industry.

The Industrial Employment Standing Orders Act, 1996 sought to ensure that all employees receive benefits such as:

- A minimum wage for every hour worked
- Payment of bonus at certain intervals during the year



- Provision of paid leaves
- Provision of free conveyance to and from the workplace

The Industrial Employment Standing Orders Act, 1996 for the welfare of the industrial workers lays down general principles for the fixation of wages and working hours in factories and other industrial establishments. The minimum wage ceiling fixed by this law has been increased from time to time by way of notifications issued by the Government of India from time to time.

It aims to provide security of employment and to regulate the terms and conditions of service in factories, mines and other establishments engaged in any industry. The Act provides for the establishment of a Board for each state to exercise jurisdiction over matters relating to industrial employment.

The Central Government may make rules for regulating the wages and conditions of service of employees in any establishment covered under this Act. These rules are called 'Standing Orders', and they are issued by the Ministry of Labour & Employment. The Standing Orders contain minimum rates of wages and other conditions of service which employers must adhere to as per the provisions of this Act.

The Standing Orders also contain provisions for payment of bonus, provident fund and gratuity, leave facilities etc., which apply to all establishments irrespective of size or number of workers employed therein.

### **9.5 Industrial Employment Standing Orders Act, 1996- A Vital for the Workers**

The Industrial Employment Standing Orders Act, 1996 was enacted to regulate relations between employer and employee in industrial establishments. It is based on the following premises:

- The employment of workers in any industrial establishment should be regulated by a uniform standard applicable to all establishments throughout the country
- There should be effective machinery for enforcing the observance of this standard
- Wherever possible, disputes between employers and employees should be settled by conciliation or arbitration
- The law applies to all factories, mines, oilfields and other industrial establishments employing 20 or more workers on any day in any one year or working 26 or more days in any one year

The Industrial Employment Standing Orders Act, 1996 (IESO) is important legislation that was enacted to ensure the rights and welfare of workers in industrial establishments. The Act lays down certain conditions under which the factories have to operate. It also provides for the fixation of minimum wages and other conditions of employment of workers in factories.

The main objective of the Industrial Employment Standing Orders Act is to ensure that there is no exploitation of workers by their employers or vice versa. The Act also ensures that workers get their due wages and other benefits like medical facilities, holidays etc. Under this Act, every worker has a legal right to minimum wage. This is a statutory entitlement under the Industrial Employment Standing Orders Act, 1996, which forms part of the labour laws in India.

The Industrial Employment Standing Orders Act 1996 is vital for the workers as it protects their rights and ensures that they get fair wages for their labour. The Act requires employers to provide a safe working environment for their employees by maintaining good hygiene and sanitation standards at the workplace.

The Act provides for the constitution of local committees and appellate tribunals. It also provides for conciliation by these committees before referring disputes to arbitration by the Central Government.

### **9.6 Role of Industrial Employment Standing Orders Act, 1996 in Industrial Relations**

The Industrial Employment Standing Orders Act (IESO Act) of 1996 plays a significant role in shaping industrial relations in India. The act establishes a framework for defining the terms and conditions of employment for workers in industrial establishments. Its primary objective is to promote industrial peace, discipline, and uniformity in employment conditions across various industries. Here are the key roles of the Industrial Employment Standing Orders Act 1996 in industrial relations:

#### **9.6.1 Standardization of Employment Terms:**

The act requires employers to define and publish standing orders, which contain rules and regulations governing various aspects of employment, such as working hours, leave policies, disciplinary procedures, and grievance redressal mechanisms. It aims to bring uniformity and clarity in employment conditions and ensures that workers are aware of their rights and obligations.

#### **9.6.2 Preventing Arbitrary Treatment:**

The act prohibits the employer from making arbitrary decisions or changing employment conditions without due process. It mandates that any changes in standing orders must be communicated to the workers and the appropriate authority, ensuring transparency and preventing unfair practices.

#### **9.6.3 Facilitating Collective Bargaining:**

The act recognizes the importance of collective bargaining between employers and workers' representatives. It encourages the formation of trade unions and provides a legal framework for negotiations, thereby promoting a harmonious relationship between management and labor.

#### **9.6.4 Resolving Disputes:**

In cases of disputes related to employment conditions, the act provides a mechanism for resolving conflicts through conciliation, arbitration, or adjudication. This helps in maintaining industrial peace and avoiding prolonged labor disputes.

**9.6.5 Protection of Workers' Rights:** The act includes provisions to safeguard workers' rights and prevent exploitation. It ensures fair treatment, prevents discrimination, and provides mechanisms for workers to raise grievances against any violation of their rights.

**9.6.6 Compliance and Enforcement:** The act empowers the appropriate government authority to enforce the provisions of the act and ensure compliance by industrial establishments. Employers failing to comply with the provisions of the act may face penalties or legal consequences.

## 9.7 Trade Union Act 1926

A trade union or trades union, also called a labour union is an organization of workers who have come together to achieve common goals such as protecting the integrity of its trade, improving safety standards, achieving higher pay and benefits such as health care and retirement, increasing the number of employees an employer assigns to complete the work, and better working conditions. The trade union, through its leadership, bargains with the employer on behalf of union members and negotiates labour contracts with employers. The most common purpose of these associations or unions is "maintaining or improving the conditions of their employment". This may include the negotiation of wages, work rules, complaint procedures, rules governing hiring, firing and promotion of workers, benefits, workplace safety and policies.

Unions may organize a particular section of skilled workers a cross-section of workers from various trades or attempt to organize all workers within a particular industry. The agreements negotiated by a union are binding on the rank and file members and the employer and in some cases on other non-member workers. Trade unions traditionally have a constitution which details the governance of their bargaining unit and also have governance at various levels of government depending on the industry that binds them legally to their negotiations and functioning. Originating in Great Britain, trade unions became popular in many countries during the Industrial Revolution. Trade unions may be composed of individual workers, professionals, past workers, students, apprentices or the unemployed. Trade union density, or the percentage of workers belonging to a trade union, is highest in the Nordic countries.

### Definition

**Trade Union Act 1926 [Sec. 2(h)]:** Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more Trade Unions.

**Sydney and Beatrice Web** have defined Trade Union as a Continuous association of wage earners for the purpose of maintaining or improving the conditions of their working lives.

**G.D.H. Cole defines** Trade Union as an association of workers in one or more occupations and association carried on mainly for the purpose of protecting and advancing the member's economic interests in connection with their daily work.

### Objectives of Trade Union:

Trade union is a voluntary organization of workers relating to a specific trade, industry or a company and formed to help and protect their interests and welfare by collective action. Trade union are the most suitable organisations for balancing and improving the relations between the employees and the employer. They are formed not only to cater to the workers' demand, but also for imparting discipline and inculcating in them the sense of responsibility. They aim to:-

- Secure fair wages for workers and improve their opportunities for promotion and training.
- Safeguard security of tenure and improve their conditions of service.
- Improve working and living conditions of workers.
- Provide them educational, cultural and recreational facilities.
- Facilitate technological advancement by broadening the understanding of the workers.

- Help them in improving levels of production, productivity, discipline and high standard of living.
- Promote individual and collective welfare and thus correlate the workers' interests with that of their industry.
- To take participation in management for decision-making in connection to workers and to take disciplinary action against the worker who commits in-disciplinary action.

### **Characteristics of Trade Unions**

1. **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.

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

3. **Permanent Body:** A trade union is usually a permanent body. Members may come and go but the trade union remains.

4. **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.

5. **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 action to solve any problem concerning any particular employee or all the employees.

6. **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.

### **Growth of Trade Unions in India**

It was not until the close of First World War, that the modern trade Union movement really took permanent roots in Indian Soil. The establishment of Bombay Mill Hands' Association is considered as the first phase of the trade union movement in India. In 1905, the Printers Association of Calcutta and Dock Union Board in Bombay were formed.

There was labor unrest in India at the end of the First World War. In several industries, the workers went on strikes to secure wage increases. The Russian Revolution and the Industrial Labor Organization have inspired the Indian laborers to launch trade unions like the Spinners Union and Weaver's Union which had been established in Madras and Ahmedabad respectively.

But the important step in the history of Indian trade unionism was the foundation of All India Trade Union Congress in 1920. There had been a steady progress of trade union movement in India. However, the decision of the Madras High Court that the formation of trade union is illegal stood in the way of its development.

In 1926, the Trade Unions Act was enacted to give legal recognition to the different trade unions. The said Act also conferred certain privileges on the registered trade unions in

an industrial unit. The Trade Unions Act has made it compulsory on trade unions to use their funds for workers interests and to prescribe a fee of at least 25 paise per works. Most of the members of the executive committee of a trade union must be employed in the factory.

In 1930, the climate was not favorable to the growth of trade Union movements in India. The prosecution of the communists involved in Meerut conspiracy case and the failure of Bombay Textile strike of 1929 retarded the trade union movement. Moreover the serious economic depression was added with it, during the period.

In the next phase, the Second World War gave a great impetus to the trade union movement in India. The rising cost of living forced laborers to organize themselves into trade unions. At the same time the Second World War split the trade union leaders on the question of participating in the war. Industrial unrest was also increased during this period. As a result; there was a marked increase in both the number of trade unions and of organized workers.

With independence and partition, the country was plunged into growing unemployment. A series of strikes occurred, in the country. The All India Trade Union Congress was split up as a result of which the Indian National Trade Union Congress (INTUC) was formed in 1997 under the control of congress party. The Hind Mazdoor Sabha (HMS) was formed by the socialist Party in 1998, and United Trade Union congress (UTUC) was formed in 1999. Recently, Centre of Indian Trade Unions (CITU) has been formed by the Communist Party (Marxists).

There are more than fourteen thousand registered trade unions in India. The steady growth of trade unions in India is due to the political consciousness among the laborers as well as the governmental measures to facilitate collective bargaining through appropriate legislation.

### **1. Classification of Theories of Trade Union**

The revolutionary approach/theory of trade union is developed by Karl Marx This theory is also known as the theory of class war and dialectical materialism. According to Marx, trade union was the foremost organising centre to provide locus for streamlining the forces of working classes The trade unions are, for Marx, the instruments to overthrow capitalism.

These are, thus, prime instruments of the class struggle between proletarian workers and capitalist businessmen. Marx advocated that the working class must not divert itself from its revolutionary programme because it is labour struggle only that can abolish capitalism. To Marx, workers emancipation involves abolition of capitalism.

### **2. Evolutionary Theory:**

This theory also known as theory of industrial democracy was enunciated by Sydney and Beatrice Webbs. To Webbs, trade unionism is an extension of the principle of democracy in the industrial sphere. In other words, trade unionism is not an instrument to overthrow the capitalism, but a means of equalizing the bargaining power of labour and capital.

Trade unionism provides a means by which workers overcome managerial dictatorship, on the one hand, and express their voice in the determination of the conditions under which they have to work, on the other.

### **3. Theory of Industrial Jurisprudence:**

According to S. H. Slitcher the propounder of the-Theory of Industrial Jurisprudence, workers individually fail in bargaining with employers for protecting their interests. In his view, trade unionism served as a means for workers to protect them in work. Such an approach of trade unionism, Slitcher termed as a system of industrial jurisprudence.

### **4. Rebellion Theory:**

To Frank Tannenbaum, the propounder of Rebellion Theory, trade unionism is a spontaneous outcome in the growth of mechanisation. He believes that the use of machines leads to exploitation of workers. Thus, machine is the cause and labour movement, i.e., trade unionism is the result. In other words, trade unionism is a rebellion approach against mechanization automatization of industrial society to protect workers' interest in the enterprise.

### **5. The Gandhian Approach:**

The Gandhian approach of trade unionism is based on class collaboration rather than class conflict and struggle. The idea to take worker's due share from capitalist by reform and self consciousness among workers led to the emergence of trade unionism. Thus the Gandhian approach of trade unionism is not only related to material aspect but also moral and intellectual aspects.

Gandhi emphasised that the direct aim of a trade unionism is not, in the last degree political. Instead, its direct aim is internal reform and also evolution of internal strength. Also, trade unionism, according to the Gandhian approach, is not anti-capitalistic as is generally viewed.

### **Functions of Trade Unions:**

- (i) Fraternal or mutual-help functions; and
- (ii) Militant or fighting functions.

The fraternal functions include organisation of indoor and outdoor games, dramatic clubs, arranging of lectures, running of schools, hospitals, etc. All these are intended to promote the general welfare of the working classes through their own efforts.

The militant functions of the unions refer to the struggle that they make against the employers for getting higher wages or for getting their grievances redressed. Strike is the weapon that they wield. This is a weapon of last resort. Sometimes the employers take up a very unreasonable and uncompromising attitude. No alternative is then left to the workers except to fight for their rights. Thus a strike becomes inevitable.

### **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:

1. National Federations, and
2. The Federations of Unions

Here a brief discussion of this trade union form is given.

## 1. National Federations

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 union policies and 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. Some of the trade union leaders are MPs and MLAs.

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.

The INTUC functions through its affiliated unions, delegates, assembly, and general council (including office-bearers), the working committees of the general council and the Pradesh bodies. The UTUC consists of the general body (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 Coordinating Committee of Free Trade Unions.

Many Unions are affiliated to one or the other type of the following central organizations of workers:

- a) The Indian National Trade Union Congress
- b) The All-India Trade Union Congress
- c) The Hind Mazdoor Sabha
- d) The United Trade Union Congress
- e) The Centre of India Trade Unions
- f) Bharatiya Mazdoor Sangh
- g) The National Front of India Trade Unions

- h)** The United Trade Union Congress (LS)
- i)** The National Federation of Independent Trade Unions
- j)** The Trade Union Co-ordination Committee
- k)** Indian Confederation of Labour
- l)** Hind Mazdoor Kisan Panchayat
- m)** National Labour Organization

### **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. Low membership
3. Poor financial position
4. Political control
5. Multiplicity of unions
6. Inter-union rivalry
7. Lack of able leaders
8. Lack of recognition
9. Opposition from employers
10. Indifferent attitude of 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 weakness of the trade union movement in India.

#### **2. 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 need to take part in strikes and such other programmes, fear of pay cut and fear of punishment.

#### **3. 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. These are also not very many sources from which unions can get funds. They may probably depend on contributions from philanthropists. The poor financial position can only weaken the trade union movement.

#### **4. Political Control**

Most popular trade unions in India are affiliated to certain political parties. These political parties are only keen on making every grievance of the working class as political issue to attain political gains. As a result the problem only gets wide publicity and remains unsolved.

#### **5. 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 ideology. If one union comes out with a strike proposal another union may work against it. As a result, none of the unions is actually able to solve the problems of the workers.

### **6. Inter-Union Rivalry**

The existence of many unions within a particular industry paves 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.

### **7. 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 have secret pact with the management. They get bribes from the government and work against the interests of the employees. Some leaders don't convene a meeting of the general body at all even when a crisis develops. They take unilateral decisions that are thrust on the employees.

### **8. Lack of recognition**

Most of the management are not prepared to recognize trade unions. This happens because of any one 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.

### **9. 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. 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. Sometimes, they may go to the extent of bribing union leaders to avert a strike or such similar show of protest by employees. The employers fail to understand that the union enables the employees to express their grievances in a democratic manner and can also be used as a means of promoting better labour management relationships.

### **10. 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 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 strength trade union.

#### **1. Improve financial position**

The poor financial position of the trade union does not permit it to undertake certain activities. For example it requires fund to print 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 is to improve the financial position of every trade union. The following steps may be taken in this regard.

- a) The amount of subscription must be increased in tune with the increase in the cost of operations.
- b) The members must be persuaded to make prompt payment of the subscription
- c) Donations may be sought for from philanthropists.

#### **2. Increase 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 till 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

#### **3. 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 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 workmen. No attempt should be made to politicalise any issue.

#### **4. Multiple Union**

The existence of many trade unions within the same industry only reduces the power of collective bargaining. Every such union works to its own goals. 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. Every employee working in any industry must be made to realize the importance of trade union recognition. He 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.

### **Industrial Relations**

Industrial relations is a multidisciplinary field that studies the employment relationship. Industrial relations is increasingly being called employment relations or employee relations because of the importance of non-industrial employment relationships; this move is sometimes seen as further broadening of the human resource management trend. Indeed, some authors now define human resource management as synonymous with employee relations. Other authors see employee relations as dealing only with non-unionized workers, whereas labor relations is seen as dealing with unionized workers. Industrial relations studies examine various employment situations, not just ones with a unionized workforce.

**Definition of Industrial Relations**

Industrial relation is defined as relation of Individual or group of employee and employer for engaging themselves in a way to maximize the productive activities.

**In the words of Lester,** —Industrial relations involve attempts at arriving at solutions between the conflicting objectives and values; between the profit motive and social gain; between discipline and freedom, between authority and industrial democracy; between bargaining and cooperation; and between conflicting interests of the individual, the group and the community.

**According to Bruce E. Kaufman** "To a large degree, most scholars regard trade unionism, collective bargaining and labor-management relations, and the national labor policy and labor law within which they are embedded, as the core subjects of the field."

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

**Armstrong** has defined IR as —IR is concerned with the systems and procedures used by unions and employers to determine the reward for effort and other conditions of employment, to protect the interests of the employed and their employers and to regulate the ways in which employers treat their employees.

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

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

Thus, IR can now safely be defined as a coin having two faces: co- operation and conflict. This relationship undergoes change from thesis to antithesis and then to synthesis. Thus, the relationship starting with co-operation soon changes into conflict and after its resolution again changes into cooperation. This changing process becomes a continuous feature in industrial system and makes IR concept as dynamic and evolving one.

**Features of Industrial Relations**

- Industrial Relation do not emerge in vacuum they are born of employment relationship in an industrial setting. Without the existence of the two parties, i.e., labour and management, this relationship cannot exist.
- It provides the environment for industrial relations.

- Industrial Relations are characterized by both conflict and co-operations.
- The focus of Industrial Relations is on the study of the attitudes, relationships, practices and procedure developed by the contending parties to resolve or at least minimize conflicts.

### **Objectives of Industrial Relations**

- Labor Relations, i.e. relations between union and management.
- Employer-employees relations, i.e. relations between management and employees.
- Group relations, i.e. relations between various groups of workmen.
- Community or Public relations, i.e. relations between industry and society.
- Promotions and development of healthy labor-managements relations.
- Maintenance of industrial peace and avoidance of industrial strife.
- Development of true industrial Democracy.

### **Reasons for poor IR**

1. Economic Causes.
2. Organisational Causes.
3. Social Causes.
4. Psychological Causes.
5. Political Causes.

#### **1. Economic Causes:**

Poor wages and poor working conditions are the main reasons for unhealthy relations among management and labour. Unauthorized deductions from wages, lack of fringe benefits, absence of promotional opportunities, dissatisfaction with job evaluation and performance appraisal methods, faulty incentive schemes are other economic causes.

#### **2. Organisational Causes:**

Faulty communication system, dilution of supervision and command, non-recognition of trade unions, unfair practices, violation of collective agreements and standing orders and labour laws are the organisational causes of poor relations in industry.

#### **3. Social Causes:**

Uninteresting nature of work is the main social cause. Factory system and specialisation have made worker a subordinate to the machine. Worker has lost sense of pride and satisfaction in the job. Tensions and conflicts in society break up of joint family system, growing intolerance have also led to poor employer-employee relations. Dissatisfaction with job and personal life culminates into industrial conflicts.

#### **4. Psychological Causes:**

Lack of job security, poor organisational culture, non-recognition of merit and performance, authoritative administration and poor interpersonal relations are the psychological reasons for unsatisfactory employer-employee relations.

#### **5. Political Causes:**

Political nature of trade unions, multiple unions and inter-union rivalry weaken trade union movement. In the absence of strong and responsible trade unions, collective bargaining becomes

ineffective. The union's status is reduced to a mere strike committee.

**Ways to Improve Industrial Relation****Strong and Stable Union:**

A strong and stable union in each industrial enterprise is essential for good industrial relations. The employers can easily ignore a weak union on the plea that it hardly represents the workers. The agreement with such a union will hardly be honored by a large section of workforce. Therefore, there must be strong and stable unions in every enterprise to represent the majority of workers and negotiate with the management about the terms and conditions of service.

**Mutual Trust:**

Both management and labor should help in the development of an atmosphere of mutual cooperation, confidence and respect. Management should adopt a progressive outlook and should recognize the rights of workers. Similarly, labor unions should persuade their members to work for the common objectives of the organization. Both the management and the unions should have faith in collective bargaining and other peaceful methods of settling disputes.

**Workers' Participation in Management:**

The participation of workers in the management of the industrial unit should be encouraged by making effective use of works committees, joint consultation and other methods. This will improve communication between managers and workers, increase productivity and lead to greater effectiveness.

**Mutual Accommodation**

The employers must recognize the right of collective bargaining of the trade unions. In any organization, there must be a great emphasis on mutual accommodation rather than conflict or uncompromising attitude. One must clearly understand that conflicting attitude does not lead to amicable labor relations; it may foster union militancy as the union reacts by engaging in pressure tactics. The approach must be of mutual give and take rather than take or leave. The management should be willing to co-operate rather than blackmail the workers.

**Sincere Implementation of Agreements**

The management should sincerely implement the settlements reached with the trade unions. The agreements between the management and the unions should be enforced both in letter and spirit. If the agreements are not implemented then both the union and management stop trusting each other. An environment of uncertainty is created. To avoid this, efforts should be made at both ends to ensure the follow up of the agreements.

**Sound Personnel Policies:**

The following points should be noted regarding the personnel policies. The policies should be:

- Formulated in consultation with the workers and their representatives if they are to be implemented effectively.
- Clearly stated so that there is no confusion in the mind of anybody.
- Implementation of the policies should be uniform throughout the organization to ensure fair treatment to each worker.

**Government's Role:**

The Government should play an active role for promoting industrial peace. It should make law for the compulsory recognition of a representative union in each industrial unit. It should

intervene to settle disputes if the management and the workers are unable to settle their disputes. This will restore industrial harmony.

**Progressive Outlook:**

There should be progressive outlook of the management of each industrial enterprise. It should be conscious of its obligations and responsibilities to the owners of the business, the employees, the consumers and the nation. The management must recognize the rights of workers to organize unions to protect their economic and social interests.

**Industrial Dispute**

According to Sec. 2 (k) of the Industrial Dispute Act, 1947, —Industrial dispute means any dispute or difference between employers and employees or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person.

**Causes of Industrial Disputes:**

- (i) Economic causes, and
- (ii) Non-economic causes.

**Economic causes include:**

- (i) Wages,
- (ii) Bonus,
- (iii) Dearness allowance,
- (iv) Conditions of work and employment,
- (v) Working hours,
- (vi) Leave and holidays with pay, and
- (vii) Unjust dismissals or retrenchments.

**Non-economic causes include:**

- (i) Recognition of trade unions,
- (ii) Victimisation of workers,
- (iii) Ill-treatment by supervisory staff,
- (iv) Sympathetic strikes,
- (v) Political causes, etc.

**Forms of Industrial Disputes****1. Strike:**

Non acceptance of employees' demand leads them to stop the work and proceed on strike. Strike is the last and important weapon with the employee which is used when all hopes of fulfillment of their demand are shattered and there is no way left to them but to resort to strike. Strike is initiated and supported by the employee union. It is stopping of work by the employees or a group of employees undertaken to pressurize the management to accept their demands. It can continue for any number of days. It is a complete cessation of work by the employees. Strikes can be of following types.

**(a) Economic Strike:**

Economic strike is one which is undertaken by the members of the trade union for fulfillment of their economic demands such as rise in wages, bonus, and other facilities such as health, education, food at concessional rates etc. and other conditions of work

**(b) General Strike:**

General strike is one which is undertaken by all the employees belonging to all unions and in regions in the entire industry. General strike is resorted to by the employees for fulfillment of common demands. It can be an extension of sympathetic strike.

**(c) Sympathetic Strike:**

It is the strike undertaken by the members of one union to support the demands of striking employees of the other union. This is undertaken to express sympathy with the striking employees and their demands. If this sympathy strike is extended further it can take the form of general strike. This is also known as token strike.

**(d) Sit Down Strike:**

It is the strike when employees stop working but do not leave the place of work. They sit at the place of work. This form of strike is also known as pen down or tools down strike. They do not interfere in the work but they themselves do not work at all.

**(e) Go slow Strike:**

The strike where employees do not stop work but do not work with enthusiasm. The speed of their work is very slow which results in low output. They are doing this in an organized way. This puts employers under pressure which is the object of strike.

**2. Gherao:**

Gherao means to surround. The members of the union surround the Chief executive and do not allow him to leave the place where he is surrounded or gheraoed. Usually this place is his office. They create a human chain around him restricting him to move. Gheraos are very common means of protest. Any group can do this any time if they are dissatisfied. It should take the violent turn.

**3. Lock Out:**

Lock out is resorted to by the employers to put pressure on their employees. Lock out is undertaken by the employers to force the employees to resume work on the terms and conditions of employers. Lock out is an extreme step taken by the employers to curb the militant activities of the unions. At times it becomes a trial of strength between the employers and employees.

**4. Picketing:**

Picketing is a method resorted to by the employees to attract attention of common men to the fact that there exists a dispute between the management and employees. Picketing is dissuading the employees from reporting to work by some men at the gate of the place of work. Picketing is legal activity to exhibit protest. It is not violent activity.

**5. Boycott:**

The workers may boycott use of company's product. They may request the general public also to do so. This adversely affects the sale of company's product. To get rid of the ill effects it may think of accepting the demands of the employees.

All the forms of disputes strike, bandhs, lock out etc. adversely affect the industrial growth and enterprises have to suffer a lot. Employees and management should settle the disputes amicably without resorting to any of the above forms. As far as possible a care should be

taken that the things should not so worsen that employees to proceed on strikes etc. Good industrial relations is the key to success and growth where both the parties gain, no one is to lose anything.

### **Methods of Settling Industrial Disputes**

After Independence, Government of India passed the Industrial Disputes Act 1997, under which machinery for the prevention and settlement of disputes has been outlined. These provisions are as under:

#### **(A) Machinery for Prevention of Industrial Disputes**

Prevention is better than cure. The Government has incorporated in the Act for preventing the disputes. The main purpose of such measures is to prevent the disputes before they arise.

#### **(B) Machinery for Settlement of Disputes**

If the dispute could not be prevented on voluntary basis and do arise, the Industrial Disputes Act 1997 provides several provisions for settling the disputes, such provisions are

##### **(1) Conciliation Officer**

'The appointment of conciliation officer is made by the State Government for a particular region or industries in the state. The main duty of these officers is to bring the two parties together and help them resolve their differences. They can do everything to settle the dispute between the two parties amicably. He is bound to take decision within 19 days or such period as extended by the state Government from the date of registration of dispute. If the dispute is settled through his good offers and an agreement is reached, he should send a report to the government along with a memorandum of settlement' signed by the parties to the dispute. In case, the dispute is not settled

he should inform the Government about his failure, steps taken and the reasons for not being successful.

##### **(2) Conciliation Board**

In case, the conciliation officer fails to resolve the dispute, the Government appoints a board of conciliation on ad hoc basis for a particular dispute consisting of a chairman and two to four persons representing the Employer and the employees to bring the parties to disputes to sit together and thrash out their differences as referred to by the Government. The board reports the Government about the success or failure to bring about a settlement within 2 months from the date of reference of the dispute.

##### **(3) Court of Inquiry**

Whenever an industrial dispute remains unresolved by the conciliation officer and the board of conciliation, the matter is referred to a court of inquiry. The court may consist of one or more independent persons. It will investigate the whole dispute and submit its report to the Government on the matters referred to it ordinarily within 6 months from the date of commencement of inquiry.

If settlement is not arrived at by the efforts of the above machinery, a three-tier machinery for compulsory adjudication is provided under the act. These are three types of semi-judicial bodies, i.e., labour courts, industrial tribunals and National Tribunals.

##### **(4) Labour Courts**

Such courts have been set up by the state Governments to go into the disputed orders of the employers dismissal, discharge and suspensions of employees by the management, legality or



otherwise of any order passed by an employer under the standing order, withdrawal of any concession or privilege, legality or otherwise of any strike or lockout etc. These courts will award decision and send report to the Government.

#### **(5) Industrial Tribunals**

The state Government has been empowered to appoint as many industrial tribunals as it thinks proper, for the adjudication of disputes relating to wages, hours of work and rest, intervals, leave with pay, holidays, compensatory discipline, retrenchment, Closure of establishment etc. The tribunal will consist of a person of rank of a high court judge. The adjudication of these tribunals is binding on both the parties.

#### **(6) National Tribunal**

Such tribunals are set up by the Central Government for the adjudication of industrial disputes which involves questions of national importance or which affect industrial establishments situated in more than one state. It gives decisions on matters referred to it by the Central Government. If any matter is referred to the National Tribunal by the Central Government, the labour courts and industrial courts are barred from entertaining such disputes and if any such dispute is pending before labour courts or tribunals, shall be deemed to be quashed.

#### **Labour Grievance**

A grievance is a formal complaint that is raised by an employee towards an employer in the workplace. There are many reasons as to why a grievance can be raised, and also many ways to go about dealing with such a scenario. Reasons for filing a grievance in the workplace can be as a result of, but not limited to, a breach of the terms and conditions of an employment contract, raises and promotions, or lack thereof, as well as harassment and employment discrimination.

According to Sean C. Doyle, in his work titled, *The Grievance Procedure: The Heart of the Collective Agreement*, the grievance process takes on certain secondary roles in countries such as Canada, United States and the United Kingdom that can include, but are not limited to, "a mechanism for the extension of the relationship between the parties, a union tactic to pressure management for strategic purposes, a diagnostic device to uncover underlying problems in the workplace, a mechanism for individual employees or union officials to challenge management over a range of working conditions, or even a forum for the communication of information".

A grievance between an employee and employer can be dealt with either informally or formally, and sometimes both approaches are taken in search of a resolution. In the informal approach, an employee can informally bring forth a concern promptly to his or her employer. Here a discussion or similar between the two parties can result in a mutually agreed upon resolution. In the case that this step fails or is skipped altogether, a grievance can be raised formally, where formal meetings and options for appeals become available.

Workplaces that have trade union representation often file a grievance with an employer on behalf of an individual employees request. According to the Union of Northern Workers, "Grievances are filed by the union on behalf of its members. Most of the grievances filed by unions are filed on behalf of individual employees (individual grievances) or on behalf of a group of employees (group grievances). A third type of grievance is the policy grievance which deals with issues that affect all employees".

**Features of Grievance:**

1. A grievance refers to any form of discontent or dissatisfaction with any aspect of the organization.
2. The dissatisfaction must arise out of employment and not due to personal or family problems.
3. The discontent can arise out of real or imaginary reasons. When employees feel that injustice has been done to them, they have a grievance. The reason for such a feeling may be valid or invalid, legitimate or irrational, justifiable or ridiculous.
9. The discontent may be voiced or unvoiced, but it must find expression in some form. However, discontent per se is not a grievance. Initially, the employee may complain orally or in writing. If this is not looked into promptly, the employee feels a sense of lack of justice. Now, the discontent grows and takes the shape of a grievance.
5. Broadly speaking, thus, a grievance is traceable to be perceived as non-fulfillment of one's expectations from the organization.

**Causes of Grievances:****Grievances may occur due to a number of reasons:****1. Economic:**

Employees may demand for individual wage adjustments. They may feel that they are paid less when compared to others. For example, late bonus, payments, adjustments to overtime pay, perceived inequalities in treatment, claims for equal pay, and appeals against performance related pay awards.

**2. Work environment:**

It may be undesirable or unsatisfactory conditions of work. For example, light, space, heat, or poor physical conditions of workplace, defective tools and equipment, poor quality of material, unfair rules, and lack of recognition.

**3. Supervision:**

It may be objections to the general methods of supervision related to the attitudes of the supervisor towards the employee such as perceived notions of bias, favoritism, nepotism, caste affiliations and regional feelings.

**4. Organizational change:**

Any change in the organizational policies can result in grievances. For example, the implementation of revised company policies or new working practices.

**5. Employee relations:**

Employees are unable to adjust with their colleagues, suffer from feelings of neglect and victimization and become an object of ridicule and humiliation, or other inter-employee disputes.

**6. Miscellaneous:**

These may be issues relating to certain violations in respect of promotions, safety methods, transfer, disciplinary rules, fines, granting leaves, medical facilities, etc.

**Effects of Grievance:**

Grievances, if not identified and redressed, may adversely affect workers, managers, and the organization.

**The effects are the following:****1. on the production:**

- a. Low quality of production
- b. Low productivity
- c. Increase in the wastage of material, spoilage/leakage of machinery
- d. Increase in the cost of production per unit

**2. on the employees:**

- a. Increase in the rate of absenteeism and turnover
- b. Reduction in the level of commitment, sincerity and punctuality
- c. Increase in the incidence of accidents
- d. Reduction in the level of employee morale.

**3. on the managers:**

- a. Strained superior-subordinate relations.
- b. Increase in the degree of supervision and control.
- c. Increase in indiscipline cases.
- d. Increase in unrest and thereby machinery to maintain industrial peace.

**Need for a Formal Procedure to Handle Grievances:**

A grievance handling system serves as an outlet for employee frustrations, discontents, and gripes like a pressure release valve on a steam boiler. Employees do not have to keep their frustrations bottled up until eventually discontent causes explosion.

The existence of an effective grievance procedure reduces the need of arbitrary action by supervisors because supervisors know that the employees are able to protect such behavior and make protests to be heard by higher management. The very fact that employees have a right to be heard and are actually heard helps to improve morale. In view of all these, every organization should have a clear-cut procedure for grievance handling.

**Grievance Handling Procedure****Step 1:**

The employee, officer, and/or the Union representative shall present the grievance to the most immediate supervisor who has the authority to make adjustments in the matter within 19 days of the alleged grievance or knowledge thereof.

**Step 2:**

If a satisfactory settlement is not reached in Step 1 within three days following its completion, the employee, the Union and/or the Union representative may present the grievance to the department head. Upon the request of said department head, the grievance shall be in writing and shall state the grievant(s) names(s).

**Step 3:**

If a satisfactory settlement is not reached in Step 2 within five days of the date of submission of the written grievance to the Department Head, the employee, the Union Committee and/or the Union representative may present the grievance to the Director. The Director or his/her designee shall schedule a meeting to be held within fourteen days of the receipt of the

grievance by the Director with the Union Committee and/or Union Representative for the purpose of attempting to resolve the grievance. The Director or his/her designee shall respond in writing within seven days of the date of the meeting. Time frames may be extended in writing by mutual agreement of the parties.

**Step 4:**

If the grievance is not resolved at Step 3 the Union may within 19 days after the Director's written response is due, serve written notice upon the employer that they desire to arbitrate the grievance and the Union may request the Federal Mediation and Conciliation Service to furnish a panel of five arbitrators. Within ten days of the receipt of the panel of arbitrators the parties shall select an arbitrator. The Union shall make the first and third strike and the employer the second and fourth strike of names. The remaining individual shall serve as arbitrator and hear the dispute. The decision of the arbitrator shall be final and binding upon the parties.

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## LESSON- 10

### WAGE LEGISLATION: PAYMENT OF WAGES ACT, 1936 & MINIMUM WAGES ACT, 1948

#### Objectives

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

- Discuss the applicability of the Payment of Wages Act, 1936
- Explain who is responsible for the payment of wages according to the act

#### Structure

- 10.1 Introduction
- 10.2 Payment of Wages Act, 1936
- 10.3 Minimum Wages Act 1948
- 10.4 Important Definitions
- 10.5 Advisory Board
- 10.6 Central Advisory Board
- 10.7 Offences and Penalties
- 10.8 Compliances under the Act
- 10.9 Answers to Check Your Progress Questions
- 10.10 Summary
- 10.11 Key Words
- 10.12 Self Assessment Questions and Exercises
- 10.13 Further Readings

#### 10.1 Introduction

In the previous unit, you learnt about the gratuity act. In this unit, we will begin our discussion on the Payment of Wages Act, 1936. The Payment of Wages Act is part of the Indian labour laws that have been enacted for the benefit of employees. According to the Act, employees need to receive wages, on time, without any unauthorised deductions. Section 6 of the Act requires that people are paid in money rather than in kind. The Act also provides the tax withholdings the employer must deduct and pay to the central or state government before distributing the wages.

#### 10.2 Payment of Wages Act, 1936

The Payment of Wages Act, 1936 was enacted with a view to ensuring that wages payable to workers covered by the Act were disbursed by the employers regularly within the prescribed time limit, and that no unauthorised deductions were made from wages and also no arbitrary fines being imposed upon workers. The Act came into force on 28th March, 1937. The Act has been amended several times. The major amending Acts have been enacted in the year 1957, 1964, 1976, 1977, 1982 and 2005.

According to Section 1(4), the Act applies to the payment of wages to persons:

- employed in a 'factory' (defined under the next heading),
- employed (otherwise than in a factory) upon any railway by a railway administration either directly or through a sub-contractor, and
- employed in an 'industrial or other establishment' specified in sub-clauses (a) to (g) of Clause (ii) of Section 2 (discussed under the next heading).

However, the appropriate Government may, by giving three months notice extend the provisions of this Act or any of them to any establishment specified under sub-clause (h) of clause (ii) of Section 2 (discussed under the next heading). [Sec. 1(5)]

Eligibility [Sec. 1(6)]

The Payment of Wages Act, 1936 applies to every worker, (including those employed through a contractor), who is in receipt of wages up to ₹6,500 per month. [The wage ceiling has been increased from ₹1,600 p.m. to ₹6,500 p.m. by the Payment of Wages (Amendment) Act, 2005, with effect from 9th November, 2005].

#### Important Definitions

1. Appropriate Government [Sec. 2(i)]. ‘Appropriate Government’ means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government.
2. Employed Person [Sec. 2(ia)]. ‘Employed person’ includes the legal representative of deceased employed person.
3. Employer [Sec. 2(i b)]. ‘Employer’ includes the legal representative of a deceased employer.
4. Factory [Sec. 2(i c)]. The term ‘factory’ has the same meaning as defined in the Factories Act, 1948. According to Section 2(m) of the Factories Act, the term ‘factory’ means any premises including the precincts there of:
  - (a) Whereon 10 or more persons are employed or were employed on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power, or
  - (b) Whereon 20 or more persons are employed or were employed on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on without the aid of power.

However, the term ‘factory’ does not include :

- (i) a mine subject to the operation of Mines Act, 1952, or
  - (ii) a mobile unit belonging to the armed forces of the Union, or
  - (iii) railway running shed, or
  - (iv) a hotel, restaurant or eating place.
5. Industrial or Other Establishment. According to Section 2(ii), ‘industrial or other establishment’ means any:
    - (a) Tramway service, or motor transport service engaged in carrying passengers or goods or both by road for hire or reward.
      - (aa) Air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India.
    - (b) Dock, wharf or jetty.
    - (c) Inland vessel, mechanically propelled.
    - (d) Mine, quarry or oilfield.
    - (e) Plantation.
    - (f) Workshops or other establishments, in which articles are produced, adapted or manufactured, with a view to their use, transport or sale.
    - (g) Establishments in which any work relating to construction, development or maintenance of buildings, roads, bridges or canals; or relating to operations connected with navigation, irrigation or the supply of water; or relating to generation, transmission and distribution of electricity or any other form of power is being carried on.
    - (h) Any other establishment or class of establishment which the Central Government or State Government may specify, by notification in the Official Gazette.
  6. Wages. According to Section 2 (vi), ‘wages’ means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment.

Wages also includes:

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force.

Wages does not include:

- (1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
- (2) the value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
- (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (4) any travelling allowance or the value of any travelling concession;
- (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
- (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d) above.

Responsibility for Payment of Wages (Sec.3)

1. Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him.

In addition, the following persons shall also be responsible for payment of wages in case of persons employed:

- (a) in factories, if a person has been named as the manager of the factory.
- (b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;
- (c) upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;
- (d) in the case of contractor, a person designated by such contractor who is directly under his charge; and
- (e) in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act.

The person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment.

- Learning Objectives
- Object and Scope

- Important Definitions
- Fixation of minimum rates of wages
- Revision of minimum wages
- Manner of fixation/revision of minimum wages
- Minimum rate of wages
- Procedure for fixing and revising minimum wages
- Advisory Board
- Central Advisory Board
- Minimum Wages – Whether to be paid incash or kind
- Payment of minimum wages is obligatory on employer
- Fixing hours for a normal working day
- Payment of overtime
- Wages of worker who works less than normal working
- Minimum time – Rate Wages for piecework
- Maintenance of Registers and records
- Authority & claims
- Offences Penalties

### **10.3 Minimum Wages Act 1948**

#### **Object and Scope of the Legislation**

The Minimum Wages Act was passed in 1948 and it came into force on 15th March, 1948. The National Commission on Labour has described the passing of the Act as landmark in the history of labour legislation in the country. The philosophy of the Minimum Wages Act and its significance in the context of conditions in India, has been explained by the Supreme Court in *Unichoyi v. State of Kerala* (A.I.R. 1962 SC 12), as follows:

“What the Minimum Wages Act purports to achieve is to prevent exploitation of labour and for that purpose empowers the appropriate Government to take steps to prescribe minimum rates of wages in the scheduled industries. In an underdeveloped country which faces the problem of unemployment on a very large scale, it is not unlikely that labour may offer to work even on starvation wages. The policy of the Act is to prevent the employment of such sweated labour in the interest of general public and so in prescribing the minimum rates, the capacity of the employer need not be considered. What is being prescribed is minimum wage rates which a welfare State assumes every employer must pay before he employs labour”.

According to its preamble the Minimum Wages Act, 1948, is an Act to provide for fixing minimum rates of wages in certain employments. The employments are those which are included in the schedule and are referred to as ‘Scheduled Employments’. The Act extends to whole of India.

### **10.4 Important Definitions**

#### **10.4.1 Appropriate Government [Section 2(b)]**

“Appropriate Government” means –

- (i) in relation to any scheduled employment carried on by or under the authority of the Central or a railway administration, or in relation to a mine, oilfield or major part or any corporation established by a Central Act, the Central Government, and
- (ii) in relation to any other scheduled employment, the State Government.



**10.4.2 Employee [Section 2(i)]**

“Employee” means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an outworker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale purpose of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises, net being premises under the control and management of that person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of Armed Forces of the Union.

**10.4.3 Employer [Section 2(e)]**

“Employer” means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except, in sub-section (3) of Section 26 – in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948, as manager of the factory;

- (i) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person of authority is so appointed, the Head of the Department;
- (ii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the Chief Executive Officer of the local authority;
- (iii) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner of the supervision and control of the employees or for the payment of wages.

The definitions of “employees” and “employer” are quite wide. Person who engages workers through another like a contractor would also be an employer (1998 LLJ I Bom. 629). It was held in *Nathu Ram Shukla v. State of Madhya Pradesh A.I.R. 1960 M.P. 174* that if minimum wages have not been fixed for any branch of work of any scheduled employment, the person employing workers in such branch is not an employer with the meaning of the Act. Similarly, in case of *Loknath Nathu Lal v. State of Madhya Pradesh A.I.R. 1960 M.P. 181* an out-worker who prepared goods at his residence, and then supplied them to his employer was held as employee for the purpose of this Act.

**10.4.4 Scheduled Employment [Section 2(g)]**

“Scheduled employment” means an employment specified in the Schedule or any process or branch of work forming part of such employment.

Note: The schedule is divided into two parts namely, Part I and Part II. When originally enacted Part I of Schedule had 12 entries. Part II relates to employment in agriculture. It was realised that it would be necessary to fix minimum wages in many more employments to be identified in course of time. Accordingly, powers were given to appropriate Government to

add employments to the Schedule by following the procedure laid down in Section 21 of the Act. As a result, the State Government and Central Government have made several additions to the Schedule and it differs from State to State.

#### **10.4.5 Wages [Section 2(h)]**

“Wages” means all remunerations capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes house rent allowance but does not include:

- (i) the value of:
  - (a) any house accommodation, supply of light, water medical;
  - (b) any other amenity or any service excluded by general or social order of the appropriate Government;
- (ii) contribution by the employer to any Pension Fund or Provides Fund or under any scheme of social insurance;
- (iii) any traveling allowance or the value of any traveling concession;
- (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment;
- (v) any gratuity payable on discharge.

#### **10.4.6 Fixation of minimum rates of wages [section 3(1)(a)]**

Section 3 lays down that the ‘appropriate Government’ shall fix the minimum rates of wages, payable to employees in an employment specified in Part I and Part ii of the Schedule, and in an employment added to either part by notification under Section 27. In case of the employments specified in Part II of the Schedule, the minimum rates of wages may not be fixed for the entire State. Parts of the State may be left out altogether. In the case of an employment specified in Part I, the minimum rates of wages must be fixed for the entire State, no parts of the State being omitted. The rates to be fixed need not be uniform. Different rates can be fixed for different zones or localities: [*Basti Ram v. State of A.P.* A.I.R. 1969, (A.P.) 227].

Notwithstanding the provisions of Section 3(1)(a), the “appropriate Government” may not fix minimum rates of wages in respect of any scheduled employment in which less than 1000 employees in the whole State are engaged. But when it comes to its knowledge after a finding that this number has increased to 1,000 or more in such employment, it shall fix minimum wage rate.

#### **10.4.7 Revision of minimum wages**

According to Section 3(1)(b), the ‘appropriate Government’ may review at such intervals as it may think fit, such intervals not exceeding five years, and revise the minimum rate of wages, if necessary. This means that minimum wages can be revised earlier than five years also.

#### **10.4.8 Manner of Fixation/ Revision of Minimum Wages**

According to Section 3(2), the ‘appropriate Government’ may fix minimum rate of wages for:

- (a) time work, known as a Minimum Time Rate;
- (b) piece work, known as a Minimum Piece Rate;
- (c) a “Guaranteed Time Rate” for those employed in piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis; (This is intended to meet a situation where operation of minimum piece rates fixed by the

appropriate Government may result in a worker earning less than the minimum wage), and

- (d) a “Over Time Rate” i.e. minimum rate whether a time rate or a piece rate to apply in substitution for the minimum rate which would otherwise be applicable in respect of overtime work done by employee.

Section 3(3) provides that different minimum rates of wages may be fixed for –

- (i) different scheduled employments;
- (ii) different classes of work in the same scheduled employments;
- (iii) adults, adolescents, children and apprentices;
- (iv) different localities

Further, minimum rates of wages may be fixed by any one or more of the following wage periods, namely:

- (i) by the hour,
  - (ii) by the day,
  - (iii) by the month, or
  - (iv) by such other large wage periods as may be prescribed;
- and where such rates are fixed by the day or by the month, the manner of calculating wages for month or for a day as the case may be, may be indicated.

However, where wage period has been fixed in accordance with the Payment of Wages Act, 1948 vide Section 4 thereof, minimum wages shall be fixed in accordance therewith [Section 3(3)].

#### **10.4.9 Minimum rate of wages (section 4)**

According to Section 4 of the Act, any minimum rate of wages fixed or revised by the appropriate Government under Section 3 may consist of –

- (i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct to accord as nearly as practicable with the variation in the cost of living index number applicable to such worker (hereinafter referred to as the cost of living allowance); or
- (ii) a basic rate of wages or without the cost of living allowance and the cash value of the concession in respect of supplies of essential commodities at concessional rates where so authorized; or
- (iii) an all inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

The cost of living allowance and the cash value of the concessions in respect of supplies essential commodities at concessional rates shall be computed by the competent authority at such intervals and in accordance with such directions specified or given by the appropriate Government.

#### **10.4.10 Procedure for Fixing and Revising Minimum Wages (Section 5)**

In fixing minimum rates of wages in respect of any scheduled employment for the first time or in revising minimum rates of wages, the appropriate Government can follow either of the two methods described below.

#### **10.4.11 First Method [Section 5(1)(a)]**

This method is known as the ‘Committee Method’. The appropriate Government may appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision as the case may be. After considering the advice of the committee or committees, the appropriate Government shall, by notification in the Official Gazette fix or revise the minimum rates of wages. The wage rates shall come into

force from such date as may be specified in the notification. If no date is specified, wage rates shall come into force on the expiry of three months from the date of the issue of the notification.

**Note:** It was held in *Edward Mills Co. v. State of Ajmer* (1955) A.I.R. SC, that Committee appointed under Section 5 is only an advisory body and that Government is not bound to accept its recommendations.

As regards composition of the Committee, Section 9 of the Act lays down that it shall consist of persons to be nominated by the appropriate Government representing employers and employee in the scheduled employment, who shall be equal in number and independent persons not exceeding 1/3rd of its total number of members. One of such independent persons shall be appointed as the Chairman of the Committee by the appropriate Government.

#### **10.4.12 Second Method [Section 5(1)(b)]**

The method is known as the 'Notification Method'. When fixing minimum wages under Section 5(1)(b), the appropriate Government shall by notification, in the Official Gazette publish its proposals for the information of persons likely to be affected thereby and specify a date not less than 2 months from the date of notification, on which the proposals will be taken into consideration.

The representations received will be considered by the appropriate Government. It will also consult the Advisory Board constituted under Section 7 and thereafter fix or revise the minimum rates of wages by notification in the Official Gazette. The new wage rates shall come into force from such date as may be specified in the notification. However, if no date is specified, the notification shall come into force on expiry of three months from the date of its issue. Minimum wage rates can be revised with retrospective effect. [1996 II LLJ 267 Kar.].

#### **10.5 Advisory Board**

The advisory board is constituted under Section 7 of the Act by the appropriate Government for the purpose of co-ordinating the work of committees and sub-committees appointed under Section 5 of the Act and advising the appropriate Government generally in the matter of fixing and revising of minimum rates of wages. According to Section 9 of the Act, the advisory board shall consist of persons to be nominated by the appropriate Government representing employers and employees in the scheduled employment who shall be equal in number, and independent persons not exceeding 1/3rd of its total number of members, one of such independent persons shall be appointed as the Chairman by the appropriate Government.

It is not necessary that the Board shall consist of representatives of any particular industry or of each and every scheduled employment; *B.Y. Kashatriya v. S.A.T. Bidi Kamgar Union* A.I.R. (1963) S.C. 806. An independent person in the context of Section 9 means a person who is neither an employer nor an employee in the employment for which the minimum wages are to be fixed. In the case of *State of Rajasthan v. Hari Ram Nathwani*, (1975) SCC 356, it was held that the mere fact that a person happens to be a Government servant will not divert him of the character of the independent person.

#### **10.6 Central Advisory Board**

Section 8 of the Act provides that the Central Government shall appoint a Central Advisory Board for the purpose of advising the Central Government and State Governments in the matters of fixation and revision of minimum rates of wages and other matters under the Minimum Wages Act and for coordinating work of the advisory boards. The Central

Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employment who shall be equal in number and independent persons not exceeding 1/3rd of its total number of members, one of such independent persons shall be appointed as the Chairman of the Board by Central Government.

#### **10.6.1 Minimum Wage – Whether to be Paid in Cash or Kind**

Section 11 of the Act provides that minimum wages payable under the Act shall be paid in cash. But where it has been the custom to pay wages wholly or partly in kind, the appropriate Government, on being satisfied, may approve and authorize such payments. Such Government can also authorize for supply of essential commodities at concessional rates. Where payment is to be made in kind, the cash value of the wages in kind or in the shape of essential commodities on concessions shall be estimated in the prescribed manner.

#### **10.6.2 Payment of Minimum Wages is Obligatory on Employer (Section 12)**

Payment of less than the minimum rates of wages notified by the appropriate Government is an offence. Section 12 clearly lays down that the employer shall pay to every employee engaged in a scheduled employment under him such wages at a rate not less than the minimum rate of wages fixed by the appropriate Government under Section 5 for that class of employment without deduction except as may be authorized, within such time and subject to such conditions, as may be prescribed.

#### **10.6.3 Fixing Hours For A Normal Working Day (Section 13)**

Fixing of minimum rates of wages without reference to working hours may not achieve the purpose for which wages are fixed. Thus, by virtue of Section 13 the appropriate Government may –

- (a) fix the number of work which shall constitute a normal working day, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such day of rest;
- (c) provide for payment of work on a day of rest at a rate not less than the overtime rate.

The above stated provision shall apply to following classes of employees only to such extent and subject to such conditions as may be prescribed:

- (a) Employees engaged on urgent work, or in any emergency, which could not have been foreseen or prevented;
- (b) Employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;
- (a) Employees whose employment is essentially intermittent;
- (b) Employees engaged in any work which for technical reasons, has to be completed before the duty is over;
- (c) Employees engaged in any work which could not be carried on except at times dependent on the irregular action of natural forces.

For the purpose of clause (c) employment of an employee is essentially intermittent when it is declared to be so by the appropriate Government on ground that the daily hours of the employee, or if these be no daily hours of duty as such for the employee, the hours of duty, normally includes period of inaction during which the employee may be on duty but is not called upon to display either physical activity or sustained attention.

There is correlation between minimum rates of wages and hours of work. Minimum wages are to be fixed on basis of standard normal working hours, namely 48 hours a week; *Benode Bihari Shah v. State of W.B.* 1976 Lab I.C. 523 (Cal).

#### **10.6.4 Payment of Overtime (Section 14)**

Section 14 provides that when an employee, whose minimum rate of wages is fixed under this Act by the hours, the day or by such longer wage period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or part of an hour so worked in excess at the overtime rate fixed under this Act or under any other law of the appropriate Government for the time being in force whichever is higher. Payment for overtime work can be claimed only by the employees who are getting minimum rate of wages under the Act and not by those getting better wages. (1998 LLJ I SC 815).

#### **10.6.5 Wages of A Worker Who Works Less Than Normal Working Day (Section 15)**

Where the rate of wages has been fixed under the Act by the day for an employee and if he works on any day on which he employed for a period less than the requisite number of hours constituting a normal working day, he shall be entitled to receive wages for that day as if he had worked for a full working day.

Provided that he shall not receive wages for full normal working day –

- (i) if his failure to work is caused by his unwillingness to work and not by omission of the employer to provide him with work, and
- (ii) such other cases and circumstances as may be prescribed.

#### **10.6.6 Minimum Time – Rate Wages for Piece Work (Section 17)**

Where an employee is engaged in work on piece work for which minimum time rate and not a minimum piece rate has been fixed, wages shall be paid in terms of Section 17 of the Act at minimum time rate.

#### **10.6.7 Maintenance of Registers And Records (Section 18)**

Apart from the payment of the minimum wages, the employer is required under Section 18 to maintain registers and records giving such particulars of employees under his employment, the work performed by them, the receipts given by them and such other particulars as may be prescribed. Every employee is required also to exhibit notices, in the prescribed form containing particulars in the place of work. He is also required to maintain wage books or wage-slips as may be prescribed by the appropriate Government and the entries made therein will have to be authenticated by the employer or his agent in the manner prescribed by the appropriate Government.

#### **10.6.8 Authority and Claims (Section 20-21)**

Under Section 20(1) of the Act, the appropriate Government, may appoint any of the following as an authority to hear and decide for any specified area any claims arising out of payment of less than the minimum rate of wages or in respect of the payment of remuneration for the days of rest or of wages at the rate of overtime work:

- (a) any Commissioner for Workmen's Compensation; or
- (b) any officer of the Central Government exercising functions as Labour Commissioner for any region; or
- (c) any officer of the State Government not below the rank of Labour Commissioner; or
- (d) any other officer with experience as a Judge of a Civil Court or as the Stipendiary Magistrate.

The authority so appointed shall have jurisdiction to hear and decide claim arising out of payment of less than the minimum rates of wages or in respect of the payment remuneration for days of rest or for work done on such days or for payment of overtime.

The provisions of Section 20(1) are attracted only if there exists a dispute between the employer and the employee as to the rates of wages. Where no such dispute exists between the employer and employees and the only question is whether a particular payment at the agreed rate in respect of minimum wages, overtime or work on off days is due to an employee or not, the appropriate remedy is provided by the Payment of Wages Act, 1936.

### **10.7 Offences and Penalties**

Section 22 of the Act provides that any employer who (a) pays to any employee less than the minimum rates of wages fixed for that employee's class of work or less than the amount due to him under the provisions of this Act or contravenes any rule or order made under Section 13, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

While imposing any fine for an offence under this section the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 20.

It is further stipulated under Section 22A of the Act that any employer who contravenes any provision of this Act or of any rule or order made there under shall if no other penalty is provided for such contravention by this Act be punishable with fine which may extend to five hundred rupees.

### **10.8 Compliances under the Act**

The establishment must ensure following compliances under the Act. These compliances are not exhaustive but illustrative.

1. The Establishment is covered by the definition "Scheduled Employment" with effect from.....
2. The Government revised the minimum wages once/twice/ thrice during the financial year under reference and the Establishment has paid to all its employees minimum wages in accordance with the rates at respective point of time and at the respective rates specified in notification under Section 5 of the MWA.
3. The Establishment has issued wage slips to all its employees in respect of each of the wage period.....
4. Where the services of any employee were terminated for any reason whatsoever, the wages were paid within two working days from the date of such termination.
5. The Establishment did not make any unauthorized deduction from the wages of any of its employees. Further, the deductions if any, made were within the limits of fifty percent (or seventy five percent in case of cooperatives) of wages earned by such employees during the period under reference.
6. Where the Establishment was constrained to impose any fine or deduct wages on account of damages caused by any employee, the latter was given an opportunity of being heard in the presence of a neutral person and was also communicated the amount of fine imposed or deduction made from the wages.
7. The Establishment has eight working hours per day, inclusive of half an hour of interval.
8. All claims under Section 20 of the MWA were paid within the time limit specified in the Order.

### 10.9 Answers to Check Your Progress Questions

1. The Payment of Wages Act, 1936 came into force on 28<sup>th</sup> March, 1937.
2. The Payment of Wages Act, 1936 applies to every worker, (including those employed through a contractor), who is in receipt of wages up to 6,500 per month.

### 10.10 Summary

- The Payment of Wages Act, 1936 was enacted with a view to ensuring that wages payable to workers covered by the act were disbursed by the employers regularly within the prescribed time limit, and that no unauthorised deductions were made from wages and also no arbitrary fines being imposed upon workers.
- The act has been amended several times. The major amending acts have been enacted in the year 1957, 1964, 1976, 1977, 1982 and 2005.
- According to section 2 (vi), 'wages' means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment.
- According to the act, wages does not include any bonus, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court.

### 10.11 Key Words

- Wages: It means a fixed regular payment earned for work or services, typically paid on a daily or weekly basis.
- Remuneration: It means money paid for work or a service.
- Bonus: It means a sum of money added to a person's wages as a reward for good performance.

### 10.12 Self Assessment Questions and Exercises

#### 10.12.1 Short-Answer Questions

1. Discuss the applicability of the Payment of Wages Act.
2. What does industrial or other establishment mean according to the act?

#### 10.12.2 Long-Answer Questions

1. Discuss what wages are included and does not included according to the Payment of Wages Act.
2. Who is responsible for the payment of wages? Discuss with reference to the appropriate sections of the Payment of Wages Act.

### 10.13 Further Readings

Srivastava, S C. 2012. Industrial Relations and Labour Laws, Sixth Edition. New Delhi: Vikas Publishing House.

Kuchhal, M C. 2012. Business and Industrial Laws, Second Edition. New Delhi: Vikas Publishing House.

Padhi, P.K. 2017. Labour and Industrial Laws, Third Edition. New Delhi: PHILearning.

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## **Lesson-11**

### **PAYMENT OF BOUNCE ACT, 1965 & PAYMENT OF GRATUITY ACT, 1972**

#### **Learning Objectives**

- To study the Payment of Bonus Act 1965
- To learn the Scope And Coverage Of The Payment Of Bonus Act, 1965
- To understand the Calculation for Bonus Payable
- To Know the Types of Bonus Payments

#### **Structure**

- 11.1 Introduction
- 11.2 History of Payment Of Bonus Act, 1965
- 11.3 Scope and Coverage of The Payment Of Bonus Act, 1965
- 11.4 Understanding the Act
- 11.5 Why Do Companies Give Bonuses
- 11.6 Calculation for Bonus Payable
- 11.7 Types of Bonus Payments
- 11.8 Eligibility for Bonus Under The Act
- 11.9 Disqualification from Bonus Under The Act
- 11.10 Rights of Employer And Employee
- 11.11 Payment of Bonus Rules

#### **11.1 Introduction**

A bonus is a financial reward that is given to an employee beyond their normal salary or wages. It can be given as an incentive to encourage certain behavior or to reward good performance. A bonus is a financial reward that is given to an employee beyond their normal salary or wages. It can be given as an incentive to encourage certain behavior or to reward good performance. Bonuses can take various forms, including cash, stock, or stock options, and can be given to individuals, teams, or the entire company. Incentive bonuses include signing bonuses for new hires, referral bonuses for employees who refer successful candidates, and retention bonuses to encourage employee loyalty. Performance bonuses are given for exceptional work and can be given as annual bonuses, spot bonuses, or milestone bonuses. The Internal Revenue Service (IRS) considers bonuses as taxable income, so employees need to report them when filing their taxes.

A bonus is a financial compensation that is above and beyond the normal payment expectations of its recipient. Companies may award bonuses to both entry-level employees and to senior-level executives. While bonuses are traditionally given to exceptional workers, employers sometimes dole out bonuses company-wide to stave off jealousy among staffers.

Bonuses may be dangled as incentives to prospective employees and they can be given to current employees to reward performance and increase employee retention. Companies can distribute bonuses to its existing shareholders through a bonus issue, which is an offer of free additional shares of the company's stock.

#### **11.2 History Of Payment Of Bonus Act, 1965**

The tradition of paying bonuses in India seems to have started during World War I, when some textile mills gave their employees a 10% wage increase as a war bonus in 1917. In

certain cases of labour disputes, the claim for bonus payment was also included. The Full Bench of the Labour Appellate Tribunal established a bonus calculation formula in 1950. In 1959, a demand was made to change the formula.

It was decided at the second and third meetings of the eighteenth Session of the Standing Labour Committee (G.O.I) in New Delhi in March/April 1960 to appoint a Commission to look into the issue of bonuses and develop appropriate norms. The Government of India established a Tripartite Commission to examine the issue of bonus payments based on earnings to employees working in establishments in a detailed manner and make recommendations to the Government.

The Commission's recommendations were adopted by the Indian government with some modifications. The Payment of Bonus Act of 1965 was enacted to carry out these recommendations, and it went into effect on September 115, 1965.

### **11.3 Scope And Coverage Of The Payment Of Bonus Act, 1965**

The Bonus Payment Act covers the entire India. It covers any establishment with twenty or more employees on any given day during the accounting year, as well as any factory as specified by the factories act of 1948. Employee is defined in Section 11 (13) of the Act as any person (other than an apprentice) employed on a salary or wage of not more than twenty one thousand rupees per mensem in any industry to perform any skilled or unskilled manual, supervisory, managerial, administrative, scientific, or clerical work for hire or compensation, regardless of whether the terms of employment are express or implied.

#### **A. The Act does not apply to the following classes of employees:**

##### **1. Employees employed in:**

- a) Life Insurance Corporation of India
- b) Industry carried on or under the authority of any department of Central Government or a State Government or a Local Authority.
- c) Indian Red Cross Society or any other institution of like nature including its branches;
- d) Universities and other educational institutions;
- e) Hospital, Chambers of Commerce and Social Welfare Institutions established not for purposes of profits;
- f) employed through contractors on building operations;
- g) Reserve Bank of India;
- h) Industrial Finance Corporation of India, Deposit Insurance Corporation and other financial corporations being set up financially assisted by the Government, and Unit Trust of India, Agricultural Refinance Corporation, and Industrial Bank of India,
- i) Seamen as defined in Sec. 3(411) of the Merchant Shipping Act, 1958;
- j) Inland Water Transport establishment. (Section 311).

### **11.4 Understanding the Act**

#### **1. Objective Behind The Act**

The objective of the Payment of Bonus Act, 1965 is to provide for the payment of bonus to the persons employed in certain establishments on the basis of profits or production. The object of the Payment of Bonus Act was very clearly described in *Jalan Trading v Mill Mazdoor Sabha 1*, the Supreme Court observed that the purpose of the Bonus Act was to maintain peace and harmony between labour and capital by allowing workers to share the

prosperity of the establishment and prescribing the maximum and minimum rates of bonus, as well as the scheme of "set-off" and set - on to not only secure the labour's right in the share of profits but also to ensure a reasonable degree of uniformity.

## **2. Understanding Bonus**

In workplace settings, a bonus is a type of additional compensation an employer gives to an employee that complements their base pay or salary. A company may use bonuses to reward achievements, to show gratitude to employees who meet longevity milestones, or to entice not-yet employees to join a company's ranks.

Bonuses can take various forms, including cash, stock, or stock options. They can be given to individuals, teams, or the entire company. Companies may also offer incentive bonuses, such as signing bonuses for new hires, referral bonuses for employees who refer successful candidates, and retention bonuses to encourage employee loyalty. Performance bonuses are given for exceptional work and can be given as annual bonuses, spot bonuses, or milestone bonuses.

In the United States, bonuses are considered taxable income by the Internal Revenue Service (IRS). This means that employees are required to report their bonuses as part of their taxable income when they file their taxes. The employer is also required to report the bonus to the IRS and to withhold taxes from the employee's bonus payment at the time it is paid. The amount of tax withheld from a bonus payment is based on the employee's tax bracket and the tax laws in effect at the time the bonus is paid.

It's important for employees to be aware of the tax implications of bonuses, as failing to report them can result in penalties and interest charges from the IRS. Employees should keep good records of their bonus payments and consult with a tax professional if they have any questions about how to report their bonuses on their tax return.

## **3. Incentive Bonus**

Incentive bonuses include signing bonuses, referral bonuses, and retention bonuses. A signing bonus is a monetary offer that companies extend to top-talent candidates to entice them to accept a position—especially if they are being aggressively pursued by rival firms. In theory, paying an initial bonus payment will result in greater company profits down the line. Signing bonuses are routinely offered by professional sports teams attempting to lure top-tier athletes away from competitive clubs.

Referral bonuses are presented to employees who recommend candidates for open positions, which ultimately leads to the hiring of said candidates. Referral bonuses incentivize employees to refer prospects with strong work ethics, sharp skills, and positive attitudes.

Companies offer retention bonuses to key employees, in an effort to encourage loyalty, especially in downward economies or periods of organizational changes. This financial incentive is an expression of gratitude that lets employees know their jobs are secure over the long haul.

## **4 Holiday Bonuses**

Some companies hand out bonuses specifically during the December holidays season. Holiday bonuses can take various forms, such as cash, gift cards, or other types of

gifts. They can be given to individual employees or to the entire company. Some companies give holiday bonuses to all of their employees, while others only give them to certain employees, such as those who have been with the company for a certain length of time or who have achieved certain performance goals.

Some countries have codified holiday bonuses as part of the labor law. Aguinaldo, for example, is an annual Christmas bonus that businesses in Mexico are required by law to pay to their employees. The payment, sometimes called the "thirteenth salary", must be made by Dec. 110 of each year. It is usually equivalent to 15 days of the employee's salary. It is typically given to all employees, regardless of their job title or length of service. Companies that fail to make an aguinaldo payment may be fined as much as 5,000 times the legal daily minimum wage. Some other Latin American nations, such as Costa Rica and El Salvador, also require employers to pay their employees an aguinaldo.

### **1. Performance Bonuses**

Performance bonuses reward employees for exceptional work. They are customarily offered after the completion of projects or at the end of fiscal quarters or years. Performance bonuses may be doled out to individuals, teams, departments, or to the company-wide staff. A reward bonus may be either a one-time offer or a periodic payment. While reward bonuses are usually given in cash, they sometimes take the form of stock compensation, gift cards, time off, holiday turkeys, or simple verbal expressions of appreciation.

Examples of reward bonuses include annual bonuses, spot bonus awards, and milestone bonuses. Spot bonuses, which reward employees who deserve special recognition, are micro-bonus payments, typically valued at around \$50. Workers who reach longevity milestones—for example, 10 years of employment with a given firm—may be recognized with additional compensation.

Some businesses build bonus structures into employee contracts, where any profits earned during a fiscal year will be shared amongst the employees. In most cases, C-suite executives are awarded larger bonuses than lower-level employees.

### **2. Bonus Inflation**

While bonuses are traditionally issued to high-performing, profit-generating employees, some companies opt to issue bonuses to lower-performing employees as well, even though businesses that do this tend to grow more slowly and generate less money. Some businesses resort to distributing across-the-board bonuses in an effort to quell jealousies and employee backlash. After all, it's easier for management to pay bonuses to everyone than to explain to inadequate performers why they were denied.

Furthermore, it can be difficult for an employer to accurately assess their employees' performance success. For example, employees who fail to make their activity quotas may be very hard workers. However, their performance may be hampered by any number of conditions out of their control, such as unavoidable production delays or an economic downturn.

### **3. Special Considerations**

#### **A. Bonuses in Lieu of Pay**

Companies are increasingly replacing raises with bonuses—a trend that vexes many employees. While employers can keep wage increases low by pledging to fill pay gaps with

bonuses, they are under no obligation to follow through. Because employers pay bonuses on a discretionary basis, they may keep their fixed costs low by withholding bonuses during slow years or recessionary periods. This approach is much more viable than increasing salaries annually, only to cut wages during a recession.

### B. Dividends and Bonus Shares

In addition to employees, shareholders may receive bonuses in the shape of dividends, which are carved from the profits realized by the company. In lieu of cash dividends, a company can issue bonus shares to investors. If the company is short on cash, the bonus shares of company stock provide a way for it to reward shareholders who expect a regular income from owning the company's stock. The shareholders may then sell the bonus shares to meet their cash needs or they can opt to hold onto the shares.

### 11.5 Why Do Companies Give Bonuses

Companies give bonuses to employees for a variety of reasons, such as to:

Encourage certain behavior: Bonuses can be used as an incentive to encourage employees to perform at their best or to achieve certain goals.

- a) Reward good performance: Bonuses can be given to recognize and reward employees for exceptional performance or for meeting certain performance targets.
- b) Show appreciation/Boost morale: Bonuses can be given as a way for companies to show appreciation to their employees and boost morale.
- c) Retain key employees: Companies may offer retention bonuses to key employees to encourage them to stay with the company, especially during times of economic uncertainty or organizational change.
- d) Attract top talent: Companies may offer signing bonuses to top-talent candidates as an incentive to accept a job offer, especially if they are being aggressively pursued by rival firms.

Share company success: In addition to rewarding employees, companies may distribute bonuses to shareholders through a special dividend or a bonus issue, which is an offer of free additional shares of the company's stock.

Details of Payment of Bonus Act, 1965	
Objective	To reward the employee of the organization by sharing the profits earned and is linked to productivity
Applicable To	Any establishment with 10 or more employees
Eligibility	Employees getting Rs. 11,000 per month or less (basis + DA, excluding other allowances) and have completed 30 working days in that financial year
Components of Bonus	Salary / Wages only include basic and DA for bonus payment and the rest of allowances (eg, HRA, overtime, etc.) are excluded
Min / Max and time limits on bonus payments	Should be paid at the minimum rate of 8.33% and maximum rate of 110%. It needs to be paid within 8 months from the close of the accounting year
Disqualification of bonus	Employees can be disqualified if they are dismissed on the basis of fraud, misconduct, or any similar situation

### 11.6 Calculation for Bonus Payable

With a min rate of 8.33% and max rate of 110%, when wages or salary exceeds Rs. 7,000 or the minimum wages fixed by the government, the bonus will be payable on Rs. 7,000 or the minimum wages as fixed by govt., whichever is higher.

As per the amendment on the Payment of Bonus Bill passed in 11015, if the gross earning of the employee is below Rs. 111,000, employers are liable to pay bonuses. The bonus will be calculated as follows:

- If salary is equal to or less than Rs. 7,000, then the bonus will be calculated on the actual amount by using the formula: Bonus= Salary x 8.33 / 100
- If salary is more than Rs. 7,000, then the bonus will be calculated on Rs. 7,000 by using the formula: Bonus= 7,000 x 8.33 / 100

#### Examples:

1. If A's Salary (Basic + DA) is Rs. 6,000, then bonus payable will be:  $6,000 \times 8.33 / 100 = \text{Rs. } 500$  per month (Rs. 6,000 per year)
2. If B's Salary (Basic + DA) is Rs. 7,500, then bonus payable will be:  $7,000 \times 8.33 / 100 = \text{Rs. } 583$  per month (Rs. 6,996 per year)

### 11.7 Types of Bonus Payments

Some bonuses are distributed quarterly, others yearly. Some are a one-time thing, others are recurring. It all depends on what role you are in, what level you are at, what you contribute, what your leadership is like, and what kind of company you work for (among many other factors). Some of the common types of bonuses are given below-

<b>Annual Bonus</b>	<b>Spot Bonus</b>
It is usually based on overall company performance. So you may get a large or small bonus depending on how successful your organization was that year as well as how big a part of that success you are. This can also be considered as 'profit sharing'.	A spot bonus is for people who go above and beyond their normal duty and is usually tied to a task that was outside the scope of your role. It's generally a one-time thing, if not an occasional occurrence depending on budget, priorities, and work efficiency.
<b>Signing Bonus</b>	<b>Retention Bonus</b>
It is a one-time bonus provided when you sign on to a new role. Companies usually offer signing bonuses when an employee is moving to a new city for a job and the company wants to cover some of the cost. It is also a way for employers to make up for salary demands they can't meet.	A retention bonus is somewhat similar to a signing bonus and is given for retaining valuable employees. It's generally given during an acquisition, merger or to make someone stick around for an extra period of time if they were looking to leave.
<b>Referral Bonus</b>	<b>Holiday Bonus</b>
A referral bonus is given to current employees on referring great candidates for jobs at their company. It's generally given when the candidate is hired and has stayed on for several months (usually 3-6 months).	A holiday bonus is another way to recognize employees for their hard work and to give them an extra boost during an especially expensive time of the year. It's often but not always a set percentage of your annual salary (say anywhere from 5% to 10%)

### **11.8 Eligibility for Bonus Under The Act**

The payment of bonus is a statutory right under the act and According to the Section 8 of the act, any employer who has worked for a minimum of 30 days in an accounting year, shall be eligible for a bonus.

In East Asiatic Co. Ltd. Vs Industrial Tribunal 3, it was held that a retrenched employee is eligible for bonus if they worked for a min of 30 days and have a salary of 10,000 pm in a year.

In the case of J. K. Ginning & Pressing Factory v. Second Labour Court, Akola & Others 4, a factory employed ten seasonal employees, and the issue of their bonus eligibility arose. The Bombay High Court ruled that the Act does not exclude such seasonal workers from employment; the only criterion for eligibility is that they meet the Section 8 requirements. As a result, even seasonal employees were deemed to be entitled to bonus payments under the Act.

### **11.9 Disqualification from Bonus Under the Act**

According to the sec 9 of the act an employee shall be disqualified from receiving bonus under the Payment of Bonus Act, 1965, if he is dismissed from service for:

- Fraud, or
- Riotous or violent behavior while on the premises of the establishment, or
- Theft, misappropriation or sabotage of any property of the establishment

This provision is based on the recommendation of Bonus Commission, which stated that:

After all, bonus can only be shared by those workers who promote the stability and well-being of the industry, not by those who positively exhibit disruptive tendencies. Bonuses, without a doubt, impose a duty of good behaviour.

The appellant, a bus conductor working for a government of Tamil Nadu undertaking, was dismissed from service in Pandian Roadways Corporation Ltd. vs. Presiding Officer 5. Following that, the petitioner and management reached an agreement, and the petitioner as appointed as a new entrant. Following that, the petitioner claimed an bonus of rs 1,8411 for the duration after his re-appointment. the court ruled in the case that " If an employee is dismissed from service, he is disqualified from receiving any bonus under the said Act, not just the bonus for the accounting year," the court ruled.

In Gammon India Ltd Vs Niranjn Das 6, the court held that an employee who is dismissed from service for fraud, riotous or aggressive behaviour on the premises of the company, or who is guilty of theft, misappropriation, or sabotage of any establishment's property is disqualified from receiving bonus for the accounting year under section 9 of the Payment of Bonus Act, 1965. A dismissed employee who has been reinstated with back pay has evidently not committed the above crimes and has not been fired. As a result, he is entitled to a bonus.

### **11.10 Rights of Employer And Employee**

A. The Said act defines the rights available to the employees as defined below:

- Right to claim bonus due under the Act, which allows them to make a request to the government for payment and recovery of bonus amounts that are not paid to

them within one year of their due date

- The right to take any dispute to a Labour Court or Tribunal; however, it is necessary to remember that employees who are not entitled to bonuses are unable to take their case to a Labour Court or Tribunal.
- Right to seek clarity to obtain details about whatever products are in the name of the business so that they can determine whether or not they are being fairly compensated for their services.

B. The rights available to the Employer against any exploitation or the protection of their business are given as below:

- Rights to bring any dispute to the Labour Court or the Tribunal over a request for an interpretation of any clause of the Act.
- Right to deduct a fair amount from an employee's bonus on account of a bonus already paid as a festival bonus or in the event of a monetary loss caused by the employee's misbehaviour.
- Right to deduct the value of a bonus paid to an employee who has been fired for misbehaviour, offensive behaviour, or obstructing the establishment's land.
- 

### **1. Payment of Minimum Bonus**

Section 10 of the Act states that, regardless of whether the employer has some allocable surplus in the accounting year, each employer must pay each employee a minimum bonus equivalent to 8.33 percent of the employee's salary or wage earned during the accounting year, or one hundred rupees, whichever is greater. However, if an employee is under the age of fifteen at the start of the accounting year, the terms of this Section refer to that employee as if the words "one hundred rupees" were replaced with "sixty rupees." Section 10 of the Act does not contradict Articles 19 and 301 of the Constitution. Even if the employer loses money during the fiscal year, he must pay the minimum bonus as according to section 10 of the act. In *J.K. Chemicals Ltd. vs. Govt. of Maharashtra*<sup>7</sup> the court held that the company would not be relieved from its liability to pay minimum bonus, if the bonus liability is negligible in comparison to the loss incurred. If the employer's damages were not caused by employee wrongdoing, the employer must pay the statutory minimum bonus.

### **2. Payment of Maximum Bonus**

If the allocable surplus for any accounting year referred to in Section 10 exceeds the amount of the minimum bonus available to workers under that Section, the employer is allowed to pay a bonus equal to each employee's salary or wage received during that accounting year. In determining the allocable surplus under this Section, the amount set on or set off under the provisions of Section 15 must be taken into account in accordance with those provisions.

### **3. Provisions Related To Bonus under the Code on Wages, 11019**

The chapter relating to bonus payments under the code on wages applies only to establishments employing at least 110 workers on any day during the accounting year, similar to the provisions of the Payment of Bonus Act, 1965.

An annual bonus would be paid to all workers whose salaries do not exceed a certain monthly sum (to be determined by the federal or state governments). Bonuses are paid on the higher of the minimum wage or the wage limit set by the relevant government. Along the lines of the Payment of Bonus Act, the Code on wages lists disqualifications for receiving bonuses. It should be noted, however, that the Code also states that removal from service due to a conviction for sexual assault would be provided a ground for disqualification of bonus under the Code.



#### 4. Offences and penalties Under Payment of Bonus Act

In the event of a breach of the provisions of the Act or rules, the punishment is six months imprisonment or Rs.1000 fine, or both.

If failure to comply with the directives or requisitions issued, the punishment is imprisonment for six months or a fine of Rs.1000, or both.

Let's say a company, firm, corporation, or group of individuals commits a crime.

In that instance, the company's director, partner, principal, or officer in charge of the company's operations should get presumed guilty unless the individual can show that the crime was committed without his knowledge or that he exercised all due diligence.

#### 5. Classes of employees not entitled under the Act

The payment of Bonus Act does not apply to certain classes of employees, which include:

- Life Insurance Corporation,
- Universities and other educational institutions,
- The Unit Trust of India,
- Employees employed through contractors on building operations, to months employed by the Reserve Bank of India,
- The Indian Red Cross Society institution of a like nature,
- The Industrial Finance Corporation of India,
- the National Bank for Agriculture and Rural Development,
- Institutions (including hospitals, commerce and social welfare institutions' chambers) were established not for purposes of profit,
- Financial Corporations,
- the Industrial Development Bank of India,
- Employees of inland water transport establishments passing through another country

#### 6. Amendment to the Payment of Bonus Act, 1965

S.No	Year Of Amendment	Eligibility Limit(Rs. Per Month)	Calculation Ceiling (Rs. Per month)
1.	1965	Rs. 1600	Rs.750
11.	1985	Rs.11500	Rs. 1600
3.	1995	Rs. 3500	Rs. 11500
4.	11007	Rs. 10000	Rs. 3500
5.	11015	Rs. 111000	7000 rupees Or, whichever is higher, the minimum salary for scheduled work as set by the competent government.

#### 11.11 Payment of Bonus Rules

In exercise of the powers conferred by section 38 of the Payment of Bonus Act, 1965 (31 of 1965), and in super session of the Payment of Bonus Rules, 1965, the Central Government hereby makes the following rules, namely:

**1. Short title and commencement.** – (1) These rules may be called the Payment of Bonus Rules, 1965.

(11) They shall come into force on the date of their publication in Official Gazette.

**2. Definitions.** – In these rules -

- a) “form” means a form appended to these rules;
- b) “act” means the Payment of Bonus Act, 1965 (111 of 1965).
- c) “section” means a section of the Act.

**3. Authority for granting permission for change of accounting year.** – The prescribed authority for the purposes of the proviso to paragraph (b) of sub-clause (iii) of clause (1) of section 11 shall be –

- d) in case of an establishment in relation to which the Central Government is the appropriate Government under the Act, the Chief Labour Commissioner (Central);
- e) in any other case, the Labour Commissioner of the State in which the establishment is situated.

**4. Maintenance of registers.**- Every employer shall prepare and maintain the following registers, namely:-

- a) a register showing the computation of the allocable surplus referred to in clause (4) of section 11, in form A:
- b) a register showing the set-on and set-off of the allocable surplus, under section 15, in form B.
- c) a register showing the details of the amount of bonus due to each of the employees, the deductions under sections 17 and 18 and the amount actually disbursed, in Form C.

**5. Annual returns.** – Every employer shall send a return in Form D to the Inspector so as to reach him within 30 days after the expiry of the time limit specified in section 19 for payment of bonus.

## Payment of Gratuity Act 1972

### Learning outcomes

- To study the Gratuity Payable to the employee on the termination of his employment
- To Know the Powers of Inspectors
- To evaluate the Penalties and recovery of Gratuity
- To identify the Cognizance offences, gratuity and protection of action in good faith

### Structure

- 11.12 Introduction
- 11.13 Section: 2 Definitions.
- 11.14 Summary
- 11.15 Key words
- 11.16 Self Assessment questions
- 11.17 Suggested Readings

### 11.12 Introduction

An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Twenty-third Year of Republic of India as follows :

Section: 1 Short title, extent, application and commencement.

(1) This Act may be called the Payment of Gratuity Act, 1971.

(2) It extends to the whole of India:

Provided that in so far as it relates to plantations or ports, it shall not extend to the State of Jammu and Kashmir.

(3) It shall apply to -

- (a) every factory, mine, oilfield, plantation, port and railway company;
- (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
- (c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, or, any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.

(3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.]

(4) It shall come into force on such date as the Central Government may, by notification, appoint.

### 11.13 Section: 11 Definitions.

In this Act, unless the context otherwise requires, -

(a) "appropriate Government" means, -

- (i) in relation to an establishment
  - (a) belonging to, or under the control of, the Central Government,
  - (b) having branches in more than one State,
  - (c) of a factory belonging to, or under the control of, the Central Government,
  - (d) of a major port, mine, oilfield or railway company, the Central Government,
- (ii) in any other case, the State Government;

- (b) "completed year of service" means continuous service for one year;
- (c) "continuous service" means continuous service as defined in section 11A;
- (d) "controlling authority" means an authority appointed by the appropriate

Government under section 3 ;

(e) "employee" means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity

**Explanation :**

(f) **"employer" means, in relation to any establishment, factory, mine, oilfield, plantation, port, railway company or shop -**

- (i) belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned,
  - (ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,
  - (iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;
- (g) "factory" has the meaning assigned to it in clause (m) of section 11 of the Factories Act, 1948 (63 of 1948);
- (e) "family", in relation to an employee, shall be deemed to consist of -
- (f) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the dependent parents of his wife and the widow and children of his predeceased son, if any,
  - (ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any:

Explanation : Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him shall be deemed to be included in his family, and where a child of an employee has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee;

- (i) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);
- (j) "mine" has the meaning assigned to it in clause (J) of sub-section (1) of section 11 of the Mines Act, 1951 (35 of 1951);
- (k) "notification" means a notification published in the Official Gazette;
- (l) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948);

- (m) "plantation" has the meaning assigned to it in clause (f) of section 11 of the Plantations Labour Act, 1951 (69 of 1951) ;
- (n) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908);
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "railway company" has the meaning assigned to it in clause (5) of section 3 of the Indian Railways Act, 1890 (9 of 1890);
- (q) "retirement" means termination of the service of an employee otherwise than on superannuation;
- (r) "superannuation", in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service at the age on the attainment of which the employee shall vacate the employment;
- (s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

**Section: 11A- Continuous service**

For the purposes of this Act, -

- (1) an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing order, rules or regulations governing the employees of the establishment), lay off, strike or a lock-out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act.
- (2) where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer -
  - (a) for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than -
    - (i) one hundred and ninety days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and
    - (ii) two hundred and forty days, in any other case;
  - (b) for the said period of six months, if the employee during the period of six calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than -
    - (i) ninety-five days, in the case of an employee employed below the ground in a mine or in an establishment which works for less than six days in a week; and
    - (ii) one hundred and twenty days, in any other case;

**Explanation:** For the purpose of clause (11), the number of days on which an employee has actually worked under an employer shall include the days on which -

- (i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (110 of 1946), or under the Industrial Disputes Act, 1947 (14 of 1947), or under any other law applicable to the establishment;
- (ii) he has been on leave with full wages, earned in the previous year;
- (iii) he has been absent due to temporary disablement caused by accident arising out of

- and in the course of his employment and
- (iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.
- (3) where an employee employed in a seasonal establishment, is not in continuous service within the meaning of clause (1), for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy five per cent of the number of days on which the establishment was in operation during such period.

### **Section: 3 Controlling authority**

The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

### **Section: 4 Gratuity payable to an employee on the termination of his employment**

- (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, -
- (a) on his superannuation, or
  - (b) on his retirement or resignation, or
  - (c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominee or heir is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.

**Explanation. :** For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he, was capable of performing before the accident or disease resulting in such disablement.

- (2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account.

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days wages for each season.

**Explanation:** In the case of a monthly rated employee, the fifteen days wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.

- (3) The amount of gratuity payable to an employee shall not exceed three lakhs and fifty thousand rupees.
- (4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement

shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.

(b) the gratuity payable to an employee may be wholly or partially forfeited]

(i) if the services of such employee have been terminated for his riotous or disorderly conductor any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

#### **Section: 4A Compulsory insurance**

(1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (11), obtain an insurance in the manner prescribed, for his liability for payment towards the gratuity under this Act, from the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956) or any other prescribed insurer:

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(2) The appropriate Government may, subject to such conditions as may be prescribed, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed from the provisions of sub-section (1).

(3) For the purpose of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed get his establishment registered with the controlling authority in the prescribed manner and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (11).

(4) The appropriate Government may, by notification, make rules to give effect to the provisions of this section and such rules may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the controlling authority of the amount of the gratuity payable to an employee from the Life Insurance Corporation of India or any other insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund.

(5) Where an employer fails to make any payment by way of premium to the insurance referred to in sub-section (1) or by way of 'contribution to all approved gratuity fund referred to in sub-section (11), he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.

- (6) Whoever contravenes the provisions of sub-section (5) shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.

Explanation : In this section "approved gratuity fund" shall have the same meaning as in clause (5) of section 11 of the Income-tax Act, 1961 (43 of 1961)].

### **Section: 5 Power to exempt**

- (1) The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act if, in the opinion of the appropriate Government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.
- (2) The appropriate Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favorable than the benefits conferred under this Act.
- (3) A notification issued under sub-section (1) or sub-section (11) may be issued retrospectively a date not earlier than the date of commencement of this Act, but no such notification shall be issued so as to prejudicially affect the interests of any person.

### **Section: 6 Nomination**

- (1) Each employee, who has completed one year of service, shall make, within such time, in such form and in such manner, as may be prescribed, nomination for the Purpose of the second proviso to sub-section (1) of section 4.
- (2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.
- (3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family, shall be void.
- (4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, afresh nomination in favour of one or more members of hisfamily.
- (5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so.
- (6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.
- (7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.



**Section: 7 Determination of the amount of gratuity**

- (1) A person who is eligible for payment of gratuity under this Act or any person authorized, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.
- (2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount gratuity so determined.
- (3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.
  - (3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.
- (4)
  - (a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.
  - (b) Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.
  - (c) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already deposited by the employer.
  - (d) The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.
  - (e) As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit -
    - (i) to the applicant where he is the employee; or
    - (ii) where the applicant is not the employee, to the nominee or, as the case may be, the guardian of such nominee or] heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.
- (5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely :
  - (a) enforcing the attendance of any person or examining him on oath;
  - (b) requiring the discovery and production of documents,
  - (c) receiving evidence on affidavits;
  - (d) issuing commissions for the examination of witnesses.

- (6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 11118, and for the purpose of section 196, of the Indian Penal Code, 1860 (45 of 1860).
- (7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:  
Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.  
Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under subsection (4), or deposits with the appellate authority such amount.
- (8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority.

#### **Section: 7A Inspectors**

- (1) The appropriate Government may, by notification, appoint as many Inspectors, as it deems fit, for the purposes of this Act.
- (2) The appropriate Government may, by general or special order, define the area to which the authority of an Inspector so appointed shall extend and where two or more Inspectors are appointed for the same area, also provide, by such order, for the distribution or allocation of work to be performed by them under this Act.
- (3) Every Inspector shall be deemed to be a public servant within the meaning of section 111 of the Indian Penal Code, 1860 (45 of 1860).

#### **Section: 7B Powers of Inspectors**

- (1) Subject to any rules made by the appropriate Government in this behalf, an Inspector may, for the purpose of ascertaining whether any of the provisions of this Act or the conditions, if any, of any exemption granted there under, have been complied with, exercise all or any of the following powers, namely:
- (a) require an employer to furnish such information as he may consider necessary
- (b) enter and inspect, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or local or any public authority, as he thinks fit, any premises of or place in any factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, for the purpose of examining any register, record or notice or other document required to be kept or exhibited under this Act or the rules made there under, or otherwise kept or exhibited in relation to the employment of any person or the payment of gratuity to the employees, and require the production thereof for inspection;
- (c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer or any person whom he finds in such premises or place and who, he has reasonable cause to believe, is an employee employed therein;
- (d) make copies of, or take extracts from, any register, record, notice or other document, as he may consider relevant, and where he has reason to believe that any offence under this Act has been committed by an employer, search and seize with such assistance as he may think fit, such register, record, notice or

other document as he may consider relevant in respect of that offence;

(e) exercise such other powers as may be prescribed.

- (2) Any person required to produce any register, record, notice or other document or to give any information by an Inspector under sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code 1860 (45 of 1860).
- (3) The provisions of the Code of Criminal Procedure, 1973 (11 of 1974) shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of that Code.

### **Section: 8 Recovery of gratuity**

If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon at such rate as the Central Government may, by notification, specify,] from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto :

Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate:

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act.

### **Section: 9 Penalties**

- (1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.
- (2) An employer who contravenes, or makes default in complying with, any of the provisions of this Act or any rule or order made there under shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both:

Provided that where the offence relates to non-payment of any gratuity payable under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than [36] [Six months but which may extend to two years] unless the court trying the offence, for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice.

### **Section: 10 Exemption of employer from liability in certain cases**

Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to

the satisfaction of the court -

- (a) that he has used due diligence to enforce the execution of this Act, and
- (b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

#### **Section: 11 Cognizance of offences**

- (1) No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government:

Provided that where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time, the appropriate Government shall authorise the controlling authority to make a complaint against the employer, whereupon the controlling authority shall, within fifteen days from the date of such authorisation, make such complaint to a Magistrate having jurisdiction to try the offence.

- (2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

#### **Section: 12 Protection of action taken in good faith**

No suitor other legal proceeding shall lie against the controlling authority or any other person in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made there under.

#### **Section: 13 Protection of gratuity**

No gratuity payable under this Act and no gratuity payable to an employee employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop exempted under section shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

#### **Section: 14 Act to override other enactments, etc**

The provisions of this Act or any rule made there under shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.

#### **Section: 15 Power to make rules.**

- (1) The appropriate Government may, by notification make rules for the purpose of carrying out the provisions of this Act.

- (2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### 11.14 Summary

Under Section 4, payment of gratuity is mandatory. Gratuity shall be payable to an employee on termination of employment after he has rendered continuous service for not less than five years in a single organisation. The termination can be due to: Superannuation, Retirement or resignation, and Death or disablement due to accident or disease. As per Section 4(1), the completion of continuous service of 5 years is not required where termination of employment is due to death or disablement. In such case mandatory gratuity is payable. The unpaid gratuity amount is seized by government which is further used in holiday, vacations, parties and other fun related activities. Gratuity is paid at a rate of 15 days' wages for every completed year of service or part thereof in excess of six months. The wages here means wages last drawn by the employee. The "15 days' wages" will be calculated by dividing the last drawn wages by and multiplying the result with But under Section 4(3), the maximum gratuity that is payable is fixed at ₹110,00,000. Any gratuity amount paid in excess of ₹110,00,000 is taxable in the employee's hands.

The Payment of Bonus Act of 1965 aims to legalise the practice of various establishments paying bonuses. It provides a mechanism for calculating bonus based on profit and performance. It allows workers to make more money than the minimum wage or salary. This Act establishes various procedures for different types of businesses, such as banks and government agencies, as well as businesses that are not corporations or firms. This Act also establishes a rigorous redress process in addition to the procedure.

### 11.15 Key words

**Employee-** means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity

**Superannuation-** in relation to an employee, means the attainment by the employee of such age as is fixed in the contract or conditions of service at the age on the attainment of which the employee shall vacate the employment

**Wages-** means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance

**Controlling authority-** The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

1. A bonus is a financial compensation that is above and beyond the normal payment expectations of its recipient.
2. Bonuses may be awarded by a company as an incentive or to reward good performance.
3. Typical incentive bonuses a company can give employees include signing, referral, and retention bonuses.
4. Companies have various ways they can award employee bonuses, including cash, stock, and stock options.

#### **11.16 Self Assessment Questions**

1. Briefly Explain the Procedure of Payment of Gratuity Act 1951
2. Explain the Power of Inspectors
3. Discuss the Penalties and Recovery of Gratuity
4. Describe the Cognizance offences, gratuity and protection of action in good faith
5. Discuss the meaning and definition of bonus Act, 1965?
6. Explain the scope and coverage of bonus Act?
7. Elucidate the main provisions of bonus Act?
8. Converse the employee and employer rights and deductions of bonus Act?

#### **11.17 Suggested Readings**

1. Commentaries on Payment of GRATUITY ACT, 1971, Tenth edition, January 1101111, by Kharbanda & Kharbanda (Author), Law publishing house.
  2. The Payment of Gratuity Act, 1971 Paperback – 1 January 11019 by Asia Law House (Author), Asia law house, Hyderabad.
  3. The Payment of Gratuity Act, 1971 January 110110 by sathpal puliani (Author, Editor) karnataka law journal publication, Bangalore.
  4. Labour Law Agency's Bare Act on The Payment Of Gratuity Act, 1971 | 11017 Edition, January 1101111 by Labour Law Agency (Author), Mumbai.
  5. Malik, P.L : Industrial Law, Eastern Book Company, Lucknow , 1999.
- Sharma, A.M : Aspects of Labour Welfare and Social Security, Himalaya Publishing House, Mumbai, 110011.

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## **LESSON 12**

### **EMPLOYEE STATE INSURANCE ACT, 1948**

#### **Learning objectives**

- To study the Establishment of ESI
- To Know the Powers of the standing committee
- To Identify the Duties of Medical Benefit Council
- To Examine the General provisions as to payment of contributions

#### **Structure**

- 12.0 Introduction
- 12.1 Definition
- 12.2 Establishment of Employees' State Insurance Corporation
- 12.3 Term of office of the members of the Corporation
- 12.4 Eligibility for re-appointment or re-election
- 12.5 Authentication of orders, decisions, etc
- 12.6 Constitution of Standing Committee
- 12.7 Term of office of members of Standing Committee
- 12.8. Medical Benefit Council
- 12.9 Resignation of membership
- 12.10 Cessation of membership
- 12.11. Disqualification
- 12.12 Filling of vacancies
- 12.13 Fees and allowances
- 12.14 Principal officers
- 12.15 Staff
- 12.16 Powers of the Standing Committee
- 12.17 Corporation's power to promote measures for health, etc., of insured persons
- 12.18 Meetings of Corporation, Standing Committee and Medical Benefit Council.
- 12.19 Supersession of the Corporation and Standing Committee
- 12.20 Duties of Medical Benefit Council
- 12.21 Duties of [Director-General and the Financial Commissioner
- 12.22 Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.
- 12.23 Regional Board, Local Committees, Regional and Local Medical Benefit Councils
- 12.24 Employees' State Insurance Fund
- 12.25 Contributions
- 12.26 Principal employer to pay contributions in the first instance
- 12.27 Recovery of contributions from immediate employer
- 12.28 General provisions as to payment of contributions.
- 12.29 Method of payment of contribution
- 12.30 Recovery of contributions from immediate employer
- 12.31 General provisions as to payment of contributions
- 12.32 Method of payment of contribution
- 12.32 Issue of certificate to the Recovery Officer
- 12.34 Benefits
  - 12.34.1 Sickness benefit
  - 12.34.2 Maternity Benefit
  - 12.34.12 Disablement benefit.
  - 12.34.4 Dependants' benefit

12.34.5 . Occupational disease

12.34.6 Medical Benefit

12.35 Summary

12.36 Key words

12.37 Self Assessment questions

12.38 Suggested Readings

## **12.0 Introduction**

(1) This Act may be called the Employees' State Insurance Act, 1948.

(2) It extends to [the whole of India

(12) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States or for different parts thereof.

(4) It shall apply, in the first instance, to all factories (including factories belonging to the Government) other than seasonal factories.

Provided that nothing contained in this sub-section shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.

(5) The appropriate Government may, in consultation with the Corporation and where the appropriate Government is a State Government, with the approval of the Central Government], after giving one month's notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment, or class of establishments, industrial, commercial, agricultural or otherwise.

Provided that where the provisions of this Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishments within that part if the provisions have already been extended to similar establishment or class of establishments in another part of that State.

(6) A factory or an establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below the limit specified by or under this Act or the manufacturing process therein ceases to be carried on with the aid of power.

## **12.1 Definitions**

In this Act, unless there is anything repugnant in the subject or context,

(1) "appropriate Government " means, in respect of establishments under the control of the Central Government or a railway administration or a major port or a mine or oil-field, the Central Government, and in all other cases, the State Government ;

"Confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead ;

"Contribution" means the sum of money payable to the Corporation by the principal employer in respect of an employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of this Act;

"Corporation" means the Employees' State Insurance Corporation set up under this Act;

(6-A) "dependant" means any of the following relatives of a deceased insured person, namely

(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter ;

(ia) a widowed mother ;



- (ii) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of twenty-five and who is infirm;
- (iii) If wholly or in part dependent on the earnings of the insured person at the time of his death,
  - (a) a parent other than a widowed mother,
  - (b) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,
  - (c) a minor brother or an unmarried sister or a widowed sister if a minor,
  - (d) a widowed daughter-in-law,
  - (e) a minor child of a pre-deceased son,
  - (f) a minor child of a pre-deceased daughter where no parent of the child is alive, or
  - (g) a paternal grand-parent if no parent of the insured person is alive;

## **12.2. Establishment of Employees' State Insurance Corporation**

- (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.
  - (2) The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.
4. Constitution of Corporation.-The Corporation shall consist of the following members, namely :
- (a) a Chairman to be appointed by the Central Government ;
  - (b) a Vice-Chairman to be appointed by the Central Government
  - (c) not more than five persons to be appointed by the Central Government
  - (d) one person each representing each of the States in which this Act is in force to be appointed by the State Government concerned;
  - (e) one person to be appointed by the Central Government to represent the Union territories;
  - (f) ten persons representing employers to be appointed by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government ;
  - (g) ten persons representing employees to be [appointed] by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government ;
  - (h) two persons representing the medical profession to be appointed by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government ;
  - (i) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States ; and
  - (j) the Director-General of the Corporation, ex-officio.

### **12.12 Term of office of the members of the Corporation**

- (1) Save as otherwise expressly provided in this Act, the term of office of members of the Corporation, other than the members referred to in clauses (a), (b), (c), (d) and (e) of section

4 and the ex-officio member, shall be four years commencing from the date on which their appointment or election is notified.

Provided that a member of the Corporation shall notwithstanding the expiry of the said period of four years, continue to hold office until the appointment or election of his successor is notified.

#### **12.4 Eligibility for [re-appointment] or re-election**

An outgoing member of the Corporation, the Standing Committee, or the Medical Benefit Council shall be eligible for [reappointment] or re-election as the case may be.

#### **12.5 Authentication of orders, decisions, etc.**

All orders and decisions of the Corporation shall be authenticated by the signature of the Director-General of the Corporation and all other instruments issued by the Corporation shall be authenticated by the signature of the Director-general or such other officer of the Corporation as may be authorised by him.

#### **12.6 Constitution of Standing Committee**

A Standing Committee of the Corporation shall be constituted from among its members, consisting

- (a) a Chairman appointed by the Central Government ;
- (b) three members of the Corporation, appointed by the Central Government;
  - (bb) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time ;
- (c) eight members elected by the Corporation as follows : —
  - I. three members from among the members of the Corporation representing employers ;
  - II. three members from among the members of the Corporation representing employees ;
  - III. one member from among the members of the Corporation representing the medical profession ; and
  - IV. one member from among the members of the Corporation elected by Parliament
- (d) the Director-General of the Corporation, ex-officio.

#### **12.7 Term of office of members of Standing Committee**

(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or 12 clause (b) or clause (bb) of section 8, shall be two years

from the date on which his election is notified :

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation. (2) A member of the Standing Committee referred to in clause (a) or 12 clause (b) or clause (bb) of section 8 shall hold office during the pleasure of the Central Government.

#### **12.8. Medical Benefit Council**

(1) The Central Government shall constitute a Medical Benefit Council consisting of —

- (a) the Director General, the Employees' State Insurance Corporation, ex-officio as Chairman ;
- (b) the Director General, Health Services, ex-officio as Co-Chairman
- (c) the Medical Commissioner of the Corporation, ex-officio ;

- (d) one member each representing each of the 1 States (other than Union territories)] in which this Act is in force to be 2 appointed by the State Government concerned;
  - (e) three members representing employers to be appointed by the Central Government in consultation with such organisations of employers as may be recognised for the purpose by the Central Government ;
  - (f) three members representing employees to be appointed by the Central Government in consultation with such organisations of employees as may be recognised for the purpose by the Central Government ; and
  - (g) three members, of whom not less than one shall be a woman, representing the medical profession, to be appointed by the Central Government in consultation with such organisations of medical practitioners as may be recognised for the purpose by the Central Government.
- (2) Save as otherwise expressly provided in this Act, the term of office of a member of the Medical Benefit Council, other than a member referred to in any of the clauses (a) to (d) of sub-section (1), shall be four years from the date on which his appointment is notified: Provided that a member of the Medical Benefit Council shall, notwithstanding the expiry of the said period of four years continue to hold office until the appointment of his successor is notified.
- (12) A member of the Medical Benefit Council referred to in clauses (b) and (d) of subsection (1) shall hold office during the pleasure of the Government appointing him.

### **12.9 Resignation of membership.**

A member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat shall fall vacant on the acceptance of the resignation by that Government.

### **12.10 Cessation of membership**

- (1) A member of the Corporation, the Standing Committee or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings there of
- Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.
- (2) Where in the opinion of the Central Government any person appointed or elected to represent employers, employees or the medical profession on (sic.) the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, has ceased to represent such employers, employees or the medical profession, the Central Government may, by notification in the Official Gazette, declare that with effect from such date as may be specified therein such person shall cease to be a member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be.
- (12) A person referred to in clause (i) of section 4 shall cease to be a member of the Corporation when he ceases to be a Member of Parliament.

### **12.11. Disqualification**

A person shall be disqualified for being chosen as or for being a member of the Corporation, the Standing Committee or the Medical Benefit Council

- (a) if he is declared to be of unsound mind by a competent Court ; or
- (b) if he is an undischarged insolvent ; or

- (c) if he has directly or indirectly by himself or by his partner any interest in subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a share-holder (not being a Director) of a company ; or
- d) if before or after the commencement of this Act, he has been convicted of an offence involving moral turpitude.

### **12.12 Filling of vacancies**

- (1) Vacancies in the office of appointed or elected members of the Corporation, the Standing Committee Medical Benefit Council shall be filled by appointment or election, as the case may be.
- (2) A member of the Corporation, the Standing Committee or the Medical Benefit Council appointed or elected to fill a casual vacancy shall hold office only so long as the member in whose place he is appointed or elected would have been entitled to hold office if the vacancy had not occurred.

### **12.112 Fees and allowances**

Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

### **12.14 Principal officers**

- (1) The Central Government may, in consultation with the Corporation, appoint a Director-General and a Financial Commissioner.
- (2) The Director-General shall be the Chief Executive Officer of the Corporation.
- (12) The Director-General and the Financial Commissioner shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government and of the Corporation
- (4) The Director-General or the Financial Commissioner shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing Director-General or Financial Commissioner shall be eligible for re-appointment if he is otherwise qualified.
- (5) The Director-General or the Financial Commissioner shall receive such salary and allowances as may be prescribed by the Central Government.
- (6) A person shall be disqualified from being appointed as or for being [the Director General or the Financial Commissioner if he is subject to any of the disqualifications specified in section 112.
- (7) The Central Government may at any time remove the Director-General or the Financial Commissioner from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-third is of the total strength of the Corporation.

### **12.15 Staff**

- (1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post the maximum monthly salary of which exceeds such salary as may be prescribed by the Central Government.
- (2) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders

applicable to the officers and employees of the Central Government drawing corresponding scales of pay

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

#### **12.16 Powers of the Standing Committee**

- (1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.
- (2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.
- (12) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

#### **12.17 Corporation's power to promote measures for health, etc., of insured persons**

The Corporation may, in addition to the scheme of benefits specified in this Act, promote measures for the improvement of the health and welfare of insured persons and for the rehabilitation and reemployment of insured persons who have been disabled or injured and may incur in respect of such measures expenditure from the funds of the Corporation within such limits as may be prescribed by the Central Government.

#### **12.18 Meetings of Corporation, Standing Committee and Medical Benefit Council.**

Subject to any rules made under this Act, the Corporation, the Standing Committee and the Medical Benefit Council shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.

#### **12.19 Supersession of the Corporation and Standing Committee.**

- (1) If in the opinion of the Central Government, the Corporation or the Standing Committee persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers, that Government may, by notification in the official Gazette, supersede the Corporation, or in the case of the Standing Committee, supersede in consultation with the Corporation, the Standing Committee :Provided that therefore issuing a notification under this sub-section the Central Government shall give a reasonable opportunity to the Corporation or the Standing Committee, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation or the Standing Committee, as the case may be.
- (2) Upon the publication of a notification under sub-section (1) superseding the Corporation or the Standing Committee, all the members of the Corporation or the Standing Committee, as the case

#### **12.20 Duties of Medical Benefit Council**

The Medical Benefit Council shall —

- (a) advise [the Corporation and the Standing Committee] on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters ;

- (b) have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with medical treatment and attendance ; and
- (c) perform such other duties in connection with medical treatment and attendance as may be specified in the regulations.

### **12.21 Duties of Director-General and the Financial Commissioner**

The Director-general and the Financial Commissioner shall exercise such powers and discharge such duties as may be prescribed. They shall also perform such other functions as may be specified in the regulations.

### **12.22 Acts of Corporation, etc., not invalid by reason of defect in constitution, etc.**

No act of the Corporation, the Standing Committee or the Medical Benefit Council shall be deemed to be invalid by reason of any defect in the constitution of the Corporation, the Standing Committee or the Medical Benefit Council, or on the ground that any member thereof was not entitled to hold or continue in office by reason of any disqualification or of any irregularity in his appointment or election, or by reason of such act having been done during the period of any vacancy in the office of any member of the Corporation, the Standing Committee or the Medical Benefit Council.

### **12.23 Regional Board, Local Committees, Regional and Local Medical Benefit Councils**

The Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner, and delegate to them such powers and functions, as may be provided by the regulations.

### **12.24 Employees' State Insurance Fund**

- (1) All contributions paid under this Act and all other moneys received on behalf of the Corporation shall be paid into a fund called the Employees' State Insurance Fund which shall be held and administered by the Corporation for the purposes of this Act.
- (2) The Corporation may accept grants, donations and gifts from the Central or any State Government, Local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.
- (12) Subject to the other provisions contained in this Act and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of India or such other bank as may be approved by the Central Government to the credit of an account styled the Account of the Employees' State Insurance Fund.

All employees to be insured. — Subject to the provisions of this Act, all employees in factories or establishments to which this Act applies shall be insured in the manner provided by this Act.

### **12.25 Contributions**

- (1) The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer (hereinafter referred to as the employer's contribution) and contribution payable by the employee (hereinafter referred to as the employee's contribution) and shall be paid to the Corporation.
- (2) The contributions shall be paid at such rates as may be prescribed by the Central Government :Provided that the rates so prescribed shall not be more than the rates which were in force immediately before the commencement of the Employees' State Insurance (Amendment) Act, 1989 (29 of 1989).

- (12) The wage period in relation to an employee shall be the unit in respect of which all contributions shall be payable under this Act.
- (4) The contributions payable in respect of each wage period shall ordinarily fall due on the last day of the wage period, and where an employee is employed for part of the wage period, or is employed under two or more employers during the same wage period the contributions shall fall due on such days as may be specified in the regulations.
- (5) (a) If any contribution payable under this Act is not paid by the principal employer on the date on which such contribution has become due, he shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the regulations till the date of its actual payment :  
Provided that higher interest specified in the regulations shall not exceed the lending rate of interest charged by any scheduled bank.
- (b) Any interest recoverable under clause (a) may be recovered as an arrear of land revenue or under section 45-C to section 45-I. Explanation. — In this sub-section “ scheduled bank ” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 19124 (2 of 19124).

#### **12.26 Principal employer to pay contributions in the first instance**

- (1) The principal employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.
- (2) Notwithstanding anything contained in any other enactment but subject to the provisions of this Act and the regulations, if any, made thereunder, the principal employer shall, in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his wages and not otherwise :  
Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.
- (12) Notwithstanding any contract to the contrary, neither the principal employer nor the immediate employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise to recover it from him.
- (4) Any sum deducted by the principal employer from wages under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.
- (5) The principal employer shall bear the expenses of remitting the contributions to the Corporation.

#### **12.27 Recovery of contributions from immediate employer**

- (1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any,) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer.
  - (1-A) The immediate employer shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the principal employer before the settlement of any amount payable under sub-section (1).
- (2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by

deduction from wages and not otherwise, subject to the conditions specified in the proviso to subsection (2) of section 40.

### **12.28 General provisions as to payment of contributions.**

- (1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages during a wage period are below 4such wages as may be prescribed by the Central Government.

Explanation. — The average daily wages of an employee shall be calculated in such manner as may be prescribed by the Central Government.

- (2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each wage period in respect of the whole or part of which wages are payable to the employee and not otherwise

### **12.29 Method of payment of contribution**

Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for —

- a) the manner and time of payment of contributions ;
- b) in the case of an employee directly employed by him (not being an exempted employee), be entitled to recover from the employee the employee's contribution by reduction from his wages and not otherwise :
- c) Provided that no such deduction shall be made from any wages other than such as relate to the period or part of the period in respect of which the contribution is payable] or in excess of the sum representing the employee's contribution for the period.
- d) (12) Notwithstanding any contract to the contrary, neither the principal employer nor the
- e) immediate employer shall be entitled to deduct the employer's contribution from any wages
- f) payable to an employee or otherwise to recover it from him.
- g) (4) Any sum deducted by the principal employer from wages under this Act shall be
- h) deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.
- i) (5) The principal employer shall bear the expenses of remitting the contributions to the Corporation.

### **12.30 Recovery of contributions from immediate employer**

- (1) A principal employer, who has paid contribution in respect of an employee employed by or through an immediate employer, shall be entitled to recover the amount of the contribution so paid (that is to say the employer's contribution as well as the employee's contribution, if any,) from the immediate employer, either by deduction from any amount payable to him by the principal employer under any contract, or as a debt payable by the immediate employer. (1-A) The immediate employer shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the principal employer before the settlement of any amount payable under sub-section (1).
- (2) In the case referred to in sub-section (1), the immediate employer shall be entitled to recover the employee's contribution from the employee employed by or through him by



deduction from wages and not otherwise, subject to the conditions specified in the proviso to subsection (2) of section 40.

### **12.31 General provisions as to payment of contributions**

- (1) No employee's contribution shall be payable by or on behalf of an employee whose average daily wages during a wage period are below 4 such wages as may be prescribed by the Central Government.

Explanation. — The average daily wages of an employee shall be calculated in such manner as may be prescribed by the Central Government.

- (2) Contribution (both the employer's contribution and the employee's contribution) shall be payable by the principal employer for each wage period in respect of the whole or part of which wages are payable to the employee and not otherwise.

### **12.32 Method of payment of contribution**

Subject to the provisions of this Act, the Corporation may make regulations for any matter relating or incidental to the payment and collection of contributions payable under this Act and without prejudice to the generality of the foregoing power such regulations may provide for —

the manner and time of payment of contributions;

### **12.33 Issue of certificate to the Recovery Officer**

- (1) Where any amount is in arrear under this Act, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the factory or establishment or, as the case may be, the principal or immediate employer by one or more of the modes mentioned below: —

- (a) attachment and sale of the movable or immovable property of the factory or establishment or, as the case may be, the principal or immediate employer;
- (b) arrest of the employer and his detention in prison;
- (c) appointing a receiver for the management of the movable or immovable
  - (a) properties of the factory or establishment, or, as the case may be, the employer:

### **12.34 Benefits**

- (1) Subject to the provisions of this Act, the insured persons, their dependants or the persons hereinafter mentioned, as the case may be, shall be entitled to the following benefits, namely :

- (a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf hereinafter referred to as sickness benefit;
- (b) periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations hereinafter referred to as maternity benefit;
- (c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations hereinafter referred to as disablement benefit;
- (d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act hereinafter referred to as dependants' benefit;

- (e) medical treatment for and attendance on insured persons hereinafter referred to as medical benefit; and
- (f) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person to be known as funeral expenses.

Provided that the amount of such payment shall not exceed such amount as may be prescribed by the Central Government and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.

- (2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person

When person eligible for sickness benefit

When person deemed available for sickness benefit.

#### **12.34.1 Sickness benefit**

The qualification of a person to claim sickness benefit, the conditions subject to which such benefit may be given, the rate and period thereof shall be such as may be prescribed by the Central Government.

#### **12.34.2 Maternity Benefit**

The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government.

#### **12.34.12 Disablement benefit.**

Subject to the provisions of this Act 4

- (a) a person who sustains temporary disablement for not less than three days excluding the day of accident shall be entitled to periodical payment at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government;
- (b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment 6 at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government. Presumption as to accident arising in course of employment.

For the purposes of this Act, an accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.

Accidents happening while acting in breach of regulations, etc.

An accident shall be deemed to arise out of and in the course of an employee's employment notwithstanding that he is at the time of the accident acting in contravention of the provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if —

- (a) the accident would have been deemed so to have arisen had the act not been done in contravention as aforesaid or without instructions from his employer, as the case may be; and

- (b) the act is done for the purpose of and in connection with the employer's trade or business.

Accidents happening while travelling in employer's transport.

(1) An accident happening while an [employee] is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if —

(a) the accident would have been deemed so to have arisen had he been under such obligation ; and

(b) at the time of the accident, the vehicle —

(i) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer ; and

(ii) is not being operated in the ordinary course of public transport service.

(2) In this section "vehicle" includes a vessel and an aircraft.

Accidents happening while meeting emergency

An accident happening to an employee in or about any premises at which he is for the time being employed for the purpose of his employer's trade or business shall be deemed to arise out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succor or protect persons who are, or are thought to be or possibly to be, injured or imperiled, or to avert or minimize serious damage to property.

Accidents happening while commuting to the place of work and vice versa.

An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.

#### **12.34.4 Dependants' benefit**

- (1) If an insured person dies as a result of an employment injury sustained as an employee under this Act whether or not he was in receipt of any periodical payment for temporary disablement in respect of the injury dependants' benefit shall be payable at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government to his dependants specified in sub-clause (i), sub-clause (i-a) and subclause (ii) of clause (6-A) of section 2.
- (2) In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government.

#### **12.34.5 . Occupational disease**

- (1) If an employee employed in any establishment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease

shall, unless the contrary is proved, be deemed to be an “ employment injury ” arising out of and in the course of employment.

- (2) (i) Where the Central Government or a State Government, as the case may be, adds any description of employment to the employment specified in Schedule III to the Workmen’s Compensation Act, 19212\* (8 of 19212) by virtue of the powers vested in it under sub-section
- (12) of Sec. 12 of the said Act, the said description of employment and the occupational diseases specified under that sub-section as peculiar to that description of employment shall be deemed to form part of the Third Schedule.
- (ii) Without prejudice to the provisions of clause (i), the Corporation after giving, by notification in the Official Gazette, not less than three months’ notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in the Third Schedule and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of this Act shall apply, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.
- (12) Save as provided by sub-sections (1) and (2), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.
- (4) The provisions of section 51-A shall not apply to the cases to which this section apply.

#### **Bar against receiving or recovery of compensation or damages under any other law**

An insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen’s Compensation Act, 19212\* (8 of 19212), or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act.

#### **Determination of question of disablement**

Any question (a) whether the relevant accident has resulted in permanent disablement ; or (b) whether the extent of loss of earning capacity can be assessed provisionally or finally ; or (c) whether the assessment of the proportion of the loss of earning capacity is provisional or final ; or (d) in the case of provisional assessment, as to the period for which such assessment shall hold good, shall be determined by a medical board constituted in accordance with the provisions of the regulations and any such question shall hereafter be referred to as the “ disablement question

#### **References to medical boards and appeals to medical appeal tribunals and Employees’ Insurance Courts.**

- (1) The case of any insured person for permanent disablement benefit shall be referred by the Corporation to a medical board for determination of the disablement question and if, on that or any subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the medical board not later than the end of the period taken into account by the provisional assessment.
- (2) If the insured person or the Corporation is not satisfied with the decision of the medical board, the insured person or the Corporation may appeal in the prescribed manner and within the prescribed time to

- (i) the medical appeal tribunal constituted in accordance with the provisions of the regulations with a further right of appeal in the prescribed manner and within the prescribed time to the Employees' Insurance Court, or
  - (ii) the Employees' Insurance Court directly Provided that no appeal by an insured person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefit :
- Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board.

### **Review of decisions by medical board or medical appeal tribunal**

- (1) Any decision under this Act of a medical board or a medical appeal tribunal may be reviewed at any time by the medical board or the medical appeal tribunal, as the case may be, if it is satisfied by fresh evidence that the decision was given in consequence of the nondisclosure or misrepresentation by the employee or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent.
- (2) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the result of the relevant injury:

#### **Review of dependants' benefit.**

- (1) Any decision awarding dependants' benefit under this Act may be reviewed at any time by the Corporation if it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact whether the non-disclosure or misrepresentation was or was not fraudulent or that the decision is no longer in accordance with this Act due to any birth or death or due to the marriage, re-marriage, or cessor or infirmity of, or attainment of the age of eighteen years by, a claimant.
- (2) Subject to the provisions of this Act, the Corporation may, on such review as aforesaid, direct that the dependants' benefit be continued, increased, reduced or discontinued.

### **12.34.6 Medical Benefit.**

- (1) An insured person or where such medical benefit is extended to his family a member of his family whose condition requires medical treatment and attendance shall be entitled to receive medical benefit.
- (2) Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.
- (12) A person shall be entitled to medical benefit during any period for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations:

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations:

Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment

of contribution and such other conditions as may be prescribed by the Central Government, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement

Provided also that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government. Provision of medical treatment by State Government.

(1) The State Government shall provide for insured persons and where such benefit is extended to their families their families in the State, reasonable medical, surgical and obstetric treatment:

Provided that the State Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as may be agreed upon.

(2) Where the incidence of sickness benefit payment to insured persons in any 2 State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the 1 State Government in such proportion as may be fixed by agreement between them:

Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.

(12) The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to insured persons and where such medical benefit is extended to the families their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to insured persons between the Corporation and the State Government.

(4) In default of agreement between the Corporation and any State Government as aforesaid, the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator who shall be or shall have been a Judge of the High Court of a State appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the State Government.

#### **Punishment for false statement.**

Whoever, for the purpose of causing any increase in payment or benefit under this Act, or for the purpose of causing any payment or benefit to be made where no payment or benefit is authorised by or under this Act, or for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid any such payment, knowingly makes or causes to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding two thousand rupees, or with both.

Provided that where an insured person is convicted under this section, he shall not be entitled for any cash benefit under this Act for such period as may be prescribed by the Central Government.

#### **Punishment for failure to pay contributions, etc.**

If any person —

(a) fails to pay any contribution which under this Act he is liable to pay, or

- (b) deducts or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution, or
- (c) in contravention of section 72 reduces the wages or any privileges or benefits admissible to an employee, or
- (d) in contravention of section 712 or any regulation dismisses, discharges, reduces or otherwise punishes an employee, or
- (e) fails or refuses to submit any return required by the regulations or makes a false return, or
- (f) obstructs any Inspector or other official of the corporation in the discharge of his duties, or
- (g) is guilty of any contravention of or non-compliance with any of the requirements of this Act or the rules or the regulations in respect of which no special penalty is provided, he shall be punishable —

- (i) where he commits an offence under clause (a), with imprisonment for a term which may extend to three years but —
- (a) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of ten thousand rupees;
- (b) which shall not be less than six months, in any other case and shall also be liable to fine of five thousand rupees:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term ;

- (ii) where he commits an offence under any of the clauses (b) to (g) (both inclusive), with imprisonment for a term which may extend to one year or with fine which may extend to four thousand rupees, or with both
- Enhanced punishment in certain cases after previous conviction.

Whoever, having been convicted by a Court of an offence punishable under this Act, commits the same offence shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to two years and with fine of five thousand rupees:

Provided that where such subsequent offence is for failure by the employer to pay any

contribution which under this Act, he is liable to pay, he shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to five years but which shall not be less than two years and shall also be liable to fine of twenty-five thousand rupees.

Power to recover damages.

- (1) Where an employer fails to pay the amount due in respect of any contribution or any other amount payable under this Act, the Corporation may recover from the employer by way of penalty such damages, not exceeding the amount of arrears as may be specified in the regulations

Power of Court to make orders.

- (1) Where an employer is convicted of an offence for failure to pay any contribution payable under this Act, the Court may, in addition to awarding any punishment, by order, in writing, require him within a period specified in the order which the Court may if it thinks fit and on application in that behalf, from time to time, extend), to pay the amount of contribution in respect of which the offence was committed and to furnish the return relating to such contributions.

- (2) Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punishable with imprisonment in respect thereof under section 85 and shall also be liable to pay fine which may extend to one thousand rupees for every day after such expiry on which the order has not been complied with.

#### Prosecutions.

- (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner or of such other officer of the Corporation as may be authorised in this behalf by the Director-General of the Corporation.
- (2) No Court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence under this Act.
- (12) No Court shall take cognizance of any offence under this Act, except on a complaint made in writing in respect thereof.

#### Offences by companies

- (1) If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### 12.35 Summary

The Employees' State Insurance Scheme is an integrated measure of Social Insurance embodied in the Employees' State Insurance Act and it is designed to accomplish the task of protecting 'employees' as defined in the Employees' State Insurance Act, 1948 against the impact of incidences of sickness, maternity, disablement and death due to employment injury and to provide medical care to insured persons and their families. The ESI Scheme applies to factories and other establishments viz. Road Transport, Hotels, Restaurants, Cinemas, Newspaper, Shops, and Educational/Medical Institutions wherein 10 or more persons are employed. However, in some States threshold limit for coverage of establishments is still 20. Employees of the aforesaid categories of factories and establishments, drawing wages up to Rs.15,000/- a month, are entitled to social security cover under the ESI Act.

### 12.36 Key words

**Contributions-** The contribution payable under this Act in respect of an employee shall comprise contribution payable by the employer hereinafter referred to as the employer's



contribution and contribution payable by the employee hereinafter referred to as the employee's contribution and shall be paid to the Corporation.

**Cessation of membership-** A member of the Corporation, the Standing Committee or the Medical Benefit Council shall cease to be a member of that body if he fails to attend three consecutive meetings thereof

Provided that the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, may, subject to rules made by the Central Government in this behalf, restore him to membership.

**Establishment of Employees' State Insurance Corporation-**With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the administration of the scheme of Employees' State Insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation.

### 12.37 Self Assessment questions

1. Briefly Explain the Establishment of ESI Act
2. Discuss the Power of Standing Committee in ESI Act
12. Describe the Duties of Medical Benefit Council
4. Examine the General provisions as to payment of contributions

### 12.38 Suggested Readings

1. The Employees State Insurance Act 1948 Bare Act with Amendments 20212 Edition November 2022 by Government of India (Author).
2. Employees' State Insurance Act, 1948 along with Rules and Regulations 2020 by Lexis (Author), Universal's publication, New Delhi, India.
12. Sinha, G.P. & Sinha,, P.R.N : Industrial Relations and Labour Legislations, Oxford and IBH Publishing Co., New Delhi , 1980.
4. Goswamy, V.G : Labour and Industrial Relations Law, Central Law Agency, Allahabad , 2004.
5. ESI Act, 1948 Paperback – 1 January 2019 by S.A. Chari (Author), Asia law house, Hyderabad.

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## **Lesson-13**

### **EMPLOYEES PROVIDENT FUND ACT, 1952**

#### **Learning objectives**

- To Understand the Procedure of Employees Fund Scheme
- To Know the Central board and Appointment of Officers
- To Learn the Appeals and Procedure of Tribunal
- To Examine the offences and Penalties of Employees Fund Scheme

#### **Structure**

- 13.1 Introduction
- 13.2. Definitions
- 13.3 Establishment to include all departments and branches
- 13.4. Power to add to Schedule I
- 13.5 Employees' Provident Fund Schemes
- 13.6. Central Board
- 13.7 Executive Committee
- 13.8 Board of Trustees to body corporate
- 13.9 Appointment of officers
- 13.10 Delegation
- 13.11 Contributions and matters which may be provided for in Schemes
- 13.12. Employees' Pension Scheme
- 13.13 Employees' Deposit linked Insurance Scheme
- 13.14 Laying of schemes before Parliament
- 13.15 Laying of schemes before Parliament
- 13.16 Modification of scheme.
- 13.17. Determination of money due from employers
- 13.18 Review of orders passed under section 7A
- 13.19 Determination of escaped amount
- 13.20 Tribunal
- 13.21 Appeals to Tribunal
- 13.22 Procedure of Tribunals
- 13.23 Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers.
- 13.24 Orders of Tribunal
- 13.25 Mode of recovery of moneys due from employers
- 13.26 Recovery of moneys by employers and contractors
- 13.27 Issue of certificate to the Recovery Officer
- 13.28 Recovery Officer to whom certificate is to be forwarded.
- 13.29 Validity of certificate and amendment thereof
- 13.30 Stay of proceedings under certificate and amendment or withdrawal thereof
- 13.31 Application of certain provisions of Income-tax Act
- 13.32 Fund to be recognised under Act 11 of 1922.
- 13.33 Inspectors
- 13.34 Penalties
- 13.35 Offences by companies
- 13.36 Power of court to make orders
- 13.37 Special provisions relating to existing provident funds.
- 13.38 Act not to apply to certain establishments
- 13.39. Authorizing certain employers to maintain provident fund accounts

- 13.40. Power to exempt
- 13.41. Transfer of accounts
- 13.42 Protection of action taken in good faith.
- 13.43 Power of Central Government to give directions
- 13.44 Summary
- 13.45 Key words
- 13.46 Self Assessment questions
- 13.47 Suggested Readings

### **13.1 Introduction**

#### **1. Short title, extent and application**

- (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
- (2) It extends to the whole of India
- (3) Subject to the provisions contained in section 16, it applies
  - (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed, and
  - (b) to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:  
Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than [twenty] as may be specified in the notification.
- (4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.
- (5) An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty.

### **13.2. Definitions**

In this Act, unless the context otherwise requires,

- (a) "appropriate Government" means in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, mine or an oilfield or a controlled industry, or in relation to an establishment having departments or branches in more than one State, the Central Government; and
- (b) (ii) in relation to any other establishment, the State Government
- (aa) "authorized officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorized by the Central Government, by notification in the Official Gazette
- (b) "basic wages" means all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case] in accordance with the terms of

the contract of employment and which are paid or payable in cash to him, but does not include

- (i) the cash value of any food concession;
  - (ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;
  - (iii) any presents made by the employer;
- (c) “contribution” means a contribution payable in respect of a member under a Scheme 13 or the contribution payable in respect of an employee to whom the Insurance Scheme applies;
- (d) “controlled industry” means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;
- (e) “employer” means
- (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause
  - (f) of sub-section
  - (1) of section 7 of the Factories Act, 19138 (63 of 19138), the person so named; and
  - (ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to manager, managing director or managing agent, such manager, managing director or managing agent;
- (f) “employee” means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of [an establishment], and who gets his wages directly or indirectly from the employer, and includes any person—
- (i) employed by or through a contractor in or in connection with the work of the Establishment

### **13.3 Establishment to include all departments and branches**

For the removal of doubts, it is here by declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.

3. Power to apply Act to an establishment which has a common provident fund with another establishment.

Where immediately before this Act becomes applicable to an establishment there is inexistence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in Official Gazette, direct that the provisions of this Act shall also apply to such other establishment.

### **13.4. Power to add to Schedule I**

- (1) The Central Government may, by notification in the Official Gazette, add to Schedule I any other industry in respect of the employees whereof it is of opinion that provident fund scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule I for the

purposes of this Act.

- (2) All notifications under sub-section (1) shall be laid before Parliament, as soon as may be, after they are issued.

### **13.5 Employees' Provident Fund Schemes.**

- (1) The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the establishments or class of establishments to which the said Scheme shall apply and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme. The Fund shall vest in, and be administered by, the Central Board constituted under section 5A.(1B) Subject to the provisions of this Act, a Scheme framed under sub-section (1) may provide for allow any of the matters specified in Schedule II.
- (2) A Scheme framed under sub-section (1) may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.

### **13.6. Central Board**

- (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, a Board of Trustees for the territories to which this Act extends (hereinafter in this Act referred to as the Central Board) consisting of the following persons as members namely
  - (a) a Chairman and a Vice-Chairman to be appointed by the Central Government; (aa) the Central Provident Fund Commissioner, ex officio;
  - (b) not more than five persons appointed by the Central Government from amongst its officials;
  - (c) not more than fifteen persons representing Governments of such States as the Central Government may specify in this behalf, appointed by the Central Government;
  - (d) ten persons representing employers of the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organisations of employers as maybe recognized by the Central Government in this behalf; and
  - (e) ten persons representing employees in the establishments to which the Scheme applies, appointed by the Central Government after consultation with such organizations of employees as maybe recognized by the Central Government in this behalf.
- (2) The terms and conditions subject to which a member of the Central Board may be appointed and the time, place and procedure of the meetings of the Central Board shall be such as may be provided for in the Scheme.
- (3) The Central Board shall subject to the provisions of section 6A and section 6C administer the Fund vested in it in such manner as may be specified in the Scheme.
- (4) The Central Board shall perform such other functions as it may be required to perform by or under any provisions of the Scheme 8, the 9 Pension Scheme and the Insurance Scheme.
- (5) The Central Board shall maintain proper accounts of its income and expenditure in such form and in such manner as the Central Government may, after consultation with the Comptroller and Auditor General of India, specify in the Scheme.
- (6) The accounts of the Central Board shall be audited annually by the Comptroller and

Auditor General of India and any expenditure incurred by him in connection with such audit shall be payable by the Central Board to the Comptroller and Auditor-General of India.

- (7) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Central Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has, in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Central Board.
- (8) The accounts of the Central Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Central Board which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General.
  - (9) It shall be the duty of the Central Board to submit also to the Central Government an annual report of its work and activities and the Central Government shall cause a copy of the annual report, the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the Central Board thereon to be laid before each House of Parliament.

### **13.7 Executive Committee**

- (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.
- (2) The Executive Committee shall consist of the following persons as members, namely:—
  - (a) a Chairman appointed by the Central Government from amongst the members of the Central Board;
  - (b) two persons appointed by the Central Government from amongst the persons referred to in clause (b) of sub-section (1) of section 5A;
  - (c) three persons appointed by the Central Government from amongst the persons referred to in clause (c) of sub-section (1) of section 5A;
  - (d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause (d) of sub-section (1) of section 5A;
  - (e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause (e) of sub-section (1) of section 5A;
  - (f) the Central Provident Fund Commissioner, ex officio.
- (3) The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme.

### **State Board**

- (1) The Central Government may, after consultation with the Government of any State, by notification in the Official Gazette, constitute for that State a Board of Trustees (hereinafter in this Act referred to as the State Board) in such manner as may be provided for in the Scheme.
- (2) A State Board shall exercise such powers and perform such duties as the Central Government may assign to it from time to time.
- (3) The terms and conditions subject to which a member of a State Board may be appointed and the time, place and procedure of the meetings of a State Board shall be such as may be provided for in the Scheme.

**13.8 Board of Trustees to body corporate**

Every Board of Trustees constituted under section 5A or section 5B shall be a body corporate under the name specified in the notification constituting it, having perpetual succession and a common seal and shall by the said name sue and be sued.

**13.9 Appointment of officers**

(1) The Central Government shall appoint a Central Provident Fund Commissioner who shall be the chief executive officer of the Central Board and shall be subject to the general control and superintendence of that Board.

(2) The Central Government may also appoint [a Financial Adviser and Chief Accounts Officers] to assist the Central Provident Fund Commissioner in the discharge of his duties.

Acts and proceedings of the Central Board or its Executive Committee or the State Board not to be invalidated on certain grounds.—No act done or proceeding taken by the Central Board or the Executive Committee constituted under section 5AA or the State Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Central Board or the Executive Committee or the State Board, as the case may be.

**13.10 Delegation**

The Central Board may delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers] subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme The Pension Scheme and the Insurance Scheme.

**13.11 Contributions and matters which may be provided for in Schemes**

The contribution which shall be paid by the employer to the Fund shall be [ten per cent. of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable to each of the employees (whether employed by him directly or by or through a contractor), and the employees' contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employees of desires, be an amount exceeding ten per cent. of his basic wages, dearness allowance and retaining allowance (if any), subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section:

Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words ten per cent. at both the places where they occur, the words 10 twelve per cent. Shall be substituted:

Provided further that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for the rounding off of such fraction to the nearest rupee, half of a rupee or quarter of a rupee

**13.12. Employees' Pension Scheme**

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(a) superannuation pension, retiring pension or permanent total disablement pension

- to the employees of any establishment or class of establishments to which this Act applies; and
- (b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.
- (2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—
- (a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent. of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;
- (b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;
- (c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;
- (d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.
- (3) On the establishment of the Pension Fund, the Family Pension Scheme here in after referred to as the ceased scheme shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits they were entitled to under the ceased scheme, from the Pension Fund.
- (4) The Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.
- (5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.
- (6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that Scheme.
- (7) A Pension Scheme, framed under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

### **13.13. Employees' Deposit linked Insurance Scheme**

- (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.
- (2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not



being more than one percent. of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify.

(3) **Explanation.**—For the purposes of this sub-section, the expressions “dearness allowance” and “retaining allowance” have the same meanings as in section 6.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(5) The Insurance Fund shall vest in the Central Board and be administered by it in such manner as may be specified in the Insurance Scheme.

(6) The Insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) The Insurance Scheme may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.

#### **13.14. Laying of schemes before Parliament**

Every scheme framed under section 5, section 6A and section 6C shall be laid, as soon as may be after it is framed, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme, or both Houses agree that the scheme should not be framed, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

#### **13.15. Modification of scheme.**

(1) The Central Government may, by notification in the Official Gazette, add to or amend or vary, either prospectively or retrospectively, the Scheme, the Family Pension Scheme or the Insurance Scheme, as the case may be.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

#### **13.16. Determination of moneys due from employers**

(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,

- (a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and
- (b) determine the amount due from any employer under any provision of this Act, the

Scheme or the Pension Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary;

- (3) The officer conducting the inquiry under sub-section (1) shall, for the purposes of such inquiry, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), for trying a suit in respect of the following matters, namely:—
- (a) enforcing the attendance of any person or examining him on oath;
  - (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavit;
  - (d) issuing commissions for the examination of witnesses; and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (135 of 1860).
- (3) No order shall be made under sub-section (1), unless the employer concerned is given reasonable opportunity of representing his case.
- (3A) Where the employer, employee or any other person required to attend the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so, the officer conducting the inquiry may decide the applicability of the Act or determine the amount due from any employer, as the case may be, on the basis of the evidence adduced during such inquiry and other documents available on record.
- (4) Where an order under sub-section (1) is passed against an employer ex parte, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry: Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the officer.

**Explanation.**—Where an appeal has been preferred under this Act against an order passed ex parte such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the ex parte order.

### **13.17. Review of orders passed under section 7A**

(1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:

Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

- (2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.
- (3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(13) Where the officer is of opinion that the application for review should be granted, he shall grant the same:

Provided that,—

- (a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and
- (b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.

(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

### **13.18. Determination of escaped amount**

Where an order determining the amount due from an employer under section 7A or section 7B has been passed and if the officer who passed the order has reason to believe that by reason of the omission or failure on the part of the employer to make any document or report available, or to disclose, fully and truly, all material facts necessary for determining the correct amount due from the employer, any amount so due from such employer for any period has escaped his notice;

### **13.19. Tribunal**

The Industrial Tribunal constituted by the Central Government under sub-section (1) of section 7A of the Industrial Disputes Act, 1947 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.

### **13.20. Appeals to Tribunal**

(1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (13), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B[except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 113B, may prefer an appeal to a Tribunal against such notification or order.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

### **13.21. Procedure of Tribunals**

(1) A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

(2) A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 7A and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (1860) and the Tribunal shall be deemed to be a civil court for the all purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1973).

**13.22. Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers.**

(1) A person preferring an appeal to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or any other authority under this Act may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before a Tribunal.

**13.23. Orders of Tribunal**

(1) A Tribunal may after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.

(2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal:

Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(3) A Tribunal shall send a copy of every order passed under this section to the parties to the appeal.

(4) Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law.

**13.24. Mode of recovery of moneys due from employers**

Any amount due

- (a) from the employer in relation to an establishment to which any Scheme or the Insurance Scheme applies in respect of any contribution payable to the Fund or, as the case may be, the Insurance Fund, damages recoverable under section 113B, accumulations required to be transfer under sub-section (2) of section 15 5 or under sub-section (5) of section 17 or any charges payable by him under any other provision of this Act or of any provision of the Scheme or the Insurance Scheme; or
- (b) from the employer in relation to an exempted establishment in respect of any damages recoverable under section 113B or any charges payable by him to the appropriate Government under any provision of this Act or under any of the conditions specified under section 17 or in respect of the contribution payable by him towards the Pension Scheme under the said section 17, may, if the amount is in arrear, be recovered 10 in the manner specified in sections 8B to 8G

**13.25. Recovery of moneys by employers and contractors**

(1) The amount of contribution that is to say the employer's contribution as well as the employee's contribution in pursuance of any Scheme and the employer's contribution in pursuance of the Insurance Scheme, and any charges for meeting the cost of administering the Fund paid or payable by an employer in respect of an employee employed by or through a contractor may be recovered by such employer from the contractor, either by deduction from

any amount payable to the contractor, under any contract or as a debt payable by the contractor.

(2) A contractor from whom the amounts mentioned in sub-section (1) may be recovered in respect of any employee employed by or through him, may recover from such employee the employee's contribution under any Scheme by deduction from the basic wages, dearness allowance and retaining allowance if any payable to such employee.

(3) Notwithstanding any contract to the contrary, no contractor shall be entitled to deduct the employer's contribution or the charges referred to in sub-section (1) from the basic wages, dearness allowance, and retaining allowance if any payable to an employee employed by or through him or otherwise to recover such contribution or charges from such employee

**Explanation.**—In this section, the expressions, “dearness allowance” and “retaining allowance” shall have the same meanings as in section 6.

### **13.26. Issue of certificate to the Recovery Officer.**

(1) Where any amount is in arrear under section 8, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below:—

- (a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, the employer;
- (b) arrest of the employer and his detention in prison;
- (c) appointing a receiver for the management of the movable or immovable properties of the establishment or, as the case may be, the employer:

Provided that the attachment and sale of any property under this section shall first be effected against the proportion of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

(2) The authorized officer may issue a certificate under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

### **13.27. Recovery Officer to whom certificate is to be forwarded.**

(1) The authorised officer may forward the certificate referred to in section 8B to the Recovery Officer within whose jurisdiction the employer—

- (a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or
- (b) resides or any movable or immovable property of the establishment or the employer is situate.

(2) Where an establishment or the employer has property within the jurisdiction of more than one

Recovery Officers and the Recovery Officer to whom a certificate is sent by the authorized officer—

- (a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction; or
- (b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do, he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the

employer resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the authorised officer.

### **13.28. Validity of certificate and amendment thereof**

- (1) When the authorized officer issues certificate to a Recovery Officer under section 8B, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.
- (2) Notwithstanding the issue of a certificate to a Recovery Officer, the authorized officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.
- (3) The authorised officer shall intimate to the Recovery Officer any order withdrawing or cancelling certificate or any correction made by him under sub-section (2) or any amendment made under sub-section (13) of section 8E.

### **13.29. Stay of proceedings under certificate and amendment or withdrawal thereof.**

- (1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the authorised officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.
- (2) Where a certificate for the recovery of amount has been issued, the authorised officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.
- (3) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of a further proceeding under this Act, the authorised officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.
- (13) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the authorized officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.

### **13.30. Application of certain provisions of Income-tax Act.**

The provisions of the Second and Third Schedules to the Income-tax Act, 1961 (133 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the arrears of the amount mentioned in section 8 of this Act instead of to the income-tax: Provided that any reference in the said provisions and the rules to the "assessed" shall be construed as a reference to an employer as defined in this Act.

### **13.31. Fund to be recognised under Act 11 of 1922.**

For the purposes of the Indian Income-tax Act, 1922, the Fund shall be deemed to be a recognized provident fund within the meaning of Chapter IXA of that Act: Provided that nothing contained in the said Chapter shall operate to render ineffective any provision of the Scheme (under which the Fund is established) which is repugnant to any of the provisions of that Chapter or of the rules made there under.

Protection against attachment.

(1) The amount standing to the credit of any member in the Fund 2 or of any exempted employee in a provident fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member 2 or the exempted employee, and neither the official assignee appointed under the Presidency-towns Insolvency Act, 1909 (3 of 1909), nor any receiver appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to, or have any claim on, any such amount.

(2) Any amount standing to the credit of a member in the Fund or of an exempted employee in a provident fund at the time of his death and payable to his nominee under the Scheme or the rules of the provident fund shall, subject to any deduction authorized by the said Scheme or rules, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member of the exempted employee and shall also not be liable to attachment under any decree or order of any court.

(3) The provisions of sub-section (1) and sub-section (2) shall, so far as may be, apply in relation to the family pension or any other amount payable under the 6 Pension Scheme 7 and also in relation to any amount payable under the Insurance Scheme as they apply in relation to any amount payable out of the Fund.

### **13.32 Inspectors**

(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act the Scheme the Pension Scheme or the Insurance Scheme, and may define their jurisdiction.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with this Act or with any 1S cheme or the Insurance Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of any Scheme or the Insurance Scheme have been complied with in respect of an establishment to which any Scheme or the Insurance Scheme applies or for the purpose of ascertaining whether the provisions of this Act or any Scheme or the Insurance Scheme are applicable to any establishment] to which the Scheme or the Insurance Scheme has not been applied or for the purpose of determining whether the conditions subject to which exemption was granted under section 17 are being complied with by the employer in relation to an exempted establishment—

(a) require an employer or any contractor from whom any amount is recoverable under section

to furnish such information as he may consider necessary

(b) at any reasonable time and with such assistance, if any, as he may think fit, enter and search any establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment

(c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer or any contractor from whom any amount is recoverable under section 8A, his agent or servant or any other person found in charge of the establishment of any premises connected therewith or whom the Inspector has reasonable cause to believe to be or to have been, an employee in the establishment

(d) make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment and, where he has reason to believe that any offence under

this Act has been committed by an employer, seize with such assistance as he may think fit, such book, register or other document or portions thereof as he may consider relevant in respect of that offence;

(e) exercise such other powers as the [Scheme or the Insurance Scheme may provide.

(2A) Any Inspector appointed under sub-section (1) may, for the purpose of inquiring into the correctness of any information furnished in connection with the 10 Pension Scheme or for the purpose of ascertaining whether any of the provisions of this Act or of the 10 Pension Scheme have been complied with in respect of an establishment to which the 10 Pension Scheme applies, exercise all or any of the powers conferred, on him under clause (a), clause (b), clause (c) or clause (d) of sub-section (2).11(2B) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to any search or seizure under sub-section (2), or under sub-section (2A), as the case may be, as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code (135 of 1960).

### 13.33. Penalties

(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act the Scheme the Pension Scheme or the Insurance Scheme or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to one year, or with fine of five thousand rupees, or with both.

(1A) An employer who contravenes, or makes default in complying with, the provisions of section 6 or clause (a) of sub-section (3) of section 17 in so far as it relates to the payment of inspection charges, or paragraph 38 of the Scheme in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to 6 three years but

(a) which shall not be less than one year and a fine of ten thousand rupees in case of default in payment of the employees' contribution which has been deducted by the employer from the employees' wages;

(b) which shall not be less than six months and a fine of five thousand rupees, in any other case;

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term .

(1B) An employer who contravenes, or makes default in complying with, the provisions of section 6C, or clause (a) of sub-section (3A) of section 17 in so far as it relates to the payment of inspection charges, shall be punishable with imprisonment for a term which may extend to one year] but which shall not be less than six months and shall also be liable to fine which may extend to five thousand rupees Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term.

(2) 16 Subject to the provisions of this Act, the Scheme 17, the 3 Pension Scheme or the Insurance Scheme may provide that any person who contravenes, or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend one year, or with fine which may extend to four thousand rupees, or with both.

18 (2A) Whoever contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted under section 17 shall, if no other penalty is elsewhere.



**13.34. Offences by companies**

(1) If the person committing an offence under this Act 13 the Scheme or there is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act 13, the Scheme or the Pension] Scheme or the Insurance Scheme has been committed by a company and it improved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.  
Enhanced punishment in certain cases after previous conviction

Whoever, having been convicted by a Court of an offence punishable under this Act, the Scheme or 5the Scheme or the Insurance Scheme, commits the same offence shall be subject for every such subsequent offence to imprisonment for a term which may extend to five years, but which shall not be less than two years, and shall also be liable to a fine of twenty-five thousand rupees Certain offences to be cognizable

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898.) an offence relating to default in payment of contribution by the employer punishable under this Act shall be cognizable.

**Cognizance and trial of offences**

(1) No court shall take cognizance of any offence punishable under this Act, the Scheme or the Pension Scheme or the Insurance Scheme] except on report in writing of the facts constituting such offence made with the previous sanction of the Central Provident Fund Commissioner or such other officer as may be authorized by the Central Government, by notification in the Official Gazette, in this behalf, by an Inspector appointed under section 13.

**13.35. Power of court to make orders**

(1) Where an employer is convicted of an offence of making default in the payment of any contribution to the Fund 11,the [Pension]Fund or the Insurance Fund]] or in the transfer of accumulations required to be transferred by him under sub-section (2) of section 15 or subsection

(5) of section 17, the court may, in addition to awarding any punishment, by order in writing require him within a period specified in the order (which the court may, if it thinks fit and on application in that behalf, from time to time, extend), to pay the amount of contribution or transfer the accumulations, as the case may be, in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may

be, the order of the court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof under section 113 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with.

### **13.36. Special provisions relating to existing provident funds.**

(1) Subject to the provisions of section 17, every employee who is a subscriber to any provident fund of an establishment to which this act applies shall, pending the application of a Scheme to the establishment in which he is employed, continue to be entitled to the benefits accruing to him under the provident fund, and the provident fund shall continue to be maintained in the same manner and subject to the same conditions as it would have been if this Act had not been passed.

On the application of any Scheme to an establishment, the accumulations in any provident fund of the establishment standing to the credit of the employees who become members of the Fund established under the Scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any deed or other instrument establishing the provident fund but subject to the provisions, if any, contained in the Scheme, be transferred to the Fund established under the Scheme, and shall be credited to the accounts of the employees entitled thereto in the Fund.

### **13.37. Act not to apply to certain establishments.**

(1) This Act shall not apply

(a) to any establishment registered under the Co-operative Societies Act, 1913 (2 of 1913), or under any other law for the time being in force in any State relating to co-operative societies, employing less than fifty persons and working without the aid of power; or

(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits.

(2) If the Central Government is of opinion that having regard to the financial position of any class of establishments or other circumstances of the case, it is necessary or expedient so to do, it may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt whether prospectively or retrospectively that class of establishments from the operation of this Act for such period as may be specified in the notification.

### **13.38. Authorising certain employers to maintain provident fund accounts**

(1) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer, by an order in writing, to maintain a provident fund account in relation to the establishment, subject to such terms and conditions as may be specified in the Scheme

**13.39. Power to exempt.**

(1) The appropriate Government may, by notification in the Official Gazette and subject to such conditions as may be specified in the notification, exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme.

- (a) any establishment to which this Act applies if, in the opinion of the appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Act or any Scheme in relation to the employees in any other establishment of similar character; or
- (b) and establishment if the employees of such establishment are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favorable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other establishment of a similar character:

Provided that no such exemption shall be made except after consultation with the Central Board which on such consultation shall forward its views on exemption to the appropriate Government within such time limit as may be specified in the Scheme.

**13.40. Transfer of accounts.**

(1) Where an employee employed in an establishment to which this Act applies leaves his employment and obtains re-employment in another establishment to which this Act does not apply, the amount of accumulations to the credit of such employee in the Fund, or as the case may be, in the provident fund of the establishment left by him shall be transferred, within such time as may be specified by the Central Government in this behalf, to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules in relation to that provident fund permit such transfer.

(2) Where an employee employed in an establishment to which this Act does not apply leaves his employment and obtains re-employment in another establishment to which this Act applies, the amount of accumulations to the credit of such employee in the provident fund of the establishment left by him may, If the employee so desires and the rules in relation to such provident fund permit, be transferred to the credit of his account in the Fund or as the case may be, in the provident fund of the establishment in which he is re-employed.

Act to have effect notwithstanding anything contained in Act 31 of 1956

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956.

Liability in case of transfer of establishment

Where an employer, in relation to an establishment, transfers that establishment in whole or in part, by sale, gift, lease or license or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Act or the Scheme or the Pension Scheme or the Insurance Scheme, as the case may be, in respect of the period up to the date of such transfer: Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.

**13.41. Protection of action taken in good faith.**

No suit, prosecution or other legal proceeding shall lie against the Central Government, a State Government, the Presiding Officer of a Tribunal, any authority referred to in section

7A, an Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act, the Scheme, or the Insurance Scheme.

Authorities and inspector to be public servant

The authorities referred to in section 7A and every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code

#### **Delegation of powers**

The appropriate Government may direct that any power or authority or jurisdiction exercisable by it under this Act 6the Scheme 7the Pension Scheme or the Insurance Scheme shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also

- (a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and
- (b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

#### **13.42. Power of Central Government to give directions.**

The Central Government may, from time to time, give such directions to the Central Board as it may think fit for the efficient administration of this Act and when any such direction is given, the Central Board shall comply with such direction.

Power to make rules

- (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely
  - (b) the form and the manner in which, and the time within which, an appeal shall be filed before a Tribunal and the fees payable for filing such appeal;
  - (c) the manner of certifying the copy of the certificate, to be forwarded to the Recovery Officer Under sub-section (2) of section 8C; and
  - (d) any other matter, which has to be, or may be, prescribed by rules under this Act.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **Power to remove difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1988 (33 of 1988), the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date on which the said amendment Act receives the assent of the President. (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

**13.43. Summary**

The Employees' Provident Fund came into existence with the promulgation of the Employees' Provident Funds Ordinance on the 15th November, 1951. It was replaced by the Employees' Provident Funds Act, 1952. The Employees' Provident Funds Bill was introduced in the Parliament as Bill Number 15 of the year 1952 as a Bill to provide for the institution of provident funds for employees in factories and other establishments. The Act is now referred as the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 which extends to the whole of India. The Act and Schemes framed there under are administered by a tri-partite Board known as the Central Board of Trustees, Employees' Provident Fund, consisting of representatives of Government (Both Central and State), Employers, and Employees.

**13.44. Key words**

**Authorized officer**” means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorized by the Central Government, by notification in the Official Gazette.

**Basic Wages**” means all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case] in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include

**Employer**” means (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 19138 (63 of 19138), the person so named; and

**Employee**” means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment, and who gets his wages directly or indirectly from the employer, and includes any person—

**Employees' Provident Fund Schemes** The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the establishments or class of establishments to which the said Scheme shall apply and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme

**13.45. Self Assessment Questions**

1. Briefly explain the Procedure of Employee Fund scheme
2. Outline the Central Board and Appointment of officer in EPF
3. Discuss the Appeals and Procedure of Tribunal in EPF
13. Describe the offences and Penalties of Employees Fund Scheme

**13.46. Suggested Readings**

1. Employees' Provident Funds and Miscellaneous Provisions Act, 1952 as amended by Along with Employees' Provident Funds Scheme, 1952, July 2022 by Professional (Author), Professional book publishers.

2. Employees Provident Funds & Miscellaneous Provisions Act, 1952 along with with allied Schemes, Rules, Notifications & Forms, January 2020, by Professional (Author), Professional book publishers.
3. Commentary on Employees Provident Funds and Miscellaneous Provisions Act, 1952 - Latest 2023 Edition by Kharbanda & Kharbanda , February 2023
13. Malik, P.L : Industrial Law, Eastern Book Company, Lucknow , 1999.
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## Lesson- 14

### LABOUR WELFARE CONCEPT, SCOPE, PHILOSOPHY AND PRINCIPLES

#### Objectives

- After Studying this lesson, the students is able to understand.
- The Scope and concept of Social Welfare
- The Concept, scope and content of labour welfare
- The relation between Social Welfare and Labour Welfare.
- Concept of Philosophy and Deferent types of Philosophies of labour welfare

#### Structure

- 14.1. Introduction
- 14.2. Social Welfare
- 14.3. Meaning of LabourWelfare
- 14.4. Definition and Concepts of Labour Welfare
  - 14.4.1. Total concept of Welfare
  - 14.4.2. Social Concept of Welfare
  - 14.4.3. Relative Concept of Labour
- 14.5. Scope of Labour Welfare
- 14.6. Concept of Approach to Philosophy of Labour Welfare
- 14.7. Different types of Philosophies
- 14.8. Summary
- 14.9. Keywords
- 14.10. Self Assessment Questions
- 14.11. Further Readings

#### 14.1. Introduction

Human Resource Management deals with acquisition, development compensation, industrial relations, maintenance and separation of employees at the organisational level. One of the functional areas of Human Resource Management is Labour Welfare which is included in the broad functions of compensation and maintenance of human resources. This introductory Unit makes an attempt to explain the concept of labour welfare in the perspective of social policy, social development and social welfare.

#### 14.2. Social welfare

"Social Welfare is the organised system of social services and institutions designed to aid individuals and groups to attain satisfying standard of life and health and personal and social relationships which permit them to develop their full capacity and to promote their well being in harmony with the needs of their families and the community" (Friedlander). In a broad sense it is well being of larger member of people in the society including their physical, mental emotional, spiritual and economic needs.

Social Welfare programmes aim at enabling the deprived sections of the population to overcome their social, economic and physical problems and to improve challenged their quality of life. They supplement the developmental programmes in general in dealing with the problems of poverty and unemployment and are meant in particular to assist themost disadvantaged groups below the poverty line, especially children from poor families. Women, the handicapped and the downtrodden etc.

Pigou defined it as “that part of general welfare which can be brought directly or indirectly into relation with measuring of many.” He however, recognised the limitation of his definition and said that the elements of welfare were states of consciousness and probably their relations.

Social Welfare assists weaker sections, prevents poverty and destitution, and establishes satisfactory conditions of human living. Such an approach to social welfare brings within its fold social reform, social legislation, social services, social action and social work. Considered narrowly, social welfare’ aims at the well being of people- by helping them make better adaptation to the existing social structures. It seeks to raise the human level of life culture, economic and psychological.

The welfare state is a system of social responsibilities for certain minimum standards of individual and community welfare. Under Social welfare sector, preventive, developmental and rehabilitative services are provided to the vulnerable and weaker sections of the society.

### **14.3. Meaning of Labour Welfare**

Labour Welfare has been defined in various ways but unfortunately no single definition has received universal acceptance. The Oxford Dictionary defines labour welfare as “efforts to make life worth living for workmen”. The encyclopedia of social sciences defines labour welfare as the voluntary efforts of the employers to establish, within the existing industrial system, working and sometimes living and cultural conditions of the employees beyond what is required by law, the customs of the industry and the conditions of the market. Further J. Tadd defined labour welfare as “Anything for the comfort and improvement, intellectual and social, of the employees over and above the wages paid, which is not a necessity of the industry”. At the ILO session (SEA) held at New Delhi, in 1947, Worker’s welfare was understood, “as meaning of such services, facilities and amenities, which may be established in, or in the vicinity of the undertaking to unable persons employed there in surroundings and to provide them with amenities conducive to good health and good morale”. The Royal commission on labour (1931) understood labour welfare “as one which is necessarily elastic, differing from country to country, the degree of industrialisation and the level of educational development”.

The Rege Committee, in its report submitted to the Government of India in 1946, said, “We prefer to include under welfare activities anything done for intellectual, physical, moral and economic development of workers, whether by employer, government or other agencies, over and above provided by law or under some contract and what is naturally expected as a part of the contract for service”, The committee on labour welfare set up by the government of India in 1969, in its report defined labour welfare to” include such services, facilities and amenities as adequate canteens, rest and recreation facilities, sanitary and medical facilities, arrangements for travel to and from place of work and for the accommodation and such other services amenities and facilities including social security measures as contribute to improve the conditions under which workers are employed”.

From all these definitions, It is apparent that none is complete or comprehensive. There is no precise, definite outline or demarcation in this subject. However, what is definite is that labour welfare promotes the well-being of workers in a variety of ways.



#### **14.4. Definition and Concept of Labour Welfare**

The term Welfare is derived from the French phrase Welfare which means to Fare Well. The chamber's dictionary defines the term welfare as "a state characterised by happiness, Well- being or prosperity". Thus, in its broader connotation, the term welfare refers to the state of living of an individual or a group in a desirable relationship with total environment -ecological, economic and social. However, the environment not only shows perceptible differences from place to place but also undergoes metamorphoses over time. Similarly, the "desirable relationship" may also vary among individuals and groups as well over time. These variations impart dynamism to the concept of welfare. It is because of this dynamism that the concept of welfare defied a precise definition and renders its measurement different. To begin with, let us briefly discuss the main concepts or, rather the general meaningful ideas which have been evolved about it sofar.

##### **14.4.14. Total Concept of Welfare**

Welfare is a total concept. It is a desirable state of existence comprehending physical, mental, moral and emotional health or well-being. Unless, a persons is physically well off, has sound health, he cannot be described to be faring well. Illness, ailments and physical disabilities to which the flesh is heir to, do actively interfere with the enjoyment of welfare. Aman may be mentally brilliant, morally reliable and even emotionally stable, but as long as his physical health is poor and neglected, his welfare could be described as incomplete. Indeed, such a man may be in danger of lapsing into a state of ill fare. We may now restate that a person's welfare depends on his physical, mental (intellectual) moral and emotional health. For purposes of discussion these four aspects of the individuals' personality are separately mentioned, but they really constitute one whole, integrated factor. Indeed, one aspect is inseparably bound up with, and has its roots in the other. Physical, mental, moral and emotional health are the four pillars; or better still, fourfold foundation on which the structure of welfare is built. It is in this sense that welfare is described as a total concept.

##### **14.4.2 Social Concept of Welfare**

While Welfare is thus based on the well-being of the total man, it is also a three dimensional concept implying the welfare of the family and the community, in addition to that of the man himself. A man is a member of his family. He derives his mental nourishment, his moral sentiments and emotional content from his family. All his activities are conditioned by and centered in his family. As the family, so the person, at least in his earlier days. A family is not an isolated unit. It is related to other families and to the neighborhood. The community is the legitimate, natural and intimate setting in which the family lives and has its being. A family cannot be happy if the community is miserable and if the community does not, or cannot, provide conditions for desirable' states of existence for the family. Welfare of families and of individuals is determined by the resources of the community of which the former are parts. If the community should be described as faring well, it should enable its constituent parts to attain and maintain desirable conditions of existence.

##### **14.4.3 Relative concept of Welfare:**

Welfare is also a relative concept, relative in time and place. A century ago our ideas of welfare were different. The content of welfare, too, differed. Man accepted comparatively less convenient and less sumptuous conditions of existence; for, science and technology had not yet made possible better amenities. We today have better facilities in all spheres than our ancestors. Welfare is growing and dynamic.

Welfare is relative in space too. That is, in its meaning and content it differs from country to country or region to region. What, according to our capacity, we consider welfare may not be fully so to more advanced communities in more progressive countries.

#### **14.5. Scope of Labour Welfare**

It is somewhat difficult to accurately lay down the scope of labour welfare work, especially because of the fact that labour is composed of dynamic individuals with complex needs. Hence it can be interpreted in different ways by different countries, with varying stages of economic development, political outlook and social philosophy. Accordingly, the labour welfare work can be divided into statutory and non-statutory or voluntary or into intra-mural welfare work or extra-mural welfare work. Statutory welfare measures in industry may stem from the direct concern for efficiency and productivity. But, to the extent the measures are employee-oriented, they could be considered to fall within the scope of labour welfare. Such measures consist of those provisions of welfare work which depend for their implementation on the coercive power of the government. That is, through the law. Every country is increasing gradually its statutory control over labour welfare. Non-statutory welfare measures include all those activities which employers and unions undertake on a voluntary basis.

ILO classified the welfare measures into intra-mural and extra-mural. Intra-mural are those welfare amenities which are provided within the precincts of the establishment such as latrines and urinals, washing and bathing facilities, crèches, rest shelters, canteens, drinking water, health services safety measures, uniform and protective clothing, shift allowance, etc. Extra-mural are those welfare amenities which are provided outside the establishment like maternity benefit, social insurance measures including sports, cultural activities, library and reading room, holiday homes, leave travel facilities, consumer cooperative stores, fair price shops, vocational training for the dependents of workers transport to and from the place of work, etc.

According to Valid, there are certain requirements which labour welfare should meet. It should enable workers to live a rich and more satisfactory life; contribute to the productivity of labour and efficiency of the enterprise, be in time and harmony with similar services obtaining in the neighborhood community, where the enterprise is situated, etc. Thus, labour welfare is very comprehensive and embraces a multitude of activities of employers, state, trade unions and other agencies to help workers and their families in the context of their industrial life.

#### **14.6. Approaches to Philosophy of Labour Welfare**

Philosophy is a study of fundamentals relating to concepts, events or phenomena. It deals with the origin, purpose and destiny of anything. Philosophy is a rational system of beliefs. It is a theory or complex of theories relating to existence, being, purpose, activity or behaviour etc.. , It is necessary for everyone to have a philosophy, his own or, derived from others. For, it is one's philosophy that determines one's values of life. It shapes one's patterns of behaviour, influences one's reactions and relations to others, moulds attitudes and thinking, inspires ambition or anxiety, compromise or cunning. In short, philosophy lays the path for the way of life.

#### **14.7. Different Types of Philosophies**

Constituting the conceptual framework of labour welfare, M. V. Murthy has outlined seven approaches to the philosophy or theory of labour welfare, These are

- i) The Policing theory of labour welfare.
- ii) The Religious theory of labour welfare.
- iii) The Philanthropic theory of labour welfare.
- iv) The Paternalistic theory of labour welfare or the trustee ship theory of labour welfare.
- v) The Placating theory
- vi) The Public relations theory of labour welfare
- vii) The Functional theory of labour welfare.

### **The Policing theory of Labour Welfare**

According to this theory, a majority of the people tend to do evil. Man is full of self interests, and does not hesitate to further his own ends at the cost of others welfare-particularly if he is placed in an advantageous position, exploiting those under him. According to this theory, managers and owners of industrial undertakings get many opportunities for this kind of exploitation. The welfare state has therefore step into prevent this kind of exploitation and coerce industrialists to offer a minimum standard of welfare to their workers. Such interference is in the interest of the progress and welfare of the state as well. Laws are enacted to compel managements to provide minimum wages, congenial working conditions. reasonable hours of work and social security. The policing theory, therefore, leads to :

- (a) The passing of laws relating to the provisions of minimum welfare for workers
- (b) Periodical supervision to ascertain that these welfare measures are provided and implemented, and
- (c) Punishment of employers who evade or disobey these laws. In this theory, the emphasis is on fear and not on the spirit of welfare which should be the guiding factor.

### **The Religious theory of Labour Welfare**

This is based on the concept that man is essentially a religious animal Even today, many acts of man are related to religious sentiments and beliefs. Employers as well as employees as human beings, do subscribe to the religious sentiments and beliefs. These religious feelings some times prompt employer to take-up welfare activities in the expectation of future benefit, either in this life or in some future life. According to this theory, any good work is considered an investment, both the benefactor and beneficiary are rewarded. We came across many trusts and charitable institutions in India which function on the basis of this belief. Another aspect of the religious theory is the 'atonement' aspect. Some people take-up welfare work in a spirit of atonement for their sins. This is why the benevolent acts of welfare are treated either as an investment or atonement. According to this theory, man is primarily concerned with his own welfare only and secondarily with the welfare of others.

### **The Philanthropic theory**

This theory is based on man's love for mankind. In Greek, Philomena's 'loving' and anthrop means man. So, philanthropic means "loving mankind". Man is believed to have an instinctive urge by which he strives to remove the sufferings of others and promote their well-being. When some employers have compassion for their fellowmen, they may undertake some welfare measures for the benefit of the workers. In India, Mahatma Gandhi was one of the eminent philanthropist who strive for the welfare of labour.

### **Paternalistic or Trusteeship Theory of Labour Welfare**

According to this theory, the industrialist or the employer holds the total industrial state, properties and profits accruing from them in trust. In other words, he uses it for himself, but also for the benefit of his workers and also for society. Workers are like minors. They are

ignorant because of lack of education and are not able to look after their own interests. Employers, therefore have the moral responsibility to look after the interest of their wards, who are the workers. The main emphasis here is on the idea that employers should provide, out of the funds under their control, for the wellbeing of their workers. Here too, labour welfare depends on the initiative of the top management. Since it has no legal sanction its value is based on the moral consciences of the industrialist. Also, this theory treats workers as perpetual minors and industrialists as eternal guardians.

### **The Placating theory of Labour Welfare**

This theory is based on the fact that workers are becoming more conscious about their rights and privileges. They are welding themselves into personal groups. Their claim for higher wages and better standards of living can no longer be ignored. According to this theory, timely and periodical Acts of Labour Welfare can appease the workers. Workers are like children. As crying children are pacified by sweets, so workers should be pleased by welfare workers. This is a necessary show of kindness and friendly gesture. This is also the best way of securing the worker's Cooperation.

### **The Public Relations theory of Labour Welfare**

This theory provides the basis for an atmosphere of goodwill between labour and management and also between the management and public. Labour Welfare programmes, under this theory, work as a sort of an advertisement and help the industrialist to build up good and healthy public relations. This theory is based on the assumption that the Labour Welfare movement may be utilized to improve relations between management and labour. An advertisement or an exhibition of a Labour Welfare programmes may help an industrialist to project to the public a good image of his company. His sales as well as industrial relations may improve as a result a twofold benefit.

### **The Functional Theory of Labour Welfare**

This is also called the efficiency theory. Workers are described as operatives. They are the productive group in the industry. They work strenuously in difficult environments. Really speaking, it is the workers who deliver the goods. Here, welfare work is used as a means to secure, preserve and develop the efficiency and productivity of labour. It is obvious that if an employer takes good care of his workers, they will tend to become more efficient and will thereby increase production. But, all this will depend on a healthy collaboration between union and management and their mutual concern for the growth and development of industry. Higher production is of benefit to both management and labour. The latter will secure better wages and perhaps a share in the profits. This is the functional aspect of welfare having efficiency as its object, which increases productivity. This will encourage worker's participation in Welfare programmes.

## **14.8. Principles of Labour Welfare**

The success of welfare administration of the organisation depends on the extent to which

certain basic principles are observed. Here an attempt is made to discuss certain principles of welfare work, which must be kept in mind and properly followed for successful implementation of welfare programmes.

### **14.8.1 Principle of Social Responsibility**

According to the principle of social responsibility, the organisation has social obligation to provide welfare facilities to its employees. The constitution of India particularly, the

Directive Principles of State Policy emphasises the social responsibility of the industry towards labour welfare by directing the state policy towards enactment of suitable legislation for the welfare of workers.

#### **14.8.2 Principle of Adequacy of Wages**

According to this principle, welfare work is not a substitute for wages. Wages should be paid as per the policy and procedures and the trade Unions have the right to demand adequate wages., The workers should be paid reasonable and fair wages which commensurate their qualifications, service and the efforts they put in. Welfare programmes should be designed and implemented keeping in view the welfare of workers and their family members but not on the basis of wages. What the workers get apart from this, there should not be any wage reduction simply on the ground that more welfare activities are undertaken by the organisations.

#### **14.8.3. Principle of Efficiency**

According to this principle, welfare work is a means of securing, preserving and increasing the efficiency of workers. Efficiency results in increased production and the productivity which ultimately benefits the organisation, the workers and the society. Hence the organisation has to provide welfare facilities to the workers to secure, preserve and increase the efficiency of the workers. While designing and administering the welfare programmes at the organisational level this particular principle also must be kept in mind.

#### **14.8.4. Principle of Re-personalisation**

According to the principle of re-personalisation, the aim of the labour welfare should be counteracting the baneful effects of industrial system. Therefore, it is necessary to plan and administer labour welfare programmes both inside and outside the factory which are helpful to the workers in re-personalisation.

#### **14.8.5. Principle of Totality of Welfare**

Labour welfare is a total concept. It is a desirable state of existence comprehending physical, mental, moral and emotional well being to the employees, Therefore, labour welfare programmes must aim at total well being of the employees. According to this, while planning and implementing the welfare programmes at the plant level, total concept of the employee welfare must be taken into consideration.

#### **14.8.6. Principle of Totality of Employees**

Employees are spread in the organisation at different levels, One can see a human hierarchy in the organisation right from shop floor workers to chief executive. According to the principle of totality of employees, the labour welfare activities should pervade the entire hierarchy of the organisation. The planning and administration of welfare programmes and services must accommodate all employees of the organisation.

#### **14.8.7. Principle of Social Concept of Welfare**

According to the Principles of social concept of labour welfare, in planning and implementing labour welfare programmes and services, the individual alone should not be taken into consideration. A man is a member of his family and a family is related to other families and to a community. As such the welfare of the employees not only depends upon welfare work undertaken for the individual alone. but also upon the welfare of his family and community. Hence besides the employee, his family and his neighborhood also must be taken into consideration in organising the welfare work.

**14.8.8. Principle of Timeliness**

According to the principle of timeliness, when a need is felt for a particular type of welfare work, then that should be done. The timeliness of any welfare work helps its success. Discovering what kind of help is required to the workers and providing this help are necessary in planning and implementing labour welfare programmes.

**14.8.9. Principle of Authority**

Authority means a legitimate right to do or assigning some one else to do the work. It implies delegation of authority. According to the principle of authority, in the structure of welfare administration the officers concerned should have legitimate right to do welfare work and to delegate their authority in the welfare field to the persons and committees connected to labour welfare. There should be adequate resources made available for the authorised people of welfare

**14.8.10. Principle of Responsibility**

Responsibility is one's obligation to do the particular work. According to this principle, the welfare administration at plant level should make certain officers responsible for certain welfare programmes. For instance one of the welfare officer may be given the responsibility of running industrial canteen. Responsibility succeeds when it is combined with authority and resources. Further when responsibility is shared by different groups labour welfare work becomes simple and easier. Therefore various committees such as canteen committee etc, are constituted with the groups of workers representative and management representatives and the related authority and responsibilities are given to them.

**14.8.11. Principle of Accountability**

Accountability refers to one's answerability for his performance relating to his assigned work. According to this principle, in the administration of welfare activities, certain persons or groups must be made answerable to the management on their work. The persons or groups who are given authority and responsibility of certain welfare programmes are answerable to the higher authority of the organisation.

**14.8.12. Principle of Participation**

According to this principle employees should have a say in planning and administering of welfare activities. Work with the individual is the motto of this principle. Welfare work aimed at the time work workers and if it is for the workers or in other words to ensure the success of welfare programmes, they are to be designed and administered in consultation, collaboration and association of the workers. This implies that workers through their representatives should be informed and taken into confidence at various stages regarding the welfare programmes and their implementation. The basic aim of constituting joint committee such as housing committee canteen managing committee, workers to participate in planning and administering of welfare programmes and services.

**14.8.13. Principles of Coordination**

As you know labour welfare is a total concept and social concept. Keeping this view in the mind management has to plan various welfare, programmes and implement them. Welfare work should not be a piecemeal one. There must be proper coordination among various welfare activities and they must be integrated with one and another keeping in mind the total concept and social concept of welfare. The highest authority of the plant must make suitable arrangements in the structure of labour welfare administration to coordinate all the

welfare programmes and services. Generally the head of the welfare personnel department is entrusted with the responsibility of coordination and integration of welfare work.

#### **14.8.14. Principle of Self-Help**

According to the principle of selfhelp the welfare programmes and services of an organization must aim at helping the employees to help themselves in the long run. Taking into consideration of this principle certain welfare programmes may be provided to the employees by themselves. The organisation and implementation of these welfare programmes shall be the responsibility of employees themselves this principle enables the workers to become more responsible and more efficient.

#### **14.8.15. Principle of Evaluation and Assessment**

According to this principle, it is necessary to periodically look back and evaluate the welfare measures in terms of their utilisation and satisfaction levels of employees. This evaluation and assessment gives the required feedback about the welfare work to the management. Based on this feedback, the welfare programmes and services may be altered or deleted or added to suit the requirements of the target group i.e., the workers and their family members.

#### **14.9. Summary**

The above Survey of the labour welfare movement reveals that there are schemes of two types in the development of labour welfare. First, a movement through voluntary effort by some of the employers and secondly, the legislative movement. In the field of labour welfare the government is now playing a triple role-that of a legislation, administration and promoter. In spite of all these efforts, the welfare work in India is still considerably below the standard set up when confined to other countries. However, it has come to stay as an accepted feature of employment conditions and is bound to make rapid progress in the years to come.

This unit presented you the concepts of social policy, Social Welfare and labour welfare. Social Welfare attempts to deal with well being of weaker sections in the Society. Labour, being considered as one of the weaker sections. Special attempts are made for their well being, as a part of larger social welfare programme. Thus labour welfare becomes a part of social welfare.

We have outlined above seven approaches to the building up of a philosophy of Labour Welfare. It is not suggested that anyone approach is exclusive of other approaches. In India, it is said, the industrial system clings largely to the paternalistic approach. Some management, however try to achieve results through police control. Either way workers start expecting too much from employers as a result of which employers provide welfare measures in somewhat half hearted manner. In the long run it is better to get on the basis of the functional theory of Labour Welfare, for it works more effectively by reason of an intelligent and willing participation of workers.

#### **14.10. Key Words**

- \* Social welfare : Efforts to enable the weaker sections of the society to overcome their hard ships and improve their quality of life.
- \* Labour Welfare : Efforts to make life worth living for workmen.

#### **14.11. Self Assessment Questions**

14. Bring out the relation between Social Welfare and Labour Welfare

2. Define Labour Welfare and explain its concept.
3. Define the term “Labour Welfare” and explain how no single definition has been accepted universally and give a comprehensive and accurate meaning to this term ?
4. Discuss the scope of labour welfare?
5. Describe the various theories of Labour Welfare?
6. Compare the trusteeship theory vis-a-vis the functional theory of Labour Welfare.
7. State with reasons. As to which theory can be most suitably applied today in Indian Industries?

#### **14.12. Further Readings**

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## Lesson -15

### AGENCIES OF LABOUR WELFARE

#### Objectives

- After going through this lesson you should be able to
- Identify the Management as an Agency of Labour Welfare
- Trace the early efforts of management in labour welfare
- Explain the labour welfare activities of employers in major industries.
- Identify the role of trade unions in labour welfare
- Responsibility of Trade Unions in Labour Welfare
- Role of State in Labour Welfare
- Role of voluntary Agencies in Labour Welfare

#### Structure

- 15.1. Introduction
- 15.2 Role of Management in Labour Welfare
- 15.3. Early Efforts of Employers in Labour welfare
- 15.4. Labour Welfare Work by Employers in major Industries
- 15.5. Role of Trade Unions in Labour Welfare
  - 15.5.1. Function
  - 15.5.2. Responsibility
- 15.6. Role of the State in Labour Welfare
  - 15.6.1. Role of State in Labour Welfare before Independence
  - 15.6.2. Role of State in Labour Welfare after Independence
  - 15.6.3. Enactment of Labour Welfare Legislation
  - 15.6.4. Enforcement of Labour welfare legislation
  - 15.6.5. The five year plans
  - 15.6.6. Welfare Centres
  - 15.6.7. The state as an Employer
- 15.7. Role of Voluntary Agencies In labour welfare
  - 15.7.1. Labour Welfare work done by voluntary organisations
  - 15.7.2. Appraisal
- 15.8. Summary
- 15.9. Self Assessment Questions
- 15.10. Further Readings

#### 15.1. Introduction

Labour welfare is the collective responsibility of state, management, trade unions and voluntary organisations. A bulk of labour welfare programmes are administered by the state in India. However, some of the employers pioneered in welfare movement voluntarily on humanitarian grounds. The Unit offers you the role of employers in welfare work with a special emphasis on certain major industries in India.

#### 15.15. Role of Management in Labour Welfare

The role played by the employers in labour welfare work is of two types, one is implementation of various, health, welfare, safety, leave provisions and social security schemes under the legislations applicable to their organisations and the second type of role played by the employers is undertaking of various welfare activities for the benefit of workers and their family members on voluntary basis without any statutory stipulations. The latter one really reveals the employer's commitment for the welfare of workers.

### 15.3. Early Efforts of Employers in Welfare work

Some employers have started welfare programmes for the benefit of the workers and their family members even in the earlier stages of industrialisation in India. In 1915 Calico Mills at Ahmedabad appointed a doctor and nurse to look after the health of workers. It opened a crèche and maternity home for the benefit of women wardens. Miss Anasurya behen Sarabhai started a network of labour welfare activities in 1917 in Ahmedabad workers education, sanitation, medical relief and developing habit of thrift, saving etc. were undertaken by her.

Tatas started a Medical Unit in one of their mills in Bombay in 1918. Delhi Cloth Mills started construction of houses for workers in 1915. The Birla Mills in Delhi started a school. The British India Corporation in Kanpur, the Binny Group of Mills in Madras, the Empress Mills in Nagapur and the TISCO in Jamshedpur undertook various labour welfare programmes in the early 19150s. The Royal Commission on Labour ( 1931) has testified the usefulness of these programmes. Thus some employers started taking more interest in the labour welfare activities.

### 15.4. Labour Welfare work by Employers in major Industries:

The labour welfare work undertaken by the managements can be studied industry-wise. An attempt is made to analyse the welfare work done by employers in major industries such as Cotton, Jute, Iron and Steel, Sugar, Cement, Railways, Ports and docks, Mines and Plantations.

### 15.5. Role of Trade Unions in Labour Welfare

The primary function of a trade union is to promote and protect the interests of its members. It has to work to better the terms and conditions of employment and generally to advance their economic and social interests so as to achieve for them a higher standard and of living. Welfare activities like organizing mutual benefit societies, co-operatives, unemployment assistance, libraries, games, housing and cultural programmes are some of the aspects on which the unions work. Education of its members in all aspects of their working life, including improvement of their working and living environment, are some of the programmes under taken by the trade unions. The important basic functions of Trade Unions listed by NCL are:

- i) To secure for workers fair wages
- ii) To safeguard the job security and to improve the conditions of service,
- iii) To enlarge for promotion and training.
- iv) To improve the working and living conditions.
- v) To provide for educational, cultural and recreational facilities,
- vi) To co-operate in and facilitate the technological advancement by broadening the understanding of workers on its underlying issues,
- vii) To promote identifying the interests of the workers with their industry.
- viii) To offer responsive co-operation in improving the levels of production and productivity, discipline and high standard of quality and generally to promote individual and collective welfare.

#### 15.5.1. Function

Thus, while a union will function in the interests of its members, it should also accept the social responsibility. Unions have to make a special effort in understanding the interests of the community as a whole. It is being widely suggested that the unions should seek to harmonize the

sectional interests of their members with the larger interests of the society. This aspect of the role of unions in a developing economy has been emphasized in the Five Year Plans. In India trade unions have been associated with the India's independence movement. They were usually associated with planning commission, tripartite bodies at the central and state levels in the formulation and implementation of labour programmes.

Effective fulfillment of the traditional role will enable trade unions in promoting to some extent the social welfare and social life of its members. At times the trade unions create serious problems to the growth of national economic development at large and organisations in particular. The views of trade unions should be changed and should think objectively about the issues and by judging the issue and they should react and object by resorting to their own means. Thus the unions should take into consideration the interests of the organization/industry and of the national economic system on priority basis. In representing and deciding any issue they should resort to collaborative / consultative style rather than to conflict style. This will not reduce or eradicate their main role for job security, higher wages or better living conditions but their image will go up and the management, will also try to resort to soft approach whenever the union approaches with a request.

#### **15.5.15. Responsibility**

The social responsibilities of the unions are:

- a) To educate the rank and file workers so that the traditional agitational role will be gradually transformed into one of understanding and co-operation.
- b) To keep the well-being and progress of society constantly by refraining from resorting to unnecessary strikes, work stoppages, go slow, intimidation etc.,
- c) To promote the interests of the consumer while discussing and agreeing in bipartite meetings.
- d) To work for the country's economic development by maximizing production and producing a quality product.
- e) To promote for national integration by inculcating the spirit of oneness.
- f) To work for the interest of the community and industry by involving themselves in socially useful programmes.
- g) To try to organise unorganised labour and try to uplift them from bondage, insecure jobs, poverty etc.
- h) To encourage and inculcate in the members the habit of saving.
- i) To support the technological change for the betterment and growth of the industry.
- j) To start counselling centres to change addicted employees and solve family problems etc.
- k) To start research wings to update their knowledge when they sit around the bargaining table.

The employees organise themselves into Trade Unions primarily to protect and further their own interests. The primary responsibility of trade unions is the wellbeing of their members. The secondary responsibility of trade unions is internal democracy and industrial peace. To achieve this, trade unions have to improve their internal administration, voluntary discipline and conduct among members, instill trust, unity and loyalty towards union and industry where they work, inculcate values and ethics, and importance of excellence. The protection of the interests of the union members is restricted not only to a narrower sphere of their jobs but also extends to a broader sphere to serve their members through the establishments and promotion of cooperatives, cultural and welfare organisations and by

helping them to utilize other social services provided by the community. Another social responsibility of trade unions is in the area of making a common cause to fight all evils in society i.e., economic, social and political. This brings a close relationship among the members, union and society. The basic objective of a trade union is not simply limited in obtaining higher monetary benefits to its members but it should try to emulate and extend its hand in transforming relationship among the different groups in society. The trade unions can act as a change agent to bring about social change and economic progress.

The planning commission reiterates that the trade unions have the vital and constructive role in improving the quality of life of the workers. They should evince greater interest in welfare programmes for their members such as education, literacy, health and family planning and recreational and cultural activities. They can also promote personal and environmental hygiene and a sense of thrift and savings. The respective governments also can consider encouraging such trade unions through financial and physical facilities. Such involvement in constructive activities would help the trade unions in furthering the interests of its members.

The responsibilities which the unions have to undertake for the community cannot be discharged unless the members themselves are served better. The society has to discharge its responsibility towards labour and the trade unions. The trade union movement cannot function effectively unless the society ensures democratic rights and civil liberties to its members and later to their economic and social interest. Thus the labour capital and society have common interests which have to be satisfied to ensure their survival and growth. If these common interests are acknowledged by the three parties, it becomes easier for them to discharge their responsibilities to each other in an atmosphere of harmony and mutual cooperation.

The conditions under which the trade unionism developed in India were not such as to enable and encourage them to introduce schemes of labour welfare. Poverty of workers and their reliance on outsiders who were mostly interested in the political issues of the day and radical views of a section of leadership were not conducive to such activities on the part of trade unions. Before independence the function of trade unions was relegated to the background because of more urgent issues and because it was generally believed that in free India the state would take appropriate steps to increase labour welfare. After independence, the trade unions expect and demand that should do everything. It is interesting to note here that in other countries in the early days of trade unionism, the trade unions were concentrating on providing the welfare programmes for their members. But in India from the very beginning the unions are expecting and depending on the employers and government. In our country there are some trade unions who have done considerable work. The most prominent among them is the Ahmedabad Textile Labour Association which is different from the more common unions in India. According to the Indian Labour Work Book, 1985 the most important work done by the Textile Labour Association, Ahmedabad is starting of reading rooms, libraries, type writing classes, and women's training classes in sewing and embroidery in working class localities. It organises paediatric vaccination programmes for children against tuberculosis, poliomyelitis, diphtheria, whooping cough and tetanus. It maintains a pre-nursery schools and organises sports, excursions, competitions and cultural programmes. For the benefit of the workers, it runs a number of consumer cooperative stores and cooperative credit societies. The workers also construct houses under the co-operative bank - housing scheme, which they pay in installments.

In Indore, the Mill Mazdoor union runs labour welfare centres consisting of Bal, Kanya and Mahila Mandirs. It organizes music, dances and social gathering. In the Balmandir (Children's section), education is provided and games are organised. In Kanya mandir (girls section) importance is attached to elementary education, tailoring, knitting, spinning, training in hygienic practices and care of children. The Mahila Mandir gives such lessons and training to women workers. Night classes, a reading room and a library are provided by the union, which also arranges indoors and out door games for workers.

A few of these welfare amenities are provided for the workers by the Mazdoor Sabha of Kaupur, the Railwaymen's Union, the Indian Federation of Labour in U.P and the Assam Branch of the Indian National Trade Union Congress. The Railwaymen's union has provided funds for retirement death, unemployment, sickness etc. They have also provided for life insurance and legal defence. Further, they have organised cooperative societies. In U.P., nearly 48 labour welfare centres have been organised by the Indian Federation of Labour, which under take different types of welfare activities. There are several unions whose work has not been recorded by the concerned though they have done commendable welfare work for their members, for eg. Visakhapatnam Port Employee's Union (HMS Union) of VPT, Visakhapatnam.

### **15.6. Role of the State in Labour Welfare**

Labour Welfare may be defined as a total, social and relative concept which covers intramural and extramural amenities and social security benefits extended to labour by government, trade unions and voluntary organisations. The need for labour welfare is felt more in our country keeping in view of productivity, efficiency, industrial peace, rapid economic development and social development. There are different categories of labour such as industrial labour, agricultural labour, construction labour, contract labour, casual labour etc. The present unit makes an attempt to examine the role of state in promotion of labour welfare with special reference to industrial labour.

#### **15.6.1. Role of State in Labour Welfare Before Independence**

Labour Welfare is collective responsibility. As indicated in the above definition, state, employer, trade unions and voluntary organisations are the main agencies in the promotion of labour welfare. The role of latter two agencies is now-a-days negligible owing to many factors. However state made constructive efforts in promotion of labour welfare. Historically speaking, the workmen 's compensation Act (1915) is the first social security legislation. The second world war gave impetus to labour welfare in India. The state, for the first time introduced welfare schemes in the ordinance and ammunition factories to keepup morale and to boost war production factories. This trend continued after the Second World War and some legislative measures were adopted in the pre-independence period in 1945. The Central Government appointed a labour welfare advisor and under him assistant labour welfare advisors and welfare officers were appointed. In 1944, the Coal mines Labour Welfare Fund was enacted. The Government also persuaded employers to increase the facilities provided to workers.

#### **15.6.15. Role of State in Labour Welfare after Independence**

After independence labour welfare acquired a new dimension. The Factories Act (1948) is the first comprehensive piece of legislation after independence. The welfare philosophy of the state is reflected in the constitution of India. Article 38 states that the state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the

institutions of the national life. In the light of the Directive Principle of State Policy, the state is playing its role in promotion of labour welfare through:

- a) Enactment of Labour Welfare Legislations.
- b) Enforcement of the Legislations,
- c) Five Year Plans and
- d) Welfare Centres.

### **15.6.3. Enactment of Labour Welfare Legislations**

The subject “Labour” is included in concurrent list of the constitution. Hence the Union and the States can pass legislations on the subject. After independence the Government India and respective State Governments have passed many legislations on labour. Some of important legislations passed by the Government of India for promotion of welfare are as follows:

Factories Act 1948.

Plantation Labour Act 1951

Mines Act 1951

Merchants Shipping Act 1958.

Motor Transport Workers Act 1961.

Dock Workers (Regulation of Employment) Rules 1965.

Beedi and Cigar Workers (Conditions of Employment) Act 1966.

Contract Labour (Regulation and Abolition) Act. 1970.

These legislations aim at providing health, welfare and safety of workers at the work spot and to regularise the hours of work and leave with wages. Besides these central legislations, State Governments passed certain labour welfare legislations such as shops and commercial establishments acts to provide welfare facilities to the workers employed in shops and establishments of the respective states Labour Welfare funds are constituted under different Central and State laws to provide medical, recreational, educational facilities etc. The Central Government passed the following Social Security’s legislations after independence.

Employees State Insurance Act 1948

Employee’s Provident Funds and Miscellaneous Provisions Act 1961

Maternity Benefit Act 1961

The Payment of Gratuity Act 1971

The Objectives of the laws is to provide social security benefits i.e., protection from sickness, unemployment, old age, dependency and employment injuries.

### **15.6.4. Enforcement of Labour Welfare Legislations**

The fruits of the legislations will be reached to the workers when they are properly enforced. The government appointed officers and deployed personnel to enforce different labour welfare legislations. There is no uniform machinery to enforce all the labour welfare legislations. These are enforced by both the Central and State Governments. For instance, the enforcement machinery for factories, plantations, shops and commercial establishments etc. is a part of labour administration of the State Governments. The Government of India enforces the Mines Act. the Employee’s State Insurance Act and the Provident Fund Act are enforced by statutory autonomous bodies i.e. E.S.I corporation, Provident Fund Organisation respectively. Finally in this regard, we can say that Central Government enacts certain legislations and enforces them directly. Some of the legislations are passed by Central Government and enforced by State Governments. Another category of legislations are passed by Central Government and enforced by statutory autonomous bodies. Beside, State Governments enacts certain legislations and enforce them directly.

### **15.6.5. The five year plans**

Five Year Plans reflect the State's concern for labour welfare. The first five year plan (1951- 56) paid considerable attention to the welfare of working class. A provision of Rs. 6.74 crores was made in the plan. The plan stated that adequate provision has to be made for the basic need of workers so as to enable them to remain in a state of health and efficiency. In the Second Five Year Plan (1956-61) Rs.159 Crores was made for labour and labour welfare.

The Third Five Year Plan (1961-66) stressed the need for more effective implementation of various statutory welfare provisions. The plan also recommended for setting up of Co-operation Credit Societies and consumer's stores for industrial workers. An amount of Rs. 71.08 crores was provided for labour welfare and craft men training.

The Fourth Five Year Plan (1969-74) provided for expansion of the E.S.I. Scheme. For labour welfare programmes, a provision of Rs. 37.11 crores was made in the plan.

The Draft Fifth Five Year Plan (1974-79) provided an amount of Rs. 75 crores for labour welfare including craft man training and employment service.

An outlay Rs. 161.9 crores was proposed for labour and labour welfare programmes of the Sixth Plan period (1980-85). In Seventh Five Year plan (1985-90) an outlay Rs. 3,330 crores for social security where as in eight plan (1991-97) an outlay Rs. 13.15 (crores) for Labour Welfare.

### **15.6.6. Welfare Centres**

All most all states runs labour welfare centres. For instance during the year 1984, Uttar Pradesh run maximum number (89) of labour welfare centres. Those centres provide medical assistance, recreational facilities, indoor and outdoor games, cinema shows, radio, educational facilities, schools for workers' children, libraries, reading rooms, literacy classes, training classes for women in crafts and cultural facilities. In some states the centres run schemes for providing supplementary income for worker's families.

### **15.6.7 The State as an Employer**

Thus Central and State Governments play an important role in the promotion of labour welfare. Besides this role, the State as an employer, providing various welfare facilities to its employees. The Public Sector Undertakings such as B.H.E.L., O.N.G.C., H.P.C.L., etc., are providing worthy facilities which are many steps above to the welfare provisions prescribed under various Acts.

## **15.7. Role of Voluntary Agencies in Labour Welfare**

The proceeding unit presented you a description of role of State in Labour Welfare in India. In this unit an attempt is made to discuss the role of voluntary organisations in promotion of labour welfare. This unit begins with the concept of voluntary organisation their characteristics and functions and analyses their role in labour welfare programmes.

### **15.7.1. Labour Welfare Work done by Voluntary Organisations**

As mentioned by B P Tyagi, there are voluntary social service organisations which have interest in providing labour amenities to the workers.

The Bombay Social Service League, started by servants of Indian Society, conducted several activities, like promotion of education through night schools, libraries, recreation and sports.

It has also secured compensation for accidents to workers, propagated the cooperative movement, promoted public health and the boy scouts movement etc.

The Poona and Bombay Seva Sadan Societies have taken keen interest in providing educational, medical and social services to the women and children. They have also trained social workers for this purpose.

In Bengal, Women's Institute has established Mahila Samities which visit various villages and carry on educational and public health work.

In Assam, the Government has continued the policy of encouraging the activities of voluntary organisations like Hindustan Mazdoor Sevak Sengh and Assam Seva Samity for social, moral and economic welfare of the workers.

Besides, the YMCA, the Bombay Presidency Women's Council, the Maternity and Infant Welfare Association, the Depressed Classes Mission Society are some of the voluntary social service agencies which have taken interest in the welfare work for industrial workers.

These agencies have made significant contribution in improving the standard of living and working conditions of the workers and have made efforts in raising the minimum standards prescribed by law.

The voluntary social service agencies can play a more significant role in the better administration and utilisation of welfare services made available by the Government. The proper operation of statutory provisions relating to welfare can only be ensured by a strong public opinion, which in turn can be created by sustained efforts of voluntary organisations. These organisations ' have also played a very significant role in the industrialised countries.

#### **15.7.15. An Appraisal**

From the preceding analysis, it appears that the role of voluntary agencies in promotion of labour welfare is very less than that of other agencies of labour welfare. The basic reason for this may be the labour welfare is not a priority area for them. When compared to the other weaker sections of the society, the industrial labour is better positioned. In addition to the above, the institutional factors like lack of dedicated leadership, deterioration in quality of service, financial scarcity, inadequacy of trained personnel are some other reasons for the limited role of voluntary agencies in labour welfare.

#### **15.8. Summary**

This unit provided you an analysis of role of the voluntary organisations in welfare work. Voluntary organisations are those in which the membership is voluntary .to the members and undertake various social services activities on their own. They have limited role to play in promoting labour welfare. However the Bombay Social Service League, the Poona and Bombay Seva Sadan Societies, Bengal women's Institute etc., conducted several labour welfare activities.



**15.9. Self Assessment Questions**

1. Examine the role played by the employer in Labour Welfare.
15. Explain the role of Trade Unions in Labour Welfare.
3. Describe the role played by the state in Labour Welfare in India.
4. Examine the role played by voluntary organisations in labour welfare programmes.
5. Define voluntary organisations. Mention its functions and critically examine their role in Labour Welfare.

**15.10. Further Readings**

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15. Pant, S C: Indian Labour Problems, Chitanya Publishing House, Allahabad, 1985.
3. Tyagi, B P, Labour Economics and Social Welfare, S V Nath, Meerut, 1994.
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## **Lesson-16**

# **LABOUR WELFARE PROGRAMMES, STATUTORY & NON STATUTORY, INTERNAL AND EXTERNAL**

### **Objectives**

After reading this unit, you will be able to:

- Classify Labour Welfare Programmes.
- Distinguish between intramural and extra mural labour welfare programmes
- Distinguish between statutory and non-statutory welfare measures.
- Describe statutory welfare measures under factories act, 1948.
- Understand non-statutory welfare measures undertaken by employers in India.

### **Structure**

16.1. Introduction

16.2. Definitions

16.3. Importance of Scope of Various Statutory and Non- Statutory Agencies in India

16.16.1 Objectives of Labour Welfare

16.4. Classification of Labour Welfare Programmes

16.4.1. Intramural and Extramural Labour Welfare Programmes

16.4.1 (a) Intramural Labour Welfare Programmes

16.4.1 (b) Extramural Labour Welfare Programmes

16.5. Statutory and Non-statutory Labour Welfare Programmes

16.5. (a) Statutory Labour Welfare Programmes

16.5. (b) Non Statutory Labour Welfare Programme

16.6. Summary

16.7. Case Study

16.8. Key words

16.9. Self assessment questions

16.10. Further Readings.

### **16.1. Introduction**

The preceding Units provided you information on various agencies of labour welfare i.e., management, trade unions, State and voluntary agencies. This unit makes an attempt to classify the labour welfare programmes and distinguish between intramural and extramural welfare and statutory and non-statutory welfare measures. An attempt is also made in this unit to describe some of the statutory and non-statutory Labour welfare activities.

Within classical economics and all microeconomics, labour is one of four factors of production, the others being land, capital and enterprise. It is a measure of the work done by human beings. There are macro-economic system theories which have created a concept called human capital (referring to the skills that workers possess, not necessarily their actual work), although there are also counterpoising macro-economic system theories that think human capital is a contradiction in terms.

The term welfare suggests the state of well-being and implies wholesomeness of the human being. It is a desirable state of existence involving the mental, physical, moral and emotional factor of a person.

Adequate levels of earnings, safe and humane conditions of work and access to some minimum social security benefits are the major qualitative dimensions of employment, which enhance quality of life of workers and their productivity. Institutional mechanisms exist for ensuring these to workers in the organised sector of the economy. These are being strengthened or expanded to the extent possible. However, workers in the unorganised sector, who constitute 90 per cent of the total workforce, by and large, do not have access to such benefits. Steps need to be taken on a larger scale than before to improve the quality of working life of the unorganised workers, including women workers.

Labour Welfare means working out things for the well-being of the labours. Knowing their wants and enabling them to fulfill their wants.

### **16.2. Definitions**

1. **Oxford dictionary:** Labour welfare means efforts to make life worth living for workmen.
2. **R.R. Hopkins:** Welfare is fundamentally an attitude of mind on the part of the management influencing the methods by which management activities are undertaken.

16. **The Encyclopaedia of Social Sciences:** Labour welfare is the voluntary efforts of employer to establish within the existing industrial system, working and sometimes living and cultural conditions of the employee beyond what is required by law. Labour welfare is the key to smooth employer-employee relations. In order to increase labour welfare, employers offer extra incentives in the form of labour welfare schemes. They also try to persuade workers to accept mechanization. Sometimes the employers to combat the influence of outside agencies on their employees use labour welfare as a tool to minimize the effect they may have on the labour. Labour welfare measures are also initiated with the view to avoiding payment of tax on surplus and to build up at the same time better relations with employees.

### **16.3. Importance of Scope of Various Statutory and Non- Statutory Agencies in India**

With the increase in industrialization and mechanization, labour welfare has obtained a greater importance. A contented and satisfied work force is a plus point for the industrial affluence of any nation. Labour welfare is nothing but the role of preservation of employee satisfaction in the sense, which is directed specifically for the preservation of employee health and attitudes resulting in the maintenance of employee morale.

#### **16.3.1 Objectives of Labour Welfare**

Labour welfare programs may have multiple objectives. The main concern of labour welfare is humanitarianism which can be also coined as internal social responsibility, which is a feeling of apprehension and caring by providing the basic facilities, besides the fundamental pay package. Such caring is made-up to put up a sense of allegiance on the part of the employee towards the business. The humanitarian approach has given way to a more practical utilitarian approach. The utilitarian approach views investment in welfare through a financial structure where the probable cost advantage to the organization adds better concern through better or faster services from the employees.

The importance of labour welfare activities in India has been recognised very recently by the employers, government and other agencies, though the progress in this direction is very slow.

The labour welfare activities are organised in India by the following agencies:

- The Central Government

- The State Governments
- The Employers
- The Trade Unions
- Other Agencies

The importance of labour welfare work in India can easily be realized if we look into the working conditions of the labour class in Indian industries. India, an industrially backward country, is in its developing stage.

The place of labour in industries in India is not recognised. The principles of personnel management and industrial relations have not been developed in India except in few big industrial units. Commodity concept of labour still prevails in the country. Thus, the scope of labour management relations has not been much widened in India while in western countries; the labour is regarded as the partner in the affairs of the industry. The attitude of employers is sympathetic to workers in western countries and provides various welfare facilities as a measure to improve industrial relations and better working conditions.

The money spent on labour welfare work by the employer is bound to react directly or indirectly to their own benefits and to the direct benefit of the employees. If work conditions are improved, it will certainly improve the health and efficiency of the workers and which in turn, increase the production and the productivity of workers. The employer may contribute something towards the amenities of the workers to which the employees spend nothing in India because of their poor financial condition. Labour welfare activities may ensure the employer a stable and contented labour force, lower absenteeism and labour turn over. These results may not have been achieved if the benefits are extended in the form of cash wages, because it may be spent on drinking, gambling and extravagance. It seeks to promote a better standing between the employer and the employees.

#### **16.4. Classification of Labour Welfare Programme**

The Labour Welfare Programmes may be classified broadly into two categories. On the basis of place of welfare Work, they may be classified into intramural welfare programmes and extramural welfare programmes. On the basis of law, the welfare programmes may be classified into statutory and non-statutory welfare programmes.

##### **16.4.1. Intramural and Extramural Labour Welfare Programmes**

The Welfare facilities provided within the organisation for the benefit of workers are called as intramural welfare facilities. The welfare facilities provided outside the organisation for the benefit of workers and their family members are known as extramural welfare facilities.

##### **16.4.1. (a) Intramural Labour Welfare Programmes**

According to a committee of Experts on Welfare facilities for industrial workers, constituted by the ILO in 1961, the following are intramural labour welfare facilities.

1. Latrines and Urinals
2. Washing and Bathing facilities
3. Creches
4. Rest Shelters
5. Canteens
6. Arrangement for drinking water
7. Arrangement for prevention of fatigue.
8. Health services including occupational safety

9. Administrative arrangements to look after uniforms
10. Protective clothing
11. Shift allowances

In addition to the above, any welfare work undertaken within the precincts of the establishment comes under intramural labour welfare programmes.

#### **16.4.1. (b) Extra-Mural Labour Welfare Programmes**

Welfare programme undertaken outside the organisation are extramural labour welfare programmes. The following are some of the extramural welfare programmes as per the classification of the ILO.

1. Maternity benefits
2. Social insurance measures including gratuity, pension provident Fund and rehabilitation, benevolent funds.
16. Medical facilities including programmes for physical fitness and efficiency.
4. Family planning and child welfare
5. Educational facilities including adult education
6. Housing facilities
7. Recreational facilities including sports, cultural activities, library and reading rooms.
8. Holiday homes and leave travel facilities
9. Worker's Cooperative Stores and Cooperative Thrift and Credit Societies
10. Vocational training for dependants of workers
11. Welfare Programmes for welfare of women, youth and children
12. Transport facilities.

#### **16.5. Statutory and Non-statutory Labour Welfare Programmes**

Labour welfare programmes can be classified as statutory and non-statutory welfare activities. The welfare measures which are undertaken to implement the specific laws are statutory welfare measures. For instance, according to Factories Act, 1948, canteen should be provided by the occupier of the factory if it employed 250 or more number of workers. The provision of canteen in a factory comes under this category. Non-statutory welfare measures include all those activities which are undertaken for the welfare of workers on voluntary basis without any statutory compulsion.

##### **16.5. (a) Statutory Labour Welfare Programmes**

Factories Act 1948, Plantation Labour Act 1951, Mines Act 1952, Motor/Transport workers Act etc., include certain provisions for the welfare of the workers. The following are the statutory welfare facilities under the factories Act, 1948.

**1) Washing Facilities:** The management has to provide washing facilities for the workers. Separate facility must be provided for the male and female workers. Such facilities must be situated in the easily accessible places.

**2) Facilities for storing and drying of clothes:** Under the Factories Act, Section - 416, the occupier of the factory must provide facility for storing of cloths not worn during working hours. Facilities for drying cloth are also to be provided.

**16) Facilities for sitting:** Section 44 of the Factories Act Stipulates that where the workers have a chance for sitting while doing, they must be provided sitting facilities. For the workers whose work requires to stand, sitting facilities must be provided to the workers to sit during the intervals.

**4) First Aid Appliances:** Section -45 of the factories Act stipulates that in every factory first aid boxes must be provided for the workers. The first aid box must consist of prescribed contents. These boxes shall be under the in charge of a trained person in first aid. Ambulance Room with qualified medical personnel must be provided if there are 500 or more workers.

**5) Canteen (Section - 46):** The occupier of the factory has to provide canteen, where in more than 250 workers are employed. The State Government may make rules regarding canteen constructions, constitution of canteen committee and the items of expenditure in running of the canteen.

**6) Shelters, Rest Rooms and Lunch Rooms (Section - 47):** In every factory where 150 workers are employed adequate and suitable rest shelters or rest rooms and lunch rooms with provision of drinking water shall be provided. They shall be sufficiently lighted and ventilated and be maintained in clean condition.

**7) Creche (Section - 48):** In every factory where in 160 women workers are employed they shall be provided and maintained creche for use of children under the age of 6 years of such women. The creche shall be adequately lighted and ventilated and maintained in a clean and sanitary condition and shall be under the charge of women trained in child care.

**8) Welfare Officer: (Section - 49):** In every factory where in 500 or more workers are employed the management shall appoint a welfare officer. The State government makes rules regarding qualifications, duties and employment conditions of the welfare officer.

The above are the statutory welfare provisions under the factories Act 1948. Besides the above, educational facilities for children, housing facilities and recreational facilities are statutory welfare provisions under the Plantation Labour Act, 1951. However these facilities are non- statutory facilities in factories and mines.

### **16.5. (b) Non Statutory Labour Welfare Programme**

The facilities provided by the management without legal obligation are. Non-statutory welfare facilities. The following are different non-statutory welfare facilities provided by the employers voluntarily. Hence these programmes are also called as voluntary welfare measures.

1) **Housing Facilities:** Many organisations recognised the importance of industrial housing. Besides provision of accommodation for the workers such facilities reduces the rate of absenteeism and turnover. Hence some generous managements provide housing facility for the workers on voluntary basis. Government is also extending subsidized housing facilities for the industrial workers. The management of TISCO, L & T, B.H.E.L., H.A.L. etc. provide good housing facilities for their employees.

2) **Educational Facilities:** The provision of educational facilities for workers and their children is a social service of great importance in India. Many employers provide children educational facilities such as school and colleges. Employers provide such facility and reimburse the cost of books and institute scholarships for deserving candidates. BHPV, Hindusthan shipyard Limited, Visakhapatnam Steel Plant etc. provide children educational facilities.

The management sponsors some of the workers to the workers education centres. The workers are trained as worker teachers. The worker teachers take unit level classes for the workers. Besides workers education, management gives financial assistance to improve the qualifications of workers.

16) **Recreational Facilities:** Recreational facilities give relief from monotony and drudgery of the

workers. The recreational facilities provided by different management may be classified into (1) recreation club, (2) cultural programmes and (16) games and sports. The workers may become members in recreational clubs. These facilities are also extended to the family members of the workers. TISCO, Telco, Air India, Hindusthan Liver, Indian Railways and Defense Services are

some examples for provisions of recreation facilities to the employees.

4) **Transport Facilities:** The growth of Industries outside the cities has made the problem of transport system. The fatigue of travel to and from the work place has an effect on the attendance of the workers. Hence the employers are providing transport facilities for the workers to and from the work place. This facility is also extended by some employers for the school going children of the workers.

5) **Medical Facilities:** Generally the workers are covered under E.S.I. Act 1948. But there are some organisations which provide medical benefits more than the benefits extended by the E.S.I. Corporation. Some companies are running full pledged hospitals with modern medical equipment and qualified medical officers. The medical facilities are extended to the workers as well as their family members.

6) **Cooperatives:** Some managements are providing different forms of Cooperative facilities to the benefit of workers. The Cooperative planning committee defined the cooperation as a form of organisation in which persons voluntarily associate together on the basis of equality for the promotion of their economic interests. It is based upon the following rules. (1) No one is compelled to join in a Cooperative Society, (2) The management of Cooperative society is democratic, (16) It is based on self help through mutual help, (4) It is not an association of selfish individuals. (5) It is not simply a movement of economic betterment but to develop higher values of life. Cooperative stores and Cooperative Credit Society are two forms of Cooperatives.

#### **Cooperative Stores:**

The objectives of Cooperative stores are:

- 1) To provide good quality of food grains, cloths and all necessary articles at reasonable prices i.e., lower than the market price.
- 2) To protect the consumers from the middle men and adulteration of products.
- 16) To protect factory workers from clutches of the money lenders and to inculcate the habit of savings.
- 4) To develop habits of mutual aid and
- 5) To strengthen the public distribution system.

**Cooperative Credit Society:** The members of the Cooperative Credit Society get loans for the purpose of house construction, children education, marriage etc. The interest on the loans are reasonable. This is also to inculcate the habit of thrift and savings.

### 16.6. Summary

This Unit offered you the classification of labour welfare activities. The welfare activities undertaken within the premises of the establishment are intramural labour welfare facilities and the welfare activities undertaken outside the establishment are extramural labour welfare facilities. The facilities provided to the workers as per the legal obligations are statutory welfare measures and the facilities provided on voluntary basis without any legal compulsion are non-statutory or voluntary labour welfare measures. Washing facilities, facilities for storing and drying of cloths, facilities for sitting, first aid appliances, canteen, shelters and rest rooms, creche etc. are statutory welfare provisions under the factories Act, 1948. Housing, education, recreation, transport, medical facilities, Cooperatives etc. are non-statutory welfare measures provided for the benefit of workers and their family member.

To conclude, the labour welfare has great significance in the industrial development and financial system of a country. Labour welfare is nothing but the role of safeguarding of employee happiness, by concentrating particularly for the protection of employee health and attitudes ensuing in the upholding of employee morale. It's seen that the Labour welfare programs have a lot to do through their multiple objectives. The attempt is made to create a feeling of apprehension and caring by providing the basic facilities, besides the fundamental pay package. It's seen that such caring is often made-up to put up a sense of loyalty on the part of the employee to the business. The investment in employee welfare through a financial composition where the possible cost benefit to the organization adds enhanced concern through better or quicker services from the employees. The labour welfare activities in India are organised by the Central Government, the State Governments, employers, trade unions and other agencies.

### 16.7. Case Study

Ramsagar, working in a nationalised Bank at Bombay was promoted as an officer and transferred to Pune .He had 10 years' experience in this bank and this was his first transfer after his marriage which was 5 years back.

His wife Sharada was working in Sreerangam engineering which was a Pvt. Ltd Firm. Ramsagar's promotion and transfer was not happily accepted by the family as Sharada was 6 months pregnant. Sharada applied for maternity leave which was granted along with all the statutory benefits. Her company also allowed extra Rs. 5000 as medical care.

Ramsagar who joined the Pune branch applied for a paternity leave for 16 weeks pointing out that he has to look after the health of his wife .The branch manager forwarded the application to head office with adverse comments and it was referred for a legal advice by the general manager. Finally Ramsagar got the leave.

1. Comment on the employee welfare attitudes of both husband and wife's employers?
2. If you were the Manager of Ramsagar what would you do?

### 16.8. Key Words

**Intramural Welfare Programmes:** The benefits provided to the workers within the organisation are intramural labour welfare facilities.

**Extramural Welfare Programmes:** The facilities provided to the workers and their family members outside the organisation are extramural welfare facilities.



**Statutory Welfare Measures:** The Welfare facilities extended to the workers because of legal enactments are statutory welfare facilities.

**Non-Statutory Welfare Measures:** The welfare facilities extended to the workers without any statutory compulsion and on voluntary basis are non-statutory welfare facilities.

**16.9. Self Assessment Questions:**

1. Classify and discuss various welfare programmes extended to the workers.
2. Examine the statutory welfare measures under the Factories Act, 1948.
16. Briefly explain the non-statutory welfare measures adopted in India.

**16.10. Further Readings:**

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## **Lesson-17**

# **ROLE AND FUNCTIONS OF WELFARE OFFICER- ROLE OF SOCIAL WORKER IN INDUSTRY**

### **Objectives**

When you have completed this lesson you should be able to understand the following.

- Requirement of the Welfare Officer under various Acts.
- Qualifications and appointment of the Welfare Officers.
- Duties or functions of the Welfare Officer.
- Observations of National Commission on Labour.

### **Structure**

17.1. Introduction

17.2 Requirements for Welfare Officer under various Acts

17.2.1. Factories Act, 1917

17.2.2. Mines Act, 1952.

17.2.3. Plantation Labour Act, 1951.

17.2.4. Merchant Shipping Act, 1958

17.3. Qualifications of welfare Officer.

17.4. Duties of a Welfare Officer.

17.5. National Commission on Labour Observations.

17.6. Role of Labour welfare Officer in Industrial Relations.

17.7. Self assessment Questions

17.8. Further Readings.

### **17. 1. Introduction**

In the early days of industrialisation, the industrial undertakings recruited workers through middle men. His functions include recruitment of workers, disciplining of workers and controlling of workers. They are known by different names in different industries for example 'Mukadams' in the engineering industries, 'Sirdars' in plantation industries and 'Jobbers' in textile industries. This system continued up to First World War period. The British Government appointed a commission in 1931 to report on the condition of workers in India. The commission which was popularly known as Royal Commission on Labour was appointed to study and recommend for abolition of the above system. The committee recommended that a person with the qualities of integrity, personality, gift of understanding people and requisite affinity be appointed as Labour Officer and who's duty shall include recruiting, disciplining and looking after the welfare of the workers.

Thus the main objective for recommending the institution of Labour Officer is to eliminate prosecutions methods adopted by the middlemen. In those days the labour officer's functions include maintenance of law and order in an organisation. The cotton mills, textile mills and jute mills started employing labour officer. The Labour investigation Committee (1917) also recommended for the appointment of Labour Officers in all Industries.

During the pre-independence days some labour acts were enacted to make welfare measures compulsory in factories, Mines etc. Further, cash and medical benefits were provided in case of accidents for example, workman compensation Act, 1923. Thus the labour philosophy in India has changed from policing to welfare and consequently the institution of Labour Officer has changed to Labour Welfare Officer. The welfare function

include provision for both statutory and non-statutory welfare measures and the non-statutory functions are voluntary in nature.

### **17.2. Requirement for Welfare Officer under Various Acts.**

The statutory law requires for appointment of Labour Welfare Officers in the industrial establishments where the number of employees employed are more than a specified number. The different Acts under which a labour welfare officer has to be appointed are discussed below.

#### **17.2.1. Factories Act, 19178**

The Factories Act, 19178 stipulates for appointment of Labour Welfare Officer. Section 179 and clause (i) says "Officers with the duty to look after the welfare of the workers are required to be appointed by the occupier of every factory with more than 500 workers". The clause (ii) of the same section says "the Government by rules may prescribe the qualifications and conditions of service of this welfare officer's". Further, the Government may by rule exempt any factory or class of factories from the compliance with the above provision.

#### **17.2.2. Mines Act, 1952**

The Mines Act, 1952 requires that every occupier of a mine to appoint welfare officer under section 58 clause (q) the welfare officer is to be appointed in every mine where 500 or more workers are employed. The appropriate state government shall frame qualifications, duties and service conditions of welfare officers.

#### **17.2.3. Plantation Labour Act, 1951**

The Plantation Labour Act, 1951 requires the employer under section 18 clause (i) to appoint welfare officer in a plantation where 300 or more workers are employed and under clause (ii) the appropriate state government shall frame qualifications, duties and serve conditions of the Welfare Officer.

#### **17.2.4. Merchant Shipping Act, 1958**

The appropriate government may recommend for appointment to Seaman's Welfare Officer. The qualifications, duties and service conditions are to be laid by the appropriate government.

All the above Acts requires the State Government to frame the necessary rules and guidelines for appointment of Welfare Officers. The Central Government has framed Model Rules prescribing qualifications, duties and conditions of services of Welfare Officer under each of the above Acts.

### **17.3. Qualifications**

The Model Rules framed by the Central Government prescribed the following qualifications for Welfare Officers. The qualifications laid by model Rules for under each of the above acts are:

**1. Factories:** A degree recognised by the state government and degree or diploma in Social Science recognised by the state Government and knowledge of the local language.

**2. Mines:** A degree recognised by the State Government and degree or diploma in Social Science preferably in Social Work or labour welfare and knowledge of the local language.

**3. Plantation:** A degree recognised by the State Government, degree or diploma in social science and knowledge of the local language is a must.

Further, each State Government has framed their own rules based on guidelines and Model Rules for each of the Act. The Labour Welfare Officer must necessarily know the local language i.e. the language understood by majority of the workers.

#### **17.4. Duties of a Welfare Officer**

The factories Act, 19178 has framed the following duties under the Model Rules for a Welfare Officer :

1. To supervise the safety, health and welfare programs.
2. To advise management on matters related to labour welfare programs, policies and procedures.
3. To personally counsel the workers in matters related to their personal and family problems.
17. To maintain liaison with government agencies, management and workers.
5. To maintain and advise on measure to be taken for promotion of peace and harmony in the industry.

However, the Model Rules of each Act has framed separate duties for welfare officers and the State Governments has framed rules under the powers conferred to it by the Central Acts. The duties of a Welfare Officer framed by Government of Maharashtra are;

1. To establish contacts and hold consultations with a view to maintaining, harmonious relations between the management and workers.
2. To bring to the notice of factory management, the grievances of workers, individual as well as collective, with a view to securing their expeditious redressal and to act as Liaison Officer between the management and labour.
3. To study and understand the point of view of labour in order to help the factory management to shape and formulate labour policies and to interpret these policies to the workers in a language they can understand.
17. To establish and maintain liaison with the government agencies like inspector of factories etc.
5. To see whether obligations both statutory otherwise concerning the application of the provisions of the Factories Act, 19178 and the rules made there under are fulfilled or not.
6. To advise on the fulfillment of medical services concerning medical examination of employees, health records, supervision of hazardous jobs, accident prevention and supervision of safety, educating workers on safety, maternity benefits and workmen's compensation.
7. To advise workers against anti-social and anti-legal activities.
8. To maintain impartial attitude.

9. To take measures for maintenance of peaceful and harmonious relations between management and workers.
10. To encourage workers participation in management and for formation of various statutory and non-statutory committees like welfare committees, safety committee, works committee, quality circles, co-operative societies, thrift societies and joint management councils.
11. To advise management in fulfilling the statutory and non-statutory welfare provisions such as canteens, shelter for rest, creches, latrines and urinals, drinking water, recreational facilities, transport etc.
12. To help employees in payment of benevolent and sickness benefits, pension, gratuity and other retirement benefits.
13. To help the factory management in regulating the grant of leave with wages and explain to workers the provisions relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of applications for regulating authorised absence.
117. To advise the management in maintaining accident free environment where there is no safety officer.
15. To advise the factory management on training apprentices, workers on transfer and promotion, supervision and control of notice board and information bulletins.

### **17.5 National Commission on Labour Observations**

The National Commission on Labour (1969) has made the following observations on the post of Welfare Officer.

1. The Subject of Welfare is not being given enough importance.
2. There is no demarcation between personnel functions and welfare functions.
3. The welfare officers should not be allowed to handle or negotiate with workers on terms and conditions of service.

### **17.6. Role of Labour Welfare Officer In Industrial Relations**

The labour welfare officer has an important role to play in maintaining harmonious and peaceful industrial environment. The government has identified the importance of labour Welfare. A happy worker is a productive worker. In framing model rules, the Central Government has laid emphasis on the institution of labour welfare officer in maintenance of harmonious industrial relations. The role of labour welfare officer in maintenance of industrial relations may be divided into :

1. Redressal of grievances
2. Administration of standing orders
3. Peaceful settlement of disputes
17. To strive for harmonious labour-management relations.

**1. Redressal of Grievances:** The labour welfare officer is expected to identify and solve the grievance of employees. The labour welfare officer has to meticulously identify and distinguish between personal and family grievances with that of work related grievances. The model grievance procedure should be amended and labour welfare officer should be held responsible for redressal of grievances at the first stage. If not solved, he can take up the matter with employer. The labour welfare officer has also a major role to play in personal counselling, exit interviews etc. The labour welfare officer is expected to speak with workers in a language understood by majority.

**2. Administrations of Standing Orders:** The administration of standing orders a Critical task. The interpretation of standing orders often manifest in industrial conflicts. The labour welfare officer is required to provide the meaning of standing orders and make aware to each employee the do's and not's. This helps in maintaining proper industrial relations.

**3. Peaceful Settlement of Industrial Disputes:** The labour welfare officer is expected to make use of his good offices during industrial disputes and negotiate with unions for peaceful settlement.

**17. To Strive for Harmonious Labour-Management Relations:** The labour welfare officer is expected to maintain liaison with labour unions and employer's. He can hold consultations with unions and employer's to explore the means for maintaining harmonious Labour-Management relations and elicit views of various organisations associated with Labour Welfare. The view expressed by them are :

1. The employers shall deposit the pay of Welfare Officer with the government and the government shall pay the amount to labour welfare officer.
2. The personnel and welfare functions should be clearly separated and the office of welfare officer should be statutorily protected.
3. The Welfare Officer shall be statutorily protected so that he may give his independent views without fear. The welfare officer should not act as a tool in the hands of management.
17. The labour welfare officer should not be allowed to do prohibited functions like, to appear in law courts on behalf of the management, to take disciplinary action against the workers. The Acts should be amended in this regard.
5. The labour welfare officer is paid by the management and his performance is appraised by the same management and therefore he cannot maintain neutrality and the concept is meaningless.

#### **17.7. Self Assessment Questions**

1. Discuss the role of Labour Welfare Officer under the various Acts.
2. Labour Welfare Officer is a middle man between the employer and workmen Justify.
3. Explain the necessity of labour welfare officer.
17. Discuss role of Labour Welfare Officer in Industrial relations.

**17.8. Further Readings**

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# **Lesson 18**

## **INDUSTRIAL RELATIONS CONCEPTS, DEFINITION, SCOPE & APPROACHES TO INDUSTRIAL RELATIONS**

### **Learning Objectives**

- To understand the objectives and key aspects of Industrial Relations
- To Know the scope of Industrial Relations
- To Learn the Forms of Industrial Relations
- To Study the Determinants of Industrial Relations
- To Identify the Perspectives of Industrial Relations

### **Structure**

- 18.0 Introduction
- 18.1 Concept of Industrial Relations
- 18.2 Objectives & Key Aspects of Industrial Relations
- 18.3 Scope of industrial relations
  - 18.3.1 Employer to Individual Employee Relationships
  - 18.3.2 Labour Management Relations
  - 18.3.3 Industrial Peace and Productivity
  - 18.3.4 Industrial Democracy
  - 18.3.5 Liaison Functions
- 18.4 Forms of Industrial Relations
  - 18.4.1 Managing by Contending
  - 18.4.2 Managing by Conceding
  - 18.4.3 Managing by Colluding
  - 18.4.4 Transformational Process Model
- 18.5 Determinants of Industrial Relations
  - 18.5.1 Trade Union Density
  - 18.5.2 Frequency of Strike Activity
  - 18.5.3 Political-economic Institutions
  - 18.5.4 Cultural Diversity
  - 18.5.5 Demographic Structure
  - 18.5.6 Pattern of Behavior
- 18.6 Perspectives of Industrial Relations
  - 18.6.1 Equity and Fairness
  - 18.6.2 Power and Authority
  - 18.6.3 Individualism and Collectivism
- 18.7 Summary
- 18.8 Key words
- 18.9 Self Assessment questions
- 18.10 Suggested Readings

### **18.0 Introduction**

The relationship between the employer and the employee is usually referred to as industrial relations. The labour-management relationship is a highly sensitive and complex



aspect influenced by a variety of factors. The nature of the industrial relationship in an organization is determined by factors such as the organizational culture, the attitude of the management, employee and unions, the condition of employment, the existence of a grievance-handling system and dispute settlement procedures, and the efficacy of rules and regulations. As a separate field of study, it is basically concerned with the systematic study of the various aspects of the labour management relationship. An industrial relationship arises out of the continuous interaction between the employers and the unions, which represent the employees. Thus, the chief actors in industrial relations are the employers and the unions, and their main relationship is through collective bargaining. Compensation-related issues, workload problems, retrenchment, layoffs and similar issues can determine the degree of cordiality in the industrial relationship collectively and individually.

The efficacy of industrial relations can be measured through the man-days lost due to strikes, lock-outs and other forms of disturbances in the organization. Generally, the government plays a proactive role in establishing harmonious industrial relations since labour-management problems usually have a social dimension. It acts as a partner and a facilitator in the industrial relations exercise of the organization. It contributes effectively to the establishment of harmony in the industrial relations by enacting laws, formulating policies and participating in the collective bargaining process and tripartite talks. It also acts as a conciliator or the third party in dispute settlement forums. The terms industrial relations, employee relations and labour-management relations are used interchangeably by the organizations while dealing with the employer-employee relationships in the organizations. The protection of the manual interests of the employees and the employers is the essence of the definitions of industrial relations.

### **18.18 Concept of Industrial Relations**

- To understand the objectives and key aspects of Industrial Relations
- To Know the scope of Industrial Relations
- To Learn the Forms of Industrial Relations
- To Study the Determinants of Industrial Relations
- To Identify the Perspectives of Industrial Relations

Let us examine the concept of industrial relations with the help of some definitions so as to understand better the dimensions of the subjects.

In a work setting, those who offer their services are workers and those who utilize these are the employers. Between them, there are interpersonal or individual relationships, and also the relations between the two groups. Their economic interest primarily brings workers to work for wages, and the employers hire their services as a factor contributing to production. Industrial relations in any work situation go beyond these economic aspects and involve several elements of human relationships in which one individual interacts and adjusts with the other, and one group understands and cooperates with the other. It is equally likely that the relationship may give rise to friction and conflict of interests.

One of the most comprehensive definitions which put industrial relations in a proper perspective of human relationships is by J. Henry Richardson. He says, "Industrial relations are the art of living together for purposes of production". The parties involved in industrial relations, i.e. the workers and the employers, have a common purpose – production. They willingly bind

themselves to work together. The most prominent feature of industrial relations is that it is an art which the two parties learn by acquiring the skills of adjustment. Though this definition highlights the interpersonal aspects of human relationships, it does not tell us about the possibilities of conflicts which may result in interruptions in production and may call for control by some other agency, such as the government. The workers as a group from trade unions, the employers form their own associations and the state provides institutions for the regulation of relations. The definition, however, does not mention these institutional aspects of industrial relations.

The definition by Allan Flanders focuses attention on the institutionalization of the relationship in which forums are created to regulate the relations. 'The subject of industrial relations deals with certain regulated and institutionalized relationships in the industry.' Similar emphasis on regulation and institution is noticed in the definition by H.A. Clegg. He observes: "The field of industrial relations includes the study of workers and their trade unions, management, employers' associations and the state institutions concerned with the regulation of employment".

According to J. Henry Richardson, the regulation of relationship is from within, for the parties have to learn to live together by a process of accommodation and adjustment. Both A. Flanders and H.A. Clegg assign great importance to the role of institutions and to the regulatory role played by the state/ government. According to Dale Yoder, industrial relations deal with the problems which arise in the context of human relationships when the workers submit themselves to being controlled by the employers. "Problems of human relationship arising from the sale of services for a wage and working on the premises of employers and under their control form the subject matter of Industrial relations." This definition is significant, for it does not talk only of adjustment and cooperation between the parties but rather draws attention to the problem which arises due to conflict of interests between the workers and the employers. It is interesting to note that industrial relations arise in the work setting where human beings engage themselves in activities of production and strive to satisfy human wants by the flow of goods and services; but they also create situations in which dissatisfactions – friction, conflict and adjustment and cooperation – coexist.

Like a coin, it has two faces – cooperation and conflict. The relationship, to use Hegel's expression, undergoes change from thesis to antithesis and then back to synthesis. Thus, the relationship starting with cooperation soon changes into conflict and after its resolution again changes into cooperation.

This changing process becomes a continuous feature in industrial systems. The relationship between labour and management is based on mutual adjustment on interests and goals. It depends upon economic, social and psychological satisfaction of the parties. Higher the satisfaction, healthier the relationship. In practice, it is, however, found that labour and capital constantly strive to maximize their preferred values by applying resources to institutions. In their efforts, they are influenced by and are influencing others.

Both of them augment their respective incomes and improve their power position. The major issues involved in the industrial relations process are terms of employment viz. wages,

dearness allowances, bonus, fringe benefits, working conditions, viz. leave, working hours, health, safety and welfare; non-employment related situations such as job security, manning and employment. Impact of work changes personnel issues such as discipline, promotional opportunities and, among others, recognition of trade unions. However, in view of sharply divided and vociferously pressed rival claims, the objective of labour and management are not amenable to easy reconciliation. This is all the more so in view of the fact that resources are limited. Be that as it may, the means adopted to achieve the objective which vary from simple negotiation to economic warfare adversely affect the community's interest in maintaining an uninterrupted and high level of production.

The definition given in the Encyclopedia Britannica underscores the fact that industrial relations cover both individual and collective relations. "The subject of industrial relations, therefore, includes individual relations and joint consultation between employers and employees at the place of work, collective relations between employers and their organization and the trade unions, and the part played by the state in regulating the relations." The definition has added one more dimension of joint consultation to the subject of industrial relations. One aspect is that of individual or interpersonal relationships among the workers and between the workers and the employers. The other aspect pertains to consultation between the employers and the workers as a process of adjustment. The third aspect is the institutionalized relationships directed towards the regulation of relations. But in its wider connotation, Industrial Relations cannot merely be confined to common labour management relations, or employer-employee relations. It is a comprehensive and total concept, embracing the sum total of relationships that exist at various levels of organizational structure. It connects relationships among workers themselves within the class of employees, and relations among the managements within the managerial class. It connects all types of intergroup and intra-group relationships within industry. Such relationships can be both, formal and informal.

Industrial relations arise in any setting where somebody hires the work/services of someone else by offering a reward. Industrial relations vary according to the scale or degree of organization. At one end, relations may be personal and informal, as in the small-scale sector. At the other end, industrial relations may be highly institutional, formal and conditioned by legally prescribed structures and procedures. A composite of several influences, such as social, political and psychological, which operate in the work setting, maybe termed as a framework of industrial relationships between different participants in the context of a productive organization which has an overall purpose of generating a surplus economic value. In terms of the setting, framework and system, it is possible to comprehend the broader perspective or the complete environment of industrial relations.

The system of industrial relations functions in the context of an environment consisting of different sub-systems. It interacts with the environment and the environment influences the functioning of the system. Changes take place within the system by way of a shift in ideologies, in the values of the actors, the attitudes of an interaction among the performers; and also outside the industrial relations system, in such other areas as technology, market, legal sanction, etc. One of the characteristic features of the industrial relations system is its interactive nature. The interactions take place among the various components and between the components and the other sub-systems of the environment. As a result, both the harmony and conflict have to be

recognized and accepted as the end-product of the system. It may be said that when the parties become responsible and discrete in the use of power, they learn to accommodate conflict.

The Scope of Employee Relations crosses the boundaries of organization and industries and interfaces with society. It deals with social relationships in different walks of life and creates collective social relationship – a social capital. It grows and flourishes or stagnates and decays in accordance with economic, social and political conditions prevailing in a society and the policies and legal framework made by the state to regulate it. The divergence in Employee Relations systems is because of different economic, social, political, technological and cultural environments of different societies. Environments exert tremendous influence on industrial relations and, therefore, as Fox argues “organisational issues, conflicts and values are inextricably bound up with those of society, at large”.

The present is only a part of a continuum linking the past with the future. Consequently, current industrial relations owe much to their past and the participant’s goal and expectations for the future. At the micro level, the time-context may be evident in two ways:

Today’s problem stems from yesterday’s decision and its solution will, as the environments change, become a problem in the future, and The attitudes, expectations and relationships manifest, led by the participants, are at least in part, the product of their past individual and collective experiences. It is apparent that the State, with ever-increasing emphasis on welfare aspect of governmental activity, cannot remain a silent and helpless spectator in the economic welfare.

This is all the more necessary because they are required to protect the interests of public – “the third party”. The legislative task of balancing the conflicting of interests in the arena of labour management relations proves to be an extremely difficult one, in view of the mutually conflicting interests of labour and management. The substantive issue of industrial relations is of perennial nature and, thus, there can never be a “solution for all times to come”. There can only be broad norms and guidelines as criteria in dealing with issues of industrial relations.

Law plays an important role in shaping the structure of industrial relations. It represents the foundations from which the present system and procedures flow to deal with the problems of industrial relations.

New frontiers of Employee Relations are explored which views them as a composites result of the attitudes and approaches of employers – and employees towards one another with regard to direction and co-ordination of activities of an organization with minimum of friction, with an animating spirit of cooperation and with proper regard for genuine well-being of all members of the organization. Serious attempts are being made to change the attitude and behavior of all concerned and generate positive culture and values – consultations, participation, empowerment and communication – a structure conducive to the development of the desired climate for workplace Employee Relations. Thus, Employee Relations are viewed as a positive culture of working together for business excellence. The purpose of positive Industrial Relations is not only to maintain Industrial Relations but to create an enabling climate to motivate people

and make them committed to giving of their best by adopting the latest management practices like Team Working, TQM, QCs, etc.

Industrial Relations do not have a shape of their own. These do not have a fixed level like water. As water seeks its own level directed by the gravitational force of the market. Protective, passive and slow-moving industrial Relations dispensation were developed to cater into the needs of a controlled, regulated and protected market after independence in India and were still continued till 18990. But the fierce globally competitive market demands an aggressive and dynamic approach to Industrial Relations to cater to the highly demanding market imperatives like international standards of quality, competitive pricing, quick responses, high flexibility in working and fulfilling the ever-increasing demands of customers. This requires a highly flexible and business-friendly industrial relations climate.

“All distinctive approach of employment management is the need of the hour which seeks to achieve competitive advantage through strategic development of a highly committed and capable workforce, using an integrated array of cultural, structural and personnel techniques.”

John Storey (18995)

In the 21st century, the business is the responsibility of both, the employee and employer. Performance is the key driver of success, which will lead to survival. Labour relations being a crucial management function of HRM, is essential to understand that in developing workers as the integral part of the business management decisions, the biggest challenge that lies with the HR professionals is to take up a developmental initiative in making the work-force more accountable, committed as business partners. Though collective bargaining is a powerful tool in maintaining peace and harmonious relationships, the approach needs to be reinvented as a collective decision-making process rather than one of collective bargaining, rather it should be based on business growth model which implies maximizing the profit ethically and distributing the same proportionately among all the stakeholders. It is high time that organizations and unions understood and took initiative in demolishing the management – worker barriers and developing a mutual gain model to avail competitive advantage.

## 18.2 Objectives & Key Aspects of Industrial Relations

Industrial relations are not an ‘objective’ science. As Salamon argues, there are no simple objective facts in industrial relations. This is not to deny the presence of important issues and debates in industrial relations apart from those entangled with the conflictual/consensual relationship of the participants. The loftier issues centre around such concepts as fairness/equity, power/ authority and individualism /collectivism. Apart from the primary objective of bringing about sound and healthy relations between employers and employees, industrial relations aim:

1. To facilitate production and productivity
2. To safeguard the rights and interests of both labour and management by enlisting their cooperation;
3. To achieve a sound, harmonious and mutually beneficial labour-management relations;
4. To avoid unhealthy atmosphere in the industry, especially work stoppages, go-slows,
5. gheraos, strikes, lockouts; and

The state endeavors to correct, through effective industrial relations, an imbalanced disordered and maladjusted social and economic order with a view to reshaping the complex

socio-economic relationships following technological and economic progress. It also controls and disciplines the parties concerned and adjusts their conflicting interests. In this process it protects some and restrains others, depending upon their situations.

According to Nair & Nair, the following are the key attributes of IR:

- The development of healthy employer – employee relations
- The maintenance of industrial peace and high productivity

The development and growth of industrial democracy Kirkaldy (18947), stated that “industrial relations in a country are intimately connected with the form of its political government; and the objectives of an industrial organization may vary from purely economic to purely political ends. He divided the objectives of industrial relations into four categories which are as following:

Improvement of economic conditions of workers in the existing state of industrial management and political government, State control on industries for regulating production and promoting harmonious industrial relations. Socialization or rationalization of industries by making State itself a major employer Vesting of the proprietary interest of the workers in the industries in which they are employed.

### **18.3 Scope of industrial relations**

Given these overall goals and objectives, it is not surprising that the field is engaged in a number of policy and operations-oriented activities. Some of this focus on the relationships between the employer and individual employees, while others deal with management and other organized labour groups. Still another area to which industrial relations activities contribute significantly is that of overall industrial goals such as productivity, labour peace and industrial democracy. Now, let us draw our attention to some of these:

#### **18.3.1 Employer to Individual Employee Relationships**

This relates to the focus areas of management in relation to policies and practices that ultimately affect the productivity and well-being of their employees as individuals. With a view to optimizing the interests of the employer and those of employees, these comprise fields such as:

1. Wages and salary administration
2. Career prospects inclusive of planning and promotion
3. Retirement benefits and medical benefits
4. Discipline and redress of grievances
5. Training and Development
6. Counselling
7. Workers’ compensation, connected and related issues such as insurance

#### **18.3.2 Labour Management Relations**

Distinct from Employer-Employee relations in this area, which relates to relations between the employer as a management body and its workers as a recognized group or set of groups, Labour Management Relations covers rights, protocols and practices, often regulated by a legal structure, related to –

1. Management (with concepts like ‘management rights’)
2. Formation and recognition of unions which represent the interests of the employees

3. Collective agreements
4. The settling of industrial disputes

Through these bodies, management and labour negotiate and enforce the establishment of welfare measures and benefit schemes. Another focus of labour-management relations is health and safety regulations and programmes at work.

### **18.3.3 Industrial Peace and Productivity**

One of the most important aspects of IR is to maintain industrial peace and, thereby, increase productivity. It depends on the quality of the union management relations at workplaces. In fact, proactive labour administrations of some countries have changed their focus from being a law enforcer to a facilitator to maintain industrial peace. Rather than resolving strikes by union, good IR means averting strikes through proactive interaction. Productivity is another important area in which IR becomes significant. In the highly competitive area of global business, maintaining high productivity is important for the survival of organizations. A few other areas of focus for Industrial Relations are:

18. Upgrading technology and production methods
2. Securing employee commitment and cooperation in improving productivity
3. Minimizing 'man days lost' per year
4. The restraining and redevelopment of surplus labour

### **18.3.4 Industrial Democracy**

The nature of the relationship between employees and management in the organization's decision-making process is central to the character and conduct of the industrial relations system at the organizational level. Industrial democracy is also known as worker's control (Salamon, 18998, p. 353). According to Salamon, this is a socio-political concept to philosophy of industrial organization, which focuses on the introduction of democratic procedures to restructure the industrial power and authority relationship within organizations. He further argues that thereby it creates a system which involves 'determination by the whole labour force of the nature, methods and indeed purpose of production'. Salamon elaborates that the central objective of industrial democracy is the establishment of employee self-management within an organization, whose ownership is vested in either the employees or the state and whose managerial function is exercised ultimately through a group, elected by the employees themselves. This group has the authority over all decisions of the organization, including the allocation of 'profits' between extra wages and reinvestment.

### **18.3.5 Liaison Functions**

In addition to the above, the IR function has also a liaison role within it. Those who are responsible for the IR function in an organization have to play a key and central role in the formulation of the industrial relations policy of the organization. This is at a conceptual and policy level but there are other activities which take IR personnel out of the organization in the likes of liaison with Government and Local Government authorities such as labour officers/inspectors etc. participation in judicial and semi-judicial disputes settlements, participation in labour conferences and so on.

## **18.4 Forms of Industrial Relations**

The interaction among the stakeholders in Industrial Relations is characterized by a certain 'balance of power'. In highly regulated industrial relations environment, the State is likely to be the dominant player. Similarly, in a market-driven economy, employers tend to dominate as a result of the right to "hire and fire" in response to market exigencies. In a socialist economy, trade unions tend to have a dominant role. In that process, industrial relations degenerate into a dominance-submission syndrome in which the dominant stakeholder tends to control. The management of industrial relations within the framework of culture of dominance can take three forms:

### **18.4.1 Managing by Contending**

Signifies that the stakeholders engage in a contest of will with the dominant stakeholder holding the reins and steering the choice-making processes as well as choices. Pressure tactics coupled with employment of leverages like litigations and direct action go hand-in-hand with the reaction of the dominated to protect threatened interest.

### **18.4.2 Managing by Conceding**

Indicates that the dominant stakeholder manages interactions with other less dominant and dominated stakeholders by making concessions to buy peace on an ad hoc, situational basis. A major ploy here is to adopt a 'divide-and-rule' policy.

### **18.4.3 Managing by Colluding**

Denotes that the dominant stakeholder strikes up equations with individual stakeholder representatives or with coalitions of stakeholders, through which, mechanism of choice making as well as choices are influenced to favour the dominant stakeholder. The collusion character of the interaction leads to the compromise of the interests of the less dominant stakeholder groups.

Within the framework of the culture of dominance, when change is sought, generally the changes only of the dominant stakeholder. The culture of managing by contending or conceding or colluding or a combination of any of those patterns remains unchanged.

Liberation for the dominated stakeholder is to become the dominant stakeholder, and so the cycle of contending, conceding, colluding goes on.

And yet, it is possible to think of breaking out of this vicious cycle only if the interacting stakeholders decide to change the culture of dominance and compliance to culture of dialogue and mutuality. This is feasible only if an individual or a coalition of stakeholders change the mode of choice-making from a contending-conceding-colluding orientation to a mutuality-based cooperative orientation. This is possible through collaborative problem solving approach, evidence of which is already available in various organization across the globe.

Managing by Collaborative Problem-Solving in the sphere of industrial relations choice-making is, perhaps, the key to the development of a new ethos. The "dominant stakeholder in today's deregulated environment is likely to be the Corporation and the onus is on corporation to create a new ethos, revolving around collaboration and mutuality.



#### **18.4.4 Transformational Process Model**

The Transformational Process Model is, in essence, a dynamic process in which the Corporation continuously defines the environment and responds appropriately. It is a continuous process of redefining the organization's own core in relation to its internal stakeholders in order to, not only remain in existence but also to change and able to grow.

This involves not only structural changes and systematic innovations but also involves change of mindset and values of the interacting stakeholders in corporations. It is this broadening of the scope of industrial relations management that opens up possibilities for this approach which is basically a search for internal stakeholder congruence to energise the corporation for strategic survival and growth in a fiercely competitive environment.

#### **18.5 Determinants of Industrial Relations**

Basically, the success of industrial relations depends on the nature of the relationship prevailing among the actors of industrial relations. It also depends equally on the power equation existing between the employers and the trade unions. The attitude of one party towards the other and its strategies depend on its assessment of the strengths and weaknesses of the other party in industrial relations. The power equation of the actors in the industrial relations is determined by a combination of several factors. Some of the factors which influence the distribution of power between employers and employees are:

##### **18.5.18 Trade Union Density**

When the unions are phenomenally strong in an industry, the power balance would be in favour of the employees and the unions. In such a situation, the terms of industrial relations would be decided by the unions.

##### **18.5.2 Frequency of Strike Activity**

When the organization or industry reports a high number of strikes within a specific period, the industrial relations would come under increasing strain. Depending upon the outcome of the strikes, the power equation would change.

##### **18.5.3 Political-economic Institutions**

The role of politico-economic institutions is critical in achieving industrial peace and harmony. When the political institutions, especially the ruling combine, overtly favour the employees and the trade unions, the power equation would tilt in favour of the unions.

##### **18.5.4 Cultural Diversity**

When there is cultural diversity among the workforce, it may favour the employers to have divisions among the employees along cultural lines. The educated and enlightened employees may make independent decisions, which may differ with the general stand of the unions.

##### **18.5.5 Demographic Structure**

The presence of heterogeneous groups based on age, gender, income and other relevant bases can also influence the power balance between employers and employees. For instance, the organizations with a high proportion of women employees may witness low intensity in union activity.

### **18.5.6 Pattern of Behaviour**

When the employers espouse authoritarianism in behavior and style of management, the employees may predominantly prefer unions and aggressive postures, if possible. In contrast, the employees side with the employers when the latter adopt a consultative paternal approach. In addition to these factors, the state of technology, the nature of supply and demand in the product and labour markets, legal factors and other external environmental developments can also influence industrial relation

## **18.6 Perspectives of Industrial Relations**

### **18.6.1 Equity and Fairness**

Equity refers to equal treatment to one and all under comparable circumstances. Equity and fairness are used synonymously in industrial relations. The concept of fairness is an objective when one applies a technical yardstick like market forces for its evaluation. For instance, the management may consider it fair to freeze wages in time of recession, while workers may feel that it is unfair to do so in view of the rise in the cost of living. The concept of fairness is utilitarian when one goes by what the majority accepts. The notion of fairness becomes relative when one considers whether or not one is getting a fair share of pay in relation to what others with similar qualifications and experience are receiving. In an engineering company, the welders were upset when they got a lesser pay raise than the gardeners. They immediately formed a rival union of technical staff and protested. Another example that can be referred here is disparity of wages between grass-cutters themselves. There can be differences about the notion of fairness not only between management and employees but also, as in these examples between groups of employees.

### **18.6.2 Power and Authority**

Power has the ability to influence, impose or control. It implies the use of force. Power emanates from six major interrelated aspects:

1. The power to reward and / or punish
2. Power to coerce others
3. Position power
4. Reference power
5. Reference power due to personal attributes
6. Expert power due to one's access to information, knowledge, or experience associational power through membership in trade unions, employers organizations, chambers of commerce, networking/coalitions, etc.

Authority has the right to expect and command obedience. Power and authority are often regulated by society. The manner in which they are exercised may have implications on the rights and entitlements of others, particularly subordinates. The law may sometimes extend or contract managerial authority. Again, this has its implications on the rights and power of subordinates.

### **18.6.3 Individualism and Collectivism**

The fundamental basis of a democratic society is the freedom of the individual. In an employment relationship, collectivist basis may negate or limit an individual's freedom. The closed-shop system is a case in point. An individual should have the right to join a trade union. Likewise, he or she should have the right not to join a union. Compelling an employee to join a

union due to the union shop clause or closed-shop system in a collective agreement negates the right of freedom of the individual employee.

### 18.7 Summary

Each industrial relations system is grounded in the national historical, economic, and political context and therefore differs from country to country. As part of industrial relations, social dialogue is key for communication and information sharing; for conflict prevention and resolution; and for helping overcome work-related challenges. Social dialogue has demonstrated its potential as an instrument for democratic governance and participation; a driver for economic stability and growth; and a tool for maintaining or encouraging peaceful workplace relations.

### 18.8 Key words

**Industrial Relations-** The term 'Industrial Relations' refers to the complex of human relationships which emerges in work situations. These situations bring people together for services which are bought and sold at a price.

**Industrial Democracy-** The nature of the relationship between employees and management in the organization's decision-making process is central to the character and conduct of the industrial relations system at the organizational level

**Managing by Contending-** Signifies that the stakeholders engage in a contest of will with the dominant stakeholder holding the reins and steering the choice-making processes as well as Choices.

**Managing by Conceding-** Indicates that the dominant stakeholder manages interactions with other less dominant and dominated stakeholders by making concessions to buy peace on an ad hoc, situational basis.

**Managing by Colluding-** Denotes that the dominant stakeholder strikes up equations with individual stakeholder representatives or with coalitions of stakeholders, through which, mechanism of choice making as well as choices are influenced to favour the dominant stakeholder

**Transformational Process Model-** The Transformational Process Model is, in essence, a dynamic process in which the Corporation continuously defines the environment and responds appropriately.

### 18.9 Self Assessment questions

1. Briefly explain the objectives and Key aspects of Industrial relations?
2. Discuss the Scope and Forms of Industrial Relations?
3. Examine the Determinants of Industrial Relations?
4. Explain the Perspectives of Industrial Relations?

**18.10 Suggested Readings**

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## Lesson-19

# ROLE OF INTERNATIONAL LABOUR ORGANISATION (ILO) AND FUNCTIONS

### Objectives

- After going through this Unit, you shall be able to
- Understand the objectives of the I.L.O.
- Know the membership of the I.L.O.
- Identify the structure and functions of I.L.O.
- Analyze the role of I.L.O. in pursuit of Labour Welfare.

### Structure

- 19.1. Introduction
- 19.2. Objectives of the I.L.O.
- 19.3. Membership
- 19.4. Structure and functions of the I.L.O.
  - 19.4.1. The International Labour Conference
  - 19.4.2. The Governing body
  - 19.4.3. The International Labour Office
- 19.5. The I.L.O.'s Welfare work
- 19.6. Summary
- 19.7. Self Assessment Questions
- 19.8. Further readings

### 19.1. Introduction

The ILO Symbolises social justice, Universal peace and human dignity. It was set up on April 19, 1919 as a result of peace conference convened at the end of World War -I at Versailles. It is a tripartite body consisting of three groups. As described by S.N. Dhyani, these three groups are namely “The Governments which finance it, the workers, for whose benefit it is created and the employers who share the responsibility for the welfare of the workers. This unit makes an attempt to present the objectives of the I.L.O., its membership, structure and functions and its impact on labour welfare in India.

- Established in 1919 by the Treaty of Versailles as an affiliated agency of the League of Nations.
- Became the first affiliated specialized agency of the United Nations in 1946.
- Headquarters: Geneva, Switzerland
- Founding Mission: social justice is essential to universal and lasting peace.
- Promotes internationally recognized human and labour rights.
- Received the Nobel Peace Prize in 1969.
  - For improving peace among classes
  - Pursuing decent work and justice for workers
  - Providing technical assistance to other developing nations
- The organization has played a key role in
  - Ensuring labour rights during the Great Depression
  - Decolonization process
  - The creation of Solidarność ( trade union) in Poland
  - The victory over apartheid in South Africa

- Today it is providing substantial support in the building of an ethical and productive framework for fair globalization.

The basis of the ILO is the tripartite principle. The ILO comprises the **International Labour Conference**, the **Governing Body**, and the **International Labour Office**.

- **International Labour Conference:**

- The progressive policies of the ILO are set by the International Labour Conference.
- The Conference is an annual event, which happens in Geneva, Switzerland. The conference brings together all the representatives of the ILO.
- Function: It is a panel for the review of the important issues regarding labour.

**Governing Body:**

- The Governing Body is the executive body of the International Labour Organization.
- The governing body meets in Geneva. It meets three times annually.
- The Office is the secretariat of the Organization.
- It is composed of 56 titular members, and 66 deputy members.
- Functions:
  - Makes decisions regarding the agenda and the policies of the International Labour Conference.
  - It adopts the draft Programme and Budget of the Organization for submission to the Conference.
  - Election of the Director-General.

**International Labour Office:**

- It is the permanent secretariat of the International Labour Organization.
- **Functions:** It decides the activities for ILO and is supervised by the Governing Body and the Director-General.
- **The ILO member States hold periodically regional meetings to discuss the relevant issues of the concerned regions.**
- Each of the ILO's 183 Member States has the right to send four delegates to the Conference: two from government and one each representing workers and employers, each of whom may speak and vote independently

To know more headquarters of the Important Organisations of the World, visit the linked article.

**International Labour Organization (ILO) Functions**

The ILO plays an important role in the formulation of policies which are focussed on solving labour issues. The ILO also has other functions, such as:

- It adopts international labour standards. They are adopted in the form of conventions. It also controls the implementation of its conventions.
- It aids the member states in resolving their social and labour problems.
- It advocates and works for the protection of Human rights.
- It is responsible for the research and publication of information regarding social and labour issues.
- The **Trade Unions** play a pivotal role in developing policies at the ILO, thus the **Bureau for Workers' Activities** at the secretariat is dedicated to strengthening independent and democratic trade unions so they can better defend workers' rights and interests.

- **The ILO also assumes a supervisory role:** it monitors the implementation of ILO conventions ratified by member states.
  - The implementation is done through the Committee of Experts, the International Labour Conference's Tripartite Committee and the member-states.
  - Member states are obligated to send reports on the development of the implementation of the conventions they have approved.

**Registration of complaints:** The ILO registers complaints against entities that are violating international rules.

- The ILO, however, does not impose any sanctions on the governments.
- Complaints can also be filed against member states for not complying with ILO conventions that have been ratified.
- 

**International Labour Standards:** The ILO is also responsible for setting International Labour Standards. The international labour conventions which are set by the ILO are ratified by the member states. These are mostly non-binding in nature.

- But once a member state accepts conventions, it becomes legally binding. The conventions are often used to bring national laws in alignment with international standards.

**ILO Global Commission on the Future of Work:** The formation of an ILO Global Commission on the Future of Work marks the second stage in the ILO Future of Work Initiative.

- The Commission outlines a vision for a human-centred agenda that is based on investing in people's capabilities, institutions of work and decent and sustainable work.
- It also describes the challenges caused by new technology, climate change and demography and appeals for a collective global response to the disturbances being caused in the world of work.

### **International Labour Organization – Mission**

The ILO's mission is to promote decent work for all workers. This is accomplished by promoting social dialogue, protection, and employment generation.

- The ILO provides technical support along with the support of development partners to multiple countries in order to achieve this mission.

### **International Labour Organization–Declaration on Fundamental Principles and Rights at Work.**

The Declaration was adopted in 1998, and it mandates the member states to promote the eight fundamental principles and rights. The Fundamental Principles and Rights are categorized into four classes. They are:

- Freedom of Association and the Right to Collective Bargaining (Conventions 87 and 98)
- Elimination of forced or compulsory labour (Conventions No. 199 and No. 105)
- Abolition of child labour (Conventions No. 138 and No. 1819)
- Elimination of discrimination in respect of employment and occupation (Conventions No. 100 and No. 111).

- As part of the Follow-up to the Declaration, the ILO Director-General also submits a Global Report on one of the four categories of fundamental principles and rights at work to the tripartite International Labour Conference.

International Labour Organization – Core Conventions

The eight fundamental conventions form an indispensable part of the United Nations Human Rights Framework, and their sanction is an important sign of member States' commitment to human rights. Overall, 135 member States have ratified all eight fundamental conventions.

- **The eight-core conventions of the ILO are:**
  - Forced Labour Convention (No. 199)
  - Abolition of Forced Labour Convention (No.105)
  - Equal Remuneration Convention (No.100)
  - Discrimination (Employment Occupation) Convention (No.111)
  - Minimum Age Convention (No.138)
  - Worst forms of Child Labour Convention (No.1819)
  - Freedom of Association and Protection of Right to Organised Convention (No.87)
  - Right to Organise and Collective Bargaining Convention (No.98)

The conventions are highly relevant due to the economic challenges faced by workers all around the world.

## 19.2. Objectives of the I.L.O.

The Objectives of the I.L.O. are set out in the preamble to its constitution and in the Declaration of Philadelphia, adopted in 1944 and formally appended to the constitution in 1946. The preamble affirms that universal peace can be established only if it is based upon social justice. draws attention to the existence of conditions of labour involving injustice hard ships and privation to a large number of people and declares that improvement of these conditions is urgently required the failure of any nation to adopt human conditions of labour is an obstacle in the way of other nations which designing to improve labour conditions in their own countries.

The Declaration of Philadelphia is a reaffirmation of the fundamental principles are which the ILO was originally based and declares that:

1. Labour is not a commodity
19. Freedom of expression and of association are essential to sustained progress.
3. Poverty anywhere constitutes a danger to prosperity everywhere.
4. The war against want requires to be carried on with unrelenting vigour within each nation and by continuous and concerted international efforts 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.

Declaration of Philadelphia set forth the objectives of I.L.O. The theme underlying these objectives is social justice. The objectives are as follows:

- a) Full employment and the raising of standards of living;
- b) The employment of workers in the occupation in which they can have the satisfaction of giving the fullest measures of their skill and attainments and make their greatest contribution to the common welfare well being;
- c) 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;



- d) Policies in regard to wages and earnings, bonus 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 protection;
- e) The effective recognition of the right of collective bargaining, the cooperation of Management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in the preparation and application of social and economic measures;
- f) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- g) Adequate protection for the life and health of workers in all occupations.
- h) Provision for child welfare and maternity protection;
- i) The provision of adequate nutrition, housing and facilities for recreation and culture; and
- j) The assurance of equality of educational and vocational opportunity

### 19.3. Structure of ILO

The ILO accomplishes its work through three main bodies which comprise governments', employers' and workers' representatives:

- **International Labour Conference:** it sets the International labour standards and the broad policies of the ILO. It meets annually in Geneva. It is often referred to as an **International Parliament of Labour**.

It is also a forum for discussion of key social and labour questions.

- **Governing Body:** it is the **executive council** of the ILO. It meets three times a year in Geneva.
  - It takes policy decisions of ILO and establishes the programme and the budget, which it then submits to the Conference for adoption.
  - The work of the Governing Body and the Office is aided by **tripartite committees** covering major industries.
  - It is also supported by committees of experts on such matters as vocational training, management development, occupational safety and health, industrial relations, workers' education, and special problems of women and young workers.
- **International Labour Office:** it is the permanent secretariat of the International Labour Organization.

It is the focal point for ILO's overall activities, which it prepares under the scrutiny of the Governing Body and under the leadership of the Director- General.
- **Regional meetings** of the ILO member States are held periodically to examine matters of special interest to the regions concerned.

### 19.4. Membership

The constitution of the ILO provides that all those states, who were members of the ILO on first November, 1945, and any original member of the United Nations can become member of the ILO, by accepting the obligations of its constitution. Other states can also become members of the ILO by a vote of consent by two thirds of the delegates attending the

session including two thirds of the Government delegates present and voting. India is one of the founder members of the ILO. There were 45 states who were members of the ILO in 1919 and by 19919 it numbered 151 states.

### **19.5. Structure and Functions of the ILO**

The ILO consists of three principal organs. These are (1) The International Labour Conference (19) The Governing Body and (3) The International Labour Office. The International Labour Conference is the supreme deliberative body of the ILO and acts as the legislative wing of the organisation. The International Labour conference elect the Governing Body and adopts international labour standards in the form of Conventions and Recommendations collectively known as the International Labour Code.

#### **19.5.1. The International Labour Conference**

The International Labour Conference is composed of four delegates nominated by each of the member States, of whom two are Government representatives, and one each represent employees and workers of the member state. The Government delegates are generally ministers, diplomats or officials. Employers and workers delegates are nominated by the member states according to agreement with the most representative organisations of employers and workers.

It is the policy making body of the ILO. It meets once in a year and formulates international labour standards in the shape of conventions and recommendations. It fixes the amount of contribution by the member states. It decides the expenditure and budget estimates prepared by the Director General and submits to the governing body. It is authorised to make amendments to the constitution. It considers the report of the Director General. It appoints committees to deal with different matters covering each sessions. It elects once in three years the members of the Governing Body.

#### **19.5.2. The Governing Body**

The Governing Body is another Principal bodies of the ILO. It consists of 56 members of which 198 represent Governments, 14 employers and 14workers.Of the 198 government representatives, 10 are appointed by the members of the States of chief industrial importance. The remaining are delegates of other states. India is one of the ten states of industrial importance. The period of office of this body is 3 years. It meets many times in a year to make decisions on the programmes of the ILO. It carries out the decisions of the International Labour Conference with the help of International Labour Office. It draws up agenda for each session and of the International Labour Conference. It appoints the Director General of the Office. It fixes the dates, duration and agenda of the Regional conferences. It scrutinises the budget.

#### **19.5.3. The International Labour Office**

The third major organ of the structure of ILO is in the International Labour Office. It functions as the secretariat of the ILO in Geneva. The Director General of the ILO is the Chief Executive Officer of this Office. He is appointed by the Governing Body for a period of 10 years. He is assisted by two Deputy Director Generals, six Assistant Director Generals, one Director of the International Institute for Labour studies, one Director of the International Centre of Advanced Technical and Vocational training, Advisors and other staff drawn from 100 nations.

The functions of this office are: to prepare documents on the items of the agenda of the conference, to assist Governments in framing legislations on the basis of the decisions of the International Labour Conference, to bring out publications dealing with labour problems of international importance and to collect and distribute information on international labour and social problems.

#### **19.6. The ILO's Welfare work**

The ILO has devoted considerable attention to the subject of Labour Welfare. The International Labour Conference in 1947 passed a recommendation concerning Welfare of Workers. In 1956 it considered some more welfare facilities and adopted a recommendation defining certain principles and establishing certain standards concerning labour welfare. The ILO suggested welfare funds on collective costs to finance activities in small undertakings. It also adopted number of conventions and recommendations regarding industrial accidents and safety. The following are some of the important areas of ILO activities concerning labour welfare.

1. **Migrant Workers:** The ILO adopted a resolution in 1971 on the need to promote equality of migrant workers in all social and labour matters.
2. **Women Workers:** The constitution of the ILO specifically provides for the protection of women workers. The main conventions adopted by the ILO with regard to women workers were on maternity Protection, the night work of women, the underground work of women and the equal remuneration.
3. **Child Labour:** The ILO has done considerable work concerning child labour. It set standards to prevent the exploitation of child labour. It also set standards for regulating the recruitment of young persons.
4. **Social Security:** The ILO has done commendable work on social security. A number of conventions and recommendations were passed to deal with workmen's-compensation, sickness insurance, invalidity, old age and survivors, insurance, unemployment provisions and maternity protection. One of the most important investments adopted by the ILO is the Social Security (Minimum Standards) convention, 1951. Currently, the organizations main object is to extend social security to agricultural and plantation warkers.
5. **Conditions of Work:** The ILO has devoted considerable attention to the working conditions, hours of work, weekly rest, and holidays with pay, principles and methods of wage regulation and labour administration and inspection. A large number of Conventions and Recommendations covering conditions of work of labour have adopted by the International Labour Conference.
6. **Health, Safety and Welfare:** The ILO has adopted many conventions and recommendations concerning the health, safety and welfare of industrial workers. It has established international standards in these matters. Prevention of accidents, protection of health of workers, and Protection against sickness, injury and disease are stressed by the ILO.

Thus the ILO has made commendable work in the field of labour welfare. The Labour welfare and social security legislations in India were largely influenced by the ILO conventions and recommendations.

**19.7. Summary**

The ILO was set up in 1919 which symbolizes social justice, Universal peace and human dignity. It is a tripartite body consisting of Government workers and employers representatives of the member states. It consists of International Labour conference which is the Policy making body, the Governing Body, the executive wing and International Labour Office which is also the Secretariat. The ILO formulates international labour standards in the shape of conventions and recommendations. The member states implement them. In the field of labour welfare the ILO has done commendable work. It formulated certain standards for the welfare of women workers, and child labour. It has passed social security (minimum standards) convention and it made attempts in setting standards in working conditions, health, welfare and safety of workers.

**19.8. Self Assessment Questions**

1. Explain the objectives and structure of the ILO.
19. Discuss the role played by the ILO in pursuit of Labour Welfare.

**19.9. Further Readings**

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## **Lesson-20**

# **CONFLICT RESOLUTION & MANAGEMENT OF TRADE UNIONS**

### **Objectives**

After going through this Unit, you shall be able to

- Understand the objectives of the Conflict Resolution & Manage of Trade Union.
- Know the membership of the Conflict Resolution & Manage of Trade Union.
- Identify the structure and functions of Conflict Resolution & Manage of Trade Union.
- Analyze .the role of Conflict Resolution & Manage of Trade Union.

### **Structure**

- 20.1 Introduction
- 20.2 Types of Industry Related Factors
  - 20.2.1 (A) *Industry-related factors*
  - 20.2.2 (B) Management Related Factors
  - 20.2.3 (C) Government-Related Factors
  - 20.2.4 (D) Other Factors
- 20.3 Conflict Resolution
- 20.4 Management of Trade Union
- 20.5 Problems of the Trade Union Movement in India
- 20.6 Measures to Strengthen Trade Unions
- 20.7 Essentials for Success of a Trade Union
- 20.8 Summary
- 20.9 Self Assessment Questions
- 20.10 Further Readings

### **20.1 Introduction**

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.

## 20.2 Types of Industry Related Factors

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 heads

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

### 20.2.1 (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 them 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.

### 20.2.2 (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.

### 20.2.3 (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.

#### 20.2.4 (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.

#### 20.3 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.

## 20.4 Management of Trade Union

### 20.4.1 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.

### 20.4.2 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 2089 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 2092.

The standing Labour committee and the Indian Labour conference which met in October 2095 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.

### **20.5 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.

## **20.6 Measures to Strengthen Trade Unions**

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

### **20.6.1 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.

### **20.6.2 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.

### **20.6.3 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.

### **20.6.4 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.

### **20.6.5 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.

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

The act of 2026 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.

### **20.6.7 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.

### **20.6.8 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.*

- |                           |   |
|---------------------------|---|
| 1. Employment Advisor →   | → Employee Resourcing<br>→ Employee Involvement<br>→ Employee Communication<br>→ Compensation Management<br>→ Integrative Bargain Win-Win Situation |
| 2. Collective Bargainer → |   |

- **Distributive Bargain Win-Lose Situation**
- **Performance Reviewer**
- 3. **Performance Manager** →
  - **Employee Counsellor**
  - **Counsellor to Modify Performance**
  - **Team Builder**
- 4. **Team** →
  - **Interventionist Minimiser of Team Conflict**
  - **Cross-functional Team Development**
- 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.

### 20.7 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.

### 20.8 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

### 20.9 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?

### 20.10 Further Readings

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## Lesson 21

# COLLECTIVE BARGAINING AND PARTICIPATIVE MANAGEMENT

### Objectives

After reading this lesson you shall be able to understand the concept of Collective Bargaining workers participation in management, its features, objectives and levels. Further it will also give you an insight into various ways of WPM as well as WPM in India

### Structure

#### 21.1 Introduction

#### 21.2 Conceptual Analysis

#### 21.3 Features of Collective Bargaining

#### 21.4 Conditions for Successful Collective Bargaining

#### 21.5 Negotiation Process

##### 21.5.1 Pre-negotiation Phase

##### 21.5.2 Negotiation Phase

#### 21.6 Agreement

#### 21.7 Participative Management

#### 21.8. Concept of Workers' Participation in Management (WPM)

#### 21.9. Levels of workers' Participation in Management

#### 21.10. Methods/Schemes of WPM

#### 21.11. Summary

#### 21.12. Glossary

#### 21.13. Self Assessment Questions

#### 21.14. Lesson End Exercise

#### 21.15. Suggested Readings

### 21.1 Introduction

Collective bargaining is specifically an industrial relations mechanism or tool, and is an aspect of negotiation, applicable to the employment relationship. In collective bargaining the union always has a collective interest since the negotiations are for the benefit of several employees. Where collective bargaining is not for one employer but for several, collective interests become a feature for both parties to the bargaining process. In negotiations in non-employment situations, collective interests are less, or non-existent, except when states negotiate with each other. Further, in labour relations, negotiations involve the public interest such as where negotiations are on wages which can impact on prices. This is implicitly recognized when a party or the parties seek the support of the public, especially where negotiations have failed and work disruptions follow. Governments intervene when necessary in collective bargaining because the negotiations are of interest to those beyond the parties themselves.

### Objective

This lesson will equip you with knowledge regarding collective bargaining concept, its features, prerequisites and process

### 21.2. Conceptual analysis

The term "collective bargaining" was first used in the middle of 1891 by economic theorist Beatrice Webb. However, collective negotiations and agreements had existed since

the rise of trade unions during the 18<sup>th</sup> century. The term collective bargaining itself was coined by a British labour historian named Mrs. Sidney Webb in 1891 (Hoffer). The National Railway Act and the National Labour Relations Act made it illegal for any employer to deny union rights to an employee. Another step in this direction came in 1962 when President John F Kennedy issued an executive order granting Federal employees the right to unionize and collective bargain. Collective bargaining has even been recognized internationally as a basic human right and in 2007 the Canadian Supreme Court ruled that “*The right to bargain collectively with an employer enhances the human dignity, liberty and autonomy of workers by giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives, namely their work. ... Collective bargaining is not simply an instrument for pursuing external ends ... rather [it] is intrinsically valuable as an experience in self-government*”. Even the Catholic Church has asserted that it is imperative to protect workers’ rights including collective bargaining. It is widely recognized that throughout history unionized employees, both public and private, enjoy a living wage and benefits that they deserve while not having to worry about unjust treatment, unfair labour practices, or termination without cause.

The ILO Right to Organize and Collective Bargaining Convention (No. 98), 19219 describes collective bargaining as: “*Voluntary negotiation between employers or employers’ organizations and workers’ organizations, with a view to the regulation of terms and conditions of employment by collective agreements.*” *Collective bargaining could also be defined as negotiations relating to terms of employment and conditions of work between an employer, a group of employers or an employers’ organization on the one hand, and representative workers’ organizations on the other, with a view to reaching agreement.*

So, we can conclude that collective bargaining is a process of negotiations between employers and a group of employees aimed at reaching agreements that regulate working conditions. The interests of the employees are commonly presented by representatives of a trade union to which the employees belong. The collective agreements reached by these negotiations usually set out wage scales, working hours, training, health and safety, overtime, grievance mechanisms, and rights to participate in workplace or company affairs.

### **21.3. Features of Collective Bargaining**

There are several essential features of collective bargaining, all of which cannot be reflected in a single definition or description of the process:

- It is not equivalent to collective agreements because collective bargaining refers to the process or means, and collective agreement refers to the possible result of bargaining.
- Collective bargaining may not always lead to a collective agreement.
- It is a method used by trade unions to improve the terms and conditions of employment of their members.
- It seeks to restore the unequal bargaining position between employer and employee.
- Where it leads to an agreement, it modifies, rather than replaces, the individual contract of employment, because it does not create the employer-employee relationship.
- The process is bipartite, but in some developing countries the State plays a role in the form of a conciliator where disagreements occur, or where collective bargaining impinges on government policy.
- It is flexible in nature. If the parties adopt rigid attitude, they will not be able to reach any agreement.

- It is dynamic as it keeps on changing with changing times.
- It is continuous process. As soon as one agreement is signed, preparations for other agreement get started.
- It is multidisciplinary as the parties involved must have knowledge of economics, finance, applied psychology and sociology.
- It is step towards industrial democracy as it makes employees aware of their rights and they negotiate for the same with their employer.

#### 4.4 Conditions For Successful Collective Bargaining

- **Pluralism and the Freedom of Association:** A pluralistic outlook involves the acceptance within a political system of pressure groups (e.g. religious groups, unions, business associations, political parties) with specific interests with which a government has dialogue, with a view to effecting compromises by making concessions. Pluralism implies a process of bargaining between these groups, and between one and more of them on the one hand and the government on the other. It therefore recognises these groups as the checks and balances, which guarantee democracy. It is natural that in labour relations in a pluralist society, collective bargaining is recognised as a fundamental tool through which stability is maintained, while the freedom of association is the *sine qua non* because without the right of association the interest groups in a society would be unable to function effectively. There can, therefore, be no meaningful collective bargaining without the freedom of association accorded to both employers and workers.
- **Trade Union Recognition:** The existence of the freedom of association does not necessarily mean that there would automatically be recognition of unions for bargaining purposes. Especially in systems where there is a multiplicity of trade unions, there should be some pre-determined objective criteria operative within the industrial relations system to decide when and how a union should be recognised for collective bargaining purposes. The accepted principle is to recognise the most representative union, but what criteria is used to decide it and by whom may differ from system to system. In some systems the issue would be determined by requiring the union to have not less than a stipulated percentage of the workers in the enterprise or category in its membership. The representativeness may be decided by a referendum in the workplace or by an outside certifying authority (such as a labour department or an independent statutory body). There could be a condition that once certified as the bargaining agent, there cannot be a change of agent for a prescribed period (e.g. one or two years) in order to ensure the stability of the process.
- **Observance of Agreements:** Especially in developing countries where there is a multiplicity of unions, unions are sometimes unable to secure observance of agreements by their members. Where a labour law system provides for sanctions for breaches of agreements, the labour administration authorities may be reluctant to impose sanctions on workers. Where there is frequent non-observance of agreements or understandings reached through the collective bargaining process, the party not in default would lose faith in the process.
- **Support of Labour Administration Authorities:** Support by the labour administration authorities is necessary for successful collective bargaining. This implies that they will: provide the necessary climate for it. For instance, they should provide effective conciliation services in the event of a breakdown in the process, and even provide the necessary legal framework for it to operate in where necessary, e.g. provision for the

registration of agreements. Will not support a party in breach of agreements concluded consequent to collective bargaining. As far as is practicable, secure observance of collective bargaining agreements. Provide methods for the settlement of disputes arising out of collective bargaining if the parties themselves have not so provided.

- **Good Faith:** Collective bargaining is workable only if the parties bargain in good faith. If not, there will be only the process of bargaining without a result viz. an agreement. Good faith is more likely where certain attitudes are shared among employers, workers and their organizations e.g. a belief and faith in the value of compromise through dialogue, in the process of collective bargaining, and in the productive nature of the relationship collective bargaining requires and develops. Strong organizations of workers and employers contribute to bargaining in good faith, because there would be some parity in the bargaining strength of the two parties.
- **Proper Internal Communication:** Both the management and union should keep their managers and members respectively well informed, as a lack of proper communication and information can lead to misunderstandings and even to strikes. Sometimes managers and supervisors who are ill-informed may inadvertently mislead workers who work under them about the current state of negotiations, the management's objectives and so on. In fact, it is necessary to involve managers in deciding on objectives and solutions, and such participation is likely to ensure greater acceptance - and therefore better implementation - by them.**Strikes/ lockouts:** Strikes and lockouts should be resorted to as last measure. Before taking any decision, both the union and management should conduct periodic discussions to avoid strikes and lockouts.

### 21.5. Negotiation Process

It consists of three phases:

- Pre-negotiation
- Negotiation
- Agreement

#### 21.5.1 Pre-negotiation Phase

A party wishing to arrive at a satisfactory conclusion or arrangement through collective bargaining should first identify the objectives of the exercise. Some objectives common to employers are the following:

- Ensuring that the enterprise is not rendered uncompetitive
- The need to keep wage increases below the level of productivity increases and/or within the inflation rate.
- Guarantees of industrial peace during the period of operation of the agreement as far as possible managers should be consulted in determining objectives; their priorities should be solicited, and they should be aware of the company's views in regard to objectives so that they could be tested against the managers' views. It is insufficient to merely determine objectives. A tentative plan to achieve these objectives, which can be modified during the course of the negotiations, could be formulated. Such a plan should include the company's requests to the union. For instance, work reorganization to increase productivity to absorb the cost increases consequent upon collective bargaining may form part of the company's plan. Negotiations on the union's demands are generally an ideal setting in which management can achieve some of its objectives through agreement. In order to achieve this, the management must be clear about its own priorities. If there is an existing collective agreement, it would be a

useful starting point. An analysis should be made of how it has worked, its unsatisfactory features from the company's point of view should be identified, and the changes necessary determined.

- **Negotiating Team:** The negotiating team, and the respective roles of the members, should be determined before the negotiations. Employers would find it useful to include in the team people from different disciplines.
- **Research and Study:** The union's demands should be carefully studied. The following are some of the matters to which attention should be paid:
  - Assess the economic impact of the demands on the company.
  - Make a comparative study, e.g. in a wage demand one should ascertain comparative wage rates in the industry and in allied or similar businesses, the minimum wage, if any, and the rates applicable in other collective agreements.
  - Separate the demands which the company has no intention of fulfilling or giving, either on a question of principle or due to economic incapacity.
  - Prepare the company's position in regard to the other demands, e.g. the conditions on which the company may be prepared to grant them or compromise on them.
  - Identify the demands which may be of crucial importance to the union or to the employees as the case may be. This is crucial to success in negotiations because, without a proper assessment of such demands, a negotiated settlement may not result or, if one results, it may lack durability because it has not addressed the main problems. The issues which may be of crucial importance may not be the same in the case of both (union and employees) as they may have differing interests. Having identified the crucial demands the company should formulate its strategy in relation to them e.g. the possibility of trading some of the company's demands in return for the union's demands.
- **Responding to the Union's Requests:** It is a matter of assessment in each situation as to whether the management should make an initial response in writing to the union before negotiations commence. Usually it is desirable that written positions stated before negotiations commence should not contain a flat or blanket refusal. At this stage it is preferable to couch a refusal in language which does not give the impression of an out-of-hand rejection or a rejection without consideration of the merits. Negative answers may sometimes be better given during the negotiations because it affords greater opportunities for explanations of the reasons for the negative answers. A rejection during negotiations would more likely give the impression to the union and employees that such rejection was made only after negotiations and not before. It is always useful from the point of view of reaching agreement on other matters to first listen to the reasons adduced by the union for a demand which the company does not propose to accept. A rejection during negotiations also enables the employer to convince a union of at least some of the reasons why the demand is not acceptable. It also prevents a union from resorting to trade union action on the issue of a refusal to negotiate, as distinct from rejection of the demands after negotiation.
- **Inventing Options:** Since negotiations may not proceed or take place in the way a party may plan, a party should be able to provide alternative options to what he, or the other party, expects. For example, if it transpires that the wage increase sought is not acceptable, the

employer should be prepared with alternatives to cushion the impact of an increase in excess of what it had planned to agree to.

- **Strategy:** A party to collective bargaining negotiations has to formulate a strategy for all stages of the negotiation, including the pre-negotiation stage. Before negotiations commence, the strategy should include matters such as;
- Options as referred to above
- How much to offer while leaving room for further negotiation if the offer fails. The offer should be sufficiently attractive so as not to lead to a breakdown in negotiations.
- How to link one's requirements to the concessions one makes.

### 21.5.2 Negotiation Phase

- **Who Commences:** There is no inflexible rule as to who should open the negotiations. However, it is not unreasonable for the management to claim that if the union has initiated the negotiations, it should first outline its rationale and justification for doing so.
- Nevertheless, the management should make it clear at the outset that agreement on any particular issue is subject to an overall settlement, including its own expectations from the union.

**Management's Reactions;** In outlining the employer's response, the following could be included:

- The context in which the employer is negotiating, such as the business environment, and how this affects the employer's position in the negotiations.
- (b) A judgement will have to be made about the stage at which the union should be informed about the items on which the employer will not make any concession. However, the impression should not be created that the union will not be allowed an opportunity to present its case.
- (c) The basis on which the employer is prepared to negotiate. This could include the employer's objectives and expectations from a collective agreement, and any unsatisfactory features in the existing agreement (if there is one) which require to be rectified.
- **Internal Communication:** During the negotiations there should be good internal communication between the company and its managers about the situation at any given time. This will help clarify misunderstandings and even eliminate disinformation especially where employees, as happens in developing countries, seek information or clarification from their managers.
- **Notes of Discussion:** Notes of the discussion should be maintained, and preferably issued and agreed on with the other party, to avoid misunderstandings. Such notes could be useful in the event of disputes and a breakdown in negotiations.
- **Styles of Negotiation:** It is an essential principle of negotiation - indeed of human relations - that one's style of negotiation may need to be adapted to the style of the other party. The negotiator who adopts only one approach to negotiations may be puzzled when he finds that the approach in question bears fruit in some cases but causes an adverse reaction in other cases. The ability to allow the attitudes of the other party or the facts or merits of the issue to fashion one's own particular style in a given negotiation requires a high degree of flexibility on the part of the negotiator, an absence of a pre-conceived approach to negotiation, and recognition of the fact that ultimately what matters is one's ability to secure one's objectives through dialogue. However, this should not be understood to mean that there should not be a principled

approach to negotiation. What it means is that often one has to take into account even the idiosyncrasies of the other party and assess what form of presentation is likely to appeal best to the person whom one is trying to convince.

### **Some Basic Rules of Negotiations**

- A negotiator should view negotiations as an exercise with both sides walking towards each other, rather than away from each other. This will enable the negotiator to keep in mind that the final objective is a satisfactory agreement. It will also lead to a search for, or identification of, common ground while also addressing the differences.
- A negotiator should be good at listening carefully to the other party who will, otherwise, feel that disagreement with his position is due to a lack of understanding. This is also necessary to encourage the other party to listen to you. Some indication should be given to suggest that the party has understood the other's position. Body language often communicates a party's reactions.
- A party should build its case in a logical sequence and, as far as possible, try to obtain agreement at each stage of the process. This will narrow the areas of disagreement and facilitate focusing on those aspects.
- Counter proposals and conditions attached to concessions should be indicated as early as possible, so that the basis on which a party is prepared to agree or compromise is understood. Whenever possible, invite the other party to look at the problem from the opposite perspective, e.g. a wage increase as an additional cost which, due to competitive pressures, requires management to find ways to absorb it. It is sometimes useful to ask the union for suggestions on how it can cooperate to facilitate absorption of the increase.
- It is usually preferable to avoid taking up at the outset the position that a particular item is not negotiable. It is more productive to request a party to justify its claim, and then point out why that claim is unreasonable. Taking up a non-negotiable position can lead to the perception that the position has nothing to do with the merits and that the party is not willing to listen.
- Skilful questioning is an effective way of compelling the other party to justify its claim on the merits, and even shifting the other party to a different point of view.

### **21.6. The Agreement**

When agreement is reached one of the following two courses may be adopted:

- Set out the agreement reached in a letter to the union and, on confirmation, prepare a draft agreement.
- Alternatively provide the union with a draft agreement. This would be the better course of action as the actual agreement reached will be clearer. It also leaves less room for further negotiations between the time agreement is reached and the draft agreement is approved.
- Before the agreement is signed, the proper interpretation of clauses which have the potential to result in problems of interpretation should be agreed upon through, for example, an exchange of letters. Where there are understandings which affect the interpretation of the agreement, they should be reduced to writing (e.g. in a letter) before the agreement is signed. But wherever possible, the agreement should be self-contained, inclusive of definitions or interpretations. The contents of the agreement would depend on what is agreed upon and on the subject matter.

### **21.7. Workers Participation in Management**

Workers' participation in management is an essential ingredient of Industrial democracy. The concept of workers' participation in management is based on Human

Relations approach to Management, which brought about a new set of values to labour and management.

### **21.8. Concept of Workers' Participation In Management (WPM)**

Traditionally the concept of Workers' Participation in Management (WPM) refers to participation of non-managerial employees in the decisionmaking process of the organization. Workers' participation is also known as 'labour participation' or 'employee participation' in management. In Germany it is known as co-determination while in Yugoslavia it is known as self-management. The International Labour Organization has been encouraging member nations to promote the scheme of Workers' Participation in Management.

**Definitions:** *According to Keith Davis, Participation refers to the mental and emotional involvement of a person in a group situation, which encourages him to contribute to group goals and share the responsibility of achievement.*

*According to Walpole, Participation in Management gives the worker a sense of importance, pride and accomplishment; it gives him the freedom of opportunity for self-expression; a feeling of belongingness with the place of work and a sense of workmanship and creativity.*

*Clegg says, "It implies a situation where workers representatives are, to some extent, involved in the process of management decision making, but where the ultimate power is in the hands of the management".*

The concept of workers' participation in management encompasses the following:

- It provides scope for employees in decision-making of the organization.
- The participation may be at the shop level, departmental level or at the top level.
- The participation includes the willingness to share the responsibility of the organization by the workers.

#### **21.8.1. Features of (WPM) Workers' Participation in Management:**

- Participation means mental and emotional involvement rather than mere physical presence.
- Workers participate in management not as individuals but collectively as a group through their representatives.
- Workers' participation in management may be formal or informal. In both the cases it is a system of communication and consultation whereby employees express their opinions and contribute to managerial decisions.

#### **21.8.2. Objectives of (WPM) Workers' Participation in Management**

- To establish Industrial Democracy.
- To build the most dynamic Human Resources.
- To satisfy the workers' social and esteem needs.
- To strengthen labour-management co-operation and thus maintain Industrial peace and harmony.
- To promote increased productivity for the advantage of the organization, workers and the society at large.
- Its psychological objective is to secure full recognition of the workers.



### 21.8.3 Pre-requisites for Effective Participation

The pre-requisites for the success of any scheme of participative management are the following: There should be a strong, democratic and representative unionism for the success of participative management.

- There should be mutually-agreed and clearly-formulated objectives for participation to succeed.
- There should be a feeling of participation at all levels.
- Fourthly, there should be effective consultation of the workers by the management.
- Both the management and the workers must have full faith in the soundness of the philosophy underlying the concept of labour participation.
- Till the participative structure is fully accepted by the parties,
- Legislative support is necessary to ensure that rights of each other are recognised and protected.
- Education and training make a significant contribution to the purposeful working of participative management.
- Forums of participation, areas of participation and guidelines for implementation of decisions should be specific and there should be prompt follow-up action and feedback.

### 21.9. Levels of workers' Participation in Management

- a) **Information participation:** It ensures that employees are able to receive information and express their views pertaining to the matter of general economic importance.
- b) **Consultative importance:** Here workers are consulted on the matters of employee welfare such as work, safety and health. However, final decision always rests with the top-level management, as employees' views are only advisory in nature.
- c) **Associative participation:** It is an extension of consultative participation as management here is under the moral obligation to accept and implement the unanimous decisions of the employees'. Under this method the managers and workers jointly take decisions.
- d) **Administrative participation:** It ensures greater share of workers' participation in discharge of managerial functions. Here, decisions already taken by the management come to employees, preferably with alternatives for administration and employees have to select the best from those for implementation.
- e) **Decisive participation:** Highest level of participation where decisions are jointly taken on the matters relating to production, welfare etc.

#### 21.9.1. Workers' Empowerment and Quality Circles

A quality circle (QC) consists of seven to ten people from the same work area who meet regularly to define, analyse, and solve quality and related problems in their area. Membership is strictly voluntary, and meetings are usually held once a week, for an hour. During the groups' initial meetings, members are trained in problem-solving techniques borrowed from group dynamics, industrial engineering and quality control. These techniques include brainstorming, Pareto analysis, cause-and-effect analysis, histograms, control charts, stratification and scatter diagrams. Quality circles are credited with producing quick, concrete and impressive results when correctly implemented. Their advantages include the following:

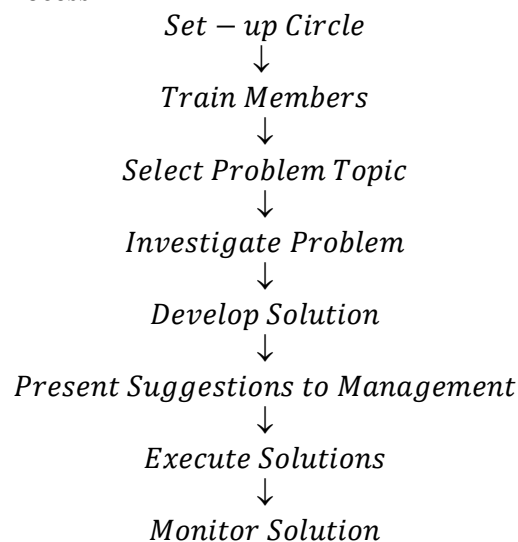
1. Employees are involved in decision making. This privilege makes them acquire communication and analytical skills and improve the efficiency at the workplace.
2. Savings-to-costs ratios generally are higher than those achieved with other productivity-improvement programmes.

3. Since the programme is voluntary, employees and unions generally do not view them as another cost-control effort.
4. Circle members enhance their chances of promotion to supervisory positions.
5. Started first in Japan in the early 1960s, QCs have spread all over the world.
6. In our country too, they are being introduced in several companies. BHEL and BEL are only two names which come to one's memory SKF, Mahindra and Mahindra.
7. Alfa Laval and Godrej and Boyce are other names which have tried QCs.

### 21.9.2. Worker's Empowerment

- Empowering refers to passing on authority and responsibility.
- Empowerment occurs, when power goes to the employees who then experience a sense of ownership and control over their Jobs. Empowered individuals know that their jobs belong to them. Given a say on how things are done, employees feel more responsible. When they feel responsible, they show more initiative in their work, get more done, and enjoy the work more.

### 8. A Model of QC Process



(Source : Robert P. Bechio, Organisational Behaviour. *The Dryden Press, 1995, P. 239*)

Empowered is facilitated by a combination of factors, including values, leadership actions, job structure, and reward systems, as illustrated in above. Self-directed teams (another name for empowered teams) have the following distinct features

- They are empowered to share various management and leadership functions.
- They plan, control and improve their own work processes.
- They set their own goals and inspect their work.

### 21.10. Methods/Schemes of WPM

1. **Suggestion schemes:** Participation of workers can take place through suggestion scheme. Under this method workers are invited and encouraged to offer suggestions for improving the working of the enterprise. A suggestion box is installed and any worker can write his suggestions and drop them in the box. Periodically all the suggestions are scrutinized by the suggestion committee or suggestion screening committee. The committee is constituted by equal representation from the management and the workers. The committee screens various

suggestions received from the workers. Good suggestions are accepted for implementation and suitable awards are given to the concerned workers. Suggestion schemes encourage workers' interest in the functioning of an enterprise.

**Works committee:**

Under the Industrial Disputes Act, 19217, every establishment employing 100 or more workers is required to constitute a works committee. Such a committee consists of equal number of representatives from the employer and the employees. The main purpose of this committee is to provide measures for securing and preserving amity and good relations between the employer and the employees.

**Functions:** Works committee deals with matters of day-to-day functioning at the shop floor level. Works committees are concerned with:

- Conditions of work such as ventilation, lighting and sanitation.
- Amenities such as drinking water, canteens, dining rooms, medical and health services.
- Educational and recreational activities.
- Safety measures, accident prevention mechanisms etc.
- Works committees function actively in some organizations like Tata Steel, HLL, etc but the progress of Works Committees in many organizations has not been very satisfactory due to the following reasons:
- Lack of competence and interest on the part of workers' representatives.
- Employees consider it below their dignity and status to sit alongside blue-collar workers.
- Lack of feedback on performance of Works Committee.
- Undue delay and problems in implementation due to advisory nature of recommendations.

**Joint Management Councils:**

Under this system Joint Management Councils are constituted at the plant level. These councils were setup as early as 1958. These councils consist of equal number of representatives of the employers and employees, not exceeding 12 at the plant level. The plant should employ at least 500 workers. The council discusses various matters relating to the working of the industry. This council is entrusted with the responsibility of administering welfare measures, supervision of safety and health schemes, scheduling of working hours, rewards for suggestions etc. Wages, bonus, personal problems of the workers are outside the scope of Joint management councils. The council is to take up issues related to accident prevention, management of canteens, water, meals, revision of work rules, absenteeism, indiscipline etc. the performance of Joint Management Councils have not been satisfactory due to the following reasons:

- Workers' representatives feel dissatisfied as the council's functions are concerned with only the welfare activities.
- Trade unions fear that these councils will weaken their strength as workers come under the direct influence of these councils.

**Work Directors:**

Under this method, one or two representatives of workers are nominated or elected to the Board of Directors. This is the full-fledged and highest form of workers' participation in management. The basic idea behind this method is that the representation of workers at the top-level would usher Industrial Democracy, congenial employee-employer relations and

safeguard the workers' interests. The Government of India introduced this scheme in several public sector enterprises such as Hindustan Antibiotics, Hindustan Organic Chemicals Ltd etc. However the scheme of appointment of such a director from among the employees failed miserably and the scheme was subsequently dropped.

**Co-partnership:**

Co-partnership involves employees' participation in the share capital of a company in which they are employed. By virtue of their being shareholders, they have the right to participate in the management of the company. Shares of the company can be acquired by workers making cash payment or by way of stock options scheme. The basic objective of stock options is not to pass on control in the hands of employees but providing better financial incentives for industrial productivity. But in developed countries, WPM through co-partnership is limited.

**Joint Councils:**

The joint councils are constituted for the whole unit, in every Industrial Unit employing 500 or more workers; there should be a Joint Council for the whole unit. Only such persons who are actually engaged in the unit shall be the members of Joint Council. A joint council shall meet at least once in a quarter. The chief executive of the unit shall be the chairperson of the joint council. The vice-chairman of the joint council will be nominated by the worker members of the council. The decisions of the Joint Council shall be based on the consensus and not on the basis of voting. In 1977 the above scheme was extended to the PSUs like commercial and service sector organizations employing 100 or more persons. The organizations include hotels, hospitals, railway and road transport, post and telegraph offices, state electricity boards.

**Shop councils:**

Government of India on the 30th of October 1975 announced a new scheme in WPM. In every Industrial establishment employing 500 or more workmen, the employer shall constitute a shop council. Shop council represents each department or a shop in a unit. Each shop council consists of an equal number of representatives from both employer and employees. The employers' representatives will be nominated by the management and must consist of persons within the establishment. The workers' representatives will be from among the workers of the department or shop concerned. The total number of employees may not exceed.

**21.11. Summary**

Workers' participation in management implies mental and emotional involvement of workers in the management of Enterprise. It is considered as a mechanism where workers have a say in the decision-making. There are five levels of WPM. There are different methods of WPM viz., works committees, joint councils, shop councils, Work directors etc. Indian Govt. has tried to implement WPM through various schemes but the initiative has not yielded good results.

**21.12. Glossary**

- **Industrial democracy:** The involvement and empowerment of employees in decision-making within the organization by such methods as joint labor management committees, work teams, quality circles, employee task forces, etc. The intention behind his appointment is to minimize/end the mal practices in jobber system.

- **Labour welfare:** It refers to the Statutory and voluntary efforts made for betterment of the labour.
- **Philanthropic approach:** This theory urges that good should be done for human beings.
- **Public Relations Approach:** This theory works on the basis of goodwill between employers and employees and the general public.
- **The Placating theory:** The placating theory advocates timely satisfaction of workers for their appeasement.
- **The Policing Approach:** This theory is basically meant for making the employees and the workers to avail the basic facilities needed.

### 21.13. Self assessment Questions

- Q1. What are the duties of labour welfare officer?  
 Q2. Explain different approaches of labour welfare.  
 Q3. What is the purpose of labour welfare?

#### 21.121. Lesson End Exercise

Q1. Tick the right Option:

A labour Welfare officer is supposed

- a) to act as a negotiating officer.
- b) to shape and formulate labour policy
- c) to establish contacts with outside public for proper enforcement of various 'Acts' e.g. factory inspectors, medical officers etc.
- d) to deal with wages and employment.
- e) all

Q2. Objectives of Labour Welfare are

- a) to provide social comfort to employees.
- b) to provide intellectual improvement of employees.
- c) to develop sense of responsibility and belongingness among employees.
- d) to ensure that the working conditions for employees are of higher standard.
- e) to build stable work force.
- f) to reduce absenteeism and labour turnover.
- g) to make employees lives good and worth living.
- h) all

Q3. According to the Factories Act, 1921 section 219(2) it is the State Govt. who is to prescribe the duties, qualification & condition of service of officers employed under sub section

- a) 1
- b) 2
- c) 3
- d) 21

Q4. This approach is basically meant for making the employees and the workers avail the basic facilities needed:

- a) Policing
- b) Paternalistic
- c) Public Relations

- d) Functional
- e) Social

### **21.15. Suggested Readings**

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**MASTER OF SOCIAL WORK (MSW)**  
**SEMESTER – IV**  
**PAPER – I - INDUSTRIAL SOCIAL WORK**

**Max marks:70**

**Answer any five questions, all questions carry equal marks.**

1. Define human resource management, discuss its scope and functions.
2. What is human resource planning? Explain the process of HR planning.
3. Discuss the important provision of health, safety and welfare under the Factories Act, 1948.
4. Explain the dispute settlement authority under Industrial Disputes Act, 1947.
5. Discuss the wage payment according to the Payment of Wages Act, 1936.
6. Explain the benefits under Employees State Insurance Act, 1948.
7. Define labour welfare, discuss the principles of labour welfare.
8. Explain the statutory labour welfare programmes.
9. Define the term industrial relations, discuss its scope and Dunlop's approach to industrial relations.
10. What is collective bargaining? Explain its importance in industry.