

BCH SEM VI
INDUSTRIAL RELATION
& LABOR LAW

- **INDUSTRIAL DISPUTE**
ACT 1947

Meaning Of Industrial Dispute

- According to the **Industrial Disputes Act, 1947**, the term '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".

Objectives Of Industrial Dispute Act,1947

1. To provide a suitable machinery for the just, equitable and peaceful settlement of industrial disputes.
2. To promote measures for securing and preserving amity and good relations between employers and employees.
3. To prevent illegal strikes and lockouts.
4. To provide relief to workers against layoffs, retrenchment, wrongful dismissal and victimisation.
5. To promote collective bargaining.
6. To ameliorate the conditions of workers.
7. To avoid unfair labour practices.

Reasons/Causes of Industrial Disputes

- 1) Demand for higher wages and allowances.
- 2) Demand for payment of bonus and determination of its rate thereof.
- 3) Demand for higher social security benefits.
- 4) Demand for good and safer working conditions, including length of a working day, the interval and frequency of leisure and physical work environment.
- 5) Demand for improved labour welfare and other benefits. For example, adequate canteen, rest, recreation and accommodation facility, arrangements for travel to and from distant place's, etc.

Methods For Settlement Of Industrial

Disputes

1. Conciliation
2. Arbitration
3. Adjudication

CONCILIATION

- Conciliation is the “practice by which the services of a neutral party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement of agreed solution.”
- **The Industrial Disputes Act, 1947 provides for “Conciliation Officer or A Board of Conciliation”.**

Conciliation Officer

- A Conciliation Officer Is a Person appointed by the Government to conciliate between the parties to the industrial dispute.
- The Conciliation Officer is given the powers of a civil court, whereby he is authorised to call the witness the parties on oath.

BOARD OF CONCILIATION

- In case Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a Board of Conciliation.
- It consists of a chairman and two or four other members.
- The Board must submit its report to the government within two months of the date on which the dispute was referred to it. This period can be further extended by the government by two months.

Arbitration

- Arbitration is a process in which the conflicting parties agree to refer their dispute to a neutral third party known as 'Arbitrator'. Arbitration differs from conciliation in the sense that in arbitration the arbitrator gives his judgment on a dispute while in conciliation, the conciliator disputing parties to reach at a decision.

Types Of Arbitration

1. **Voluntary Arbitration:** In voluntary arbitration both the conflicting parties appoint a neutral third party as arbitrator. The arbitrator acts only when the dispute is referred to him/her. With a view to promote voluntary arbitration, the Government of India has constituted a tripartite National Arbitration Promotion Board in July 1987, consisting of representatives of employees (trade employers and the Government. However, the voluntary arbitration could not be successful because the judgments given by it are not binding on the disputants. Yes, moral binding is exception to it.
2. **Compulsory Arbitration:** In compulsory arbitration, the government can force the disputing parties to go for compulsory arbitration. In other form, both the disputing parties can request the government to refer their dispute for arbitration. The judgment given by the arbitrator is binding on the parties of dispute.

Adjudication

- Adjudication: The ultimate legal remedy for the settlement of an unresolved dispute is its reference to adjudication by the government. The government can refer the dispute to adjudication with or without the consent of the disputing parties. When the dispute is referred to adjudication with the consent of the disputing parties, it is called 'voluntary adjudication.' When the government herself refers the dispute to adjudication without consulting the concerned parties, it is known as 'compulsory adjudication.'

Three-tier machinery for the adjudication of industrial disputes:

- 1. Labour Court
- 2. Industrial Tribunal
- 3. National Tribunal

Labour Court

- Under Section 7 of the Industrial Disputes Act, 1947, the appropriate Government by notifying in the official Gazette, may constitute Labour Court for adjudication of the industrial disputes.
- The labour court consists of one independent person who is the presiding officer or has been a judge of a High Court, or has been a district judge or additional district judge for not less than 3 years, or has been a presiding officer of a labour court for not less than 5 years.
- The labour court deals with the matters specified in the second schedule of the Industrial Disputes Act, 1947.

Issues that come under Labour Court

- ❑ 1. The property or legality of an employer to pass an order under the standing orders.
- ❑ 2. The application and interpretation of standing orders.
- ❑ 3. Discharge or dismissal of workers including reinstatement or grant of relief to workmen wrongfully dismissed.
- ❑ 4. Withdrawal of any statutory concession or privilege.
- ❑ 5. Illegality or otherwise of a strike or lockout.
- ❑ 6. All matters other than those reserved for industrial tribunals.

Thank You
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INDUSTRIAL TRIBUNAL

- Under Section 7A of the Act, the appropriate Government may constitute one or more Industrial tribunals for the adjudication of industrial disputes. Compared to labour court, industrial tribunals have a wider jurisdiction. An industrial tribunal is also constituted for a limited period for a particular dispute on an adhoc basis.

Issues that come under Industrial Tribunal

- ❑ 1. Wages, including the period and mode of payment.
- ❑ 2. Compensatory and other allowances.
- ❑ 3. Hours of work and rest periods.
- ❑ 4. Leave with wages and holidays.
- ❑ 5. Bonus, profit sharing, provident fund, and gratuity.
- ❑ 6. Classification by grades.
- ❑ 7. Rules of discipline.
- ❑ 8. Rationalisation.
- ❑ 9. Retrenchment of employees and closure of an establishment or undertaking.
- ❑ 10. Any other matter that can be prescribed.

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National Tribunal

- This is the third one man adjudicatory body appointed by the Central Government by notification in the Official Gazette for the adjudication of industrial disputes of national importance. The central Government may, if it thinks fit, appoint two persons as assessors to advise the National Tribunal. When a national tribunal has been referred to, no labour court or industrial tribunal shall have any jurisdiction to adjudicate upon such matter.