

REGULATIONS OF LABOUR LAWS IN INDIA:
CHALLENGES FOR FUTURE ERA

A DISSERTATION TO BE SUBMITTED IN PARTIAL
FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF
DEGREE OF MASTER OF LAWS

SUBMITTED BY:

ANURAG DIXIT
UNIVERSITY ROLL NO. 1200990008
SCHOOL OF LEGAL STUDIES

UNDER THE GUIDANCE

OF

MS. MUDITA TRIPATHI
ASSISTANT PROFESSOR
SCHOOL OF LEGAL STUDIES



BBD UNIVERSITY

SESSION 2020-21

CERTIFICATE

This is to certify that the dissertation titled, “**REGULATIONS OF LABOUR LAWS IN INDIA: CHALLENGES FOR FUTURE ERA**” is the work done by **ANURAG DIXIT** under my guidance and supervision for the partial fulfilment of the requirement for the Degree of **Master of Laws** in School of Legal Studies Babu Banarasi Das University, Lucknow, Uttar Pradesh.

I wish him success in life.

Date: 05.07.2021

Place-Lucknow

MUDITA TRIPATHI
ASSISTANT PROFESSOR
SCHOOL OF LEGAL STUDIES
BABU BANARASI DAS UNIVERSITY

DECLARATION

Title of Dissertation “**REGULATIONS OF LABOUR LAWS IN INDIA: CHALLENGES FOR FUTURE ERA**”

I understand what plagiarism is and am aware of the University’s policy in this regard.

I **Anurag Dixit** declare that

- (a) This dissertation is submitted for assessment in partial fulfilment of the requirement for the award of degree of **Master of Laws**.
- (b) I declare that this **DISSERTATION** is my original work. Wherever work from other source has been used i.e., words, data, arguments and ideas have been appropriately acknowledged.
- (c) I have not permitted, and will not permit, anybody to copy my work with the purpose of passing it off as his or her own work.
- (d) The work conforms to the guidelines for layout, content and style as set out in the Regulations and Guidelines.

Date: 05.07.2021

Place- Lucknow

ANURAG DIXIT

Roll No. 1200990008
LL.M. (2020-21)

(Corporate and Commercial Laws)

ACKNOWLEDGEMENT

I owe an indeed thanks to many people who helped and supported me during the making of this Dissertation who all put their faith in me and supported me directly or indirectly throughout the research and study made in this regard.

Foremost, I would like to express my sincere gratitude to my guide **Ms. Mudita Tripathi** for the continuous support of my Dissertation throughout my study and research, for her patience, motivation, enthusiasm, and immense knowledge. Her guidance helped me in all the time of research and writing of this thesis. I could not have imagined having a better advisor and mentor for my Dissertation.

Last but not the least I also extend my heartfelt thanks to my family for their immense support throughout my life and to my friends.

ANURAG DIXIT

Roll No. 1200990008

LL.M. (2020-21)

(Corporate and Commercial Laws)

ABBREVIATIONS

BIT	Bilateral Investment Treaty
DIAE	Division on Investment and Enterprise (UNCTAD)
DTT	Double Taxation Treaty
EFTA	European Free Trade Association
EPA	Economic Partnership Agreement
FDI	Foreign Direct Investment
FET	Fair And Equitable Treatment
FTA	free trade agreement
FTC	Free Trade Commission
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
ICJ	International Court of Justice
ICSID	International Centre for Settlement of Investment Disputes
IIA	International Investment Agreement
ILC	International Law Commission
ISDS	Investor–State Dispute Settlement
MFN	Most-Favored-Nation Treatment
NT	National Treatment
NAFTA	North American Free Trade Agreement

OECD	Organisation for Economic Cooperation and Development
REIO	Regional Economic Integration Organization
RTA	Regional Trade Agreement
TNC	Transnational Corporation
UNCITRAL	United Nations Commission on International Trade Law
WTO	World Trade Organization

LIST OF CASES

Anand Bazar Patrika v. Its Employees

Maneka Gandhi v. Union of India

Unnikrishnan J.P. v. State of Andhra Pradesh

Madras Textile Labour Union v. Binni & Co.

Corporation v. Krishna Kant

Rajasthan SRTC v. Zakir Hussain

SRTC v. Krishna Kant

Sind Bank v. Sakattar Singh

TABLE OF CONTENT

CERTIFICATE

DECLARATION

ACKNOWLEDGEMENT

ABBREVIATIONS

LIST OF CASES

CHAPTER 1: INTRODUCTION

1. INTRODUCTION

1.2 STATEMENT OF THE PROBLEM

1.3 RESEARCH HYPOTHESES

1.4 OBJECTIVES OF THE STUDY

1.5 RESEARCH METHODOLOGY

1.6 REVIEW OF LITERATURE

CHAPTER 2: LABOUR WELFARE: CONCEPT AND THEORIES

2. LABOUR WELFARE: CONCEPT AND THEORIES

2.1 CONCEPT OF LABOUR WELFARE

2.3 DEFINITION OF LABOUR WELFARE

2.4 SCOPE OF LABOUR WELFARE FACILITIES

2.5 TYPES OF LABOUR

2.6 LABOUR WELFARE THEORIES

2.7 LABOUR FORCE IN INDIA

2.8 INDUSTRIAL LABOUR FORCE AND ITS GROWTH IN INDIA

2.9 LABOUR WELFARE AND DIRECTIVE PRINCIPLE OF STATE POLICIES

2.10 INDIVIDUALITY OF INDIAN LABOURER

CHAPTER 3: LABOUR-MANAGEMENT RELATIONS: A CRITICAL APPRAISAL

3.1 LABOUR-MANAGEMENT RELATIONS: A CRITICAL APPRAISAL

3.2 EVOLUTION OF LABOUR-MANAGEMENT RELATIONS

- 3.3 STATE AND LABOUR-MANAGEMENT RELATIONS
- 3.4 DIMENSIONS OF LABOUR-MANAGEMENT RELATIONS IN INDIA
- 3.5 INTERNATIONAL LABOUR ORGANISATION AND ITS EFFECTS ON INDIAN LABOUR LAWS

CHAPTER 4: TRADE UNION LAW AND LABOUR MANAGEMENT RELATIONS

- 4.1 TRADE UNION LAW AND LABOUR MANAGEMENT RELATIONS
- 4.2 GROWTH OF TRADE UNION MOVEMENT IN INDIA
- 4.3 CURRENT STATUS OF TRADE UNIONS MOVEMENTS
- 4.4 TRADE UNIONS ACT, 1926

CHAPTER 5: THE INDUSTRIAL DISPUTES ACT, 1947: MACHINERIES FOR HANDLING INDUSTRIAL DISPUTES

- 5.1 THE INDUSTRIAL DISPUTES ACT, 1947”: MACHINERIES FOR HANDLING INDUSTRIAL DISPUTES
- 5.3 IMPORTANT FEATURES OF THE ACT
- 5.4 INDUSTRIAL DISPUTES: JURISDICTION OF CIVIL COURT
- 5.5 INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 RULES, REGULATION AND CERTIFICATION OF STANDING ORDERS IN INDUSTRIES
- 5.6. ORIGIN OF THE ORDER
- 5.7 THE STANDING ORDERS ACT
- 5.8 VALIDITY OF TERMINATION OF SERVICE UNDER STANDING ORDERS ACT
- 5.9 MAIN CHARACTERISTICS OF THE ACT
- 5.10 COVERAGE OF “THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946
- 5.11 PLAN OF THE INDUSTRIAL ESTABLISHMENT EMPLOYMENT (STANDING ORDERS) ACT, 1946

CONCLUSION & SUGGESTIONS

BIBLIOGRAPHY

CHAPTER 1

INTRODUCTION

1. INTRODUCTION

It is generally understood, rather misunderstood, that labour laws are meant for large sized establishments only, having a large working force, undoubtedly, labour is a dominant factor of production in all kinds of organizations and, therefore, legislations have been made for all types of labour employed in different types of establishments business, industrial, commercial, organized, unorganized etc. So much so that even establishments employing a single employee also come under the purview of labour laws.

Labour Law is a cluster of rules and regulations enacted from time to time or amended by the government. These are to cover the various issues regarding labour and management. The basic concept of the enactment of these labour laws is with regard to security of job of labour class and to check exploitation their exploitation and operation thereof by the management. The success of an organization depends upon the dedication of workers. Therefore, a number of obligations have been imposed upon the employer and the non-compliance thereof entails penalty on the employer. The employer has restricted rights to be exercised against the employees under certain conditions. To resolve the industrial disputes and to harmonize the labour management relations, several provisions have been made to curb unfair labour practices such as strikes, go slow etc. it is, therefore, essential for everyone whether he be the owner, employer, manager, supervisor or even employee of any organization, to keep himself abreast of his rights and obligations “under the labour laws¹.

In India, the beginning of labour laws may be traced back to 1850^s. In 1850, the Apprentices Act was placed in the Statute Book which was followed by Fatal Accident Act passed in 1855 and thereafter, Factories Act, Mines Act with a series of labour legislations came into existence. Thereafter, hundreds of labour laws have been enacted by the government Central or State. Most of them have almost been totally modified or replaced or repealed.

¹ Jinyemiema T.K., “Effective Conflict Resolution Mechanism for Enhanced Productivity in the Oil and Gas Industry” (2008) p.13. A Paper Presented at Nupeng Eastern Zonal Conference, Enugu, Enugu State, Nigeria.

The Workmen Compensation Act, 1923 is one of the oldest one which is among the plethora of modern labour laws. In addition to this, the Employees' State Insurance Act, 1948, the Factories Act, 1948, the Minimum Wages Act, 1948, the Employees Provident Fund and Miscellaneous Provisions Act, 1952, the Payment of Bonus Act, 1965" and the Payment of Gratuity Act, 1972.

The Central Government enacts a labour law while ensuring uniformity and parity throughout the country. The State Governments are empowered to either accept a Central law, as it is, or after making suitable amendments therein or even enact their states. Besides, the State Governments are generally the chief administrative authority having powers to make rules and appoint authorities for carrying out purpose of the legislation.

Labour is a common subject for the Centre and the States. Article 246 (4) of the Constitution of India empowers the Union and the States jointly to legislate on issues relating to trade unions and industrial as well as labour disputes with regard to social security and social insurance, welfare of labour class and their conditions of work, employment and unemployment of labour class, liability of management with regard to provident fund and accidental compensation, pension and maternity benefits etc.²

'Management' is an art of getting things done in order from others. This doesn't reflect the true nature of management in the present scenario. First of all, this definition smacks of a manipulative character of the practice of the management. Secondly, the conception of employees as mere means to certain ends seems to be embodied in this definition. Management is for the efficient and effective utilization of material resources to achieve its purpose.

Management of labour at work is an inherent part of the job of every manager. It is through the combined efforts of human resources in the industry/organization that financial, technological, physical and other resources are utilized for the fulfillment of objectives of organisation. Without active cooperation of human resources, management can't achieve organizational objectives. That is why, effective motivation of workforce is of utmost importance and it is the task of every manager.

The people employed in an organization have their needs which they seek to fulfill through their work place. Therefore, it becomes essential to fulfill their needs to motivate them to contribute

² The Constitution of India, Seventh Schedule, Entries 22, 23 and 24 of List III- Concurrent List.

their best efforts in order to achieve the goals of an organization. Maslow, Herzberg and Vroom have clearly shown that the behavior of the labour working in an industry is largely dependent upon the fulfillment of their needs. This concept completely ignores the needs of labour.

The concept of getting the things done from others depicts that the management process “is a sort of ‘one-way’ traffic. This view can’t be accepted particularly when the labour class is educated and have faith in democracy. The labours can’t be treated as mere commodity or mere means to achieve the certain ends of an industry/organization³. The needs of labour class should also be satisfied to achieve full integration of the goals of an enterprise/industry.

Therefore, management, certainly, is more than just getting the things done through others. It is a technique which satisfies the needs of labour class by providing them opportunities for the growth and advancement in life. Harold Koontz defines management as the art of getting things done through and with people in formally organized groups. It is the art of creating an environment in which people can perform as individuals and yet cooperate towards attainment of group goals. It is the art of removing blocks to such performance, a way of optimizing efficiency in reaching goals.

Terry, George R. and Franklin, Stephen G., in their book ‘Principles of Management’ define management as a process that involves performance of certain functions to achieve the desired results. It is a distinct process consisting of planning, organizing, actuating and controlling, performed to determine and accomplish the stated objectives by the use of human beings and other resources.

Thus, Management is a continuous process which involves:

1. Plan
2. Organization
3. Staff
4. Direction
5. Control

³ Kreitner, R. & Kinicki, A., “Organizational Behaviour” (2010) p. 65. New York: McGraw-Hill/Irwin

The target of a manager doesn't end after reaching the last step, i.e., Control. Actually, he will have to start again with planning on the basis of his past observation and experience and his projection about the future. Management is a never ending process. The manager has to perform these activities simultaneously to achieve the desired goals throughout his career. This is a process which involves the determination of objectives and putting them in to action. Past cannot be controlled by a manager; however, he can avoid mistakes likely to be happen in future by adopting suitable planning keeping in view the past experience.

Characteristics of Indian Labour - Occupational structure in a country has a close relationship with its economic development. By occupational structure of a country, we mean the distribution of workforce in different occupations or industries of that country. Various occupations or economic activities in India have been classified into three sectors, namely,

1. Primary Sector: it includes

- Agriculture
- Forestry
- Fishing
- Mining

These four are the primary sector of industry in India.

Secondary Sector: it includes

- Manufacturing
- Electricity
- Construction

These three sectors are the secondary industrial activities in India.

Tertiary Sector- it includes

- Transport and Communication
- Trade and Hotels
- Financial Services
- Public Administration and Defense

- Community and Personal Services

These six sectors are the third industrial activities in India which may also be called as tertiary sector.

The economic development of a country brings about changes in the occupational structure. As observed from the experience from developed nations, the important changes in occupational structure brought about by economic development can be summed up as follows:

Every country, whether developed or developing, has set up large scale and basic industries so as to attain the objectives of self-reliance and sustained growth of economy. Before independence, India had a few basic industries like iron and steel, cotton, textiles, and leather-goods etc. However, the major efforts could be undertaken for the development of large and medium-scale industries in India during the planning period after independence. With the result that India has occupied a very important place among the big industrialized countries of the world⁴.

The economic growth of a country depends upon its industrial growth. The growth of industry depends upon the industrial labour force. The Indian working class has a somewhat different historical origin than that of western industrialized countries. For example, in England, the Industrial Revolution was preceded by an agrarian revolution, the disbanding of feudal retainers, the dissolution of monasteries, enclosure movement, changes in methods of tillage and the law of primogeniture. But in India, the picture was different. Here, modern industrialism was preceded by the rise of the wage-earning class. Yet the mass of workers mostly craftsmen and artisans uprooted from their traditional sources of livelihood had no alternative but to fall back upon agriculture. The fragmentation of land, rack-renting, defective system of land revenue assessment and the exploitation led to the creation of landless proletariat class for the first time in the history of India.

In the beginning of industrialization, the displaced rural masses were absorbed in the construction of roads, railways, and public buildings which were started under the Public Works Department of the Government of India. With the growth of industrialization, especially during

⁴ Datar, B.N., "The role of research in workers' education – an Indian experience|| in ILO Labour education", p.412, ILO Geneva

and after the First World War conditions changed. This was reflected in two ways. First, India emerged as an industrial nation. Second, there was a steady increase in the ranks of land-less labourers, who flocked in large numbers of industrial centers and settled they're as the permanent industrial proletariat.

1.2 STATEMENT OF THE PROBLEM

The “gradual growth of industrialization attracted the land-less labourers who sooner or later migrated to the industrial towns to have a better scope of livelihood. They flocked in large groups and started their earnings by taking lowest wages from the owners of the industries. This naturally resulted in conflict as the wages given to these land-less labourers were not sufficient to meet their basic needs. Therefore, certain problems arose between the labour class and the management of the industries. The exploitation of this labour class and the demand for fulfillment of the basic needs of labourers resulted in strikes etc. To meet out these problems, the Government of India has to enact several laws at the Central level and the State Governments also enacted laws which favoured these industrial” labours⁵.

There are problems like regional imbalances, unsatisfactory labour-management relations, centralization of economic power in a few hands, sickness of industries, lack of capital investment, loss of public sector industries, availability of industrial raw materials, defective licensing policies and changing policy of the government are the overall hindrances in the development of industries in the country.

In India, industrial development is taken under ‘mixed economy’ where private and public sectors work together freely in their own fields of operation. Both these sectors work for the advancement of the economy. Therefore, our economic system consists of two types of ideologies, i.e., capitalism and socialism. Modern industrialization is highly responsible for the rise and growth of labour problems in most of the developing nations which has led to increase in the conflicts between the industrialists and the labour. All economic powers are centralized in the hands of a few capitalists, while masses have to depend for subsistence upon their low wages. In such conditions, labour problems begin to appear. These problems have different dimensions

⁵ Ibid.

like the policy of “Laissez Fair”, the policy of material Darwinism, disintegration and decline of rural industries, growth of population, poor land-base, decline of rural economy, uneven development and migration of labour, rural technology and infrastructure, environmental degradation, lack of social security, lack of organization and communication, lack of healthy environment, lack of education etc.

The labour problems in India have arisen with the induction of industrialization and its progress in the country. Before the beginning of large-scale production in the factory sector, the cottage industries were managed by the head of the family. There was no conflict among workers, carrying their job in such an unit. But the beginning of industrialization helped to develop a modern society which was divided into two sections, i.e., capitalists or employers and workers. The conflict emerged between the two on various issues whether there is capitalistic society or socialist pattern of society⁶. Each one attempted to get the largest share in the profits which gave rise to labour problems in any country of the world. Therefore, the growth of labour problems in India can be studied in the context of industrial development and decline of cottage industries in the country.

The basic needs and requirement of labourers are the problems of labourers and the fulfillment of those basic needs by the employer are the problems of management. Earlier, in India, there was no such problem because the cottage industries were managed by the head of the family in co-operation with the family members. But with the advent of industrialization in the country, several problems have arisen which are faced by the labourers as well as the management. The beginning of industrialization developed a modern society in the country which was divided into two sections: Capitalists or Employers and Workers. The conflict emerged between the two on various issues. The growth of labour problems in India can be studied in the context of labour-management relations. To understand this, it can be stated that

The first and foremost problem faced by the industrial labour in India is the neglect of industrial hygiene. In India, there is plentiful and cheap labour, therefore, the employer doesn't provide sufficient wages to the workers. To save money, the child labour is employed in the industry and lowest wages are given to the child labour. There is no provision for workers in their old age after retirement. In addition to the wages, the workers need special financial assistance at crucial

⁶ Giri, V.V., “Labour Problem in Indian Industry” (1972) p. 278. 3 rd Ed. Asia Publishing House, New York

occasions, i.e., diseases like hookworm, tuberculosis, cancer etc. and marriage. The employer makes no such provisions for such adversities. There is insufficient sanitary arrangements and drainage system at the working place. To increase profit, the industrialist doesn't make sufficient provisions to meet out this system. Working hours in the industry are not fixed. The workers have to work from sunrise to sunset and no extra remuneration is paid to them. This causes distress on the workers. There is no facility for entertainment of workers during before and after working hours. The workers are not allowed to participate in the formation of policies. There is lack of strict Labour Laws which can enforce the employer to implement welfare policies for workers and their dependents

1.3 RESEARCH HYPOTHESES

A problem cannot be scientifically solved unless it is reduced to hypothesis form. Hypothesis is a clear statement of what is intended to be investigated. It is a powerful tool of advancement of knowledge, consistent with existing knowledge and conducive to further enquiry⁷. It should be denoted before research is carried out and clearly mentioned in the results.

The research hypotheses of the present work are as under:

- (i) The present labour-management relation is not conducive for the healthy future growth of industries.
- (ii) The trade unions are not happy with the existing redressal mechanisms.
- (iii) The claim for settlement of industrial disputes critically affects the future prospects of an industry.
- (iv) The provisions for protection of the interest of workers are not satisfactory.

1.4 OBJECTIVES OF THE STUDY

Everyone who is involved with an organization directly or indirectly becomes involved in the activities of organization. The overall quality of labour-management relationship and changes therein can have an important effect on the industrial relationship, the performance and the activities in an organization. The evolution of industry in India has been quite gradual. In the

⁷ 8 WWW.public.asu.edu/-kroel/ww\,•-OO/hypothesis.pdf. Accessed on 17/3/14 at 11 :30 P.M

beginning, there was no industrial activity. The exchange of services for goods made a background for the evolution of industry. The evolution of industry can be classified as under⁸.

- Primary stage
- Agrarian economy stage
- Handicraft's stage
- Guild system
- Domestic system
- Industrial revolution

The development of industrialization raised a number of problems between the labour and the management. It is said that identifying a problem gives us power and energy to solve that problem because the solution is inherent in every problem. This statement signifies the need of defining the objectives of our research work.

The negligence on the part of the management for the welfare of workers is deteriorating the conditions of the workers and the awareness of the workers regarding their welfare and social setup is increasing the problems of labour-management, e.g. on July 2012, the violence of workers occurred in the Manesar Plant of Maruti. In this violence, the workers attacked the HR Executive and other supervisory and engineering staff. They also injured 100 managers and also injured the policemen and the GM (HR) also died in this attack. The workers were demanding for various benefits which were not being met by the management. Hence, the violence occurred⁹.

1.5 RESEARCH METHODOLOGY

A research is an inquiry for the verification of a fresh theory or for supplementing prevailing theories by new knowledge. The intellectuals of the society are always inclined to probe for facts of the empirical world and confirm the proved truth of their investigations by accepting or correcting the existing theories. Such probing is called research. According to Clifford Woody research comprises defining and redefining problems, formulating hypothesis or suggested solutions, collecting, organizing and evaluating data, making deduction and reaching

⁸ Dayal Sahab (1980) p.385 "Industrial Relations System in India"

⁹ Prasad S.N., "Case Study: Labour Unrest at Manesar Plant of Maruti Suzuki in 2012, A Perspective" Management Journal (2012) pp. 58-59.

conclusions, and at last carefully testing the conclusions to determine whether they fit the formulating hypothesis¹⁰. As such the term research refers to the systematic method consisting of enunciating the problem, formulating a hypothesis, collecting the facts or data, analyzing the facts and reaching certain conclusions either in the form of solutions towards the concerned problem or in certain generalizations for some theoretical formulation.

Methodology means description, explanation, and justification of methods and not the methods themselves. It is a plan and procedure for carrying out research. It refers to research techniques and strategies for obtaining valid information. Research methods may be understood as all those methods/techniques that are used for conduction of research. Research methods or techniques, thus, refer to the methods the researchers use in performing research operations.

Research methodology, thus, is a systematic way to solve the research problem. In other words, it may be understood as a science of studying how research is conducted scientifically.

The present study has been designed keeping in consideration the objectives, scope as well as the research. The term “doctrine” has been derived from the Latin word ‘doctrina’ which means instruction, learning or knowledge. Thus the word doctrine includes legal concepts and principles of all types-rules, cases and statutes. “Doctrine” can be defined as a synthesis of various rules, principles, norms, interpretive guidelines and values. It justifies, explains and makes coherent a segment of the law as part of a larger system of law. Doctrines can be more or less abstract, binding or non-binding. Doctrinal research is related to the formulation of legal doctrines through the analysis of legal rules. Within the common law jurisdictions, these legal rules are to be found within statutes and cases, however they cannot provide in themselves a complete statement of the law in any given situation. This can be ascertained by applying the relevant legal rules to the particular facts of the situation under consideration¹¹.

Doctrinal research includes analysis of case law, arranging, ordering and systematizing legal propositions and study questions of the study. The present study is doctrinal in nature because the methodology of research differs according to the subject under study. An attempt has been made to evaluate labour laws relating to labor management relations. The material wherever required has been taken from the decided cases of Supreme Court, High Courts, Labour Courts,

¹⁰ Miyani S.M., “Research Methods: A View” (1970) p.197.

¹¹ Trischa Mann (ed), Australian Law Dictionary (2010) p.197.

Tribunals etc. of India. The prime data has been drawn from the cases decided by the Supreme Court and High Courts of India. The cases have been mainly studied from AIR, LLR, LLJ etc. A table of cases has been mentioned for easiness of reference to the reader.

Doctrinal research is a systematic and logical study which helps in theory building. As it involves the depth study of the legal principles and laws, it helps in the development and improvement of law. Moreover, it is a cheap and time saving research and provides basis for non-doctrinal research.

1.6 REVIEW OF LITERATURE

The books are the quietest and most constant of friends, they are the most accessible and wisest of counselors, and the most important source of information. No thesis can be written without consulting good books and articles. One of the steps for starting the work on problem is to review the existing literature on the subject. After identifying a problem, it is imperative to consult literature on the subject as the answers you get from literature depends on the questions you pose. The review of the existing literature not only provides clarity of concept and understanding of different aspects of the subject but also helps in avoiding repetition. It further helps in identifying the problem zones. It also gives ideas in formulating research methodology. A number of books, monographs, reports, research papers and articles deal with the subject of Labour-Management Relations¹².

Dayal Sahab in his book **Industrial Relations System in India** has critically examined the historical perspective of the Labour-Management relations. The book also throws light on the various provisions which are important for maintenance of industrial peace.

Chhabra T.N. & Suri. R.K., in their book **Industrial Relations Concepts and Issues** has evaluated various labour laws, growth of trade unions and several Acts regarding labour welfare. They have also discussed the reasons for unrest among workers and majors for maintenance of industrial peace and consequential economic growth of the country.

Dhyani, S.N. in his book **Trade Unions and the Rights to Strike** has thrown light over the history of trade unions in both the era ,i.e., Pre-independence and Post-independence periods. He

¹² Deepak Miglani at http://shodhganga.inflibnet.ac.in/bitstream/10603/7932/10/10_chapter%201.pdf accessed on 25/03/2016 at 10:32 AM.

has discussed threadbare several kinds of strike, their uses and effects over labour-management relations in India in his book.

Hoffman, Rillen B. in his book **Resolving Labour Management Disputes** has overviewed several methods of resolving labour management disputes like via statutory machinery and non-statutory machinery. He has elaborately discussed several remedies provided in the Industrial Disputes Act, 1947.

Karnik V.B. in his book **Trade Union Movement and Industrial Relations** has discussed several movements occurred in India from time to time. He has dealt with effects thereof on industrial harmony. He has cleared several steps to resolve industrial disputes in order to maintain industrial peace.

Srivastava C. Suresh in his book **Industrial Relations and Labour Laws** covers major three Acts of Labour Laws, i.e., Trade Unions Act, 1926, Industrial Diputes Act, 1947 and The Industrial Employment (Standing Orders) Act, 1946. He throws a flood of light over all the rules and regulations mentioned in these Acts and their impact over labour management relations. He has explained the history of trade unions, their development and their impact over productivity. He has shown data over industrial work force and many other things in his book.

Aggarwal, S.L. in his book “Management Guide to Strikes, Lockouts and Gherao critically examines the tools of union and management to resolve their problems esp. of unions such as Strike, Lockouts and Gheraos. He further evaluates the consequences of legal and illegal strikes and lockouts. He suggests several suggestions in order to resolve the disputes between union and management in order to increase productivity, to establish industrial harmony and for the welfare of the labour and management.

Gangadhara Rao. M¹³. in his study “Industrial Relations in Indian Industries” investigates the personnel and union - management relations with special reference to post - independence period. His study analyses trends in employees’ remuneration, hours of employment, absenteeism, discipline, employees’ unions and leadership.

¹³ Gangadhara Rao, M., “Industrial Relations in Indian Industries” (1980) p.354, Unpublished Dissertation submitted to the Andhra University for the degree of Doctor of Philosophy in Commerce.

Bagri, P.R. in his book **Law of Industrial Disputes** has elaborately examined the Industrial Disputes Act along with some other Acts. He examines therein the impact of unorganised labour over their welfare and he evaluates the working conditions of the labour class, their exploitation and many other things. He deals with several machineries like strike, lockouts, lay off, retrenchment etc in order to resolve the problems of union and the management.

Giri, V.V. in his book **Labour Problem in Indian Industry** has presented the several labour problems like low wages, absenteeism, alcoholism, poor working condition, lack of awareness of laws, unfair practices of labour contracts, lack of participation in management decisions etc. He has evaluated and suggested the measures to remove such problems such as strict implementation of standing orders and other labour laws to resolve the disputes between labour and management so that optimum utilization of labour resources to be used in order to enhance productivity, to establish industrial harmony etc.

CHAPTER 2

LABOUR WELFARE: CONCEPT AND THEORIES

2.1 INTRODUCTION

Labour welfare is a vital element of labour-management relations. Labour welfare is an extension of the term welfare and its application to labour. The term labour, labourer, workers, workman or employee are all used to refer to the wage-earning human agents in the industry. Welfare means faring and doing well. It is a comprehensive term and refers to the physical mental, moral and emotional well-being of an individual (Aswathappa, 2003). The concept of labour welfare has received inspiration from the concepts of democracy and welfare state. A welfare State endeavours to provide living-shelter, standard of education, pensions, insurance of unemployment, sick-leave, health care, additional income in exceptional cases, equal wages through controlling price and wages. There are several types of labour such as Slave labour, Child labour, White-Collar labour, Blue-Collar labour, untrained labour, semi-trained and trained labour etc. Under labour welfare, the labour class is provided labour welfare facilities. These facilities include all services, amenities and facilities which are provided by the employer in or in the vicinity of the undertaking in order to enable the employees to perform their work in healthy and congenial surroundings and provide them with amenities conducive to good health and high morale¹⁴. There are several Directive Principles included in the Constitution of India for the welfare of the labour class such as right to work, right to participation in management, equal pay for equal work, right to adequate means of livelihood, right to shelter etc. There are several labour welfare theories made such as theory of Religion, Trusteeship, Philanthropy, Policy, Public Relations etc. for the welfare of the labour class. There are several advantages of labour welfare such as Improvement in labour-management relations, increase in the efficiency and income, high morale of workers, creation of permanent labour force, improvement in the mental and moral health etc.

The concept of a welfare state is to play a key role in the safety and the encouragement of the social wellbeing and economic conditions of her citizens. This principle of welfare state is based on equality in opportunities, equal distribution of public responsibilities, wealth for those who

¹⁴ Ahuja, K.K. "Labour Welfare and Social Security in Personnel Management" (1988) p. 268

are unable to avail such opportunities themselves for a nominal provision of a good life. This term of welfare state may cover a different type of social organization and economic conditions. T.H. Marshall, a sociologist, has identified that a welfare state has a distinctive combination of capitalism, democracy and welfare of the people. This term of welfare state involves that the funds should be transferred from the state, to the service providers in the field of healthcare, education social amenities as well as to the individuals for their services (benefits). The state government is funded through redistribution in taxation and is often referred to as a type of "mixed economy"¹⁵. The taxation generally includes income tax from higher group of society this is called a progressive system of tax. This system reduces the income gap between the poor people and the rich people of the State¹⁶.

The idea of a welfare State includes two prime interpretations:

- i. The duty of a welfare state is to create a social safety net for its population for least standards of changing kinds of welfare¹⁷.
- ii. In a welfare State, the government assumes main responsibility for the wellbeing of its citizens. Since all the aspects of a welfare State are considered and applied on its citizens as a right, therefore, this responsibility ought to be a comprehensive one.

A welfare government in the strictest sense shall provide all resources which are helpful for the welfare and wellbeing of the citizens at large. This type of government is involved in its population at every level and provide amenities for their social, physical and material level rather than to provide for their own. Hence the welfare State tries to create economic and social equality or try equal standard of living for its citizens.

Such type of State, i.e., welfare State endeavours to provide living-shelter, standard of education, pensions, insurance of unemployment, sick-leave, health care, additional income in exceptional cases, equal wages through controlling price and wages. The welfare State government will provide public transportation, social facilities like parks, libraries, community centers, child

¹⁵ Ibid.

¹⁶ Pickett and Wilkinson, "The Spirit Level: Why More Equal Societies Almost Always Do Better", (2011).p. 112.

¹⁷ For the impact of industrialization on the Indian Society see, R.C. Saxena, "Labour Problems and Social Welfare", (1974), p. 14 K. Nath & Co., Meerut..

cares and several other communities for its people. The resources for these facilities are collected either through insurance programmes or through taxes.

2.2 CONCEPT OF LABOUR WELFARE

Labour welfare is an important dimension of labour-management relations. It is the process of improving the health, safety, general well-being and the development of skills and efficiency of the workers than the minimum set standards. Labour welfare includes overall welfare facilities designed to take care of wellbeing of employee's and in order to increase their living standard. It can also be provided by government, non-government agencies and trade unions.

The concept of labour welfare is flexible and elastic and differs widely with time, region, industry, social values and customs, degree of industrialization, the general socio – economic development of the people and the political ideologies prevailing at a particular time. It is also molded according to the age group, sex, socio cultural background, marital and economic status and educational level of the workers in various industries.

The concept of labour welfare has received inspiration from the concepts of democracy and welfare state. Democracy does not simply denote a form of government; it is rather a way of life based on certain values such as equal rights and privileges for all. The operation of welfare services, in actual practice, brings to bear on it different reflections representing the broad cultural and social conditions.

2.3 DEFINITION OF LABOUR WELFARE

The Oxford dictionary defines labour welfare as “efforts to make life worth living for Workmen¹⁸”.

“Labour welfare” is defined by Committee on Labour Welfare as

Such facilities and amenities as adequate canteens, rest and recreation facilities, sanitary and medical facilities arrangements for travel to and from and for accommodation of workers employed at a distance from their homes, and such other services, amenities and facilities

¹⁸ 1 Oxford Dictionary (6th Edition)

including social security measures as contribute to conditions under which workers are employed.

According to C.P John ,“the term labour welfare in its broad connotation refers to a state of living of an individual or a group in a desirable relationship with the total environment ecological, economic, and social.

2.3.1 Defined Labour Welfare As

Such services and amenities which may be established in or in the vicinity of undertakings to enable the persons employed in them to perform their work in healthy, congenial surroundings and such amenities conducive to good health, and high morale.

2.4 SCOPE OF LABOUR WELFARE FACILITIES

Labour welfare and its scope for the society are very broad in nature. The scope of labour welfare can be understood in diverse means, in diverse countries, depending upon the various stages of economic development, political environment and social philosophy. There are countries where welfare facilities are confined to the workers in concerned industrial units, while in others, the workers families’ members are also allowed to avail the benefits of services. To obtain a comprehensive knowledge of its scope, we may observe in the manner which labour welfare is classified in various categories. Labour welfare work can be broadly divided into two categories: a) statutory and non-statutory and b) intra-mural and extra-mural welfare measures for workers.

Labour welfare facilities include all services, amenities and facilities which are provided by the employer in or in the vicinity of the undertaking in order to enable the employees to perform their work in healthy and congenial surroundings and provide them with amenities conducive to good health and high morale. Welfare facilities can be divided into two classes-

(a) Intra Mural Welfare Facilities

(b) Extra Mural Welfare Facilities Intra mural welfare facilities include

1. Scientific Selection or Appointment

The scientific selection of workers for the various jobs within the factory.

2. Industrial Training

Training in various factories for different jobs in the factory.

3. Arrangement for light, fresh air and water

This classification comprehends arrangements in the factory for cleanliness, white washing, ventilation, drinking water, bathrooms, lavatories, urinals, light, air conditioning, etc.

4. Prevention of Accidents

This includes arrangements for protection from dangerous machines, extreme temperatures, firefighting, etc.

5. Other functions

Such as canteen, provision or rest rooms, refreshment, etc.

Extra-mural welfare facilities include:

1. "Provision of Education- This includes adult education, social education, primary education, education of men, women and children, etc.
2. Arrangement for proper housing accommodation.
3. Medical Service-This includes rest, cure, paid leave, free treatment, subsidized medical aid, etc.
4. Provision of inexpensive and nourishing food.
5. Facilities of Recreation- Clubs, gymnasias, cinema, radio, reading-rooms, libraries, etc.

In addition to the above list, the following activities are also a part of labour welfare facilities:

- (1) Social insurance scheme, (2) provident fund benefits, (3) pension, (4) sickness and maternity benefits, (5) arrangement of maternity homes and creches, (6) provision of cooperative societies, (7) arrangement of cultural programmes, (8) schooling of children.

2.5 TYPES OF LABOUR

Labour in its simplest terms, refers to the work that people do for payment. There are different forms of labor that provide services and goods that we use every day. This not only shapes our lives, but it also helps to shape the economy. Many adults, and even some children worldwide, perform some kind of labor. Some of them are given below.¹⁹

2.5.1 A Slave worker

Slavery means the working of an individual for the benefit of other person against his will and under pressure and without any remuneration or under some bargaining. The slaves were to face the harsh conditions and there were threats of death in case the work was found incomplete and for this job they were not paid. In America, the slavery was abolished by Abriham Lincon, the President of America. In India also the Slavery has been prohibited under Article 23(1) of the Constitution of India which may be read as under:

Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law²⁰.

2.5.2 Child Labour

This happens, usually, when a child below the age of 14 works on regular basis or with no pay. In some of the countries, the children are forced to work instead of having the opportunity to get education. The working of children varies and includes making clothes, selling in shops, cleaning the houses or shops etc. the children, in some of the cases are forced into military work or prostitution. Under Article 24 of the Constitution of India, the Child labour is prohibited. It is read as under:

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

2.5.3 Organisation of Labour Force

This term is referred to trade unions or organizations which represent a group of labourers for the improvement of working conditions in the industry, equality of wages, benefits and housing

¹⁹ Ibid.

²⁰

facilities etc. The trade unions negotiate with the owners of the industries on behalf of a group of workers as and when such issues are raised.

2.5.3 White Collar Labour

This type of labor is not involved in physical labour but mostly they work in the offices. Hence, the ministerial staff in the offices is named as White Collar section. These are considered to be in shirt and tie workers. Instead of being regarded as hourly wages, they are considered as earning salaries. In these days, in America, this White Collar section is most dominant working class. Of tenly, this White Collar section doesn't earn great benefits and higher salaries. This section of workers includes telemarketers, bankers, physicians, customer service agents, accountants, lawyers and teachers. In India, too, this section of workers is increasing.

2.5.3 Blue-collar Labour

Workers are those individuals whose jobs consist of physical labor. These individuals often are paid hourly wages. In the past, these workers were considered to be less formally educated than other workers, which is not necessarily the case today at all. Blue-collar jobs include those in factories, plants, mines, construction, mechanical, maintenance and railroad work²¹. The blue-collar labour includes jobs in retail, in food service or in the services in an industry. Some of the blue-collar workers are well skilled and educated and they are also well paid. This term has its original in the 19th century, when the people while doing such types of jobs were wearing blue uniforms because such a colour will not show much dirt as opposed to the white uniforms.

2.5.4 Untrained Labour

Some of the jobs do not demand for having a special skill or any training. At present, such jobs which do not require any special training or skill are decreasing continually owing to technological advancement. For instance, some of the jobs which were done manually are now assisted either by computers or any other technology. Even the digging of drains at present needs a trained driver of a JCB machine. Heavy loads are lifted by cranes which also need a trained operator of the crane. Now, the untrained labour may be required generally in the occupations like the farmhouse labourers, the labour working in a grocery shops, the hotel maids, sweepers,

²¹ Arun Monappa, "Labour Welfare and Social Security in Industrial Relations" (2002) p. 211, Tata McGrawHill Publishing Company Limited, New Delhi, 1990.

general cleaners and clerks etc. because such occupations need only manual performance instead of any special skill.

2.5.5 Semi-skilled labour

When the demand of skilled labour for less complex jobs, the semi-skilled labour is engaged in such jobs. Some jobs require some skills; therefore, these jobs are complex than those which can be performed by an unskilled worker. However, semi or mid-skilled labour don't demand highly specialized skills. The Indian Institute for Working Families released in 2010 that more than fifty percent of the jobs were mid-skill. That institute treated the jobs of typists, drivers, and the representatives of customer services as mid-skilled. Because such jobs do not require diplomas higher than a high school.

2.5.6 Trained labour

This type of labor is referred to a specialized trained working class who has a special training of a particular trade. They are required to have a learned skill set so that they can perform their jobs skillfully. Such workers may be either white collar workers or blue-collar workers. They have different levels of education and training. The workers who are highly skilled, come in two categories of professionals such as doctors and lawyers. Instead of these categories, the skilled labour, electricians etc. are the instances/examples of skilled labour. Some of the skilled labour jobs are so much specialized and there is scarcity of such type of skilled workers.

2.6 LABOUR WELFARE THEORIES

We find a great difference from region to region, time to time, country to country and industry to industry etc. a great flexibility in the form of labour activities. It also depends on the social customs of the region, educational level, degree of industrialization, socioeconomic development of the country. For the conceptual framework for the welfare of the labourers, the following seven theories have been constituted

2.6.1 The Theory of Religion

The religion theory is based upon the concept that most of the persons believe in one religion or the other. Therefore, he is essentially a religious animal as he is a social animal. We see that most of the actions by men are related to their religious beliefs and sentiments. Hence, the

religious sentiments and the feelings of persons motivate and such sentiments are concerned with an employer to involve in various welfare activities so that he can get emancipation in future in this life or in the life of afterwards²².

2.6.2 The Theory of Trusteeship

This theory is also known as the Paternalistic theory for the welfare of the labour class. According to the theory of trusteeship, the industrialist or the owner of an establishment who holds the total estate has its profits and properties in the form of a trust. In other words, we can say that the employer holds all the industrial assets for himself but he shows that all the benefits are for the welfare of the workers and also for the society. Therefore, this theory of trusteeship emphasizes that it would provide funds for the welfare of their workers and society at large on an ongoing basis²³.

2.6.3 The Theory of Bringing Peace (Placating)

The theory of bringing peace is based on the idea that the groups of labour are more aware of their rights as well as privileges, hence, the awareness of their privileges and rights has made them more demanding and militants than ever before. The labour class demands for better standards of living and higher wages may not be ignored now by the owner of an industry. According to the theory of bringing peace, the periodical acts for the welfare of the workers in an industry can be introduced. These acts may be called as a kind of pacifiers and friendly gesture in an industry. Hence, it is essential to take up timely efforts for the welfare of the labour class to appease the workers²⁴.

2.6.4 The Theory of Policy

The theory of Policy is based upon the notion that for the welfare and well-being of the labours, a minimum standard is essential. Here, the presumption is that in the absence of a policy and without any compulsion, the employers will never make provisions for the workers even for minimum facilities. Obviously, in this theory, assumption is made that man is a self-centered and selfish being. Hence, he will always try to achieve his own aims at the cost of his workers and

²² Giri, V.V. "Labour Problems in Indian Industry"(1972) p. 457, Asia Publishing House, Bombay

²³ Ibid at p. 462

²⁴ John M Ivancevich, "Human Resource Management" (2010) p.698 Tata McGraw Hill Education Private Limited, New Delhi,

other people of the society. In case, a proper policy is planned than the managers and the owners of an industrial unit shall have minimum opportunities to exploit the labourers and other working class engaged in that industry. That is why, it is obligatory on the part of the State to intervene and maintain minimum standard for the working class and for the welfare of its employees.

2.6.5 The Theory of Function

The theory of function is also known as the theory of efficiency of labour class. Here, the welfare work acts as a means to preserve, develop and secure the productivity and efficiency of the working class. It is clear that the workers will become more efficient and skillful if the employer takes care of his worker.

There are certain principles for the welfare of the working class; the same may be highlighted as under –

2.6.6 Efficiency of workers

Under this scheme, major role of the employer is to provide such welfare services to its workers which should be based upon a relationship between the efficiency of his workers and their welfare. However, it is hard for the employer to measure such relationship. There must be programmes for education, training and housing for working class and make provision for a balanced diet as well as measures for family planning are some vital programmes for the welfare of the working class and to encourage their efficiency particularly, in the countries, which are either under-developed or developing.

2.6.7 Overall concept of Welfare

Overall, the concept for the welfare of the workers means that the welfare of the labour class must be spread at all levels in an organization. Such an overall concept for the welfare of the labourers must be accepted at all levels by the workers. And such schemes must be introduced by the employer. In such a scheme, co-ordination plays a vital role for the successful implementation of welfare services and integration. So, for this purpose, there is need to adopt a coordinate approach to seek healthy development of the employees at their workplace and in the community and at home. It is necessary to bring about harmony and continuity in welfare services related to the labour class.

2.6.8 The Values of Democracy in an Industry

The co-operation of the worker is the basis of this principle. Consultation with, and the agreement of workers in the formulation and implementation of labour welfare services are very necessary for their success. This principle is based on the assumption that the worker is a mature and rational individual²⁵. Hence, this principle is based on the co-operation of the workers and their involvement in formulating and implementing the welfare services which are essential and have democratic values. Industrial democracy is a major driving force in this context. The involvement and agreement of the workers in the formulation and implementation of the welfare schemes and programmes for labourers will inculcate a sense of pride among the working class.

2.6.9 Obligations of Employer and labourers

The employers as well as the workers in an industry should have obligations for one other, i.e., the employer is responsible for the welfare of labour class and the working class should do their duties in a healthy manner. The involvement of trade unions in a healthy manner in the welfare of the labour class is related to the domain of trade union activities. Further more, if the responsibility of the welfare of working class is shared by various groups of society and unions, it will simplify the labour welfare work.

2.6.10 Social Obligation of Industry

In the Constitution of India, special emphasis has been laid for the welfare of the working class. Hence, according to this principle, industry should take care of the welfare of working class. The employer should have an obligation that the provision for the social welfare of the workers is made in the policy of the industry²⁶.

2.6.11 Development of Personality

According to this principle of development of personality of the workers, the goal of the industrial welfare is to be developed. Hence, according to this principle, the harassment in the industrial system must be banned. That is why, the implementation of the labour welfare services

²⁵ Kaushik Basu. "Why India needs labour law reform". (27 June 2005), p. 13, BBC News

²⁶ Pramod Varma, "Labour Economics and Industrial Relations" (1987) p. 281, Tata McGraw Hill Publishing Company Limited, Delhi.

is of the utmost nature. For the welfare of the services, there must be the provision for intramural and extramural activities inside and outside the factory'²⁷.

2.6.12 The Theory of Public Relation

In this theory, such a provision is made to create an atmosphere of goodwill between the management of the industry and the labour class and also between the public and the management. The programmes would act as a kind of advertisement in support of an organization that would help in the projection of the good image of the industry which will help to promote healthy and good public relations²⁸.

2.7 LABOUR FORCE IN INDIA

There are several factors for the growth of labour force, i.e., kinds of labour and the women in workforce are included in the industrial labour in India. Some of the industrial labour forces are given below

2.8 INDUSTRIAL LABOUR FORCE AND ITS GROWTH IN INDIA

One of the factors which affects the industrial labour in the growth of Industrial Force in India which can be considered in two ways, i.e., the growth after the independence of India and the growth of industrial force which was before the freedom of India.

2.8.1 The Growth of Industrial Labour Force before Independence

Appointment of Welfare Officers

Before independence nothing commendable was done either on the part of employers or on the part of Govt. for the development of industrial relations. The growth of industrial force in India was as late as in 1920 when labour welfare activities were initiated by some Indian business enterprises like Tata Group, British India Corporation, Calico Mills, Empress Mills, etc. who

²⁷ Sarma, A.M. "Aspects of Labour Welfare and Social Security"(1985) p. 247, Himalaya Publishing House, Bombay.

²⁸ Ibid.

appointed labour welfare officers to look after the interest of the working people and of the enterprise in relation to the human problems'²⁹.

2.8.2 Unrest among the Industrial Labourers

In 1920, there was a great unrest in the industrial labour class. Hence, the year 1920 is known as the year of industrial unrest in India. In this year, that different steps were taken by the British Government in India as well as the employers to resolve the various conflicts and ensure better industrial relations which include the recognition of trade unions but inspite of this on the whole, the progress related to industrial relations was far from satisfaction.

2.8.3 Efforts of the Government

Both the Central and the State Governments, before and during the 2nd World War played a leading role in the development and improvement of the labour management relations in the Industries in India. With the efforts of the Government of Bombay, the disputes of labourers were resolved where the Labour Commissioner acted as Chief Conciliation Officer. Other States also appointed the Labour Officers to resolve the labour-management disputes.

2.8.4 Appointment of Royal Commission

In the year of 1939, the Royal Commission made recommendation for the appoint of Labour Officers to reconcile the problems of labour class amicably. A triplicate Labour Conference was also convened by the Union Government of India to evolve a proper system of handling grievances to set up a conciliation system in matters related to industries and to make discussion to the extent of labour laws in Indian industries.

2.8.5 Growth of Industrial Labour Force after Independence

Enactment of Labour legislation –

Govt. of India did commendable work in this direction. On the recommendations of the Central Labour Investigation Committee 1946, several labour legislations were enacted such as, Labour Disputes Act, 1947, Industrial Employment Act, 1946, Factories Act, 1948 etc. the Factories Act,

²⁹ Debashish Bhattacharjee, "Organized labour and economic liberalisation India: Past, Present and Future" (1999) pp.43-44, "International Institute for Labour Studies, Geneva. ISBN 92-9014-613-3."

1948 provided the appointment of a labour welfare officer in every industry employing 500 or more workers for the purpose of helping the management in providing welfare measures to the workers as enunciated in the Act. Now the urgency of appointing personnel or labour officer is being felt even in such industries where there is no legal compulsion to appoint welfare officer as there is a need of such agency to guide the management in tackling the ticklish labour problems by providing the specialized services. The services of these labour welfare officers are not up to the mark even now because of their taking a biased view. While dealing with the workers, they consider themselves as an agent of management³⁰.

2.8.6 Training of Workers

The Govt. arranged for the training of workers and management personnel in India and stated several training centers and institutes for imparting training in industrial relations. In 1949, for the 1st time in independent India Xavier Institute of Labour Relations was established. Several other institutions were started later on such as Indian Institute of Personnel Administration, Calcutta, Indian Labour Management Institute, Bombay, Institute of Industrial Relations, Bangalore, Federation of All India Labour Welfare Officers, and Indian Productivity Councils, Shri Ram Centre for Industrial Relations and Human Resources at Delhi.

2.8.7 Labour Reforms during Emergency

In 1975, the government of India declared emergency and took up various administrative steps to abolish the system of bonded labour and to give extension to the scheme of apprenticeship and to give impetus/boost to the scheme of participation of workers in the management in industries in India.

2.8.7 Enactment of Labour Legislations after Emergency

A comprehensive Industrial Relation Bill was produced by the Government of India in Parliament in the year of 1978. The aim and objective of this bill was to bring improvement in the labour-management relations in industries through a collective bargaining by the consolidation of Trade Union Act, 1926.⁵¹ The government tried to place before the Lok Sabha, the Industrial Employment Act, 1946 and Industrial Disputes Act, 1947. But these bills could not

³⁰ M Swaminathan. "Understanding the informal sector: a survey" (1991) pp. 25.

be passed because of the dissolution of Lok Sabha in the year of 1979. The President of India proclaimed an ordinance in 1981 which empowered the government of India to put ban on strikes in essential services for a period of six months. The following departments were considered the part of essential services.

- Hospitals
- Railways
- Airports
- Banks
- Water and Sewer Disposal
- Telephone

All the above services were included in the ordinance proclaimed by the President of India. Moreover, in the ordinance, the government was assigned the power to declare any service as an essential service. The government of India also amended several labour laws in 1982, i.e., Industrial Employment (Standing Order) Act 1946, the Industrial Disputes Act, 1947. Moreover, the Employees State Insurance Act in 1984 was also amended by the Government of India.

2.9 LABOUR WELFARE AND DIRECTIVE PRINCIPLE OF STATE POLICIES

The Constituent Assembly has laid the Directive Principles of State Policy in the Constitution and the Government of India has made its efforts to implement these directives. Hence, India is a welfare State. Though, these policies have not been properly implemented and monitored. Rather, the corruption and the partials have been promoted. The hospitals of the governments are inadequately managed due to weak policies of the legislations. The government schools and other institutions run by the government are not competent enough and they are in surplus. The dwellers of slums, due to inadequacy of services signify the mass level of migration in the State. While official figures show confidence that the economic growth leads, necessarily to poverty reduction but on the other hand, if we look at it carefully then the story is different about the efforts of structural liberalization and alteration. Even after the decades of independence, the promise of the government with regard to economic growth and justice appears almost to be postponed.

The Directive Principles of a State Policy are not the laws which can be enforced by a court of law but these are the guidelines for the State and Central Governments of India which are to be kept in mind by the statutory body while framing its policies, planning and laws. These principles are embodied in part IV of the Constitution of India which are called Directive Principles of the State Policy. These are the instructions and instruments which will help/guide in the governance of the nation. In these directive principles, the Constitution makes laid down certain social, economic and educational policies which were to be pursued by the various State governments and the Central government as well. These principles are classified as social security charter, community welfare charter and economic charter.

The principles which are contained in the part IV of the Constitution of India are considered as fundamental in the governance of the nation but the same are not enforceable by any of the court. These are said to be the duty of the State to apply them in making laws and to establish a just society. The Constitutional body of India borrowed these directive principles from the Constitution of Ireland, principles of Gandhism, economic welfare, legal and administrative matters. The purpose of inclusion of these directive principles in the Constitution for framing state policies was an endeavor to create a welfare State³¹.

In other words, these directive principles were to epitomize the ideals sentiments, precepts and the goals of our freedom fighters and the aspirations of the people of the country. Actually, these directive principles represent a compromise between the reality and the ideas of the nation. When the Constitution of India was framed, there was a strong opinion to make these directive principles at par with the fundamental rights. But this was not accepted by the Constituent assembly because they found that the making of positive rights justifiable was not practicable. Hence, these directive principles were enacted in the part IV of the Constitution.

T.T.Krishnamachari called the non- justifiable directive principle as a veritable dustbin of sentiment sufficiently resilient to permit any individual of this house to ride his hobby- horse into it.

In a number of articles the expression of Socialist ideals and usages of national movement are found. Article 39 of the Constitution specially embodies the expression in a number of Articles.

³¹ Sivarethina Mohan, R. "Industrial Relations and Labour Welfare: Text and Cases" (2010) p. 487 Prentice Hall of India Learning Private Limited, New Delhi

Article 39 embodies the observation of usages, i.e., the State shall make its efforts in promoting the welfare of its citizens by protecting and securing as effectively as it can. All the institutions of the national life shall inform and maintain a social order wherein the political, socio-economic balance will be maintained. In article 39, national goals for socialist ideals of the national movement are embodied. In securing justice, the State shall direct its policies towards this³²:-

- i. That the citizens, men and women equally, have the right to an adequate means to livelihood;
- ii. That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;
- iii. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
- iv. That there is equal pay for equal work for both men and women;
- v. That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited by their age or strength; and
- vi. Those children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral abandonment³³.

2.9.1 Economic and Social Rights

The constituent assembly finding it difficult to place certain economic and social rights in the list of fundamental rights placed them in the category of directive principles. In this way the following rights found a place among the directive principles

- i. Right to adequate means of livelihood: Article 39(a);
- ii. Right against economic exploitation: Article 39(b);
- iii. Right of both sexes to equal pay for equal work: Article 39 (d);
- iv. Right to work;
- v. Right to leisure and rest: Article 43;

³² Ibid.

³³ Subbarao, P. "Labour Welfare and Social Securities" (2008) p. 671 Himalaya Publishing House Private Limited, Mumbai.

- vi. Right to public assistance in case of unemployment old age or sickness
- i. (Article 42);
- vii. Right to education: Article 41;
- viii. Right to just and humane conditions of work: Article 42;
- ix. Right to maternity relief: Article 42; and
- x. Right to compulsory and free education of children: Article 45.

Concurrently, to maintain the spirit of social justice, the judiciary also took upon in infusing it into the constitutional provisions. the spirit of social justice. It has been done in a number of cases, i.e., *Maneka Gandhi v. Union of India* was a landmark. The case involved the refusal by the government to grant a passport to the petitioner, which thus restrained her liberty to travel. In answering the question whether this denial could be sustained without a predecisional hearing, the court proceeded to explain the scope and content of the right to life and liberty. In a departure from the earlier view, the court asserted the doctrine of substantive due process as integral to the chapter on fundamental rights and emanating from a collective understanding of the scheme underlying Articles 14 (the right to equality) 61 19 (the freedoms) and 21 (the right to life). The power the court has to strike down legislation was thus broadened to include critical examination of the substantive due process element in statutes. Once the court took a broader view of the scope and content of the fundamental right to life and liberty, there was no looking back³⁴. the Court further interpreted Article 21 and included a bundle of other incidental and integral rights, some of them were in the nature of ESC rights.

2.9.2 In the case of Francis Coralie Mullin⁶³ the hon'ble court declared

The right to life includes the right to live with human dignity and all that goes with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. The magnitude and components of this right would depend upon the extent of economic development of the country, but it must, in any view of the matter, include the bare necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self.

³⁴ Alexander, *Medievalism*, (1962) pp. 121.

2.9.10 Right To Work

In the Constitution of India, Article 41 provides as under

The State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 38 of the Constitution provides that the state shall strive to promote the welfare of the people. As per Article 43, the government shall endeavor to secure a living wage and a decent standard of life to all workers³⁵. In one of the case, the problem of one of the contexts in which the problem of enforceability of this right came before the Apex Court where the post of village officers in Tamil Nadu were abolished. In contradiction to the contention the Apex Court maintained that such abolition of the posts shall fall foul of the Directive Principles of the State Policy. The Court stated that.

It is no doubt true that Article 38 and Article 43 of the Constitution insist that the State should endeavor to find sufficient work for the people so that they may put their capacity to work into economic use and earn a fairly good living. But these Articles do not mean that everybody should be provided with a job in the civil service of the State and if a person is provided with one he should not be asked to leave it even for a just cause. If it were not so, there would be justification for a small percentage of the population being in Government service and in receipt of regular income and a large majority of them remaining outside with no guaranteed means of living. It would certainly be an ideal state of affairs if work could be found for all the able-bodied men and women and everybody is guaranteed the right to participate in the production of national wealth and to enjoy the fruits thereof. But we are today far away from that goal. The question whether a person who ceases to be a government servant according to law should be rehabilitated by being given an alternative employment is, as the law stands today, a matter of policy on which the court has no voice.

But the court has since then felt freer to interfere even in areas which would have been considered to be in the domain of the policy of the executive. Where the issue was of regularizing the services of a large number of casual (nonpermanent) workers in the posts and

³⁵ Pawel Zaleski, "Global Non-governmental Administrative System: Geosociology of the Third Sector," (2006) pp. 105, [in:] Gawin, Dariusz & Glinski, Piotr [ed.]: "Civil Society in the Making", IFIS Publishers, Warszawa

telegraphs department of the government, the court has not hesitated to invoke the DPSP to direct such regularization. The explanation was

Even though the above directive principle may not be enforceable as such by virtue of Article 37 of the Constitution of India, it may be relied upon by the petitioners to show that in the instant case they have been subjected to hostile discrimination. It is urged that the State cannot deny at least the minimum pay in the pay scales of regularly employed workmen even though the Government may not be compelled to extend all the benefits enjoyed by regularly recruited employees. We are of the view that such denial amounts to exploitation of labor. The Government cannot take advantage of its dominant position, and compel any worker to work even as a casual laborer on starvation wages. It may be that the casual laborer has agreed to work on such low wages. That he has done because he has no other choice. It is poverty that has driven him to that state.

The Government should be a model employer. We are of the view that on the facts and in the circumstances of this case the classification of employees into regularly recruited employees and casual employees for the purpose of paying less than the minimum pay payable to employees in the corresponding regular cadres particularly in the lowest rungs of the department where the pay scales are the lowest is not tenable. It is true that all these rights cannot be extended simultaneously. But they do indicate the socialist goal. The degree of achievement in this direction depends upon the economic resources, willingness of the people to produce and more than all the existence of industrial peace throughout the country. Of those rights the question of security of work is of utmost importance³⁶.

“The right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Article 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief.

³⁶ Yadav, L.B. “Readings in Social & Labour Welfare” (2000) p. 628, Anmol Publications, New Delhi

These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State has the right to take any action which will deprive a person of the enjoyment of these basic essentials. Since the Directive Principles of State Policy contained in clauses (e) and (f) of Article 39, Articles 41 and 42 are not enforceable in a court of law, it may not be possible to compel the State through the judicial process to make provision by statutory enactment or executive fiat for ensuring these basic essentials which go to make up a life of human dignity, but where legislation is already enacted by the State providing these basic requirements to the workmen and thus investing their right to live with basic human dignity, with concrete reality and content, the State can certainly be obligated to ensure observance of such legislation, for inaction on the part of the State in securing implementation of such legislation would amount to denial of the right to live with human dignity enshrined in Article 21, more so in the context of Article 256 which provides that the executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State.

Hence, the Apex Court changed the non-justifiable into a justifiable issue by invoking and sweeping of the enforceable Article 21 of the Constitution of India. Moreover, recently, the apex court performed a similar exercise in the context of Articles 21 and 42, and evolved a legally binding guidelines in the cases of sexual harassment of women at their working places³⁷.

2.9.11 Right to Health

In terms of justifiability, 'right to health' has been a least difficult area for the court but it is not enforceable. The Constitution of India through Article 47 of Directive Principles of State Policy provides that it is the duty of the State government to improve the health of its citizens. In several cases, the several courts of law have recognized that right to health is an integral part of the right to life, i.e., Article 21. This principle of right to health was tested in a case of an agricultural labourer who had fallen from a running train. In that case, seven government

³⁷ Sarma, A.M. "Aspects of Labour Welfare and Social Security", (1985) p. 235, Himalaya Publishing House, Bombay,

hospitals in Calcutta refused to admit that labourer because there was no bed vacant in the hospitals. Hence, the condition of the wounded labourer worsened considerably. The Supreme Court of India declared the right to health as a fundamental right and directed the government of West Bengal for compensation to the labourer for the loss, he had suffered. The hon'ble Supreme Court further directed the government should formulate a blue print for the primary health care for the citizens and their treatment in the case of emergency.

2.9.12 Right to Education

The Article 45 of the Directive Principles of State Policy of the Constitution of India, which corresponds to Article 13(1) of the International Covenant on Economic, Social and Cultural Rights states as under:

The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years. Hence, a child who was employed in a chemical/ruber/hazardous industries was recognized as a fundamental right of a child's right to education by virtue of article 24 of the Constitution of India and the same was put into the Directive Principles of State.

In Mohini Jain, the Supreme Court was affirmative that the right to education was a fundamental right of the citizens hence, it was enforceable. This decision was again examined by a larger bench of the Supreme Court in Unnikrishnan³⁸. This was a case of challenge by the private engineering and medical colleges against the States' legislations regarding charging of capitation fees who were to seek admissions in those colleges. The managements of these colleges sought the enforcement of their right to business. The court of law explicitly refused their claim and went ahead to examine the right to education. The court did not accept the non-enforceability of the Directive Principles of State Policy. It asked

“It is noteworthy that among the several Articles in Part IV, only Article 45 speaks of a time-limit; no other Article does. Has it no significance? Is it a mere pious wish, even after 44 years of the Constitution? Can the State flout the said direction even after 44 years on the ground that the Article merely calls upon it to endeavor to provide the same and on the further ground that the said Article is not enforceable by virtue of the declaration in Article 37. Does not the passage of

³⁸ (1992) 3 SCC 666.

44 years—more than four times the period stipulated in Article 45—convert the obligation created by the Article into an enforceable right? In this context, we feel constrained to say that allocation of available funds to different sectors of education in India discloses an inversion of priorities indicated by the Constitution. The Constitution contemplated a crash programme being undertaken by the State to achieve the goal set out in Article 45. It is relevant to notice that Article 45 does not speak of the limits of its economic capacity and development as does Article 41, which inter alia speaks of right to education. What has actually happened is more money is spent and more attention is directed to higher education than to—and at the cost of—primary education. (By primary education, we mean the education which a normal child receives by the time he completes 14 years of age.) Neglected more so are the rural sectors, and the weaker sections of the society referred to in Article 46. We clarify, we are not seeking to lay down the priorities for the Government—we are only emphasizing the constitutional policy as disclosed by Articles 45, 46 and 41. Surely the wisdom of these constitutional provisions is beyond question³⁹.

The court again went ahead and examined as to whether the right to education was enforceable and what extent it was enforceable. The court further clarified the issue that:

“The right to education further means that a citizen has a right to call upon the State to provide educational facilities to him within the limits of its economic capacity and development. By saying so, we are not transferring Article 41 from Part IV to Part III we are merely relying upon Article 41 to illustrate the content of the right to education flowing from Article 21.78 We cannot believe that any State would say that it need not provide education to its people even within the limits of its economic capacity and development. It goes without saying that the limits of economic capacity are, ordinarily speaking, matters within the subjective satisfaction of the State.

The court apprehended that the recognition of right to education may open the ways for various other claims and caution.

We must hasten to add that just because we have relied upon some of the directive principles to locate the parameters of the right to education implicit in Article 21, it does not follow

³⁹ Misra, S.N. “Labour & Industrial loss” (2010) p. 351, Central Law Publications, Allahabad.

automatically that each and every obligation referred to in Part IV gets automatically included within the purview of Article 21. We have held the right to education to be implicit in the right to life because of its inherent fundamental importance. As a matter of fact, we have referred to Articles 41, 45 and 46 merely to determine the parameters of the said right.

In doing so, the court had paved new grounds in the matter of enforceability of the Directive Principles of State Policy and their justifiability. In formulating broad parameters, the court applied the decision of Unnikrishnan and directed the compliance by the State in cases of education of child labour. In a PIL, where the court the said:

“Now, strictly speaking a strong case exists to invoke the aid of Article 41 of the Constitution regarding the right to work and to give meaning to what has been provided in Article 47 relating to raising of standard of living of the population, and Articles 39 (e) and (f) as to non-abuse of tender age of children and giving opportunities and facilities to them to develop in a healthy manner, for asking the State to see that an adult member of the family, whose child is in employment in a factory or a mine or in other hazardous work, gets a job anywhere, in lieu of the child.” This would also see the fulfilment of the wish contained in Article 41 after about half a century of its being in the paramount parchment, like primary education desired by Article 45, having been given the status of fundamental right by the decision in Unnikrishnan J.P. v. State of Andhra Pradesh. We are, however, not asking the State at this stage to ensure alternative employment in every case covered by Article 24, as Article 41 speaks about right to work within the limits of the economic capacity and development of the State. The very large number of child labor in the aforesaid occupations would require giving of job to a very large number of adults, if we were to ask the appropriate Government to assure alternative employment in every case, which would strain the resources of the State, in case it would not have been able to secure job for an adult in a private sector establishment or, for that matter, in a public sector organization. We are not issuing any direction to do so presently. Instead, we leave the matter to be sorted out by the appropriate Government. In those cases where it would not be possible to provide job as above mentioned, the appropriate Government would, as its contribution/grant, deposit in the aforesaid Fund a sum of Rs.5000/- for each child employed in a factory or mine or in any other hazardous employment.

The court chose a realistic approach when it accepted the importance of declaring the negative right of a child against the exploitation and a positive right to education and ordered for the enforceability of such rights. The court had earlier denied to accept such issues saying that this was not within its jurisdiction. Now, in the recent cases, this trend has clearly been changed.

Duty To Safeguard the Weaker Sections of Society and Minorities

It will be needless to state here that in the economic revolution, to safeguard the weaker section of the society as well as the minorities in the country has been the main job of the government where the best efforts have been made. In the fundamental rights of the Constitution, some of the rights of the minorities have been included. The Article 43rd of the Constitution directs to secure to all workers, by legislation, economic organization, or in any other way, a living wage; conditions of work ensuring a decent standard of life, and the full enjoyment of leisure and social and cultural opportunities. An imposition under Article 47 of the Constitution has been made that it will be the prime duty of the government to raise the living standard of the people as well as to provide the nutritional facilities to the people. Therefore, several legislations for the welfare and social amenities to the labour have been enacted by the government on the basis of articles 39-A, 43, 43-A, 46 and 47. Under Article 39-A of the Constitution, certain directions have been made to provide free legal aid and equitable justice through suitable legislations to the labour and poor class.⁸² Article 43-A directs to enact such legislations which may allow the participation of the workers in the management of any industry. Further, Article 46 of the Constitution too lays down that “the state shall promote with special care the educational and economic interest of the weaker sections of the people, and, in particular, of the schedule castes and the schedules tribes, and shall protect them from social injustice and all forms of exploitations.

2.10 INDIVIDUALITY OF INDIAN LABOURER

According to the provisional reports released on 31 March 2011, the Indian population increased to 121 crore with a decadal growth of 17.64%. Adult literacy rate increased to 74.04% with a decadal growth of 9.21%.⁹⁰ Accordingly, as per 2011 census, adult literacy rate was 74.04 percent as compared to 60.04 percent. This is hard fact which is seen in the industrial labour also generally, the level of education among the workers is found unsatisfactory. Consequently, they find it hard to comprehend the difficult problems that are faced by themselves as well as by the

industries which provide them employment. The lack of education among the workers is also one of the major factors that is responsible for weaker trade union organizations in India.

CHAPTER 3

LABOUR-MANAGEMENT RELATIONS: A CRITICAL APPRAISAL

3.1 INTRODUCTION

In case, the management of an industry is not satisfied with the work performance or with the conduct, and the management takes action over the performance or conduct, but the dismissal is unjustified then the option is left for the management to include suspension of the employee with or without pay, imposing fines, issue warnings, withholding pay or counseling. The decision of fine with or without pay or withholding his pay may be used if there is any agreement with the individual or particularly it is provided in the terms of contract. The action may be taken by the management which may be appropriate to the circumstances. Since, the aim of taking such actions is to bring improvement in the performance of workers or in their conduct or to prevent the repetition/recurrence of an unsatisfactory conduct instead of awarding punishment. It is better to select proper action keeping in view the circumstances in each case. Disciplinary action is to be taken only in that case, where counselling has failed or the situation is significantly graver, but the situation is not so bad. For instance, counselling seems to be a better approach than dismissal, where the employee has a longer length of service and his record has been better in the past. Otherwise, the worse the record, the more strict the disciplinary action is needed. We can say that there is need to adopt a fair and consistent approach in view the overall circumstances as the main target of any disciplinary action. It is not to award punishment or nor to take revenge rather it is to prevent the repetition or recurrence of the situation. Any disciplinary action should be notified to the worker in the form of writing, having details, attached to his/her employment record⁴⁰. The documentation should also contain the directions (steps) that could be taken in case of recurrence of the situation/event.

Concept: The collective relationship between the workforce and the management has been termed as industrial relations. The two terms, i.e., employer-employee relations and the labour-management relations are used in place of one another. The term “Industrial relations” is used to

⁴⁰ Agrawal, R. D. “Dynamics of Labour Relations in India - The Continental Setting” (2001) p. 138, Wishwa rakashan, New Delhi.

donate the collective relationships between management and the workers. The two terms labour-management relations and employer-employee relations are synonymously used.”However, Scott and associates have made difference between labour relations and employee-relations- the former to represent union-management/labour management relations, and the later to cover all management-employee relations except the former. We shall now examine the concept of industrial relations in detail with the help of some definitions in order to understand its different dimensions.

Relations in industry mainly exist between the management and the labour. Therefore, this is the reason why Bethal, LL Atwater and their associates affirm: Industrial relations is that part of management which is concerned with the manpower of the enterprise. Manpower of the industry can broadly be classified as management and workers. The relationship can either be cordial or otherwise which depends on the attitudes and approaches of management and those of workers. Such attitudes and approaches are complex and diverse.⁹⁸ In accordance with Tead Ordway and Metcalfe,⁴¹ that the labour-management relation is the combined result of the approaches and attitudes of industrial management and the working force towards each other in co-ordination, planning, direction, supervision and other activities in an organization with minimum frictions with animating spirit, human efforts and co-operation with regard to genuine welfare of all members in the organization whether employer or employee. The outlook with regard to the profession and activities is the mental state or internal psychic state of an individual. In some cases, such an outlook may be the external expression of an individual and this state of mind determines the mutual relationship between employer and employee. It will be worth to note here that this labour-management relation is neither a simple relation nor a mutual relationship. This relationship is affected by a set of occupational freedom by various factors, i.e., socio-economic, occupational, politico-legal, psychological, technological etc.

A comprehensive definition in the point of view of human relationship and industrial relationship is given by J. Henry Richardson. “Industrial relation is an art, the art of living together for purposes of production. 100 While the employer and the employees working together for a common purpose, i.e., the productivity learn the skill of adjustment and the art for a common purpose. In this definition, the importance is given to interpersonal relationship between the

⁴¹ Tead Ordway and Metcalfe, “Personnel Administration: Its Principles and Practice”, (1975) p. 2.

employer and employee in the activities of production but they call some other agencies like government to control their activities. The employers organize their associations and the workforce of an industry forms trade unions, and the State government provides legislations or regulations for the relationship between the management and the labourers. In the definition of Richardson, the aspect of institutions in the establishment of labour-management relations is not mentioned. The definition doesn't mention these institutional aspects of industrial relations. H.A. Clegg laid stress on the institutionalization and enactment of regulation for industrial relations and observed: "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"⁴².

Richardson emphasized that the parties within an industry have to live together and they need a process of adjustment and accommodation. Hence, he called for guidelines of relationship within industry. Whereas Clegg gave importance to the role of government and the institutions through a regulatory role. The same spirit of government and institutional role is emphasized by the National Commission on Labour: Industrial relations affect not merely the interests of the two participants-labour and management but also the economic and social goals to which the State addresses itself. To regulate these relations in socially desirable channels is a function which the State is in the best position to perform. Industrial societies necessarily create industrial relations defined as complex of inter-relations among workers, managers and government. Cassel man's Labour Dictionary defines Industrial relations as the relations between employers and employees in industry. In the broad sense, the term also includes the relations between the various unions, between the State and the unions as well as those between the employers and the State.

The definition given above shows that industrial relations is the outcome of the interaction of employer-employee in modern industries and such relations are controlled/governed by the government that takes place to a great extent in different ways. "The concept of industrial relations has been extended to denote the relations of the State with employers, workers and their organisations. The subject, therefore, includes individuals' relations and joint consultation between employers and workpeople at their workplace; collective relations between employers

⁴² Clegg, H.A., "Industrial Democracy and Nationalisation" (1951) p. 102, Blackwell : Oxford,

and their organisations and trade unions and the part played by the State in regulating these relations ⁴³

Now-a-days, direct relationship between the employer and the employees are not alone dependent on labour relations. In the regulation of labour-management relations, the participation of State has been extended to the relations of the State with employees, employers and the organization. Thus, the labour-management relation is not confined to only relationship between the employer and the employees. These relations, in the present time, have become very complex and they now depend on social, economic, psychological, historical, political, legal, ethical and several other variables.

3.1.1 Scope of Labour-Management Relations

Labour-management relations, in narrow terms, are the relations which are the outcome of day-to-day associations and the direct relationship between the labour and the employers.

The wider meaning of labour-management relations refers to the relationship between the employers and the employees during the course of the running of an organisation/industry may go beyond to the areas of marketing, price fixation, quality control and disposition of profits and others. But labour management relations are often, normally considered in the narrow term⁴⁴.

The scope of labour-management relations varies from place to place, time to time and establishment to establishment. It includes how the people get work together, what difficulty arises between the labour and the management, how the relations are included with working conditions and how the organization protects the different interests of its workers. The quest is indispensable for industrial harmony when a country is on the path of economic progress. Without this industrial harmony, this economic progress is difficult; hence, it leads to more cooperation between the workers and their employer which results in better productivity and contributes thereby in the prosperity in the country.

This problem of labour-management relations is basically human relation problem. It is influenced in all complex circumstances which affects it later on. Sometimes, strikes take place for economic demands then the harmonious relations are not restored even after the grant of

⁴³ Encyclopaedia Britannica" Vol. 12, London, (1961), p. 297.

⁴⁴ "Encyclopaedia Britannica" Vol. 12, London, (1961), p. 297

monetary benefits. A change in the management or in the leadership in the trade unions also radically changes the basic relationship between the labour and management. Consequently, the labour management relations cannot be viewed in isolation on the basis of economic, social and political characteristics, nor there are remedies to correct the situation which has developed without any consideration.

The main aspects for labour-management relations which need to be considered are given below

- a. Development of industrial democracy.
- b. Promotion of cordial and healthy relations of labour-management.
- c. The avoidance of industrial disputes and maintenance of peace

3.2 EVOLUTION OF LABOUR-MANAGEMENT RELATIONS

The study of ancient laws and scriptures make it clear that on the promotion and maintenance of comely relations between workers and employer, a great emphasis was laid on. In Yajurveda, there were some rules for promotion of better relations between the workers and employer and some procedure were also prescribed for the settlement of their disputes. Arbitrators were appointed to settle the issues. Kautilya also gave a comprehensive picture of social, political institutions and organizations in India and there is a good description of the artisans, craftsmen, employees and unions. There were organizations which made their own by-laws for managements and unions. In Mughal period, we don't find any organization of workers. They were entirely forced to work under their masters. However, there is evidence which shows that there were some prescribed procedures for the settlement of disputes and making cordial relations among the parties. In those days, the working relations were more or less of a personal character and they were distinguishable from the modern labour-management relations which have grown and developed on a large scale in the industries⁴⁵.

These labour-management relations can be studied in three phases namely:

- I. Pre-Independence Period
- II. Post-Independence Period

⁴⁵ Saibaba, G and L. K. M. Rao . "Labour Productivity and Trade Unions in India". (1998) p. 406-411, The Indian Journal of Labour Economics. 35 (4)

3.2.1 Pre-Independence Period

The pre-independence period regarding labour-management relations includes two phases. The first phase held its beginning when the British government in India was restricted to protect its commercial interests and it ended by the end of First World War, the Second phase started after the end of Second World War and till the attainment of Independence.

In the first phase, the British government in India enforced several regulations and heavy penalties for breach of contract to minimize the competitive advantages between the British employers and indigenous employers. In the latter half of the Nineteenth Century, a number of legislative measures were adopted. This period is considered to be beginning of industrial labour-management relations in India. During the First World War, the factory owners earned huge profits and the working class, due to high prices, suffered the most, because their wages were not increased and the cost of living had gone up tremendously which aggravated the social and political situation in India. Throughout the country, the labour unrest was seen⁴⁶.

Hence, the deteriorating conditions of the industrial workers in the country were bound to bring a change in the labour policy. In 1906-1907, a Commission was appointed and then, Factory Act, 1911 was passed. And thereafter, Indian Industrial Commission, 1916 was appointed to examine the position of industries and scope for industrial development which can be profitable for both employer and employee. Because the earnings of the workers did not keep pace with price rise and with their aspirations. Therefore, there was intense labour unrest. The labour-management relations were greatly influenced by the establishment of International Labour Organisation in 1919 which affected the labour legislations and industrial relations.

An ILO publication observes - Far from protecting the interests of labour, the earlier attempts to regulate labour consisted of enactments such as the Assam Labour Act, the Workmen's Breach of Contract Act, 1859, and the Employers and Workmen's (Disputes) Act of 1860. These Acts aimed at protecting the social system against labour rather than protecting labour against the social system . The formation of All India Trade Union Congress and the emergence of trade unions were significant events in the history of Indian industrial relations.

⁴⁶ E.I. Ravindranath, "Industrial Relations in India" (2014), p. 77, Tata McGraw-Hill Education

⁴⁷ I.L.O., Labour Legislation in India, (1957) p.1.

A new twist was seen regarding the labour policy after the First World War which raised hopes for a new social order in social, economic and political conditions. In the first two decades after First World War, for the implementation of latest labour policies several laws were enacted for the social security and benefits of the working class. The provision of conciliation machinery for settlement of disputes was made in the Trade Disputes Act, 1929. A comprehensive survey was made by the Royal Commission of Labour (1929-31) regarding the working conditions, welfare and safety of the workers and made several recommendations to achieve this goal.

To achieve the goal of maximum production, the government tried to maintain sufficient contended labour force during the Second World War. Therefore, several steps were taken for controlling and regulating the working conditions and welfare of the industrial labour class. The target was for maximizing production through peaceful and harmonious relations between the employers and employees because the working conditions in the factories had deteriorated.

During this period, there was scarcity of consumption goods and the cost of living had abnormally arisen which resulted to bring the organised working class together and it resulted in strikes or lock-outs. Due to the influence of ILO, several labour laws were enacted for example, the Trade Disputes Act, 1917, “Workmen’s Compensation Act, 1923” and Trade Union Act, 1926. The employers earned a huge profit and the workers demanded a share, bonus and dearness allowance as the wages had not increased in proportion to the price rise. The years, during the Second World War were most disturbed years. Therefore, the provisions of settlements of disputes were made in 1946 through “Industrial Employment (Standing Orders) Act and Industrial Disputes Act, 1947.

3.2.2 Post-Independence Period

Keeping in view the interests of national economy, the government of India considered it necessary to stop strikes and lock-outs which were interrupting the production. Accordingly, in 1947, a tripartite conference was convened in which paramount importance was given for maintenance of industrial peace. In the Industrial Disputes Act, 1947, the provisions were made for regulating labor management relations. During 1947 and afterwards, the industrial scene in India was subjected to considerable amount of confusion and chaos. The unrest in industries shattered the labour-management relations which was prevalent everywhere. To reconcile the disturbed relations between the employers and employees, the government emerged as an

arbitrator. Though, the grounds for these labour policies were prepared during the forties, but the super structure was built in fifties on that ground work⁴⁸.

In the Industrial Disputes Act which was enacted in 1947, the following legal provisions for regulating labour-management relations were embodied

- i. It provides for the establishment of a machinery to settle the disputes in the shape of authorities like Labour Courts, Conciliation Officers, Industrial Tribunals.
- ii. The award of settlement given by the conciliator or a tribunal was binding and legally enforceable on the parties of the industrial disputes.

In addition to setting up machinery for settlement of labour-management disputes, the Act prohibits strikes and lock-outs during the pendency of proceedings for adjudication and conciliation. However, this Act was amended in 1976 and restrained the power of employer to lay off, retrenchment of workers or to impose closure.

The Trade Unions Act, 1926 was amended in 1947 and 1950 wherein the unfair practices of employer and union were defined. It made provisions for compulsory recognition of unions and arbitration of disputes over the official recognition of unions as representatives of workers' unions. These amendments were particularly influenced by the American National Labour Relations Act, 1935 which is properly known as Wagner Act. But these amendments never came into force. Some of the changes were not favoured by the newly formed Indian National Trade Union Congress (INTUC).

3.3 STATE AND LABOUR-MANAGEMENT RELATIONS

The State plays a vital role for the maintenance of cordial relations between the labour and management. Therefore, in the field of labour-management relations, it cannot be a silent spectator. A coercive and persuasive role is to be played by the State in regulating labor management relations. So far, the collective bargaining and direct action is concerned which either of the party may resort their claims and realization. At the juncture of work stoppage, the State's anxiety arises because of two reasons

⁴⁸ Robertson, N and J. L. Thomas, "Trade Unions and Industrial Relations" (1968) p. 744, London. Business Books Limited.

I. When the inconvenience caused by interruption in the supply of essential commodities which causes impact on the community as a whole.

II. In the form of loss of production or wages, the social cost falls on the parties themselves.

Therefore, the parties choose the methods of interest and regulations for their mutual relations e.g. collective bargaining through well organized employees' associations and trade unions. To achieve this goal, the State formulates rules and regulations for maintenance of peace, social justice, harmony, labour-welfare etc. The government may intervene through adjudication and conciliation. In this process, the permissible field of intervention is to be defined. The provision of conciliation and adjudication has been made in the Industrial Disputes Act, 1947.

The National Commission on Labour (1969) observed, The concern of the State in labour matters emanates as much from its obligations to safeguard the interests of workers and employers as to ensure to the community the availability of their joint product/service at a reasonable price. The extent of its involvement in the process is determined by the level of social and economic advancement, while the mode of intervention gets patterned in conformity with the political system prevailing in the country and the social and cultural traditions of its people.

In our country, the labour-management relations and the public policies are specially influenced by

a. Constitution of India

b. International Labour Organisation

c. The recommendations and reports of Enquiry Commissions for instance, the Royal Commission on Labour, Rural Commission, National Commission on Labour, Indian Labour Conference and Standing Labour Committee, Industrial Committees, all these Commissions and Committees provide useful inputs for labour-management relations in the form of government policies.

With the change of economic conditions of the labour class as well as the society, the labour-management relations and the policies also changed significantly. The labor management relations and policies are based on human values for the freedom and human rights in a democratic set up and shaped by basic philosophy of government of people. The social policies

concerning security, job and earnings are influenced by employment unemployment situation and economic health. If the economy of the nation is sound and there is full employment then there is scope to offer earning security and better job.

3.4 DIMENSIONS OF LABOUR-MANAGEMENT RELATIONS IN INDIA

New market imperatives have come due to the attitude of State regarding privatization, liberalization and globalization in its policies. There is unprecedented pressure on the system of traditional industrialization which is unable to meet the situation under the policies of liberalization and privatization. Due to globalization, several changes have arisen in the labour-management relations which can meet the newly arisen challenges. Some of them may be given below.⁴⁹

3.5 INTERNATIONAL LABOUR ORGANISATION AND ITS EFFECTS ON INDIAN LABOUR LAWS

The General Federation of Trade Unions in its Leeds Conference held in 1916 discussed the various problems of working class in many countries and recommended the appointment of a Commission on International level to supervise and execute labour agreements and also suggested for formation of International Labour Office to gather the materials regarding labour legislations⁵⁰. Hence, the establishment of International Labour Organisation was the outcome of the recommendations of the Commission which was appointed by the Paris Peace Conference in January, 1919. The creation of the International Labour Organisation was the result of the recommendations of treaty of Versailles in 1919 which was an autonomous body. The fundamental principles laid down by the ILO are known as 'Charter of Freedom of Labour'⁵¹.

- I. To promote sufficient protection for the health and life of labourers in all occupations.
- II. To furnish assurance of vocational and educational opportunities.
- III. To arrange for full employment and standards of living of the workers.

⁴⁹ Giri, V. V., "Labour Problems in Indian Industry", (1999) p. 457, New Asia Publishing House

⁵⁰ Michael, P. V., "Industrial Relations in India and Workers' Involvement in Management" (1999), p. 318, Himalaya Publishing House, Delhi.

⁵¹ Modi, S ; K. C. Singhal and U. C. Singh, "Employer-Employee Relations: Need for Transition in Values" (2001) p. 233- 243, The Indian Journal of Labour Economics. 38 (2)

IV. To make provision for maternity protection and child welfare.

V. To extend the measures for social security, comprehensive medical care and to provide basic income to all for such protection.

VI. To make policies regarding minimum living wages, earnings, bonus and other conditions of work to share the fruits of progress to all.

VII. To make provision for adequate guarantees regarding facilities of training, migration of labour for employment and settlement.

VIII. To make provision for sufficient facilities for recreation, nutrition and housing.

IX. To make provision for effective recognition of collective bargaining, cooperation of labour-management for improvement, introduction and the collaboration of employees and employers in economic and social measures.

X. To prepare a platform which was not just to create jobs but to create jobs of acceptable quality. The prime principles of ILO are¹⁴⁹ given as below:

a. "Labour is not a commodity.

b. Freedom of expression and of association is essential to sustained progress.

c. Poverty anywhere constitutes danger to prosperity everywhere. d. The war against want requires to be carried on with unrelenting vigour within each nation and by continuance and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of the governments join with them in free discussion and democratic decision with a view to promotion of common welfare.

e. Since the inception of ILO, India has been its member and has adopted various recommendations, international standards and conventions to improve the labour conditions. Convention is a treaty, if it is rectified by a member State then the international obligations are binding on that State. So far, 173 conventions and 180 recommendations have been adopted by the ILO out of which 36 conventions have been rectified by the government of India. There is a decisive impact of ILO standards on the wage legislations, social security, factories and mines in India. It has greatly influenced the movements of trade unions. The origin of the All India Trade

Union Congress owes to ILO. The institution of tripartism is a new method to resolve the labour-management disputes is an adherence which is reflected in India's commitment to the ILO.

The Articles 34, 41, 42 and 43 of the Directive Principles of the State Policy of the Constitution of India have a great influence and close resemblance to the ILO.

The ILO has laid conditions for working hours, holidays with pay, methods and principles of wage regulations, inspection and labour administration and weekly rest. In its recommendations and conventions which have been ratified by the Indian government.

Several recommendations and conventions of ILO have dealt with the problems of youngsters and children, employment of young persons in hazardous occupations, night work, medical examination and minimum age of employment. All these recommendations and conventions have been incorporated in the Factories Act and Employment of Children Act. In various conventions and recommendations, the ILO has adopted to apply equality to men and women workers. However, separate standards have been set up exclusively for women workers regarding employment in unhealthy processes, night work, equal pay and maternity protections which have been ratified in various statutes in India.

CHAPTER 4

TRADE UNION LAW AND LABOUR MANAGEMENT RELATIONS

4.1. INTRODUCTION

Trade union is an outcome of industrialization. It is based on ‘united we stand, divided we fall’. It is generally viewed that an organization of employees for the purpose of securing various benefits for them is a trade union. The traditional outlook in the labour management relationship has changed due to industrial revolution. The relationship between employer and employee disappeared with the introduction of modern factory system. Various social and economic evils made it compulsory on the part of workers to devise effective means to deal with the employers in the form of trade unions. The growth of trade union was the result of a number of strikes, the deteriorating economic conditions of workers, low wages which could not keep pace with soaring prices and the shortage of labour.

Until the beginning of 20th century, the activities of trade unions were considered unlawful. The Madras High Court in 1920, in the case of **Madras Textile Labour Union v. Binni & Co.**, allowed an injunction restraining the union officials. The leaders of the trade union were prosecuted.

Trade union is a group of employees who have grouped themselves in an organization to secure various benefits. However, the activities of trade unions, these days are not confined to mere securing the economic benefits. It includes welfare activities, environmental conditions and other benefits of workers. In the present context, these are voluntary organizations formed to protect and promote their socio-economic benefits by collective actions.

In the words of Dale Yoder, A union is a continuing, long-term associations of employees formed and maintained for the specific purpose of advancing and protecting the interests of members in their working relationships.

S.D. Punecker, “A trade union is a monopolistic combination of wage-earners who as individual producers are complementary to one another but who stand to employers in a relation

of dependence for the sale of their labour and production, and that the general purpose of association is in view of that dependence to strengthen their power to bargain with the employers or bargaining collectively⁵².

The British Trade Union Act views it as a trade union is a combination with the main objective of regulating the relation between workmen and masters or between workmen and workmen or between masters and masters for imposing of restrictive conditions on the conduct of any trade or business and also provision of benefits to members.

Indian Trade Unions Act, 1926 defines trade unions as any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions⁵³.

4.2 GROWTH OF TRADE UNION MOVEMENT IN INDIA

The industrial revolution in Great Britain between 1760-1825 brought revolutionary changes in the modern factory system. Before that the worker was the owner of the means of production, manufacturing activities and financiers to carry on activities either himself or with the help of the members of the family. The modern factory system is characterized by mechanized operation, large scale production and separation of management from worker. Therefore, the personal touch of relations between the employer and workers became very complex. At that time, the worker was unable to bargain with the employer for wages and other benefits. The desire of employer for higher benefits led to exploitation of working class. Thus, with the industrial advancement, the working class also combined to bargain with the employers collectively for their benefits and security of job etc. The need of security, development and other facilities of working class is the off shoot of modern trade union system.

“All of the organized activities of wage-earners to better their own conditions either immediately or in the more or less distant future. According to Prof. Cole, Labour movement implies in some degree, a community of outlook, it is an organization or rather many forms of organizations

⁵² Punekar, S.D. “Trade Unionism in India” (1948) p. 23.

⁵³ Sec. 2(h) of The Trade Unions Act, 1926.

based upon the sense of a common status and a common need for mutual help. Without trade unions, the labour movement cannot exist because these are the principal schools where workers learn the lesson of solidarity and self-reliance. Labour movements are for the workers whereas trade union movements are ‘by the workers’. In the beginning, the movement of trade union was started by the social reformers. These reforms ultimately resulted in the form of ‘trade unions.

“The main elements in the development of trade unions of workers in every country have been more or less the same. The setting up of large-scale industrial units, created conditions of widespread use of machinery, new lines of production and brought about changes in working and living environment of workers, and concentration of industries in large towns. All of these developments introduced a new class of workers who were dependent on wages for their livelihood. They were at a disadvantage in an age when the doctrine of laissez faire held the field⁵⁴.

The trade unions in India developed quite slowly due to economic set up, presence of indigenous industries, illiteracy and lack of transport in the country. The labour movement started in India from 1875 when the government through a number of legislations welfare schemes and administration tried to improve the working conditions in industry.

Historically, the growth and development of trade union movement may be divided into the following periods. Each period reveals the different tendencies which differentiate from one period to other:

- i. 1875-1919: A period of social welfare
- ii. 1919-1924: An early period of trade union movement
- iii. 1925-1934: A period of left-wing trade unionism
- iv. 1935-1938: A period of trade unions’ unity
- v. 1939-1945: Period of Second World War
- vi. 1947 and onwards: Period after independence

4.2.1 1875 to 1919: A Period of Social Welfare

⁵⁴ National Commission on Labour Report, (1969) p. 277.

The workers who were for the most part villagers endeavoring to improve their position by a temporary alliance to industry were submissive and unorganized; and if conditions became too distasteful, the natural remedy was not a strike but abandonment by individuals of the mill or of industry generally or they migrated to other industrial centres or went back to their villages. There was no attempt at collective bargaining or at obtaining redress through concerted action⁵⁵.

The labour movement in India, rather, started very late, though the history of modern industrialism in India began as early as 1850. The Factory Commission in 1875, the Factories Act, 1881, the investigation of Meade Moor in 1874, the second Bombay Factory Commission in 1884, the workers' meeting organized in Bombay in 1884 and the submission by them of a memorial to the second Bombay Factory Commission and investigation of Jones and the holding of a mass meeting in Bombay on April 21, 1890 which was attended by about 10,000 workers and the submission to the government of another memorial signed by about 17,000 workers were the important events which nursed the infant labour movement.

4.2.2 1919 to 1924: An Early Period of Trade Union Movement

This is an important period which is marked by the start of a new era in which the leadership of trade unions passed from the hands of social workers to the hands of politicians. This period was one of the growths and consolidation. The ad hoc unions during this period disappeared and several large and strong unions came into existence. Madras Labour Union was set up in 1919 on systematic lines.

4.2.3 1925 to 1934: A Period of Left-Wing Trade Unionism

During this period, there was the emergence of communists on Indian scene. The communists had captured the All-India Trade Union Congress. Therefore, the moderates established a new organization which is known as All India Trade Union Federation. The ideological differences had their effect on strikes. During this period, majority of the strikes failed. A number of legislations were enacted namely Workmen's Compensation Act, 1923, The Mines Act, 1923, the Trade Unions Act, 1926 and the Trade Disputes Act, 1929 were passed by the government which boosted to our labour union movement. The Trade Unions Act, 1926 gave formal recognition of trade unions.

⁵⁵ Report of the Royal Commission on Labour, (1931) p.478

The beginning of thirties presented a picture of disunity in the trade union movement. The Royalists and militant nationalists formed AITUC. The moderates established AITUF. They used it as a platform for voicing political demands, the orthodox communists established RTUC, the objectives of which was dictatorship of the proletariat. In addition to above, there were several other unions.

4.2.4 1935 to 1938: A period of Trade Unions Unity

This period is marked with a phenomenal increase in registering the number of the membership of workers and trade unions. The National Trade Union Federation had the largest number of members. In 1938, the All-India Trade Union Congress and National Trade Union Federation finally merged together. One of the important terms which facilitated their merger was that no decision shall be taken unless it commands a two-third majority. Their unity was finally achieved in 1940. And N.M. Joshi became its General Secretary. During the decade 1930-40, Trade Unionism in India was a divided house and the workers kept themselves aloof from organizational activities.

4.2.5 1939 to 1945: Period of Second World War

Due to mounting cost of living during the Second World War, the labour unrest increased and the government banned the strikes and lock-outs. The Defense of India Rules was invoked⁵⁶. Therefore, during the war times, there were certain factors which helped to enhance the status of trade unions namely the employers and government introduced several labour welfare measures to increase the production of war materials and other essential goods. The employers recognized the trade unions which gave a moral strength to workers. There was ban on strikes and lock-outs under the Defense of India Rules 81-A. In 1942, a tripartite labour conference was convened and a common platform for discussion and understanding between the labour and management was provided. There was a tremendous impact of Second World War on the trade unions.

4.2.6 1947 and Onwards: Period After Independence

In 1948, the Indian Trade Union Congress was recognized for the first time as the most representative body of the working class. Its representatives participated in the ILO Conference.

⁵⁶ Ibid.

Bharatiya Jan Sangh set up Bharatiya Mazdoor Sangh which later became Bharatiya Janta Party. There was a rift in the AITUC. The communists divided themselves into the CPI (Communist Party of India) and CPM (Communist Party of Marxists). The CPM had control over the AITUC.

The split of Indian National Congress resulted in a change in INTUC (Indian National Trade Union Congress). The INTUC was controlled by the ruling Congress. The Organization Congress (old) formed a new union- National Labour Organization.

The post-war period is marked by the most rapid strides in trade union movement. The important factors are.

4.2.7 Outside inflow in trade unions and international influences

II. The pressure of political and ideological differences on trade unions.

III. The establishment of compulsory adjudication machinery by the government through Industrial Relations Policies.

Conferring special privileges on registered trade unions and enactment of labour laws.

V. Workers' desire to unite for their interests and safeguards particularly to face worse conditions, i.e., retrenchment and lay-off etc.

VI. Some employers attempted to put their influence on the trade unions.

4.3 CURRENT STATUS OF TRADE UNIONS MOVEMENTS

The trade unions in India have come to a stay and they have become permanent features of the industrial society. Several factors like international, historical, economic and political have helped them to get a legal status and to represent the workers. They have organized Central Union Federations to help in determining the principles, philosophy, ideology of the unions and give a sense of direction to the isolated and scattered unions. The unions have achieved an outstanding status and their voices are heard by the employers and the government. In the matters pertaining to improvement in working conditions, job security, wage fixing, productivity, health and safety and several other matters concerning the interests of labours, the trade unions are consulted. They have created a platform to air their views, ideologies and policies at the State and National level.

For the attainment of their political independence, to improve the deteriorating economic conditions, high aspirations, political involvement in the labour field, a large number of small sized unions have come into existence at local level, but they are subject to infant mortality. These unions are allied with one or the other political parties. They are handmade of the political parties⁵⁷. The splitting of the unions has sympathies of political parties which have infused unions operating at different levels.

The trade union movement in India has a long and tough road in the past boasting of famous national leaders at center having rebellious presence till 1990s and it has been a painful process of fighting for their existence and uncertain future in the midst of tremulous social, political, economic and technical changes which have been the reasons for the existence of different types of trade unions. They are facing more and more competition among themselves. In the meantime, they are also facing a much more determined management response. Both in the medium and small-scale sector, we hardly find any unionization and if we find some sort of unionization in such sectors, it is generally small, divided and weak and they find it hard to face management in bargaining and other areas. but inspite of the above-mentioned weaknesses, the trade unions hold an important place in India.

4.4 TRADE UNIONS ACT, 1926

A number of originations of workers had sprung up all over India particularly in jute, cotton textiles, railways and transport industries. The inter-war period saw the coalition of the trade unions movement, the insistence of the rights of the workers, continuous industrial strikes and attempts in evolving machinery for settlement and prevention of industrial disputes.

During the quinquennium ending 1925, the number of unions increased nearly fourfold and their membership increased much more. The labour movement was truly united and there was complete harmony and co-operation among all sections of the working class.²³⁰ ”The enactment of ‘Trade Unions Act, 1926’ was the result of widespread unrest among the workers engaged in various industries and refusal of their genuine demands.

The Trade Unions Act, 1926 which was passed in 1926 is one of the earliest Act pertaining to labour class. Before this Act, the workers were not acquainted with the importance of being an

⁵⁷ Shyamal Chakraborty, “Unions does not mean only strike” (Sept. 1, 2006) p 138.

organized force. There was no collective action and the workers were at the mercy of their employers. They were contented with the wages given by the employers. The exploitation of workers by the employers made it necessary to enact a law which can protect their interests. A unity was needed. Hence, the government came out to give the workers their rights and powers.

“The Trade Unions Act, 1926” legalized the right to form and organize unions and thus, allowed the employees to form trade unions. Seven persons were permitted to form their unions and get it registered under this Act. “The Trade Unions Act, 1926” extended to the whole of India. It was brought into operation from June 1, 1927, by notification in the Official Gazette by the Central Government. This Act has been amended in 1947, 1960 and 1962. A comprehensive Trade Unions Act was passed in 1982 and again in 2001.

This Act was primarily enacted to protect the union leaders for the acts done by them in connection with the legal activities of trade unions. “It was in the Year 1920 that the Madras High Court in a suit filed against the officials of the Madras Textile Labour Union by Binny and Company, granted an injunction restraining the union official to induce certain workers to break their contract of employment by refusing to return to work. The labourers had refused to return to work. The union leaders found themselves liable to prosecution and consequently imprisonment even for bona fide Trade Union activities. The above judicial pronouncement gave rise to a spate of protests from the trade union leaders. Ultimately, the Government had to yield to the demands of the union leaders and afford them legal protection for legitimate Trade Union activities⁵⁸.

4.4.1 Trade Unions: Legal Status

“Every registered trade union is a body corporate by the name under which it is registered and shall have perpetual succession and a common seal with a power to sue and to be sued.²⁷⁴” “It is, however, not a statutory body. It is not created by statute or incorporated in accordance with the provisions of a statute. In other words, a registered trade union is neither an instrumentality nor an agency of the state discharging public functions or public duties.²⁷⁵” “A registered trade union is an entity distinct from the members of which the trade union is composed. It has a power to contract and to hold property-both moveable and immovable and to sue and be sued by

⁵⁸ Mamori C.B. “Dynamics of Industrial Relations” (2012) p 548, Himalaya Publishing House,

the name in which it is registered. It can institute a suit in forma pauperis within the meaning of Order XXXIII Rule 1 of the Civil Procedure Code. However, by mere registration of a trade union under the Trade Unions Act, the trade union does not become an authority under Article 12 of the Constitution of India. It continues to remain just a private body and all disputes relating to election of such a private body cannot be canvassed or challenged in a writ petition⁵⁹.

In case of All India UCO Bank Staff Federation, the Hon'ble High Court laid down.

“There is no Common Legal right of a trade union to represent its members whether for purposes of collective bargaining or individual grievances of members if the workman is not willing to take its recourse.

⁵⁹ East India Coal Co. Ltd v East India Coal Co. Ltd Workers' Union AIR 1961 Pat 51.

CHAPTER 5

THE INDUSTRIAL DISPUTES ACT, 1947: MACHINERIES FOR HANDLING INDUSTRIAL DISPUTES

5.1 THE MECHANISM

The labour laws have gone under a great change, over the years with regard to their object and scope. Earlier, the legislations were enacted for the interest and safeguard of employers. The labour laws seek to establish comely relations between the labour and management. The old doctrine of laissez fair was no longer held good and the theories of ‘supply and demand’ and ‘hire and fire’ were not considered as fair. The labour laws cover millions of workmen as compared to any other branch of law. Earlier, the workman was unable to bargain with the employer and his condition was very poor. To strengthen the power of workmen, the government brought the Trade Unions Act in 1926 and the Trade Disputes Act, 1929.” Before the enactment of Industrial Disputes Act, 1947, the Courts decided the industrial disputes under the provisions of the Trade Disputes Act, 1929. The Trade Disputes Act, 1929” had provided two adhoc bodies (i) Court of Inquiry and Board of Conciliation to enquire into the matters of disputes. Here, the trade dispute means a dispute between the management and workmen or between workman and workman in connection with employment or conditions of labour.³⁴⁸ It was not confined to disputes regarding trade or industry. This Act had revealed several defects which were to be overcome through a fresh legislation. Hence, a new Bill was introduced in the history and was referred to the Select Committee which came into existence on the recommendation of the Select Committee in the form of Industrial Disputes Act, 1947which came into operation on April 1, 1947.

The Industrial Disputes Act, 1947 is an important social legislation enacted to provide for investigation and settlement of Industrial Disputes and for maintaining industrial harmony. It is an Act enacted to ensure specific justice to both employers and workmen and to advance the progress of the industry by bringing about harmony and cordial relationship between the parties. The Act also enumerates the contingencies as to when a strike or lockout can be lawfully resorted to, when they can be declared illegal, conditions for laying-off retrenching, discharging

or dismissing a workman⁶⁰. The circumstances under which an Industrial Establishment can be brought to its closure and various other matters relating to employees and employers are covered in this Act. This Act extends to the whole of India.

The Industrial Disputes Act, 1947 has been amended several times since 1949 till date. This Act is a progressive piece of legislation and suits the modern set up of industries and settlement of the disputes through a judicial machinery and marching towards the aim of maintaining a calm and peaceful environment in the industry.

5.2 INDUSTRIAL DISPUTES ACT, 1947

Experience of the working of Trade Disputes Act, 1929, has revealed that its main defect is that while restraints have been imposed on the rights of strike and lockout in public utility services, no provision has been made to render the proceedings unstatutable under the Act for the settlement of an industrial dispute, either by reference to a Board of Conciliation or to a Court of Inquiry conclusive and binding on either party to the dispute. The defect was overcome, during the war, by empowering under Rule 81-A of the Defense of Indian Rules. The Central Government could refer industrial disputes to adjudicators and to enforce the awards, (under Rule 81-A). This bill embodies the essential principles of Rule 81-A which has proved generally acceptable to both employers and workmen retaining impact for the most part, the provision of the Trade Disputes Act, 1929⁶¹.

In this Act, the provision has been made for the settlement and the investigation for certain purposes of industrial disputes. This Act applies and governs the service conditions of the persons drawing wages upto a specified amount per month. This Act is a supplement to the Indian Contract Act, 1872. The aim of Indian Contract Act, 1872 was to regulate contractual relationship between employer and the employee. The Industrial Disputes Act, 1947 deals with the settlement and prevention of conflict between the employer and the employee and try to improve good relationship. Its object is to harmonize the relations between labour and management and to afford a machinery which can set up the disputes which arise between the employer and the employee. If such disputes are not settled, they may cause dislocation and collapse of industrial establishments and undermine the industrial peace which are essential to

⁶⁰ Kahn Freund, "Selected Writings" (1978) p. 43, Modern Law Review

⁶¹ Mamoria & Mamoria, "Dynamics of Industrial Relations" (2013) p. 460, Himalaya Publication House.

the life of community and society. The Act aims to secure industrial peace through negotiation or compulsory adjudication.

5.3 IMPORTANT FEATURES OF THE ACT

This Act is considered a landmark in the history of development of labour laws. The important features of the Act are as under:

- I. Including J & K, this Act extends to the whole of India.
- II. The workers of certain categories of industries are covered under this Act.
- III. Whereas earlier laws related to labour are restricted to certain factories and industrial establishments wherein certain minimum number of employees are engaged. In this Act, no such restriction has been imposed.
- IV. This Act provides for setting up a machinery to promote cordial relations between the labour and management through mutual consultation.
- V. This Act has also paved the way for speedy and amicable settlements of disputes and setting up a permanent conciliation machinery.

5.3.1 Some Important Amendments of ID Act, 1982

These are given below

- (i) Under the amended Act, 1982, any industrial dispute may be referred to the labour court or industrial tribunal by the Central Government where the Central Government is appropriate government.
- (ii) In the amended Act, the definition of “Industry” has been defined widely. The Supreme Court in the case of Banglor Water Supply & Sewerage Board has curtailed the scope of industry.
- (iii) This amended Act covers the supervisory staff also whose wages are below Rs. 1,600 per month.
- (iv) A new chapter-II B has been inserted in the amended Act and a time bound procedure, for redressal of grievances in the establishment employing 100 or more workmen, has been made.
- (v) For deciding any industrial dispute, a time limit has been inserted, both individual and collective and also for the disposal of any claim.

(vi) The amended Act has also made provision that the proceedings of any industrial dispute shall remain continued even after the death of a workman, by his/her heirs.

(vi) A new Section 17-B has also been inserted in the Act to make payment of full wages to the workman where the Labour Court, Tribunal or National Tribunal has ordered for the re-instatement of any workman, the employer is free to appeal to the High Court or the Supreme Court against the decision.

5.4 INDUSTRIAL DISPUTES: JURISDICTION OF CIVIL COURT

There is a famous case regarding jurisdiction of civil courts on industrial disputes is Premier Automobiles Limited⁶² wherein the Supreme Court held that (i) If the dispute is not an industrial dispute, nor does it relate to enforcement of any other right under the Act, the remedy lies only in the civil court (ii) If the dispute is an industrial dispute arising out of a right or liability under the general or common law and not under the IDA, 1947, the jurisdiction of the civil court is alternative, leaving it to the election of the suitor concerned to choose his remedy for the relief which is competent to be granted in a particular remedy:”(iii) If “the industrial dispute relates to the enforcement of a right or an obligation created under the industrial Disputes Act, then the only remedy available to the suitor is to get an adjudication under the Industrial Disputes act”(iv) If the right which is sought to be enforced is a right created under the Industrial Disputes Act, such as Chapter VA, then the remedy for its enforcement is either Section 33C or raising of an industrial dispute as the case may be.

Cases of industrial disputes, by and large, are invariably bound to be covered by principle (iii) stated above.

In Rajasthan State Road Transport Corporation the Supreme Court held that “the employees of the corporation were not civil servants and they were not entitled to protection of Article 311(2) of the Constitution. While dealing with the question of jurisdiction of civil courts in matters of industrial disputes, the Court applied the principles enunciated in Rajasthan State Road Transport Corporation v. Krishna Kant (supra) and held that the respondent ought to have approached the remedies provided under the IDA and civil court has no jurisdiction to entertain and try the suit.

⁶² (1976) 1 SCC 496.

Further, in Rajasthan SRTC⁶³ a three judge of Supreme Court considered the jurisdiction of the civil court regarding the termination of an employee under probation followed its earlier judgments in **Rajasthan SRTC v. Zakir Hussain** (supra) and Rajasthan SRTC v. Krishna Kant (supra), held that as the civil court had no jurisdiction, the decrees which were passed but the civil courts have no force of law.

5.4.1 Labour Court

For adjudication of industrial disputes with regard to the matter specified in the Second Schedule of the Act, the appropriate government may constitute one or more labour court by notification in the official gazette. The performing of such other function may also be assigned to them. One person will be appointed by the appropriate government for a labour court and his qualification as a presiding officer of a labour court shall be as under.⁶⁴

The working or a retired judge of a High Court, or who has been a District Judge or Add. District Judge for a period of not less than 3 years, or has remained at least for a period of 5 years as the presiding officer of a Labour Court comprised under any Provincial Act, or is or has been a Deputy Chief Labour Commissioner or joint commissioner in labour department with at least 7 years experience and with a degree of law including 3 years experience as conciliation officer, shall be appointed as the presiding officer of a Labour Court. That person shall have to resign from his current post before joining as a presiding officer in labour court.

Any person who has attained the age of 65 years and he is not an independent person, shall not be appointed as the presiding officer of a Labour Court.

“In actual practice, it is, however, found that instance is made on judicial qualification in the appointment of presiding officer of labour courts and industrial tribunals. Further, generally retired personnel are chosen to serve as a presiding officer. It is submitted that the appointment should be made in consultation with the Chief Justice of the High Court. This will ensure the appointment of independent persons by the appropriate government as presiding officer of labour

⁶³ (2006) 1 SCC 59.

⁶⁴ Ibid.

courts and industrial tribunals. Further, the appointment should be made on a permanent basis with promotional avenues open to them⁶⁵.

5.4.2 Duties of Labour Court

The court shall hold the proceedings expeditiously as soon as it is practicable. The court shall submit the awards to the appropriate government after the conclusion of the proceedings. The matters relating to day-to-day working shall, usually, be dealt with by the labour court.

5.4.3 The Second Schedule of the Act specifies the matters are:

- a. To pass an order regarding the propriety or legality of an employer under the Standing Orders.
- b. To interpret and applicability of standing orders
- c. To grant relief to the employees wrongfully terminated/dismissed from services including reinstatement.
- d. Illegality of a strike or a lock-out.
- e. Such other matters which are not specified in the Third Schedule of the Act and assigned to it under the Industrial Disputes Act.

The jurisdiction of the labour court is very much curtailed. It has neither any supervisory jurisdiction nor it can act as guardian of an industrial establishment. Its duty is only to see whether the enquiry satisfies the principles of natural justice and the management acted in accordance with the rules which did not favour any malpractice or victimization.

The labour court has the jurisdiction to enquire in case the proceedings of the domestic enquiry are vitiated. Remarking on the jurisdiction of the labour court, the Supreme Court in **Anand Bazar Patrika v. Its Employees**,⁶⁶ held that.

If termination of an industrial employee's service has been preceded by a proper domestic enquiry held in accordance with the rules of natural justice and the conclusion reached at the said enquiry perverse, the tribunal is not entitled to consider proprietary of the said conclusion. If on the other hand, in terminating the service of the employee, the management has acted

⁶⁵ Srivastava S.C., "Industrial Relations and Labour Laws" (2012) p. 627, Vikas Publishing House Pvt Ltd, ed. 6 th .

⁶⁶ AIR 1964, SC 339.

maliciously or vindictively or has been actuated by a desire to punish the employee for the trade union activities, the tribunal would be entitled to give adequate protection to the employee by ordering his reinstatement.

In *Nandram*, the appellant was employed in Aurangabad. After promotion, he was transferred to Silvasa and thereafter to Pondicherry where he was terminated on account of closure of the establishment. The Head office of the Establishment was in Aurangabad and the action was taken in Pondicherry. The aggrieved person moved to the Labour Court at Aurangabad which decided the case in favour of the complainant. The High Court set aside the order of the Labour Court due to not having the jurisdiction. The Supreme Court held.

In the background of the factual matrix, the undisputed position is that the appellant was employed by the Company in Aurangabad, he was only transferred to Pondicherry, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad and consequent upon that decision only the appellant was terminated. Therefore, it cannot be said that there is no cause of action at all in Aurangabad. The decision to terminate the appellant having been taken at Aurangabad necessarily part of the cause of action has arisen at Aurangabad. We have no quarrel that Labour Court, Pondicherry is within its jurisdiction to consider the case of the appellant.

In *Mangi Lal and Others*⁶⁷ the 1st Petitioner was retrenched so he raised industrial dispute. Labour Commissioner refused to refer matter to Industrial Tribunal on ground of delay and laches. The Question was whether Labour Commissioner is justified is justified. The High Court held.

Though there is delay in raising industrial dispute, Labour Court can always mould relief taking into consideration delay and laches. In view of definitive law laid down in *Raghubir Singh*, the impugned order is set aside. The Labour Commissioner is directed to make reference to Industrial Tribunal.

It is obligatory on the part of the labour court to consider the merits of the case and answer the reference made to it. It has no power to pass an award. The court has also no power to dismiss any reference in default because it would amount to an end to the proceedings otherwise than by adjudicating upon the dispute.

⁶⁷ 2015 IV LLJ 22 (HP).

5.5 INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946: RULES, REGULATIONS AND CERTIFICATION OF STANDING ORDERS IN INDUSTRIES

In several cases, the conditions were not well defined and there was ambiguity in the conditions laid down in the contract. This resulted in lack of uniformity in the agreement. The employer altered the conditions of the contract arbitrarily. This confused the workers because they couldn't understand as to what was expected of them and what was to be followed. The employers as well as the workmen found themselves victims of the caprice. Therefore, the situation led to the industrial unrest and created unsatisfactory climate for good relations. The government either at its own or at the instance of unions initiated the Industrial Employment (Standing Orders) Act, 1946.

The modern law required that the terms and conditions of employment and rules of disciplines should be written and known to the workmen concerned and these should also be uniformed, fair and reasonable. Before the enactment of the Standing Orders, the service conditions of workmen were invariably ill-defined and these were hardly known to the workmen. In several establishments, the conditions were not uniformed and not even reduced to writing except some large-scale industrial establishments. However, such rules were one sided and very elastic to suit the employers. The employers in framing the rules neither consulted the union nor the government and gave an upper hand to the owner of the industry with regard to disputable points. Therefore, there was discriminatory treatment between the employees in the same premises and for a similar work. This was not only detrimental to the employees but also against the interests of industry because there was unnecessary industrial conflict⁶⁸.

In addition to above, this was also not inconformity with social justice because there was no statutory protection available to the employees. Mostly, the contract was unnatural in character as it described mere manifestation. An agreement in an establishment is an agreement of two unequals, one of them is worker who is to work and the other is who has brought capital and to manage the things. Experience shows that to minimize the friction between the labour-management in an industrial establishment, the conditions of employment, discharge, holidays, leave, disciplinary action should be well defined. Therefore, to overcome such difficulties and to

⁶⁸ Dr. Avtar Singh & Dr. Harpreet Kaur, "Introduction to Labour & Industrial Law", (2008) p. 521, LexisNexis Butterworths Wadhwa Nagpur.

achieve the harmony and peace, the government enacted the Industrial Employment (Standing Orders) Act, 1946 which required the management to define the rules and conditions clearly. Thus, the preamble of the Act laid conditions to define the regulations and to make these regulations and conditions known to the employees.

5.6 ORIGIN OF THE ORDER

The origin of the Standing Orders goes back to the year 1944 when the 6th Indian Labour Conference considered to frame of the standing orders with regard to the rules and regulations for workmen. The conference observed that there was need to define the conditions of employment, discharge, holidays, leave and disciplinary action etc so that the friction between the management and the workers in an industrial undertaking may be minimized. The mutual bargaining between the labour and management was treated as grants and the workmen had a biding confident in the unity of this law. But their faith had proven incorrect and they found that the laws have not been adequately processed for fair bargaining⁶⁹. Therefore, the workmen resorted to organize themselves into trade unions to emphasis for collective bargaining with the employer. The advent of the trade unions created new problems to maintain industrial peace. No doubt, some of the industrial establishments in India had framed rules for employment but they were very elastic to suit the convenience of the employers. The employers had upper hand in respect of any dispute. The workers were confused and they could not understand as to what was expected of them by the management.

The Industrial Employment (Standing Orders) Act, 1946”was deigned to define the terms of employment and to give the workmen collective voice regarding the terms of employment and ensure the conditions of service. On the basis of the tripartite labour conference, the Central Government introduced a Bill providing for framing the rules containing the terms and conditions of employment in the industrial establishments, was introduced in the legislative assembly on April 8, 1946 and was passed under the title The Industrial Employment (Standing Orders) Act, 1946.”It came into force on April 23, 1946. This Act has been amended through several amendments in 1951, 1961 and 1963.

⁶⁹ The Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

5.7 THE STANDING ORDERS ACT

The aim and object of the Central Government was to introduce uniform Standing Orders and provide equal conditions of service to the workmen employed in industrial establishment before or after the Standing Orders came into force. After the enforcement of the Standing Orders, the conditions laid down therein, will be binding on all those presently in the employment of the concerned establishment and appointed thereafter.

In the Preamble, it has been clearly stated that it will deal with the conditions of labourers in an industrial establishment. The employers shall have to define precisely the conditions of employment and to make these conditions known to the workmen employed in their industries. It provides uniformity of terms and conditions in respect of all workmen employed in the industry and belong to the same category. All these conditions will be reduced to writing and to get them implemented compulsorily with a view to avoid any unnecessary industrial unrest. Actually, these orders were intended to be the nature of 'shop rules' circulated by the management under statutory obligations. These may be described as written 'Code of Conduct' for workmen, and the working against these orders will amount to indiscipline and will be described as an act of misconduct⁷⁰.

This Act will apply to all industrial establishments employing 100 or more workers or employed on any day preceding 12 months. In several States, the governments have extended the application of the Industrial Employment (Standing Orders) Act, 1946 to the industrial establishments employing 50 or more persons. Actually, there is no need to delimit the number of employees. As long as the two parties of the agreement agree to enrich the productivity, production and multi-skilling of the industrial establishment, the Standing Orders may be prepared by the management in consultation with the federation or recognized unions. In case of any disagreement, the disputed matter will be decided by the competent certifying authority.

On the basis of the judicial judgments given by the Supreme Court from time to time, the main objectives may be given as below:

⁷⁰ Mamoria & Mamoria, "Dynamic of Industrial Relations"(2015) p. 181, Himalaya Publishing House.

- I. To define, with sufficient precision, the principal conditions of employment in industrial establishments under them and to make the said conditions known to workmen employed by them.
- II. To regulate standards of conduct of the employers and employees so that labor management relations could be improved.
- III. To maintain proper discipline, harmonious working conditions and achieve higher productivity by providing satisfactory employment and working conditions.
- IV. To provide for redressal of grievances arising out of employment or relating to unfair treatment of wrongful exaction on the part of the employers against the employees.
- V. To specify the duties and responsibilities of both the employers and the employees.
- VI. To provide statutory sanctity and importance to the Standing Orders⁷¹.

5.8 VALIDITY OF TERMINATION OF SERVICE UNDER STANDING ORDERS ACT

The **Supreme Court in the case of D.K. Yadav**⁷² held that the principles of natural justice are mandates of article 14 and 21 of the Constitution of India. The principles of natural justice must be read wherever the Standing Orders provide for automatic termination of service for absence without leave.

In the case of Hindustan Paper Corp. the Supreme Court held that where an employee remains absent from duty without prior sanction for about 6 months by sending application for leave on medical ground but doesn't support it with medical certificate. Then it would be deemed that the employee has lost the lien on the job when he fails to avail the opportunity by replying in half-hearted way and not reporting for duty.

The hon'ble Court in Punjab and **Sind Bank v. Sakattar Singh**⁷³, laid down that "the termination of a bank employee absenting for 190 days without holding an inquiry will not be violative of principles of natural justice.

5.9 MAIN CHARACTERISTICS OF THE ACT

The main characteristics of the Act are given below

⁷¹ Ibid at p. 285.

⁷² "D.K.Yadav v. J.M.A. Industries Ltd.,"(1993)3, SCC 259.

⁷³ 2001 LLR 155 (SC).

- (i) Standing Orders cover all matters specified in the Schedule of the Act.
- (ii) These are approved by the proper authority and published 'in such a way that all the workers can be familiar with them.
- (iii) All the principal terms and conditions of employment, except matters pertaining to wages and other forms of remuneration, are settled clearly under the Standing Orders.
- (iv) Most of the mutual rights and duties of workers and management are clearly defined.
- (v) The procedures are to be followed whenever there is any dispute or disagreement over these mutual rights and duties which are also specified therein. The procedure which the management is to follow in disciplining the worker, and the procedure which the worker has to follow when he has a grievance both these are given in clear language.

5.10 COVERAGE OF THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

The Industrial Employment (Standing Orders) Act, 1946 extends to the whole of India and applies to an industry wherein hundred or more workers are employed or were employed on any day of the preceding twelve months. "The problem connected with the provision is that this Act is inapplicable if the number of workmen falls below 100. The Bombay High Court has answered it negatively in the case of Balakrishan Pillai. The Act has cleared the word 'Industrial Establishment' in section 2 (e) of the Act. It means:

- (i) an industrial establishment as defined in clause (ii) of Section 2 of the Payment of Wages Act, 1936 or
- (ii) a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 or
- (iii) a railway as defined in clause (4) of Section 2 of the Indian Railway Act, 1890

Therefore, this Act is exclusively to regulate service conditions with regard to the persons engaged in industrial establishments. The Employees' State Insurance Corporation is not an industrial establishment but electricity department of a municipality comes under the definition of industrial establishment and the Act is applicable in this case.

Non-applicability of the act to certain industrial establishments (SEC. 13-B)

Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules are applicable, i.e.,

- i. Civil Services (Classification, Control and Appeal) Rules,
- ii. Civil Services (Temporary Service) Rules,
- iii. Revised Leave Rules,
- iv. Civil Service Regulations,

5.10.1 THE STANDING ORDERS

The Industrial Employment Act, 1946 defines the meaning of ‘Standing Orders’ in section 2 (g). These are the rules which relate to the matters explained in the Schedule. Under this section, the employer has to make a draft of standing orders for submission to the certifying officers regarding the matters prescribed in the Schedule. The matters which are referred in the Schedule are as under

- a. The categories of the workers should be clearly defined, i.e., whether they are regular or temporary on probation or etc.
- b. The working hours, rates of wages, holidays, pay-days should be intimated to the employees.
- c. The shift of working should also be mentioned in the Schedule.
- d. It should be clearly mentioned regarding the rules of attendance and late coming.
- e. The authority which will sanction leave and holidays and how to apply should also be clearly specified in the Schedule.
- f. The requirement of entrance and exit from the premises and liability should also be specified.
- g. The reopening and the closing of any section of the industry, temporary stoppage of work, the rights and responsibilities of the employer arisen there-from should also be specified.
- h. The notice for termination of employment should also be given by the employer.
- i. The rules regarding the acts or omissions, suspension or dismissal for misconduct etc.
- j. The means of redressal for wrongful act or unfair treatment by the employer or his nominee should also be specified in the Schedule.

5.11 PLAN OF THE INDUSTRIAL ESTABLISHMENT EMPLOYMENT (STANDING ORDERS) ACT, 1946

There is total 15 sections along with one Schedule in the Act.

Section 1 of the Act mentions the applicability and the title of the Act.

In section 2, the definitions of various terms such as Employer, Workman, appropriate government, Certifying Officers, Standing Orders etc. have been given.

Section 3 defines the duties of employer and the date of applicability of the Act to an establishment.

Section 4 provides that Standing Orders become applicable if found in conformity with the provisions of the Act.

The procedures to be followed by the Certifying Officers are mentioned in section 5 of the Act. It provides opportunities to employer and employee equally for hearing before the order is passed.

The provision for any appeal against the orders of the Certifying Officer has been given in section 6.

The date from which the Act is applicable is laid down in section 7 of the Act. Both the employer and the workman are bound to act with effect from the date of applicability.

The maintenance of a Register with regard to the rules and regulations which are finally certified are included in section 8 of the Act.

The certified copies of the standing orders should be pasted in English or the language understood by the workers is provided in section 9.

Any modifications in the standing orders or the duration at the instance of any party after the expiry of 6 months are dealt with under section 10.

The appellate authority or the certifying officers are given the powers of a Civil Court under section 11.

CONCLUSION AND SUGGESTIONS

The present study is based on historical development of labour-management relations through collective bargaining, forming of trade unions, forming of employers' associations and various legislations enacted by the appropriate government to sort out the problems arising from time to time between the workmen and the employer. Various awards given by the labour courts, industrial tribunals, national tribunals, High Courts and the Supreme Court have been analyzed. The compulsion of framing standing orders with regard to the rules and regulations of employment and their violation on the part of labour and management have also been analyzed in the present study. This study explains the perception of workmen as presently perceived by them under prevailing circumstances. The impact of the various legislations on the labour and management relations has been studied in light of the decisions given by the various tribunals and courts. Since, man is a social animal and all the problems faced by the working men cannot be set aside through one Act. The appropriate governments have made their best efforts in solving of the problems arising in day-to-day life.

The "Indian working class has had a different historical origin than that of England. In England, the industrial revolution was preceded by agrarian revolution whereas in India, the modern industrialism was preceded by the rise of wage-earning class. The increase of population, fragmentation of land, defective system of revenue and impoverishment led the working class to exploitation." In the beginning, the working class was unable to combat with the management. At that time, the wage earning class was composed of the lowest and unfortunate class of people.⁶⁸⁷ With the advent of industrialization after the First World War, the conditions changed and reflected in two ways, first, the emergence of country as an industrial nation; Secondly, flocking of a large number of landless workers to industrial centers in cities with some shortcomings which caused hurdles in uniting themselves.

These shortcomings led the working class to exploitation and ultimately there was unrest among the workers. The continuous unrest affected the national economy adversely and forced the appropriate governments to enact the Trade Unions Act, 1926, the Industrial Disputes Act, 1947, the Industrial Employment (Standing Orders) Act, 1946 with several amendments made by the government from time to time keeping in view the new problems arose in the industrial environment.

CONCLUSION

It is apparent from the results in the foregoing Chapters regarding the labor management relations in the emerging scenario of Indian industrialization. The two terms 'labour-management relations' and 'employer-employee relations' are synonymously used. The scope of labour-management relations varies from place to place, time to time and establishment to establishment.

The main elements in the development of trade unions of workers in every country have been more or less the same. The setting up of large-scale industrial units, created conditions of widespread use of machinery, new lines of production which brought about changes in working and living environment of workers, and concentration of industries in large towns. All of these developments introduced a new class of workers who were dependent on wages for their livelihood. They were at a disadvantage in an age when the doctrine of laissez faire held the field.

The employers are found to be indifferent towards the terms of union and its commitment for relationship between union and management for industrial peace and economic development of the nation. There is dire need to develop cordial relations between the labour and management. To maintain industrial peace, the mode of 'Collective Bargaining' was adopted by the labour and management. At the initial stage, this collective bargaining was between the workmen and the employer but with the advent of time and rising of problems, a number of workmen collectively bargained with the employer.

In 1920, the Madras High Court restrained the union officials to provoke other workers to break their contract of employment. This judicial pronouncement gave rise to a spate of protest and ultimately, the government had to submit to the demands of the union and enacted the Trade Unions Act, 1926. To provide the procedure for registration of trade unions, the Act was subsequently amended in 1929. The detailed provisions for formation, registration, procedure for registration of trade unions, advantages of procedure and immunities to the registered labour unions from civil and criminal laws were made available in the Act.

The object of the enactment of Trade Unions Act was to provide the procedure for registration of trade unions, their membership so that they can acquire a legal and corporate status. After the

registration, the trade union is treated as an artificial person in the eyes of law and it can enjoy the rights and discharging its liabilities like a human being. Necessary provisions for administration and penalties are made in this Act. Further, the conditions for governing the registration of a trade union, its obligations, rights and liabilities have also been mentioned in the Act.

The Trade Unions Act of 1926 was further amended in 1982 to reduce the multiplicity of unions, to make provision for a machinery for resolution of disputes arising from inter-union rivalries through voluntary arbitration, to empower the appropriate government to refer a dispute for adjudication, to fix a time-limit for registration of a trade union, to make procedure for cancellation, re-registration of the trade union and provision for compulsory percentage of working employees as members of a registered trade union. The trade unions enhance job security of employees, help in increased workers participation in decision making and give labour a dignified role in the society.

The Trade Unions Act, 1926 legalized the right to form and organize unions and thus, allowed the employees to form trade unions. Seven persons were permitted to form their unions and get it/ registered under this Act. The Trade Unions Act, 1926”extended to the whole of India.⁶⁹⁰ It was brought into operation from June 1, 1927, by notification in the Official Gazette by the Central Government. This Act has been amended in 1947, 1960 and 1962. A comprehensive Trade Unions Act was passed in 1982 and again in 2001.

In case, the management of an industry is not satisfied with the work performance or with the conduct, and the management takes action over the performance or conduct, but the dismissal is unjustified then the option is left for the management. The two terms labour management relations and employer-employee relations are synonymously used. The scope of labour-management relations varies from place to place, time to time and establishment to establishment. These organizations enhance job security of employees, help in increased workers’ participation in decision making and give labour a dignified role in the society. The action may be taken by the management which may be appropriate to the circumstances .

Disciplinary action is to be taken only in that case, where counselling has failed or the situation is significantly graver, but the situation is not so bad that, for instance, counselling seems to be a better approach than dismissal. The labour-management relation is the combined result of the

approaches and attitudes of industrial management and the working force towards each other in co-ordination, planning, direction, supervision and other activities in an organization with minimum frictions with animating spirit, human efforts and cooperation with regard to genuine welfare of all members in the organization whether employer or employee⁷⁴.

The scope of labour-management relations varies from place to place, time to time and establishment to establishment. It includes how the people get work together, what difficulty arises between the labour and the management, how the relations are included with working conditions and how the organization protects the different interests of its workers. These organizations enhance job security of employees, help in increased workers' participation in decision making and give labour a dignified role in the society.

The State plays a vital role for the maintenance of cordial relations between the labour and management. The labour-management relations and the public policies are specially influenced by Constitution of India and International Labour Organization. The recommendations and reports of Enquiry Commissions for instance, the Royal Commission on Labour, Rural Commission, National Commission on Labour, Indian Labour Conference and Standing Labour Committee, Industrial Committees, all these Commissions and Committees provide useful inputs for labour-management relations in the form of government policies.

The movement of trade unionism in India suffered from a number of problems like politicization of unions, intra-union rivalry, small number of membership, lack of welfare facilities, weak bargaining power, dependence on outside leadership, multiplicity of unions, financial weakness and weak bargaining power. This has been the vicious circle which has adversely affected the trade unions, their status and bargaining power.

The labour laws seek to establish comely relations between the labour and management. The old doctrine of laissez fair was no longer held good and the theories of 'supply and demand' and 'hire and fire' were not considered as fair. The labour laws cover millions of workmen as compared to any other branch of law. Earlier, the workman was unable to bargain with the employer and his condition was very poor. To strengthen the power of workmen, the government brought the Trade Unions Act in 1926 and the Trade Disputes Act, 1929. Before the enactment

⁷⁴ Chhabra T.N. & Suri. R.K., "Industrial Relations Concepts & Issues", (2014) p. 655, Dhanpat Rai & Co. (P) Ltd., New Delhi.

of Industrial Disputes Act, 1947, the Courts decided the industrial disputes under the provisions of the Trade Disputes Act, 1929. Since, several defects were revealed in the earlier legislations, these were to be overcome through a fresh legislation. Hence, a new bill was introduced in the legislation and was referred to the Select Committee which came into existence in the form of Industrial Disputes Act, 1947 and came into operation on April 1, 1947.

“The Industrial Disputes Act, 1947 is an important social legislation enacted to provide for investigation and settlement of Industrial Disputes and for maintaining industrial harmony. It is an Act enacted to ensure specific justice to both employers and workmen and to advance the progress of the industry by bringing about harmony and cordial relationship between the parties. The Act also enumerates the contingencies as to when a strike or lockout can be lawfully resorted to, when they can be declared illegal, conditions for laying-off retrenching, discharging or dismissing a workman⁷⁵. The circumstances under which an Industrial Establishment can be brought to its closure and various other matters relating to employees and employers are covered in this Act. This Act extends to the whole of India.

The Industrial Disputes Act, 1947 has been amended several times since 1949 till date. This Act is a progressive piece of legislation and suits the modern set up of industries and settlement of the disputes through a judicial machinery and marching towards the aim of maintaining a calm and peaceful environment in the industry. This Act is considered as a landmark in the history of development of labour laws because its object is to ameliorate the working conditions of the labour class.

The Industrial Disputes Act, 1947 embodies the essential principles of Rule 81-A of the Defence of Indian Rules which has proved generally acceptable to both employers and employees.

In this Act, the provision has been made for the settlement and the investigation for certain purposes of industrial disputes. This Act applies and governs the service conditions of the persons drawing wages up to a specified amount per month. This Act is a supplement to the Indian Contract Act, 1872. The aim of Indian Contract Act, 1872 was to regulate contractual relationship between employer and the employee. The Industrial Disputes Act, 1947 deals with the settlement and prevention of conflict between the employer and the employee and try to

⁷⁵ Venkataratnam, C.S., “Industrial Relations: Current Perspective” (1998) p. 267, Allied Publishers, New Delhi

improve good relationship. Its object is to harmonize the relations between labour and management and to afford a machinery which can set up the disputes which arise between the employer and the employee. If such disputes are not settled, they may cause dislocation and collapse of industrial establishments and undermine the industrial peace which are essential to the life of community and society. The Act aims to secure industrial peace through negotiation or compulsory adjudication.

The Supreme Court in the case of Dimakuchi Tea Estate Karmchari Sangh⁷⁶ summed up the objects of the Act. The same are as under –

- 1) To promote measures for securing and preserving amity and good relations between the employers and the employees, to minimize the differences and to get the dispute settled through adjudicatory authorities.
 - 2) II.To provide a suitable machinery for investigation and settlement of industrial disputes between employers and employees, between employers and workmen; or between workmen and workmen with a right of representation by a registered trade union or by an association of employers;
 - 3) III.To prevent illegal strikes and lockouts
 - 4) IV.To provide relief to workmen in matters of lay-offs, retrenchment, wrongful dismissal and victimization.
 - 5) To give the workmen the right of collective bargaining and promote conciliation.
- Therefore, the object of the Act is to ameliorate the working conditions of employees in an industry.

The provisions, for investigation and settlement of industrial disputes, have been made in this Act. The Preamble of the Act states the object and under section 2, the definitions and certain expressions with certain meanings have been included. In this Act, seven chapters and 40 sections have been mentioned.

SUGGESTIONS

Based on the major findings of the study and conclusions, some suggestions are being forwarded herewith. The findings of the present study to moderate the labour-management relation climate

⁷⁶ AIR 1958, SC 358.

may be attributed to the organizations, norms, policies and practices accepted in the organizations, the quality of labour-management relationship and their outcomes.

In the present industrial scenario, the Indian economy has to face global competition as there is a rush of foreign capital and industry in our country. Therefore, this change in economic environment has affected the total gamut of styles, structures and contents of all those who are at stake in the field of economic firmament (heaven) and concept of industrial relations. There is need for change in the direction of labour-management relations, change in the comradeship between the two protagonists of labour and management which is to be governed by a totally new set off parameters. The gradual realization by both partners who are to survive, have to surrender their sectional interests in the interest of the economy of the country.

Moreover, the rapid development in industry and need for attainment of economic reliance are the two major jobs which the country need to set out to accomplish these tasks in addition to others. The key to achieve this objective is increased production which depends upon the effective co-operation between labour and management at every stage. The way to ensure their co-operation is to satisfy their psychological and social needs in addition to economic needs⁷⁷.

Earlier, the industrial organizations had focused on growing and attaining bigger status. But now due to increasing international competition as well as rapid pace of technological change, there is need for Indian industrial organizations to become flexible, lean and faster. The issues which are posing challenges to the Indian industrialists are threefold in the system, i.e.,

- 1) To strengthen collective bargaining instead of adjudication by trying to determine a bargaining agent for negotiation. A sole bargaining agency should be created in every unit and industry. It has also been advocated where the parties involved have a full understanding. Because the disputant may arrive at a speedier settlement of disputes between themselves through collective bargaining⁷⁸.
- 2) The gaps are occurring due to variations that occur in Central and State legislations regarding the matters which are concerned with labour and industry. Therefore, there is need for forming a Common Labour Code. The adoption of a Common Labour Code will help in solving some of the problems faced by the Indian legislation process.

⁷⁷ Dayal Sahab, "Industrial Relations System in India" (1980) p. 742.

⁷⁸ 7 Ibid.

- 3) The third issue is the participation of workers in the management. It has been experienced earlier that the workers' participation schemes in management have made no headway. There is need to probe into the failure of such schemes so that the workers may participate in management.
- 4) Due to growing inter-linkages between the industry and its environment, the above three issues be taken into account to effect their actions on consumer and society. In terms of strategy, they need evaluation and to decide appropriate alternatives to adopt in managing the personnel and industrial relations' functions. Since the industrial environment is changing speedily and there are pressures from different groups which are involved are starting to get more vocal and intense. Hence there is need that the strategy chosen for the attainment of peaceful labour-management relations, will depend on the values, objectives and structures available and the environment wherein these are to be operated⁷⁹.
- 5) In this impact of globalisation, the competitiveness can be acquired through harmonious relations between labour and management. Both of them are required to develop their mindset that looks upon each other as partners to develop a work culture to accept new technology.
- 6) To create competent, full time and well-disciplined trade unions with leaders of sound trade union education.
- 7) The union must play a vital role in improving the living conditions of the workers. Greater interests must be evinced for the welfare programmes of the members such as literacy, health and family planning, education, cultural and recreational activities.
- 8) The government should also grant financial aid to those trade unions which are inclined to promote personal and environmental hygiene and other welfare activities for their members⁸⁰.
- 9) There is need to evolve a new culture, the wages which are paid to the workers should be looked upon as incomes earned through hard work. Individual workers' attitude should include pride in maximising productivity to repay his debt to the society which should reflect in quality of work.

⁷⁹ Hoffman, Rillen B., "Resolving Labour Management Disputes" (1973) p. 238.

⁸⁰ Ibid. p. 257.

- 10) The duty of managements should be to make contribution to improve the work culture and also to maintain high level of work culture. The arrangements should be made for fair wages, equitable profit sharing and opportunities to interact.
- 11) The attitude of working hours should not be rigid. If working hours are beyond nine hours a day and forty hours a week that should be compensated with overtime wages.
- 12) To meet the demand of hire and fire, a social acceptability must be created. For this purpose, a social institution must be created which can take care of the consequences. There is need for evolution of socially accepted consensus for this fundamental change and there should also be a system of constant upgradation of employability and there should also be a provision for social security including unemployment insurance⁸¹.
- 13) The benefits like maternity leave, child care, medical benefits, workmen's compensation and certain other benefits of social security and safety must be applicable to all workers irrespective of the size of establishment and nature of its activity.
- 14) The industrial laws must be grouped into limited groups of loss pertaining to industrial relations, safety of workmen, wages, social security and welfare and working conditions etc.
- 15) All these laws relating to industrial organisations should be judiciously consolidated into a single law.
- 16) Some of the terms like wages, workmen, and industrial establishment should be well-defined and they should be common in all labour laws.
- 17) The trade unions generally adopt the practice of 'go slow' and 'work to rule'.
- 18) This practice should be treated as a part of misconduct.
- 19) In the field of essential services, there must be a strike ballot. If this strike ballot shows that more than fifty percent of workmen are in favour of strike then the matter/dispute should be referred to compulsory arbitration.
- 20) The trade unions of workmen even in unorganized sectors should also be registered. There should also be a ceiling on the total number of trade unions.
- 21) XXI. The political and ideological affiliation of the parties in power at different levels is also responsible for bitter labour-management relations. Therefore, there is need for a single or unified model of industrial relations. The general weakening of the tripartite

⁸¹ Srivastava C. Suresh, "Industrial Relations and Labour Laws" (2012) p. 385, Vikas Publishing House Pvt. Ltd.

system has also made it difficult to achieve any uniform patterns of industrial relations policy. It should be discouraged.

22) XXII. The objective of the government in the successive five year plans to maintain harmonious relations between labour and management is no longer sufficient. The conventional system of industrial relations which is based on regulations has become obsolete. Only peace is not sufficient for good industrial relations but there is also need of harmony between labour and management. For a healthy economy, the harmony should also be considered as a pace towards healthy relations between labour and management.⁷²³

23) XXIII. The future of the labour-management relations should be oriented towards human resource management. It should believe in investment of human capital and the involvement of workmen in all matters that affect the working class at the workplace and beyond which seeks a security and a work-life balance. There should be development of competence and multi-skilling career planning. All this should meet the expectations of the workmen and secure a balance between their requirements and that of the organisations as well as the family needs of the working class.

Everyone who is involved with an organization directly or indirectly becomes involved in the activities of organization. The overall quality of labour-management relationship and changes therein can have an important effect on the industrial relations, the performance and the activities in an organization. Therefore, there is a unique importance of good labour-management relations. Maintenance of industrial peace is the primary duty of all the stake holders including State who are associated with the labour and industries directly or indirectly. In a country like India, which is based on welfare pattern one cannot undermine the importance of labour-management relations. The subject requires constant research and vigil at all times on the problems of workers, employers etc. There is a need of balancing the interests of employers and workers which in turn will help in growth of industrial economy. In fact, if we carefully examine, there is no conflict between the interests of workers and employers. Although, prima facie, it appears that there is an apparent conflict between the two. At the end, it is submitted that one must keep in mind the ultimate goal of each and every person in this world and their duties towards others.

BIBLIOGRAPHY

BOOKS

- Aggarwal, S.L., “Labour Relations Law in India”, (1978) Macmillan, New Delhi
- Aggarwal, S.L., “Management Guide to Strikes, Lockouts and Gherao”, (1978) Macmillan, New Delhi
- Arya, V.P., “Strikes and Lockouts”, (1972) Oxford and IBH Publication
- Avtar Singh & Harpreet Kaur, “Introduction to Labour & Industrial Law”, 2nd Ed., (2008) Lexis-Nexis Butterworths Wadhwa, Nagpur
- Bagri, P.R., “Law of Industrial Disputes” (1983) Kamal Law House, Kolkata
- Bakshi, P. M., “The Constituion of India” (2005) Universal Law Publishing Co., Delhi
- Brooks, T. Thomas, R., “Toil and Trouble, A History of American Labour” (1971)
- Chhabra T.N. & Suri. R.K., “Industrial Relations Concepts & Issues”, (2014) Dhanpat Rai & Co. (P) Ltd., New Delhi
- Comphall, Alen, “The Industrial Relations Act- An Introduction” (1971)
- Cayler, J.L., Puruis, R.L., “Industrial Law”(1972)
- Dayal Sahab, “Industrial Relations System in India”(1980)
- Dhyani, S.N., “Trade Unions and the Rights to Strike” (1977)
- Falcone, Nicholas, S., “Labour Law” (1962)
- Freud, Otto Kahan, “Labour and the Law” (1972)
- Giri, V.V., “Labour Problem in Indian Industry” (1972) Asia Publishing House, New York
- Gopalan, S., “Indian and Human Rights” (1998) Lok Sabha Secreteriate, New Delhi
- Goswami, V.G.,” Labour and Industrial Law”, Central Law Agency Publication, 2008.

- Hart, H.L.A.; “Concept of Law” (1994) Oxford: Clarendon Press • Hoffman, Rillen B., “Resolving Labour Management Disputes” (1973)

ARTICLES

Achintya, “Industrial Relation: Issues and Challenges” (2007) Human Resource Article at mbaskool.com

Aditya Swarup, “Grievance Settlement Authorities: Emerging Trends” (2008), Labour Laws Journal, II.

Ajay Kumar Samantary, “Some reflections in Industrial Jurisprudence: Scope of Section 10(1) of the I.D. Act, 1947: When a reference of Industrial could be treated as invalid?” (2007) p. 7., Labour Industrial Cases, Journal, January.

Anita Hammer, “Trade Unions in a constrained environment: Workers’ voices from a New Industrial Zone in India”(March 2010) pp. 104–187, Industrial Relations Journal, Issue 2, Volume 41.

Baldev R. Sharma and Sundarajan P.S., “Organisational Determinants of Labour Management Relations in India” (July 1983) pp.1-20, Indian Journal of Industrial Relations, Vol.19, No.1,

JOURNALS

- Academy Law Review
- Aligarh Law Journal
- All India Reporter
- Amity Law Review
- Andhra Law Times

WEBSITES

- <http://www.history.com/encyclopedia>.
- <http://en.wikipedia.org/wiki/tradeunionsintheunitedkingdom>.

- http://en.wikipedia.org/wiki/listoftradeunionsinthesingareni_coalfields.
- www.publicationdivision.nic.in
- <http://webcache.googleusercontent.com>
- <http://labour.nic.in/ilos/convention.htm>.