Unit 1

The Concept of Industrial Relations and Background

The term ‘Industrial Relations’ comprises of two terms: ‘Industry’ and ‘Relations’. “Industry” refers to “any productive activity in which an individual (or a group of individuals) is (are) engaged”. By “relations” we mean “the relationships that exist within the industry between the employer and his workmen.”

Concept of Industrial Relations

The term industrial relations explain the relationship between employees and management which stem directly or indirectly from union-employer relationship.Industrial relations are the relationships between employees and employers within the organizational settings.

The field of industrial relations looks at the relationship between management and workers, particularly groups of workers represented by a union. Industrial relations are basically the interactions between employers, employees and the government, and the institutions and associations through which such interactions are mediated.

The term industrial relations have a broad as well as a narrow outlook. Originally, industrial relations were broadly defined to include the relationships and interactions between employers and employees. From this perspective, industrial relations cover all aspects of the employment relationship, including human resource management, employee relations, and union-management (or labor) relations.

Now its meaning has become more specific and restricted. Accordingly, industrial relations pertains to the study and practice of collective bargaining, trade unionism, and labor-management relations, while human resource management is a separate, largely distinct field that deals with nonunion employment relationships and the personnel practices and policies of employers.

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management relations, while human resource management is a separate, largely distinct field that deals with nonunion employment relationships and the personnel practices and policies of employers.

Industrial relations is used to denote the collective relationships between management and the workers. Traditionally, the term industrial relations is used to cover such aspects of industrial life as trade unionism, collective bargaining, workers' participation in management, discipline and grievance handling, industrial disputes and interpretation of labor laws and rules and code of conduct

In the words of Lester,Industrial relations involve attempts at arriving at solutions between the conflicting objectives and values; between the profit motive and social gain; between discipline and freedom, between authority and industrial democracy; between bargaining and co-operation; and between conflicting interests of the individual, the group and the community".

The National Commission on Labor (NCL)also emphasize on the same concept. According to NCL, industrial relations affect not merely the interests of the two participants- labor 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.

History

Industrial relations got its roots in the industrial revolution and the spread of capitalism which created the modern employment relationship by spawning free labour markets and large-scale industrial organizations with thousands of wage workers. Kaufman, the Global Evolution of Industrial Relations.

As both societies wrestled with these massive economic and social changes, labour problems arose. Low wages, long working hours, monotonous and dangerous work, and abusive supervisory practices led to high employee turnover, violent strikes, and the threat of social instability and due to confluence of these event and ideas associated with rise of democratic governments in the western world of the late nineteenth and twentieth centuries. It emerged from both negative and positive impulses

The negative aspect, industrial relations was a reaction against deplorable working condition and with unrepressed profit making and employee clout in the nine teeth century and twentieth century capitalism and this led to the deplorable situations a conflict between capital and labour and hardship for employee of that time

So we come to the conclusion that industrial relation was part of the reform wing. Industrial relations arose from the conviction that cordial relationship between workers and employer could be improvised through a combination of scientific discovery, education, legal reform.

Current situation

Therefore, the maintenance of a good human relationship is a must in today business environment, because in case of its absence the organizational structure may crumble. Employees constitute the most valuable assets of any organization.

Any neglect of the important factor is likely to result in increased cost of production in term of wage and salaries, benefits and services; working conditions, increased labour turn-over, absenteeism, indiscipline and cleavages, strikes and transfer on the ground of discontent and the like, besides deterioration in the quality of the goods produced and strained relations between labour and management.

The Germans practice co-determination which gives workers of the organization representation at the management of the companies these known as the law allows workers to elect representatives (usually trade union representatives) for the supervisory board of directors.

Evolution of industrial Relations in INDIA

IR is dynamic in nature. The nature of IR can be seen as an outcome of complex set of transactions among the major players such as the employers, the employees, the trade union, and the state in a given socio-economic context. In a sense, change in the nature of IR has become sine quo non with change in the socio-economic context of a country.

Keeping this fact in view, IR in India is presented under the following two sections:

1. **IR during Pre- Independence**
2. **IR during Post-Independence**

1. IR During Pre-Independence

The structure of the colonial economy, the labour policies of colonial government, the ideological composition of the political leadership, the dynamics of political struggle for independence, all these shaped the colonial model of industrial relations in pre-independent India". Then even union movement was an important part of the independence movement.

However, the colonial dynamics of the union movement along with the aggressiveness of alien capital, the ambivalence of the native capital and the experience of the outside political leadership frustrated the process of building up of industrial relations institutions.

Other factors like the ideology of Gandhian class harmony, late entry of leftists and the bourgeois character of congress also weakened the class approach to the Indian society and industrial conflict".

Till the Second World War, the attitude of the colonial government toward industrial relations was a passive regulator only Because, it could provide, that too only after due pressure, the sum of protective and regulative legal framework for industrial relations Trade Union Act 1926 (TL A) Trade Disputes Act 1929 (TDA). It was the economic emergence of the Second World War that altered the colonial government's attitude on industrial relations.

The state intervention began in the form of introduction of several war time measures, viz. the Defense of India Rules (Rule 81- A), National Service (Technical Personnel) Ordinance, and the Essential Service (Maintenance) Ordinance As such in a marked contrast to its earlier stance, the colonial government imposed extensive and pervasive controls on industrial relations by the closing years of its era-. Statutory regulation of industrial relations was on plank of its labour policy. The joint consultative institutions were established primarily to arrive at uniform and agreeable labour policy.

The salient features of the colonial model of IR can be summarized as close association between political and trade union movement, dominance of 'outsiders' in the union movement, state intervention and federal and tripartite consultations.

The eve of Independence witnessed several instances that served as threshold plank for IR during post Independence era. The prominent instances to mention are passing of Indian Trade Unions (Amendment) Act, 1947, Industrial Employment (Standing Orders) Act 1946, Bombay Industrial Relations Act, 1946, and Industrial Disputes Act, 1947 and split in AITUC and formation of INTUC.

2. IR During Post-Independence:

Though Independent India got an opportunity to restructure the industrial relations system the colonial model of IR remained in practice for sometimes due to various reasons like the social, political and economic implications of partition, social tension, continuing industrial unrest, communist insurgency, conflict, and competition in the trade union movement. In the process of consultation and confrontation, gradually the structure of the industrial relations system (IRS) evolved.

State intervention in the IRS was a part of the interventionist approach to the management of industrial economy.

Several considerations like unequal distribution of power in the labour market, neutrality of the state, incompatibility of free collective bargaining institution with economic planning etc. provided moral justification for retaining state intervention in the IRS. State intervention in the IRS is logical also when the state holds large stakes in the industrial sector of the economy.

However state intervention does not mean suppression of trade unions and collective bargaining institution. In fact, state intervention and collective bargaining were considered as complementary to each other.

Gradually, various tripartite and bipartite institutions were introduced to supplement the state intervention in the IRS.

The tripartite process was considered as an important instrument of involving participation of pressure groups in the state managed system. Non formal ways were evolved to do what the formal system did not legistate, for one reason or other.

The political and economic forces in the mid 1960s aggravated industrial conflict and rendered non-formal system ineffective. In the process of reviewing the system, National Commission on Labour (NCL) was appointed in 1966.

Now the focus of restructuring shifted from political to intellectual. However, yet another opportunity was lost when there was an impasse on the NCL recommendations in 1972. The Janta Government in 1978 made, of course, a half-hearted attempt to reform industrial relations. Unfortunately, the attempt met with strong opposition from all unions. The BMS, for example, termed it as “a piece of anti-labour, authoritarian and dangerous legislation””.

Several committees were appointed to suggest measures for reforming die IRS. In the process, tripartism was revived in 1980s. Government passed the Trade unions and the Industrial Disputes (Amendment) Bill, 1988.

But, it also proved yet another legislative disaster. The bill was severely criticised by the left parties. It was even viewed by some as a deliberate attempt to destroy “autonomous; organised or militant trade union movement”.

Industrial Relations and Technological Change

Technical change and industrial relations are becoming inextricably linked together. There is a need for a clear-sighted understanding of all the effects of technical change at the workplace. This would entail a conceptual framework in which the interaction between social and technical factors could be properly identified. At establishment level the innovation process typically involves a balancing of the social, economic and technological vectors of change. Three short case studies into the innovation process at one of the key manufacturing plants of a major British vehicle producer are presented, examining a Machine Monitoring System, Team Working and Maintenance Function. It is clear that the linked issues of work practices and labour productivity which are to the forefront of workplace industrial relations exert a significant impact on the economic consequences of technical change. Where technological innovation involves significant change in work practices, such change will be facilitated when the forms of co-operation it demands and the costs and benefits it creates are congruent with the respective power and policies of management and unions.

- Technological change (TC) is a term that is used to describe the overall process of invention, innovation and diffusion of technology or processes.
- Technology is an instrument of development.
- It affects various aspects of economic and social life

Impact of Technological Change on Industrial Relations

The two major concerned factors are :

The impact of technological change on levels of employment and the nature of skills.

The growing resistance of trade unions to technological changes .

- Trade Union Response
- Fear of Unemployment
- Redundancy and Problems of Retraining
- Major Benefits of Improved Technology
- Workers Hardest Hit by Modernization
- Negotiated Change
- Appropriate Training
- Accent on Team Work
- Supportive Management Practices

Rationalization & Automation

Rationalization

Implies a basic change in the structure and control of industrial activities. Its techniques can be applied to methods, material and men.

Automation

Technology itself controls the operations. The machine provides data from its operations and feeds it back to its own controls which governs the production process.

Response in India

(I) Cotton-textile- Workers accepted it.

Introduced in the form of efficiency measures.

Additional strain & Inadequate increase in earnings.

(II) Jute- International Competition

Progress slow, Dependence on foreign country for Raw Material

(III) Coal- Rationalization in larger mines, old methods in small mines

Globalization and the National Economy

Globalization can usefully be conceived as a process or set of processes which embodies a transformation in the spatial organization of social relations and transactions, generating transcontinental or interregional flows and networks of activity, interaction and power.

Globalization has four types of change. Firstly, globalization includes growing social, political and economical actions across political limits of countries and continents. Secondly, it recommends the growth of inter bondness and flows of trade, investment, finance, and society. Third, it is developing extensity and intensity of global inter bondness can be depended to a speeding up of global connections and developments as the progress of world wide actions of transport and communication speed up the flow of ideas, goods, information, investment and communities. Fourthly, the growing extensity, intensity and speed of global communications can be attached with their developing impression such that the results of indistinct actions can be very important else where and yet all the local growth may come to have massive global consequences. It makes the sense, that the boundaries between local affairs and global matters can become increasingly blurred.

In total globalization can be consideration of as expanding, increasing speed up, and developing influence of world wide inter connections. In sum globalization in this way, it makes possible to draw observe patterns of world wide contacts and business across all type of fields of human activity, from the military to the cultural.

Effects of globalization on national economies

Globalization creates major change on the economic environment of any nation; it changes any nation in terms of economic development policies under national government. The globalization provides the free movement of trade and investment, labour and assets. Through globalization nation's economy growth globally so it opening up the barriers of international trade which increase the stability and creates positive impact on quality of life with in a nation's individuals.

Economic growth through Globalization has both positive and negative impacts on the society. One of the main benefits of economic growth is the higher incomes per capita and higher living standards due to an increase in output. It increase in output has also created employment opportunities which takes the nation towards prosperity.

Example

The best example of Globalization is Microsoft Windows which is done in United State of America but the technical support is provided in India which provides support to Indian economy. Job opportunities create in India for IT professionals and government's income increases in terms of Taxes. In same way Toyota cars made some cars others are made in United State of America.

The animation on cartoons is done in South Korea. The characters voices are done in the United State of America or in country who buys these cartoons.

The native impact of Globalization is that the revenue earned in the nation is not spend in that particular country for growth of this country's economic conditions of its people, this revenue is spend in other countries along the globe and the ultimate benefit goes to the company's home country, For Example the American based company Nike is one of the company around the glob where ever in the world Nike products sale the ultimate benefit goes to America but the Nike enjoys the cheep labour and resources of that country. It also eliminates the difference of skilled and unskilled persons.

Other main weakness of Globalization is that it increases possibilities of unintentional motion of diseases between the countries. Globalization gives attraction towards the money oriented lifestyles and selfish attitudes, which suppose to consumption to be a mean to manage overall economic affluence.

As Amartya Sen said in 2002 "The market economy does not work by itself in global relations indeed, it cannot operate alone even within a given country"

Some believer of globalisation has the aim to expand market relations, push back state and interstate interference, and create a global free market. It is a political plan that seen at work in the activities of transnational organizations like the World Trade Organization (WTO), the International Monetary Fund (IMF), and the Organization for Economic Cooperation and Development (OECD), and has been a significant objective of United States involvement. Part of the impetus for this project was the limited success of corporate/state structures in planning and organizing economies. However, even more significant was the growth in influence of neo-liberal ideologies and their promotion by powerful politicians like Reagan in the USA and Thatcher in the UK.

Role of Trade union in Industrial Relations

Trade unions, also known as labor unions in the United States, are organizations of workers in a common trade who have organized into groups dedicated to improving the workers' work life. A trade union generally negotiates with employers on behalf of its members, advocating for improvements such as better working conditions, compensation and job

security. These unions play an important role in industrial relations — the relationship between employees and employers.

History

The origins of trade unions can be found in guilds and fraternal organizations composed of people practicing a common trade, which date back hundreds of years. However, the modern conception of trade unions, in which unions represent a specific set of workers in negotiations with employers, dates back only to the 18th century. Membership in unions only became widespread in the United States and Europe in the 19th century.

Trade unions are associations of workers formed to represent their interests and improve their pay and working conditions.

Types

There are four main types of trade unions.

Craft unions

These represent workers with particular skills e.g. plumbers and weavers. These workers may be employed in a number of industries.

General unions

These unions include workers with a range of skills and from a range of industries.

Industrial unions

These seek to represent all the workers in a particular industry, for instance, those in the rail industry.

White collar unions

These unions represent particular professions, including pilots and teachers. Unions in a country, often belong to a national union organization. For example, in India, a number of unions belong to the All India Trade Union Congress (AITUC).

This is the oldest and one of the largest trade union federations in the country. A number of them also belong to international trade union organizations such as the International Confederation of Free Trade Unions, which has more than 230 affiliated organizations in 150 countries.

Role of Trade Unions:

Unions carry out a number of functions. They negotiate on behalf of their members on pay scales, working hours and working conditions. These areas can include basic pay, overtime payments, holidays, health safety, promotion prospects, maternity and paternity rights and job security.

Depending on the circumstances, unions may try to protect or improve workers' rights. They also provide information on a range of issues for their members, for instance on pensions. They help with education and training schemes and may also participate in measures designed to increase demand for the product produced and hence for labour.

Some also provide a range of benefits to their members including strike pay, sickness pay and unemployment pay. In addition many get involved in pressurizing their governments to adopt a legislation, which will benefit their members or workers in general, such as fixing a national minimum wage.

Problems & Suggestive Remedial Measures of Trade Unions

The new corporate 'mantras' productivity, performance, efficiency, survival of the fittest have virtually pushed them to the wall-where their very survival looks uncertain. Let's recount the factors responsible for their ever-increasing woes and depreciated status thus as below:

1. Trade Union leadership: The nature of leadership significantly influences the union-management relations as the leadership is the lynch-pin of the management of trade unions. The leadership of most of the trade unions in India has been outside leadership mainly drawn from political parties.

Reasons for emergence of outside leadership: Outside leadership has been playing a pivotal role in Indian Trade Union Movement due to the inability of insiders to lead their movement. In view of low education standards and poor command over English language which is still the principal language of labour legislation and negotiations, low level of knowledge about labour legislation, unsound financial position, fear of victimisation by the employer and lack of leadership qualities-outside leaders have come to stay. The main reason for this trend is that the Trade Unions Act, 1926,[India] itself provided the scope for outside leadership.

Section 22 of the Act requires that ordinarily not less than half of the officers of the re-registered union shall be actively engaged or employed in an industry to which the union relates.

Thus, this provision provides the scope for outsiders to the tune of 50% of the office bearers. The Royal Commission of Labour (RCI) 1931, recommended for the reduction of the statutory limit of outsiders from 1/2 to 1/3 but no efforts were taken in this direction.

The evil effects of outside leadership: The evil effects of outside leadership analysed by National Commission on Labour are as follows:

1. Outside leadership undermined the purposes of Trade Unions and weakened their authority. Personal benefits and prejudices sometimes weighed more than unions.
2. Outside leadership has been responsible for the slow growth of Trade Unions.
3. Internal leadership has not been developed fully.
4. Most of the leaders cannot understand the worker' problems as they do not live the life of a worker.

Even though outside leadership is permissible in the initial stages it is undesirable in the long run because of many evils associated with it. Political differences of leaders have been inhibiting the formation of one union in one industry. Most of the Trade Union leaders fulfil their personal aspirations with their knowledge and experience gained in the Trade Unions.

Measures to minimise the evil effects of outside leadership: In view of the limitations of outside leadership, it is desirable to replace the outside leaders progressively by the internal leaders. The National Commission on Labour, 1969, also stated that outsiders in the Trade Unions should be made redundant by forces from within rather than by legal means. Both the management and trade unions should take steps in this direction. The steps may be:

- Management should assure that the victimisation will be at zero level, even if the
- trade unions are led by insiders;
- Extensive training facilities in the areas of leadership skills, management
- techniques and programmes should be provided to the workers;
- Special leave should be sanctioned to the office bearers.

Union rivalry has been the result of the following factors:

1. The desire of political parties to have their basis among the industrial workers;
2. Person-cum-factional politics of the local union leader;
3. Domination of unions by outside leaders;
4. Attitude and policies of the management, i.e., divide and rule policy; and
5. The weak legal framework of trade unions.

Measures to minimise union rivalry: In view of the evil effects of inter-union rivalry and the problem of formation of one union in one industry, it may be necessary to consider the recommendations of National Commission on Labour, 1969. The recommendations of NCL to minimise union rivalry are:

1. Elimination of party politics and outsiders through building up of internal leaders;
2. Promotion of collective bargaining through recognition of sole bargaining agents;
3. Improving the system of union recognition;
4. Encouraging union security; and

5. Empowering labour courts to settle inter-union disputes if they are not settled within the organisation.

2. Multiple unions: Multiple unionism both at the plant and industry levels pose a serious threat to industrial peace and harmony in India. The situation of multiple unions is said to prevail when two or more unions in the same plant or industry try to assert rival claims over each other and function with overlapping jurisdiction. The multiple unions exist due to the existence of craft unions, formations of two or more unions in the industry. Multiple unionism is not a phenomenon unique to India. It exists even in advance countries like UK and USA. Multiple unionism affects the industrial relations system both positively and negatively. It is sometimes desirable for the healthy and democratic health of labour movement. It encourages a healthy competition and acts as a check to the adoption of undemocratic practice, authoritative structure and autocratic leadership. However, the negative impacts of multiple unions dominate the positive impacts. The nature of competition tends to convert itself into a sense of unfair competition resulting in inter-union rivalry. The rivalry destroys the feeling of mutual trust and cooperation among leadership. It is a major cause for weakening the Trade Union Movement in India. Multiple unionism also results in small size of the unions, poor finances, etc.

3.Union Rivalry: The formal basis for Trade Union Organisation is provided by the Indian Trade Union Act, 1926. The relevant article reads as follows: "Any seven or more members of a trade union may be subscribing their name to the roles of the trade union and by otherwise complying with the provisions of this act with respect to the registration, apply for registration of the trade union under this Act."

This provision has led to the formation of multiple unions and resulted in interunion rivalry in different industries. But the inter-union rivalry breaks the very purpose of the trade unions by weakening the strength of collective bargaining. On the other hand, the existence of a single, strong union not only protects the employee interests more effectively but also halts the various unproductive activities of the unions and forces the leaders to concentrate on the strategic issues. Further, it helps to bring about congenial industrial relations by bringing about a system of orderliness in dealing with the employees and by facilitating expeditious settlement of disputes.

The state of rivalry between two groups of the same union is said to be inter union rivalry. Inter and intra-union rivalries have been a potent cause of industrial disputes in the country. They are responsible for weal bargaining power of trade unions in collective bargaining. These rivalries are responsible for slow growth of trade union movement in the country.

4.Finance: Sound financial position is an essential ingredient for the effective functioning of trade unions, because in the process of rendering services or fulfilling their goals, trade unions have to perform a variety of functions and organise programmes which require enormous financial commitments. Hence, it is imperative on the part of a trade union to strengthen its financial position.

But it is felt that the income and expenditure of trade unions in India over the years is such, with few exceptions, that the financial position of the union is generally weak, affecting their

functioning. It is opined that, “trade unions could be more effective, if they paid more attention to strengthening their organisations and achieving higher attention of financial solvency.”

The primary source of income to the unions is membership subscription. Their other sources of union finances are donations, sale of periodicals, etc. The items of expenditure include: allowances to office bearers, salaries to office, annual convention/meeting expenses, rents, stationery, printing, postage, telegrams, etc.

Most of the trade unions in India suffer from inadequate funds. This unsound financial position is mostly due to low membership and low rate of membership fee. Trade Union Act, 1926, prescribed the membership fee at 25 paise per member per month. But the National Commission on Labour recommended the increase of rate of membership subscription from 25 paise to Re. 1 in the year 1990. But the Government did not accept this recommendation.

As the National Commission on Labour observes, “ an important factor limiting the effective functioning of unions in our country has been their financial weakness.. In most unions, poor finances are the result of inadequate membership strength. This in turn, can be traced to the small size of units. In a majority of unions, the rate of contributions required of members is also small. With a relatively low rte of unionisation, total funds collected are small. The general picture of finances of unions is disappointing.”

5.Low membership: The average membership figures of each union are quite depressing. In 1992-93 the average membership figure was 632, a steady fall from 3,594 per union from 1927-28. “Because of their small size, unions suffer from lack of adequate funds and find it difficult to engage the services of experts to aid and advise members in times of need’. They can’t bargain with the employer effectively on their own.

6.Heterogeneous nature of labour: Since workers come to the factory with varying backgrounds, it is difficult for them to put a joint front in case of trouble. Employers exploit the situation, under the circumstances, by dividing workers on the basis of race, religion, language, caste, etc.

7.Lack of Interest: For a large majority of workers, unionism even today remains a foreign issue. In fact, workers avoid union activities out of sheer disinterestedness. Those who become part of the union, do not also participate in the union work enthusiastically. In such a scenario, it is not surprising to find outside political leaders exploiting the situation serve their own personal agenda.

8.Absence of paid office bearers: Weak finances do not permit unions to engage the services of full time, paid office bearers. Union activists, who work on a part time basis, neither have the time nor the energy to take up union activities sincerely and diligently.

9.Other problems: The other factors responsible for the unsound functioning of trade unions in India are:

1. **Illiteracy:** Workers in India fail to understand the implications of modern trade unionism. Their illiteracy coupled with ignorance and indifference account for the predominance of outside leadership.
2. **Uneven growth:** Trade unionism activities are, more or less, confined to major metros in India and traceable only in large scale units (especially cotton textile. The membership fees should be raised as the amount of wages of the workers increased significantly, compared to the situation in 1926 when Trade Union Act provided for the collection of 25 paise per month per member as subscription fee. Even amended Rs.l/- is not sufficient. Some other source of finance may also explored to make trade union financially healthy.

The Trade Union Act 1926

The trade Unions Act, 1926 provides for registration of trade unions with a view to render lawful organisation of labour to enable collective bargaining. It also confers on a registered trade union certain protection and privileges.

The Act extends to the whole of India and applies to all kinds of unions of workers and associations of employers, which aim at regularising labour management relations. A Trade Union is a combination whether temporary or permanent, formed for regulating the relations not only between workmen and employers but also between workmen and workmen or between employers and employers.

Registration

Registration of a trade union is not compulsory but is desirable since a registered trade union enjoys certain rights and privileges under the Act. Minimum seven workers of an establishment (or seven employers) can form a trade union and apply to the Registrar for it registration.

- The application for registration should be in the prescribed form and accompanied by the prescribed fee, a copy of the rules of the union signed by at least 7 members, and a statement containing
- the names, addresses and occupations of the members making the application, the name of the trade union and the addresses of its head office, and the titles, names, ages, addresses and occupations of its office bearers.
- If the union has been in existence for more than a year, then a statement of its assets and liabilities in the prescribed form should be submitted along with the application. The registrar may call for further information for satisfying himself that the application is complete and is in accordance with the provisions, and that the proposed name does not resemble
- On being satisfied with all the requirements, the registrar shall register the trade union and issue a certificate of registration, which shall be conclusive evidence of its registration.

Objectives of Trade Union:

The following are the objectives of trade union:

(1) To improve the economic lot of workers by securing them better wages.

(2) To secure for workers better working conditions.

(3) To secure bonus for the workers from the profits of the enterprise/organization.

(4) To ensure stable employment for workers and resist the schemes of management which reduce employment opportunities.

(5) To provide legal assistance to workers in connection with disputes regarding work and payment of wages.

(6) To protect the jobs of labour against retrenchment and layoff etc.

(7) To ensure that workers get as per rules provident fund, pension and other benefits.

(8) To secure for the workers better safety and health welfare schemes.

(9) To secure workers participation in management.

(10) To inculcate discipline, self-respect and dignity among workers.

(11) To ensure opportunities for promotion and training.

(12) To secure organizational efficiency and high productivity.

(13) To generate a committed industrial work force for improving productivity of the system.

Functions of Trade Unions:

(1) Collective bargaining with the management for securing better work environment for the workers/ employees.

(2) Providing security to the workers and keeping check over the hiring and firing of workers.

(3) Helping the management in redressal of grievances of workers at appropriate level.

(4) If any dispute/matter remains unsettled referring the matter for arbitration.

(5) To negotiate with management certain matters like hours of work, fringe benefits, wages and medical facilities and other welfare schemes.

(6) To develop cooperation with employers.

(7) To arouse public opinion in favour of labour/workers.

Benefits of Trade Union:

Workers join trade union because of a number of reasons as given below:

1. A worker feels very weak when he is alone. Union provides him an opportunity to achieve his objectives with the support of his fellow colleagues.
2. Union protects the economic interest of the workers and ensures a reasonable wage rates and wage plans for them.
3. Union helps the workers in getting certain amenities for them in addition to higher wages.
4. Union also provides in certain cases cash assistance at the time of sickness or some other emergencies.
5. Union organize negotiation between workers and management and are instruments for settlement of disputes.
6. Trade union is also beneficial to employer as it organizes the workers under one banner and encourages them follow to peaceful means for getting their demands accepted.
7. Trade union imparts self-confidence to the workers and they feel that they are an important part of the organization.
8. It provides for promotion and training and also helps the workers to go to higher positions.
9. It ensures stable employment for the workers and opposes the motive of management to replace the workers by automatic machines.
10. Workers get an opportunity to take part in the management and oppose any decision which adversely effects them.

Industrial Democracy & Participative Management

One of the important requirements of industrial relation is industrial democracy. Worker's participation in management (WPM) is essentially a step in promoting industrial democracy. This is the modem trend in industrial world both in developed and developing countries. This is a concept of extending democracy of political systems in government to the industries.

The form, structure and the content of WPM vary with social norms and nature of government in each country. WPM takes the shape of self- management, co-determination, worker director and joint management councils. Despite variation in interpretation, all agree that participation means sharing the decision making power between management and workers.

Participate may protect the interests of both parties. But more than this protection, participation is a system of checks and balances which prevents exploitations and provides equity and fairness. This requires great awareness, education and conceptual skill from both the parties, to make WPM, a success.

Industrial democracy through WPM achieves the following

1. Performance of both groups is evaluated objectively.

2. Respect workers as free persons of equal value.
3. Rule of law and natural justice.
4. Discipline through self control and self direction
5. Morale, motivation and a sense of belongingness.
6. Productivity and high quality in work.
7. Better compensation.

In other words the objectives of WPM are as follows

1. To enlighten and involve workers to know better about their role in meeting the organisational objectives.
2. To know about importance of productivity and quality aspects in sustenance and growth of the organisation.
3. To help improve the supervisor-worker relations and management union relations.
4. Involve workers in subjects like safety and environment care.
5. Assist in team building and HRD activities.
6. Develop a culture of self involvement to reduce vigilant supervision.
7. Improve employee pride, morale and integrity.

Level of Participation:

(a) Informative Participation

This is merely information sharing of major aspects like product mix, productivity, balance sheet etc. Workers are not allowed close scrutiny of accounts.

(b) Consultative Participation

Here workers are consulted on such aspects like welfare, work methods, safety programmes. Worker's body or joint councils can make recommendation. It is left to management to accept the recommendations or not.

(c) Associative Participation

Here, the consultation is extended to more areas. In addition, management has a moral responsibility to implement recommendation made by joint councils.

(d) Administrative Participation

Here, management having accepted the recommendations of joint councils refers alternatives of implementation plans or strategies for the consideration of the councils to suggest the best one. Here authority of decision making is delegated.

(e) Decisive Participation

Here decisions are taken jointly by management and workers on all important matter concerning the firm. Here both are equally responsible and accountable for the success or failure based on such decision. This, in a true sense, is the sharing of "profits" and "pains".

A number of analysis have shown that significant changes of human behaviour is possible rapidly if persons who are expected to change are allowed to decide "what" and "how" about such changes.

Unit 2

Significance, Features of Collective Barganing

Industrial disputes between the employee and employer can also be settled by discussion and negotiation between these two parties in order to arrive at a decision. This is also commonly known as collective bargaining as both the parties eventually agree to follow a decision that they arrive at after a lot of negotiation and discussion.

According to Beach, "Collective Bargaining is concerned with the relations between unions reporting employees and employers (or their representatives). It involves the process of union organization of employees, negotiations administration and interpretation of collective agreements concerning wages, hours of work and other conditions of employees arguing in concerted economic actions dispute settlement procedures".

According to Flippo, "Collective Bargaining is a process in which the representatives of a labor organization and the representatives of business organization meet and attempt to negotiate a contract or agreement, which specifies the nature of employee-employer union relationship".

"Collective Bargaining is a mode of fixing the terms of employment by means of bargaining between organized body of employees and an employer or association of employees acting usually through authorized agents. The essence of Collective Bargaining is bargaining between interested parties and not from outside parties".

According to an ILO Manual in 1960, the Collective Bargaining is defined as:

"Negotiations about working conditions and terms of employment between an employer, a group of employees or one or more employers organization on the

It is also asserted that "the terms of agreement serve as a code defining the rights and obligations of each party in their employment relations with one another, if fixes large number of detailed conditions of employees and during its validity none of the matters it deals with, internal circumstances give grounds for a dispute counseling and individual workers".

Collective Bargaining Involves:

(i) Negotiations

(ii) Drafting

(iii) Administration

(iv) Interpretation of documents written by employers, employees and the union representatives

(v) Organizational Trade Unions with open mind.

Forms of Collective Bargaining:

The working of collective bargaining assumes various forms. In the first place, bargaining may be between the single employer and the single union, this is known as single plant bargaining. This form prevails in the United States as well as in India.

Secondly, the bargaining may be between a single firm having several plants and workers employed in all those plants. This form is called multiple plants bargaining where workers bargain with the common employer through different unions.

Thirdly, instead of a separate union bargaining with separate employer, all the unions belonging to the same industry bargain through their federation with the employer's federation of that industry. This is known as multiple employer bargaining which is possible both at the local and regional levels. Instances in India of this industry-wide bargaining are found in the textile industry.

The common malady of union rivalry, small firms and existence of several political parties has given rise to a small unit of collective bargaining. It has produced higher labour cost, lack of appreciation, absence of sympathy and economic inefficiency in the realm of industrial relationships. An industry-wide bargaining can be favourable to the economic and social interests of both the employers and employees.

Essential Pre-Requisites for Collective Bargaining:

Effective collective bargaining requires the following prerequisites:

(i) Existence of a strong representative trade union in the industry that believes in constitutional means for settling the disputes.

(ii) Existence of a fact-finding approach and willingness to use new methods and tools for the solution of industrial problems. The negotiation should be based on facts and figures and both the parties should adopt constructive approach.

(iii) Existence of strong and enlightened management which can integrate the different parties, i.e., employees, owners, consumers and society or Government.

(iv) Agreement on basic objectives of the organisation between the employer and the employees and on mutual rights and liabilities should be there.

(v) In order that collective bargaining functions properly, unfair labour practices must be avoided by both the parties.

(vi) Proper records for the problem should be maintained.

(vii) Collective bargaining should be best conducted at plant level. It means if there are more than one plant of the firm, the local management should be delegated proper authority to negotiate with the local trade union.

(viii) There must be change in the attitude of employers and employees. They should realise that differences can be resolved peacefully on negotiating table without the assistance of third party.

(ix) No party should take rigid attitude. They should enter into negotiation with a view to reaching an agreement.

(x) When agreement is reached after negotiations, it must be in writing incorporating all term of the contract.

It may be emphasised here that the institution of collective bargaining represents a fair and democratic attempt at resolving mutual disputes. Wherever it becomes the normal mode of setting outstanding issues, industrial unrest with all its unpleasant consequences is minimised.

Main Features of Collective Bargaining:

Some of the salient features of collective bargaining are:

1. **It is a Group Action:**

Collective bargaining is a group action as opposed to individual action. Both the parties of settlement are represented by their groups. Employer is represented by its delegates and, on the other side; employees are represented by their trade union.

2. **It is a Continuous Process:**

   Collective bargaining is a continuous process and does not end with one agreement. It provides a mechanism for continuing and organised relationship between management and trade union. It is a process that goes on for 365 days of the year.

3. **It is a Bipartite Process:**

   Collective bargaining is a two party process. Both the parties—employers and employees—collectively take some action. There is no intervention of any third party. It is mutual given-and-take rather than take-it-or-leave-it method of arriving at the settlement of a dispute.

4. **It is a Process:**

   Collective bargaining is a process in the sense that it consists of a number of steps. The starting point is the presentation of charter of demands by the workers and the last step is the reaching of an agreement, or a contract which would serve as the basic law governing labour-management relations over a period of time in an enterprise.

5. **It is Flexible and Mobile and not Fixed or Static:**

   It has fluidity. There is no hard and fast rule for reaching an agreement. There is ample scope for compromise. A spirit of give-and-take works unless final agreement acceptable to both the parties is reached.

6. **It is Industrial Democracy at Work:**

   Collective bargaining is based on the principle of industrial democracy where the labour union represents the workers in negotiations with the employer or employers. Industrial democracy is the government of labour with the consent of the governed—the workers. The principle of arbitrary unilateralism has given way to that of self-government in industry. Actually, collective bargaining is not a mere signing of an agreement granting seniority, vacations and wage increase, by sitting around a table.

7. **It is Dynamic:**

   It is relatively a new concept, and is growing, expanding and changing. In the past, it used to be emotional, turbulent and sentimental, but now it is scientific, factual and systematic.

8. **It is a Complementary and not a Competitive Process:**

   Collective bargaining is not a competitive process i.e., labour and management do not coopt while negotiating for the same object. It is essentially a complementary process i.e., each party needs something which the other party has, namely, labour can put greater productive effort and

management has the capacity to pay for that effort and to organise and guide it for achieving the enterprise's objectives.

The behavioural scientists have made a good distinction between "distributive bargaining" and "integrative bargaining". The former is the process of dividing up the cake which represents what has been produced by the joint efforts of management and labour.

In this process, if one party wins something, the other party, to continue the metaphor of the cake, has a relatively smaller size of the cake. So it is a win-lose' relationship. The integrative bargaining, on the other hand, is the process where both the parties can win—each party contributing something for the benefit of the other party.

9. **It is an Art:**

Collective bargaining is an art, an advanced form of human relations.

Means of Collective Bargaining:

Generally, there are four important methods of collective bargaining, namely, negotiation, mediation, conciliation and arbitration for the settlement of trade disputes. In this context R.F. Hoxie said that arbitration is often provided for in collective bargaining under certain contingencies and for certain purposes, especially when the parties cannot reach agreement, and in the interpretation of an agreement through negotiation.

Conciliation is a term often applied to the art of collective bargaining, a term often applied to the action of the public board which attempts to induce collective bargaining.

Mediation is the intervention usually uninvited, of some outside person of body with a view of getting conciliation or to force a settlement, compulsory arbitration is extreme mediation. All these things are aids or supplement to collective bargaining where it breaks down. They represent the intervention of outside parties.

Constituents of Collective Bargaining:

There are three distinct steps in the process of collective bargaining:

(1) The creation of the trade agreement,

(2) The interpretation of the agreement, and

(3) The enforcement of the agreement.

Each of these steps has its particular character and aim, and therefore, each requires a special kind of intellectual and moral activity and machinery.

1. **The Creation of the Trade Agreement:**

   In negotiating the contract, a union and management present their demands to each other, compromise their differences, and agree on the conditions under which the workers are to be employed for the duration of the contract. The coverage of collective bargaining is very uneven; in some industries almost all the workers are under agreement, while in others only a small portion of the employees of the firms are covered by the agreement.

   The negotiating process is the part of collective bargaining more likely to make headline news and attract public attention; wage increases are announced, ominous predictions about price increase are reduction in employment are made.

2. **The Interpretation of the Agreement:**

   The administrative process is the day-to-day application of the provisions of the contract to the work situation. At the time of writing the contract, it is impossible to foresee all the special problems which will arise in applying its provisions. Sometimes, it is a matter of differing interpretations of specific clause in the contract, sometimes; it is a question of whether the dispute is even covered by the contract. Nevertheless, each case must somehow be settled. The spirit of the contract should not be violated.

3. **Enforcement of the Agreement:**

   Proper and timely enforcement of the contract is very essential for the success of collective bargaining. If a contract is enforced in such way that it reduces or nullifies the benefits expected by the parties, it will defeat basic purpose of collective bargaining. It may give rise to fresh industrial disputes. Hence, in the enforcement of the contract the spirit of the contract should not be violated.

   However, new contracts may be written to meet the problems involved in the previous contract. Furthermore, as day-to-day problems are solved, they set precedents for handling similar problems in future. Such precedents are almost as important as the contract in controlling the working conditions. In short, collective bargaining is not an on-and-off relationship that is kept in cold storage except when new contracts are drafted.

Theories, Importance, Hindrance of Collective Bargaining

Theories of Collective Bargaining:

There are three important concepts on collective bargaining which have been discussed as follows:

1. **The Marketing Concept and the Agreement as a Contract:**

   The marketing concept views collective bargaining as a contract for the sale of labour. It is a market or exchange relationship and is justified on the ground that it gives assurance of voice on the part of the organised workers in the matter of sale. The same objective rules which apply to the construction of all commercial contracts are invoked since the union-management relationship is concerned as a commercial one.

   According to this theory, employees sell their individual labour only on terms collectively determined on the basis of contract which has been made through the process of collective bargaining.

   The uncertainty of trade cycles, the spirit of mass production and competition for jobs make bargain a necessity. The trade union's collective action provided strength to the individual labourer.

   It enabled him to resist the pressure of circumstances in which he was placed and to face an unbalanced and disadvantageous situation created by the employer. The object of trade union policy through all the maze of conflicting and obscure regulations has been to give to each individual worker something of the indispensability of labour as a whole.

   It cannot be said whether the workers attained a bargaining equality with employers. But, collective bargaining had given a new- relationship under which it is difficult for the employer to dispense without facing the relatively bigger collective strength.

2. **The Governmental Concept and the Agreement as Law:**

   The Governmental Concept views collective bargaining as a constitutional system in industry. It is a political relationship. The union shares sovereignty with management over the workers and, as their representative, uses that power in their interests. The application of the agreement is governed by a weighing of the relation of the provisions of the agreement to the needs and ethics of the particular case.

   The contract is viewed as a constitution, written by the point conference of union and management representative in the form of a compromise or trade agreement. The agreement lays down the machinery for making executing and interpreting the laws for the industry. The right of initiative is circumscribed within a framework of legislation.

   Whenever, management fails to conform to the agreement of constitutional requirements, judicial machinery is provided by the grievance procedure and arbitration.

   This creates a joint Industrial Government where the union share sovereignty with management over the workers and defend their group affairs and joint autonomy from external interference.

3. **The Industrial Relations (Managerial) Concept as Jointly Decided Directives:**

The industrial relations concept views collective bargaining as a system of industrial governance. It is a functional relationship. Group Government substitutes the State Government. The union representative gets a hand in the managerial role. Discussions take place in good faith and agreements are arrived at. The union joins with company officials in reaching decisions on matters in which both have vital interests. Thus, union representatives and the management meet each other to arrive at a mutual agreement which they cannot do alone.

To some extent, these approaches represent stage of development of the bargaining process itself. Early negotiations were a matter of simple contracting for the terms of sale of labour. Developments of the latter period led to the emergence of the Government theory. The industrial relations approach can be traced to the Industrial Disputes Act of 1947 in our country, which established a legal basis for union participation in the management.

Importance of Collective Bargaining:

The collective bargaining advances the mutual understanding between the two parties i.e., employees and employers.

The role of collective bargaining may be evaluated from the following point of view:

(1) From Management Point of View:

The main object of the organisation is to get the work done by the employees at work at minimum cost and thus earn a high rate of profits. Maximum utilization of workers is a must for the effective management. For this purpose co-operation is required from the side of the employees and collective bargaining is a device to get and promote co-operation. The labour disputes are mostly attributable to certain direct or indirect causes and based on rumors, and misconceptions. Collective bargaining is the best remedial measure for maintaining the cordial relations.

(2) From Labour and Trade Union Point of View:

Labour has poor bargaining power. Individually a worker has no existence because labour is perishable and therefore, the employers succeed in exploiting the labourers.

The working class in united form becomes a power to protect its interests against the exploitation of the employers through the process of collective bargaining.

The collective bargaining imposes certain restrictions upon the employer. Unilateral action is prevented. All employees are treated on equal footings. The conditions of employment and rates of wages as specified in the agreement can be changed only through negotiations with labour. Employer is not free to make and enforce decisions at his will.

Collective bargaining can be made only through the trade unions. Trade unions are the bargaining agents for the workers. The main function of the trade unions is to protect the

economic and non- economic interests of workers through constructive programmes and collective bargaining is one of the devices to attain that objective through negotiations with the employers, Trade unions may negotiate with the employer for better employment opportunities and job security through collective bargaining.

(3) From Government Point of View:

Government is also concerned with the process of collective bargaining. Government passes and implements several labour legislations and desires it to be implemented in their true sense. If any person violates the rules and laws, it enforces them by force.

Collective bargaining prevents the Government from using the force because an amicable agreement can be reached between employer and employees for implementing the legislative provisions. Labour problems shall be minimised through collective bargaining and industrial peace shall be promoted in the country without any force.

Collective bargaining is a peaceful settlement of any dispute between worker and employers and therefore it promotes industrial peace and higher productivity resulting an increase in the Gross National Product or the national income of the country.

Main Hindrances for Collective Bargaining:

The main objective of developing collective bargaining technique is to improve the workers-management relations and thus maintain peace in industries. The technique has developed in India only after India got independence and got momentum since then.

The success of collective bargaining lies in the attitude of both management and workers which is actually not consistent with the spirit of collective bargaining in India. There are certain problems which hinder the growth of collective bargaining in India.

The following factors or activities act as hindrances to effective collective bargaining:

(1) Competitive Process:

Collective bargaining is generally becoming a competitive process, i.e., labour and management compete each other at negotiation table. A situation arises where the attainment of one party's goal appears to be in conflict with the basic objectives of the other party.

(2) Not Well-Equipped:

Both the parties—management and workers—come to the negotiation table without doing their homework. Both the parties start negotiations without being fully equipped with the information, which can easily be collected from company's records. To start with, there is often a kind of ritual, that of charges and counter charges, generally initiated by the trade union representatives. In the absence of requisite information, nothing concrete is achieved.

(3) Time to Protest:

The immediate objective of the workers' representatives is always some kind of monetary or other gains, accrue when the economy is buoyant and the employer has capacity to pay. But in a period of recession, when demand of the product and the profits are falling, it is very difficult for the employer to meet the demands of the workers, he might even resort to retrenchment or even closure collective bargaining is no answer to such a situation.

(4) Where Prices are Fixed by the Government:

In industries, where the prices of products are fixed by the Government, it becomes very difficult for the employer to meet the demands of workers which would inevitably lead to a rise in cost of the products produced. Whereas the supply price to the consumers cannot be increased. It will either reduce the profits of the firm or increase the loss. In other words, it will lead to closure of the works, which again is not in the interest of the workers.

(5) Outside Leadership:

Most of the Indian trade unions are led by outsiders who are not the employees of the concerned organisations. Leader's interests are not necessarily to be identical with that of the workers. Even when his bonafides are beyond doubt, between him and the workers he leads, there cannot be the degree of understanding and communication as would enable him to speak on behalf of the workers with full confidence. Briefly, in the present situation, without strong political backing, a workers' organisation cannot often bargain successfully with a strong employer.

(6) Multiplicity of Trade Unions:

One great weakness of collective bargaining is the multiplicity of trade unions. In a multiple trade union situation, even a well recognised, union with long standing, stable and generally positive relationship with the management, adopts a militant attitude as its deliberate strategy.

In Indian situation, inter-union rivalries are also present. Even if the unions combine, as at times they do for the purpose of bargaining with the employer they make conflicting demands, which actually confuse employer and the employees.

(7) Appointment of Low-Status Executive:

One of the weaknesses of collective bargaining in India is that the management deputes a low-status executive for bargaining with the employees. Such executive has no authority to commit anything on behalf of the management. It clearly indicates that the management is not at all serious and the union leaders adopt other ways of settling disputes.

(8) Statutory Provisions:

The constraints are also imposed by the regulatory and participative provisions as contained in the Payment of Wages Act, the Minimum Wages Act, and Payment of Bonus Act etc. Such provisions are statutory and are not negotiable.

(9) Fresh Demands at the Time of Fresh Agreement:

At the time when the old agreement is near expiry or well before that, workers representatives come up with fresh demands. Such demands are pressed even when the industry is running into loss or even during the period of depression. If management accepts the demand of higher wages and other benefits, it would prefer to close down the works.

(10) Agreements in Other Industrial Units:

A prosperous industrial unit in the same region may agree with the trade unions to a substantial increase in wages and other benefits whereas a losing industry cannot do that. There is always pressure on the losing industries to grant wages and benefits similar to those granted in other (relatively prosperous) units in the same region.

Scope, Growth, Issue, Reasons of Collective Barganing

Scope of Collective Bargaining

Collective bargaining broadly covers subjects and issues entering into the conditions and terms of employment. It is also concerned with the development of procedures for settlement of disputes arising between the workers and management.

A few important issues around which collective bargaining enters in this developing country are as follows:

“Recognition of the union has been an important issue in the absence of any compulsory recognition by law. In the under-developed countries in Asia, however, on account of the tradition concept of management functions and the immaturity of the industrialist class there is much resistance from the employers to recognise the status of the unions.”

Bargaining upon wage problems to fight inflation or rising cost of living and to resist wage cuts during depression has resulted in several amicable agreements. But, no statistics are available for such amicable settlements. Therefore, Daya, points out, “It has been customary to view collective bargaining in a pattern of conflict; the competitively small number of strikes and lock-outs attract more attention than the many cases of peaceful settlement of differences.”

Another issue on which bargaining takes place is seniority, but in India, it is of less importance than in western countries. But, in India, lay-off, retrenchment, dismissal, rationalisation and participation in the union activities have been important issues for collective bargaining.

Regarding bargaining on hours of work, it has recognized that “in one form or another subject of working time will continue to play an important part in collective bargaining; although the crucial battles may be well fought in the legislative halls.”

Overtime work, holidays, leave for absence and retirement continue to be issues for bargaining in India, although they are not regarded as crucial.

The union security has also been an issue for collective bargaining, but it could not acquire much importance in the country, although stray instances are found. The Tata Workers union bargained with M/s Tata Iron and Steel Co. Ltd., Jamshedpur, on certain issues, one of which was union security and in the resulting agreement some of the union security clauses were also included.

The production norms, technical practices, details of working rules, standards of performance, allowance of fatigue, hiring and firing, protection of life and limb, compensation for overtime, hours of work, wage rates and methods of wage payments, recognition of unions, retrenchment, union security, holidays and competence of workmen form the subjects of negotiations and agreements through collective bargaining. Customary practices are evolving procedures to extend the area of collective bargaining. Collective bargaining has been giving official sanction to trade experiences and agreements.

Collective bargaining, thus, covers the negotiation, administration, interpretation, application and enforcement of written agreement between employers and unions representing their employees setting forth joint understanding, as to policies and procedures governing wages, rates of pay, hours of work and other conditions of employment.

The collective bargaining reached has been of three types:

(1) Agreement arrived at after voluntary direct negotiations between the parties concerned. Its implementation is purely voluntary;

(2) Agreements between the two parties, though voluntary in nature, are compulsory when registered as settlement before a conciliator; and

(3) Agreement which have legal status negotiated after successful discussion between the parties when the matter of dispute is under reference to industrial tribunal/courts.

Many agreements are made voluntarily but compulsory agreements are not negligible. However, collective bargaining and voluntary agreements are not as prominent as they are in other industrially advanced countries. The practice of collective bargaining in India has shown much improvement after the passing of some legislation like The Industrial Disputes

Act 1947 as amended from time to time. The Bombay Industrial Relations Act 1946 which provided for the rights of workers for collective bargaining. Since then, a number of collective bargaining agreements have been entered into.

Issues Involved in Collective Agreements:

A study conducted by the Employer's Federation of India revealed that out of 109 agreements, 'wages' was the most prominent issue in 96 cases (88 percent) followed by dearness allowance (59 cases) retirement benefits (53 cases), bonus (50 cases) other issues involved were annual leave, paid holidays, casual leave, job classification, overtime, incentives, shift allowance, acting allowance, tiffin allowance, canteen and medical benefits.

A study of various collective agreements entered into in India, certain trends in collective bargaining are noticeable.

These are:

(i) Most of the agreements are at plant level. However, some industry-level agreements are also there;

(ii) The scope of agreements has been widening now and now includes matters relating to bonus, productivity, modernisation, standing orders, voluntary arbitration, incentive schemes, and job evaluation;

(iii) Long term agreements ranging between 2 to 5 years, are on increase;

(iv) Joint consultation in various forms has been provided for in a number of agreements; and feasible and effective.

Reasons for the Growth of Collective Bargaining:

(1) Statutory Provisions:

Which have laid down certain principles of negotiations, procedure for collective agreements and the character of representation of the negotiating parties?

(2) Voluntary Measures:

Such as tripartite conferences, joint consultative boards, and industrial committees at the industry level have provided an ingenious mechanism for the promotion of collective bargaining practices.

(3) Several Governments Measures:

Like schemes for workers' education, labour participation in management, the evolution of the code of Inter-union Harmony, the code of Efficiency and Welfare, the Code of Discipline, the formation of Joint Management Councils, Workers Committees and Shop Councils, and the formulations of grievances redressal procedure at the plant level— have encouraged the collective bargaining.

(4) Amendments to the Industrial Disputes Act:

The Amendments to the Industrial Disputes Act in 1964 provided for the termination of an award or a settlement only when a proper notice is given by the majority of workers. Agreements or settlements which are arrived at by a process of negotiation on conciliation cannot be terminated by a section of the workers.

(5) Industrial Truce Resolution:

The Industrial Truce Resolution of 1962 has also influenced the growth of collective bargaining. It provides that the management and the workers should strive for constructive cooperation in all possible ways and throws responsibility on them to resolve their differences through mutual discussion, conciliation and voluntary arbitration peacefully.

Government Policy to Encourage Collective Bargaining:

Ever since independence, it has been the declared policy of the Central Government to encourage trade unions development and the settlement of differences in industry by mutual agreement.

Article 19 of the constitution guarantees for all citizens the right to form associations or unions, only by reserving to the state powers in the interest of public order to impose reasonable restrictions on the exercise of this right.

The Industrial policy Resolution of 1956 declared that, "in a socialist democracy labour is a partner in the common task of development", thus following out the resolution of the Lok Sabha of 1954 which set India on the path towards a "'socialistic pattern of society."

Advertisements

Advantages, Disadvantages of Collective Bargaining

Advantages of Collective Bargaining

Perhaps the biggest advantage of this system is that, by reaching a formal agreement, both sides come to know exactly what to expect from each other and are aware of the rights they

have. This can decrease the number of conflicts that happen later on. It also can make operations more efficient.

Employees who enter collective bargaining know they have some degree of protection from employer retaliation or being let go from the job. If the employer were dealing with just a handful of individuals, he might be able to afford to lose them. When he is dealing with the entire workforce, however, operations are at risk and he no longer can easily turn a deaf ear to what his employees are saying.

Even though employers might need to back down a little, this strategy gives them the benefit of being able to deal with just a small number of people at a time. This is very practical in larger companies where the employer might have dozens, hundreds or even thousands of workers on his payroll. Working with just a few representatives also can make the issues at hand seem more personal.

Agreements reached through these negotiations usually cover a period of at least a few years. People therefore have some consistency in their work environment and policies. This typically benefits the company's finance department because it knows that fewer items related to the budget might change.

On a broad scale, using this method well can result in more ethical way of doing business. It promotes ideas such as fairness and equality, for example. These concepts can spill over into other areas of a person's life, inspiring better general behavior towards others.

Disadvantages of Collective Bargaining

A major drawback to using this type of negotiation system is that, even though everyone gets a say in what happens, ultimately, the majority rules, with only a few people determining what happens too many. This means that a large number of people, particularly in the general workforce, can be overshadowed and feel like their opinion doesn't really matter. In the worst case scenario, this can cause severe division and hostility in the group.

Secondly, it always requires at least two parties. Even though the system is supposed to pull both parties together, during the process of trying to reach an agreement, people can adopt us-versus-them mentality. When the negotiations are over, this way of looking at each other can be hard to set aside, and unity in the company can suffer.

Collective bargaining can also be costly, both in terms of time and money. Representatives have to discuss everything twice—once at the small representative meetings, and again when they relay information to the larger group. Paying outside arbitrators or other professionals quickly can run up a fairly big bill, and when someone else is brought in, things often get slower and more complex because even more people are involved.

Some people point out that these techniques have a tendency to restrict the power of employers. Employees often see this as a good thing, but from the company's perspective, it can make even basic processes difficult. It can make it a challenge to deal with individual workers, for example.

The goal of the system is always to reach a collaborative agreement, but sometimes tensions boil over. As a result, one or both parties might feel they have no choice but to muscle the other side into giving up. Workers might do this by going on strike, which hurts operations and cuts into profits. Businesses might do this by staging lockouts, which prevents members' of the workforce from doing their jobs and getting paid, negatively effecting income and overall quality of living.

Lastly, union dues are sometimes an issue. They reduce the amount of take-home pay a person has, because they usually are deducted right from his paycheck. When things are good in a company and people don't feel like they're getting anything from paying the dues, they usually become unhappier about the rates.

The idea of collective bargaining emerged as a result of industrial conflict and growth of trade union movement and was first given currency in the United States by Samuel Crompers. In India the first collective bargaining agreement was conducted in 1920 at the instance of Mahatma Gandhi to regulate labour management relation between a group of employers and their workers in the textile industry in Ahmadabad

The Industrial Employment (Standing Orders) Act 1946,1961

Section 2(g) "Standing orders" means rules relating to matters set out in the Schedule;

'Standing Orders' means rules of conduct for workmen employed in industrial establishments.

The object of the Act is to require employers in industrial establishments to formally define conditions of employment under them.

CHECK-LIST

Applicability of the Act

Every industrial establishment wherein 100 or more (in many States it is 50 or more).
Any industry covered by Bombay Industrial Relations Act, 1946.
Industrial establishment covered by M.P. Industrial Employment (Standing Orders) Act, 1961.

Sec. 1

Conditions for Certification of Standing Orders

- Every matter to be set out as per Schedule and Rule 2A.
- The standing orders to be in conformity with the provisions of the Act.

Submissions of Draft Standing Orders

Within six months from the date when the Act becomes applicable to an industrial establishment. Five copies of the draft Standing Orders are to be submitted to the Certifying Officer under the Act.

Sec.3

Matters to be provided in Standing orders

- Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.
- Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
- Shift working.
- Attendance and late coming.
- Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.
- Requirement to enter premises by certain gates, and liability to search.
- Closing and re-opening of sections of the industrial establishments, and temporary stoppages of work and the right and liabilities of the employer and workmen arising therefrom.
- Termination of employment, and the notice thereof to be given by employer and workmen.
- Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
- Means of redressal for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.

Additional Matters

Service Record – Matters relating to service card, token tickets, certification of service, change of residential address of workers and record of age Confirmation Age of retirement Transfer Medical aid in case of Accident Medical Examination Secrecy Exclusive service.

Secs.2(g), 3(2) and Rule 2A

Procedure for Certification of Standing Orders

Certifying Officer to forward a copy of draft standing orders to the trade union or in the absence of union, to the workmen of the industry. The trade union or the other representatives, as the case may be, are to be heard.

Sec.5

Date of Operation of Standing Orders

On the date of expiry of 30 days from certification or on the expiry of 7 days from authentication of Standing Orders.

Sec. 7

Posting of Standing Orders

The text of the standing orders as finally certified shall prominently be posted in English or in the language understood by majority of workmen on special board at or near the entrance for majority of workers.

Sec. 9

Temporary application of Model Standing Orders

Temporary application of mod standing orders shall be deemed to be adopted till the standing orders as submitted are certified.

Sec.12-A

Payment of Subsistence Allowance to the Suspended Workers

At the rate of fifty per cent, of the wages which the workman was entitled to immediately proceeding the date of such suspension, for the first ninety days of suspension.
At the rate of seventy-five percent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct such workman. **Sec.10-A**

PENALTIES

- Failure of employer to submit draft Standing Orders fine of Rs.5000 and Rs.200 for every day on continuation of offence.
- Fine of Rs.100 on contravention and on continuation of offence Rs.25 for every day.

Misconduct, Disciplinary Action, Types of Punishments, Code of Discipline, Domestic Enquiry

Disciplinary Enquiry

The disciplinary enquiry is carried out by the disciplinary committee of the respective establishment in relation to the matters of misconduct of the employees. Such committee generally comprises of:

1. Workers Representative, such as the member of Trade Union, as specified underRule 14 (4)(b-a) of the Industrial Employment (Standing Orders) Central Rules, 1946.
2. Employers Representative, such as the head of the department where the workman was employed, and
3. An Independent Officer, i.e. an enquiry officer.

An internal hearing, to ascertain the guilt of the workmen of the alleged misconduct, is conducted by the administrative officer. Domestic Enquiry is mandatory in order to dismiss an employee; however, it is not necessary for suspending him by way of punishment.

Administrative Rules for Disciplinary Enquiry

The Principle of Natural Justice

The management of the industrial establishments must satisfy the principles of natural justice while maintaining a neutral attitude towards the workmen. The delinquent employee must be apparently informed about the charges levelled against him and shall be provided with an opportunity to be heard so he can refute them and establish his innocence. He must be given an occasion to cross-examine the witnesses in his defence and evidence at the enquiry should be adduced in his presence. The punishment awarded, if proven guilty, should be in proportion to the misconduct committed. These principles of natural justice are specified in Sections 2(b), 5(2), 10A (2) and 13A of The Industrial Employment (Standing Orders) Act, 1946.

In **Union of India vs. T. R. Verma, 1957 AIR 882 (1958 SCR 499),** the court laid down that the principles of natural justice require the charge sheeted employee shall have an opportunity of adducing the relevant evidence and that the evidence of the employer should be taken in his presence; he should be given the opportunity of cross-examining the witnesses examined on behalf of the management, and that no materials should be relied upon against him without giving him an opportunity to explain to them. Following the procedure, the evidence recorded at an enquiry is not open to attack.

Right to Make Representation

A delinquent workman should have a right to represent against the findings recorded in the enquiry report to the disciplinary authority. The right has been laid down in the case of **Union of India vs. Mohd. Ramzan Khan, 1991 AIR 471, 1990 SCR Supl. (3) 248.**

Procedure for a Disciplinary Enquiry

Fig 1: Procedure for a Disciplinary Enquiry

The principle of natural justice clarifies that no man shall be punished or condemned without giving an opportunity to justify himself. The Industrial Tribunals, based on this, have laid down the following procedure:

Preliminary Enquiry

In a landmark judgment of **Amulya Ratan Mukharjee Vs. Eastern Railway, (1962) LLJ- 11-540, Cal- H.C.**, it observed by the Hon'ble High Court of Calcutta that:

- "Before making a charge, the Authorities are entitled to have a preliminary investigation or a "Fact-Finding enquiry" when they receive a complaint from an employer. This is not considered to be a formal enquiry at all and in such an enquiry, no rules are observed.
- There can be ex-parte examination or investigation and ex-parte report. All this is to enable the authority to apprise themselves of the real facts and to decide whether the employee should be charge-sheeted.
- But the departmental enquiry starts from the charge sheet. The charge sheet must be specific and must set out all the necessary particulars. It is no excuse to say that the delinquent who had knowledge of previous proceedings should be taken to have known all about the charge sheet."
- Charge Sheet

A charge-sheet essentially contains detailed particulars of the misconduct, specific charges against the workman and the relevant clauses of the Standing Order under which the workman is liable to the punished.

In **Sur Enamel and Stamping Works (P) Ltd. vs. Their Workmen,1963 SC 1914,** the Hon'ble Supreme Court, in an attempt to lay down the procedure for conducting an enquiry for industrial adjudication, provided that an enquiry cannot be said to have been properly held unless:

1. the workman proceeded against must be informed clearly of the charges levelled against him;
2. the witnesses must be examined in the presence of the workman;
3. the workman must be given a fair opportunity to cross-examine the witnesses including himself if he so wishes; and;
4. the Enquiry Officer must record his findings with reasons in his report. (see here)

Generally, standing orders provide the manner of serving the charge sheet on the workman concerned and where it is prescribed the procedure should invariably be followed. It can be given personally or by post to the delinquent worker.

Appointment of Enquiry Officer

Saran Motors Pvt. Ltd., New Delhi Vs. Vishwanathan 1964 11.LLJ 139, it was observed that:

- "Enquiry Officer should be properly and duly authorised by the competent authority to hold a domestic enquiry into the charges alleged against an employee. Any person, even an outsider, may be appointed as an enquiry officer, provided rules or Standing Orders do not bar such an appointment.
- The Enquiry Officer has the obligation to explain the procedures of enquiry and chargesheet against the concerned workman."

Suspension Pending Enquiry

- In the case where a workman who is placed under suspension by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance in accordance with the provisions ofSection 1O-A of the Industrial Employment (Standing Order) Act, 1946 which provides:

"Where any workman is suspended by the employer pending inquiry into complaints or charges or misconduct against him, the employer shall pay to such workman subsistence allowance:

- at the rate of 50% of the wages which workman was entitled to immediately preceding the date of such suspension, for the first 90 days of suspension and;
- at the rate of 75% of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman."

Explanation by Employee

After a charge sheet has been served on the accused workman, he may send his explanation cum reply in this manner:

1. admitting the charges and pleading for mercy.
2. denying the charges in totality.
3. requesting for more time to submit the explanation.

Notice of Enquiry

On receipt of the charge sheet, the employee sends his reply to the Authority. If the Authority found the reply to be unsatisfactory, he may get a show cause notice from the Authority. This procedure is applied in the case of **Associated Cement Co. Ltd vs. Their workmen and Other 1964 65 26 FJR 289 SC.** which further states that:

"The workman should be given due intimation of the date on which the enquiry is to be held so that he has an opportunity to prepare his defence at the enquiry."

Supply of relevant materials

Management may ask for any document in proof of charge. So, according to the

principles of natural Justice, such copies of those documents should be supplied to the delinquent workman. A workman who is to answer to charge must not only know the accusation but also the testimony by which the accusation is supported as enumerated in the case of **Meenglass Tea Estate vs. workmen, 1963 11, L.L.J, 392 (S.C.)**

Examination of Witnesses

There is no provision of law under which the Enquiring officers holding domestic enquiries can compel the attendance of witnesses as under the Codes of Civil Procedure or Criminal Procedure.

Further, some general rules for examination of the witness are mentioned in the judgment of **Tata Engineering and Locomotive Co. Ltd. vs. S.C. Prasad, (1969) 11 L.L.J. 799 (S.C.)**

It was observed by the Hon'ble Supreme Court that:

- "If the allegations mentioned in the charge sheet are denied by the workman in the domestic enquiry proceedings, the onus for proving those allegations will be upon the shoulders of the management and;
- the witnesses, called by the Management, must be allowed to be cross examined by the workman and;
- the workman must also be given a reasonable opportunity to examine himself and can add any further pieces of evidence that he might choose in support of his plea."

Report of Enquiry Officer

- Once the employer and the workman have been heard, the Officer is required to prepare a reasoned enquiry report which contained every findings in the enquiry and submit it with the Authority.
- Lastly, it is the duty of an enquiry officer to send the Report to the Accused.

Any act or omission of an employee, whether amounts to the misconduct or not, is to be governed in accordance with the provided list in the Industrial Establishments (Standing Order) Rules. Although no statute or law specifically lays down the procedure to conduct the disciplinary enquiry, the various judgements of the Industrial Tribunals, however, have laid down a basic idea of the procedure that ought to be followed while conducting such an enquiry. The prime principle that is to be taken care throughout the procedure of the enquiry is the principles of the natural justice that shall be ensured at every step and action to assure the delivery of justice.

Grievance Function in IR: Grievance Settlement Procedure

Grievance means any type of dissatisfaction or discontentment's arising out of factors related to an employee's job which he thinks are unfair. A grievance arises when an employee feels that something has happened or is happening to him which he thinks is unfair, unjust or inequitable. In an organization, a grievance may arise due to several factors such as:

1. Violation of management's responsibility such as poor working conditions
2. Violation of company's rules and regulations
3. Violation of labor laws
4. Violation of natural rules of justice such as unfair treatment in promotion, etc.

Various sources of grievance may be categorized under three heads: (i) management policies, (ii) working conditions, and (iii) personal factors

1.Grievance resulting from management policies include:

- Wage rates
- Leave policy
- Overtime
- Lack of career planning
- Role conflicts
- Lack of regard for collective agreement
- Disparity between skill of worker and job responsibility

2. Grievance resulting from working conditions include:

- Poor safety and bad physical conditions
- Unavailability of tools and proper machinery
- Negative approach to discipline
- Unrealistic targets

3. **Grievance resulting from inter-personal factors include**

- Poor relationships with team members
- Autocratic leadership style of superiors
- Poor relations with seniors
- Conflicts with peers and colleagues

It is necessary to distinguish a complaint from grievance. A complaint is an indication of employee dissatisfaction that has not been submitted in written. On the other hand, a grievance is a complaint that has been put in writing and made formal.

Grievances are symptoms of conflicts in industry. Therefore, management should be concerned with both complaints and grievances, because both may be important indicators of potential problems within the workforce. Without a grievance procedure, management may be unable to respond to employee concerns since managers are unaware of them. Therefore, a formal grievance procedure is a valuable communication tool for the organization.

Grievance Procedure:

Grievance procedure is a Step by step process an employee must follow to get his or her complaint addressed satisfactorily. In this process, the formal (written) complaint moves from one level of authority (of the firm and the union) to the next higher level.

Grievance procedure is a formal communication between an employee and the management designed for the settlement of a grievance. The grievance procedures differ from organization to organization.

1. Open door policy
2. Step-ladder policy

Open door policy: Under this policy, the aggrieved employee is free to meet the top executives of the organization and get his grievances redressed. Such a policy works well only in small organizations. However, in bigger organizations, top management executives are usually busy with other concerned matters of the company. Moreover, it is believed that open door policy is suitable for executives; operational employees may feel shy to go to top management.

Step ladder policy: Under this policy, the aggrieved employee has to follow a step by step procedure for getting his grievance redressed. In this procedure, whenever an employee is confronted with a grievance, he presents his problem to his immediate supervisor. If the employee is not satisfied with superior's decision, then he discusses his grievance with the departmental head. The departmental head discusses the problem with joint grievance committees to find a solution. However, if the committee also fails to redress the grievance, then it may be referred to chief executive. If the chief executive also fails to redress the grievance, then such a grievance is referred to voluntary arbitration where the award of arbitrator is binding on both the parties.

How to handle an employee grievance?

1. Establish whether the grievance needs to be resolved formally or informally.
2. Choose an appropriate manager to deal with the grievance.
3. Carry out a full investigation and gather all relevant evidence, sending it to the employee in advance of the meeting.
4. Arrange the grievance meeting, inviting the employee and reminding them of their statutory right to be accompanied.
5. Make sure accurate notes are taken throughout by a person who is not involved in the case.
6. Give the employee the opportunity to explain the details of their grievance and what they would like the outcome to be.
7. Adjourn the meeting consider the evidence before making a decision.
8. Inform the employee in writing of the decision, explaining how and why the decision was reached.
9. Notify the employee of their right to appeal against the outcome of the grievance procedure.

GRIEVANCE PROCEDURE IN INDIAN INDUSTRY

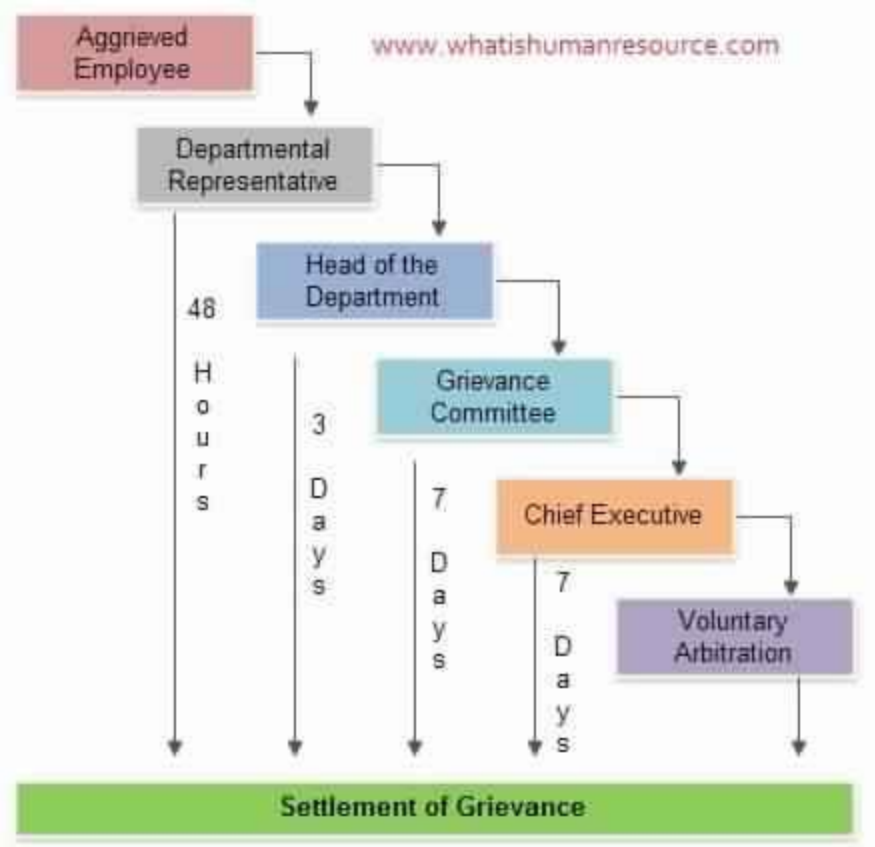
The 15th session of Indian Labor Conference held in 1957 emphasized the need of an established grievance procedure for the country which would be acceptable to unions as well as to management. In the 16th session of Indian Labor Conference, a model for grievance procedure was drawn up. This model helps in creation of grievance machinery. According to it, workers' representatives are to be elected for a department or their union is to nominate them. Management has to specify the persons in each department who are to be approached first and the departmental heads who are supposed to be approached in the second step. The Model Grievance Procedure specifies the details of all the steps that are to be followed while redressing grievances. These steps are:

STEP 1: In the first step the grievance is to be submitted to departmental representative, who is a representative of management. He has to give his answer within 48 hours.

STEP 2: If the departmental representative fails to provide a solution, the aggrieved employee can take his grievance to head of the department, who has to give his decision within 3 days.

STEP 3: If the aggrieved employee is not satisfied with the decision of departmental head, he can take the grievance to Grievance Committee. The Grievance Committee makes its recommendations to the manager within 7 days in the form of a report. The final decision of the management on the report of Grievance Committee must be communicated to the aggrieved employee within three days of the receipt of report. An appeal for revision of final decision can be made by the worker if he is not satisfied with it. The management must communicate its decision to the worker within 7 days.

STEP 4: If the grievance still remains unsettled, the case may be referred to voluntary arbitration.



Settlement Machinery for Industrial Disputes

Conciliation, Arbitration & Adjudication

Some of the major industrial dispute settlement machinery are as follows:

1. Conciliation
2. Court of Inquiry
3. Voluntary Arbitration
4. Adjudication (Compulsory arbitration).

This machinery has been provided under the Industrial Disputes Act, 1947. It, in fact, provides a legalistic way of setting the disputes. As said above, the goal of preventive machinery is to create an environment where the disputes do not arise at all.

Even then if any differences arise, the judicial machinery has been provided to settle them lest they should result into work stoppages. In this sense, the nature of this machinery is curative for it aims at curing the aliments.

1. **Conciliation:**

Conciliation, is a form of mediation. Mediation is the act of making active effort to bring two conflicting parties to compromise. Mediation, however, differs from conciliation in that whereas conciliator plays only a passive and indirect role, and the scope of his functions is provided under the law, the mediator takes active part and the scope of his activities are not subject to any statutory provisions.

Conciliation is the "practice by which the services of a neutral party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement of agreed solution."

The Industrial Disputes Act, 1947 provides for conciliation, and can be utilised either by appointing conciliation officers (permanently or for a limited period) or by constituting a board of conciliation. This conciliation machinery can take a note of a dispute or apprehend dispute either on its own or when approached by either party.

With a view to expediting conciliation proceeding, time-limits have been prescribed—14 days in the case of conciliation officers and two months in the case of a board of conciliation, settlement arrived at in the course of conciliation is binding for such period as may be agreed upon between the parties or for a period of 6 months and with continue to be binding until revoked by either party. The Act prohibits strike and lock-out during the pendency of conciliation proceedings before a Board and for seven days after the conclusion of such proceedings.

Conciliation Officer:

The law provides for the appointment of Conciliation Officer by the Government to conciliate between the parties to the industrial dispute. The Conciliation Officer is given the powers of a civil court, whereby he is authorised to call the witness the parties on oath. It should be remembered, however, whereas civil court cannot go beyond interpreting the laws, the conciliation officer can go behind the facts and make judgment which will be binding upon the parties.

On receiving information about a dispute, the conciliation officer should give formal intimation in writing to the parties concerned of his intention to commence conciliation proceedings from a specified date. He should then start doing all such things as he thinks fit for the purpose of persuading the parties to come to fair and amicable settlement of the dispute.

Conciliation is an art where the skill, tact, imagination and even personal influence of the conciliation officer affect his success. The Industrial Disputes Act, therefore, does not prescribe any procedure to the followed by him.

The conciliation officer is required to submit his report to the appropriate government along with the copy of the settlement arrived at in relation to the dispute or in case conciliation has failed, he has to send a detailed report giving out the reasons for failure of conciliation.

The report in either case must be submitted within 14 days of the commencement of conciliation proceedings or earlier. But the time for submission of the report may be extended by an agreement in writing of all the parties to the dispute subject to the approval of the conciliation officer.

If an agreement is reached (called the memorandum of settlement), it remains binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and continues to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the party or parties to the settlement.

Board of Conciliation:

In case Conciliation Officer fails to resolve the differences between the parties, the government has the discretion to appoint a Board of Conciliation. The Board is tripartite and ad hoc body. It consists of a chairman and two or four other members.

The chairman is to be an independent person and other members are nominated in equal number by the parties to the dispute. Conciliation proceedings before a Board are similar to those that take place before the Conciliation Officer. The Government has yet another option of referring the dispute to the Court of Inquiry instead of the Board of Conciliation.

The machinery of the Board is set in motion when a dispute is referred to it. In other words, the Board does not hold the conciliation proceedings of its own accord. On the dispute being referred to the Board, it is the duty of the Board to do all things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement. The Board must submit its report to the government within two months of the date on which the dispute was referred to it. This period can be further extended by the government by two months.

2. Court of Inquiry:

In case of the failure of the conciliation proceedings to settle a dispute, the government can appoint a Court of Inquiry to enquire into any matter connected with or relevant to industrial dispute. The court is expected to submit its report within six months. The court of enquiry may consist of one or more persons to be decided by the appropriate government.

The court of enquiry is required to submit its report within a period of six months from the commencement of enquiry. This report is subsequently published by the government within 30 days of its receipt. Unlike during the period of conciliation, workers' right to strike, employers' right to lockout, and employers' right to dismiss workmen, etc. remain unaffected during the proceedings in a court to enquiry.

A court of enquiry is different from a Board of Conciliation. The former aims at inquiring into and revealing the causes of an industrial dispute. On the other hand, the latter's basic objective is

to promote the settlement of an industrial dispute. Thus, a court of enquiry is primarily fact-finding machinery.

3. **Voluntary Arbitration:**

On failure of conciliation proceedings, the conciliation officer many persuade the parties to refer the dispute to a voluntary arbitrator. Voluntary arbitration refers to getting the disputes settled through an independent person chosen by the parties involved mutually and voluntarily.

In other words, arbitration offers an opportunity for a solution of the dispute through an arbitrator jointly appointed by the parties to the dispute. The process of arbitration saves time and money of both the parties which is usually wasted in case of adjudication.

Voluntary arbitration became popular as a method a settling differences between workers and management with the advocacy of Mahatma Gandhi, who had applied it very successfully in the Textile industry of Ahmedabad. However, voluntary arbitration was lent legal identity only in 1956 when Industrial Disputes Act, 1947 was amended to include a provision relating to it.

The provision for voluntary arbitration was made because of the lengthy legal proceedings and formalities and resulting delays involved in adjudication. It may, however, be noted that arbitrator is not vested with any judicial powers.

He derives his powers to settle the dispute from the agreement that parties have made between themselves regarding the reference of dispute to the arbitrator. The arbitrator should submit his award to the government. The government will then publish it within 30 days of such submission. The award would become enforceable on the expiry of 30 days of its publication.

Voluntary arbitration is one of the democratic ways for setting industrial disputes. It is the best method for resolving industrial conflicts and is a close' supplement to collective bargaining. It not only provides a voluntary method of settling industrial disputes, but is also a quicker way of settling them.

It is based on the notion of self-government in industrial relations. Furthermore, it helps to curtail the protracted proceedings attendant on adjudication, connotes a healthy attitude and a developed outlook; assists in strengthening the trade union movement and contributes for building up sound and cordial industrial relations.

4. **Adjudication:**

The ultimate remedy for the settlement of an industrial dispute is its reference to adjudication by labour court or tribunals when conciliation machinery fails to bring about a settlement. Adjudication consists of settling disputes through intervention by the third party appointed by the government. The law provides the adjudication to be conducted by the Labour Court, Industrial Tribunal of National Tribunal.

A dispute can be referred to adjudication if hot the employer and the recognised union agree to do so. A dispute can also be referred to adjudication by the Government even if there is no consent of the parties in which case it is called 'compulsory adjudication'. As mentioned above, the dispute can be referred to three types of tribunals depending on the nature and facts of dispute in questions.

These include:

(a) Labour courts,

(b) Industrial tribunals, and

(c) National tribunals.

The procedure, powers, and provisions regarding commencement of award and period of operation of award of these three bodies are similar. The first two bodies can be set up either by State or Central Government but the national tribunal can be constituted by the Central Government only, when it thinks that the adjudication of a dispute is of national importance. These three bodies are into hierarchical in nature. It is the Government's prerogative to refer a dispute to any of these bodies depending on the nature of dispute.

(a) Labour Court:

A labour court consists of one person only, who is normally a sitting or an ex-judge of a High Court. It may be constituted by the appropriate Government for adjudication of disputes which are mentioned in the second schedule of the Act.

The issues referred to a labour court may include:

(i) The propriety or legality of an order passed by an employer under the Standing Orders.

(ii) The application and interpretation of Standing Orders.

(iii) Discharge and dismissal of workmen and grant of relief to them.

(iv) Withdrawal of any statutory concession or privilege.

(v) Illegality or otherwise of any strike or lockout.

(vi) All matters not specified in the third schedule of Industrial Disputes Act, 1947. (It deals with the jurisdiction of Industrial Tribunals).

(b) Industrial Tribunal:

Like a labour court, an industrial tribunal is also a one-man body. The matters which fall within the jurisdiction of industrial tribunals are as mentioned in the second schedule or the third schedule of the Act. Obviously, industrial tribunals have wider jurisdiction than the labour courts.

Moreover an industrial tribunal, in addition to the presiding officer, can have two assessors to advise him in the proceedings; the appropriate Government is empowered to appoint the assessors.

The Industrial Tribunal may be referred the following issues:

1. Wages including the period and mode of payment.
2. Compensatory and other allowances.
3. Hours of work and rest intervals.
4. Leave with wages and holidays.
5. Bonus, profit sharing, provident fund and gratuity.
6. Shift working otherwise than in accordance with the standing orders.
7. Rule of discipline.
8. Rationalisation.
9. Retrenchment.
10. Any other matter that may be prescribed.

(c) National Tribunal:

The Central Government may constitute a national tribunal for adjudication of disputes as mentioned in the second and third schedules of the Act or any other matter not mentioned therein provided in its opinion the industrial dispute involves “questions of national importance” or “the industrial dispute is of such a nature that undertakings established in more than one state are likely to be affected by such a dispute”.

The Central Government may appoint two assessors to assist the national tribunal. The award of the tribunal is to be submitted to the Central Government which has the power to modify or reject it if it considers it necessary in public interest

It should be noted that every award of a Labour Court, Industrial Tribunal or National Tribunal must be published by the appropriate Government within 30 days from the date of its receipt. Unless declared otherwise by the appropriate government, every award shall come into force on the expiry of 30 days from the date of its publication and shall remain in operation for a period of one year thereafter.