

Labour Law

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Topic- Define Industrial Dispute and its essentials.

Industrial dispute:

1. An **Industrial dispute** may be defined as a conflict or difference of opinion between management and workers on the terms of employment. It is a disagreement between an employer and employees representative; usually a trade union, over pay and other working conditions and can result in industrial actions. When an industrial dispute occurs, both the parties, that is the management and the workmen, try to pressurize each other. The management may resort to lockouts while the workers may resort to strikes, picketing or gheraos. As per Section 2(k) of Industrial Disputes Act, 1947, an industrial dispute is defined as any dispute or difference between employers and employees, or between employers and workmen, or between workmen and which is connected with the employment or non-employment or the terms of employment or with the conditions of labor, of any person. This definition includes all the aspects of a dispute. It, not only includes the disagreement between employees and employers, but also emphasizes the difference of opinion between worker and worker. The disputes generally arise on account of poor wage structure or poor working conditions. This disagreement or difference could be on any matter concerning the workers individually or collectively. It must be connected with employment or non-employment or with the conditions of labor.

2. From the point of view of the employer, an industrial dispute resulting in stoppage of work means a stoppage of production. This results in increase in the average cost of production since fixed expenses continue to be incurred. It also leads to a fall in sales and the rate of turnover, leading to a fall in profits. The employer may also be liable to compensate his customers with whom he may have contracted for regular supply. Apart from the immediate economic effects, loss of prestige and credit, alienation of the labor force, and other non-economic, psychological and social consequences may also arise. Loss due to destruction of property, personal injury and physical intimidation or inconvenience also arises. For the employee, an industrial dispute entails loss of income. The regular income by way of wages and allowance ceases, and great hardship

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may be caused to the worker and his family. Employees also suffer from personal injury if they indulge into strikes n picketing; and the psychological and physical consequences of forced idleness. The threat of loss of employment in case of failure to settle the dispute

3. **Manifestation of conflict:** (Union –management Conflict) Management Union Non Unwillingness to cooperate negotiate Agreement Termination Stress and tension Demotion Resentment Lay-off Absenteeism Lock out Morcha ,Gherao Loss of production strike

4. **Causes of Industrial Disputes** : Industrial Factors ,Management attitude to labour , Government Machinery , other causes Inter/Intra Union Rivalry , Charter of Demands, Work Load, Standing orders/rules/service conditions/safety measures, Non-implementation of agreements and awards etc.

5. **Industrial Factor:** An industrial matter relating to employment, work wages, hour of work, privileges, right and obligations of employee and employers, The rising prices of essential commodities, their shortages and non availability all those erode the value of money as a result worker's wage go down thus create dissatisfaction. The rapidly increasing population which has no opportunity for gainful employment, thus no improvement for standard of living, thus put forward demand for higher wages.

6. **Management attitude towards workers:** Management is generally not willing to talk over any dispute with their employees or their representative or refer it to the arbitration even when trade union want them to do so. The management unwillingness to recognize a particular trade union is also an important source of industrial strike. The management insistence that they alone are responsible for recruitment, promotion, transfer, merit and award and that they needn't consult their employee regarding any of these matter.

7. **Government Machinery:** Not successful in implementing labour law, Inability of conciliation machinery to do its job and consequently employee and management loss of confidence in that. Irrelevance of certain provision of labour law and its inadequate role in the context of challenges of present industrial climate. The officers associated with conciliation proceedings have very little training in handling the problem or dispute which are referred to them.

8. **Other factors/causes Inter/Intra Union Rivalry** : Charter of Demands, Work Load, Standing orders/rules/service conditions/safety measures, Non-implementation of agreements and awards etc.

9. **Classification of Industrial Dispute:** Dispute relating to terms of employment
Interest Dispute : conflict of interest or economic dispute this dispute is relates to establishment of new terms and conditions for the workers. This arise when the parties fail in their negotiations to reach an agreement on the outstanding issues. Generally the dispute originate from trade union

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demand or proposal for improvement of wage, fringe benefit, job security or other term of employment. **Grievance Dispute: Conflict of Rights.** It arises from day to day working conditions in the organization, usually as a protest by the workers in response to any unfair treatment by management. Promotion, demotions, transfer, jobs classification are the main issues in this dispute. The relevant provision of collective agreement, employment contract, work rule or law are resorted to settle such grievance issue.

10. **Dispute over unfair labour practices:** The most common unfair labour practices in IR are attempts by management of an undertaking to discriminate against workers for being a trade union member. Other unfair labour practices are generally concerned with interference, restraint or coercion of employees from exercising their right to organize, join or assist union. **Recognition Dispute: Industrial Dispute Act.** It is settled mainly through the dispute over the right of the trade union to represent a particular class or category of workers for the purpose of collective bargaining are referred to as Recognition dispute. Issues in recognition dispute differ according to the cause which has led the management to refuse recognition. Settled through laws..

11. A legitimate weapon in the hand of workmen to be used by them for asserting their bargaining power. Basically, the word strike means a temporary termination of work by a group of employees in order to express their grievances. So in strike, 1. there should be termination of work 2. by a body of persons employed in any industry acting in combination 3. There should be a concerted refusal or refusal under a common understanding.

12. **INDUSTRIAL DISPUTE STRIKE LOCK OUT** primary secondary others Stay away strike, Sympathy, General strike, Pen down strike, Particular, Go slow strike, Work to rule, Political strike, Token strike, Bandhs, Lightning strike, Picketing and boycott and Gherao.

13. **Primary strike:** generally pointed against the employer with whom the dispute exists. Stay away strike: the workmen don't come to workplace during the prescribed working hour. They rather organize rallies, demonstration etc. Stay-in strike: also called sitdown or pen down strike where employees remain at the place of work but refuse to work. It is effective as the employer is deprived of the use of the plant. Go slow strike: workers intentionally reduce the speed of their work to reduce the production or efficiency while pretending to be engaged. It is considered a serious misconduct and for which the workers can be dismissed as well. Token or protest strike: a short duration strike where the employees try to inform the employer about their feelings indirectly.

14. **Lightning or cat call strike:** this strike is announced suddenly without any prior intention to go on strike. Picketing and boycott: act of posting pickets and implying marching and patrolling of the workmen in front of the premises of the employers. A peaceful approach to get their demands by workers. Hunger strike: usually takes the form of fasting by a group of workmen after having posted themselves near the place of work or at the residence of employer. The object being to

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coerce the employer to accept the worker's demand. Fasting by itself is neither wrong nor punishable but if it undertaken to the point of starvation and death, it amounts to offence. Gherao: is the physical blockade of a target either by encirclement intended to block the regress and ingress from and to a particular office, workshop and factory. The target may be place or person. It is illegal and unconditional .

15. **Secondary strike** : these are strikes in which the pressure is applied not against the primary employer with whom the primary workers have a dispute but against some third person who has good trade relation with him. Mostly popular in USA. General strike: its undertaken not by a particular body of workmen against a particular master but by workmen in general, irrespective of masters, but against all masters. E.g. Bandhs and Hartals Such strike has economic demand or political support.

16. **Prevention of strike**: Incidence and frequency of strikes should minimized through persistent effort by management. It must require a well defined, precise and clear personnel policies for employees in the organization. Effective administration and timely implementation of these policies. And effective two way system of communication. Provision of human condition of work. Suitable and speedy grievance handling procedures.

17. **Lockout**: Lockout means the closing of a place of employment or suspension of work or refusal by an employer to continue to employ any no. of person employed by him. It is the action of an employer in temporary closing down or shutting down his undertaking or refusing to provide his employees with work with intention of forcing them either to accept demands made by him or to withdraw demand made by them on him. The futures of lockout are, A closure of industrial undertaking due to apprehension of industrial dispute, violence and loss of property. It is the suspension of employment relationship between employer and workmen. A situation when employer refuses to provide work to the workers by locking his premises and not allowing it's employee Thus whether it is strike or lockout , the consequences are detrimental to the to come into work. industry as a whole and the economy of the country because they lead to loss of production through stoppage of work and consequent damage of national economy.

18. **Machinery for settlement**: Statutory Measure, Voluntary Measure, Statutory Measure :The major statutory measure is ID Act 1947, which creates different authorities to preserve industrial harmony, prevention and settlement of industrial disputes. The principle objectives of this act are, to prevent illegal strikes and lockouts, to provide relief to workmen in terms of layoff, retrenchment etc, and to give the workmen the right to bargain collectively.

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The End