

R.M.M. Law College, Saharsa

Pt. Lecturer- KESHAV KUMAR SHRIVASTAVA

L.L.B Part- 3rd

Subject- Labour Law

Paper- 6th

Date- 07/08/2020

Topic- Discuss the constitution, functions, powers, duties and procedure of industrial tribunal and Labour court under the Industrial Dispute Act 1947.

Indian Industrial Disputes Act, 1947

Industrial disputes are collective dissent and protest against the terms and conditions of employment and work. In the Industrial Disputes Act, 1947, an Industrial dispute means “Difference between employer and employer or between employer and workmen or between workmen and workmen, or any dispute among these which are related to the employment or non-employment or terms and conditions of employment of any person”. Practically, Industrial dispute primarily refers to the disengagement between employers and their employees. It is not a personal dispute of any one person. It engages a large number of workers’ association having a correlated interest.

SCOPE AND OBJECT

The Industrial Dispute Act of 1947, came into force on the first day of April, 1947. Its aim is to protect the workmen against victimization by the employers and to ensure social justice to both employers and employees. The unique object of the Act is to promote collective bargaining and to maintain a peaceful atmosphere in industries by avoiding illegal strikes and lock outs. The Act also provides for regulation of lay off and retrenchment. The objective of the Industrial Disputes Act is to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.

constitution : A constitution is an aggregate of fundamental principles or established precedents that constitute the legal basis of a polity, organisation or other type of entity and commonly determine how that entity is to be governed.

Functions:

SALIENT FEATURES OF INDUSTRIAL DISPUTES ACT , 1947

Industrial dispute – 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, and other working conditions and can result in industrial actions.

OBJECTIVES – Promotion of measures for securing and preserving amity and good relation between the employers and workers – Investigation and settlement of industrial disputes – Prevention of illegal strikes and lock-outs – Relief to workmen in the matter of lay-off – Promotion of collective bargaining

– Terms under Industrial Disputes Act, 1947 APPROPRIATE GOVERNMENT – Sec 2 (a) • Refers to Central Government/State Government ARBITRATOR – Sec2 (aa) • Referred as an umpire. • It means any person who is appointed to determine differences and disputes between two parties.

Power to make rules.-

- (1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--
- (3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.
- (4) All rules made under this section shall, as soon as possible after they are made, be laid before the State Legislature or, where the appropriate Government is the Central Government, before both Houses of Parliament.]
- (5) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each

Industrial Tribunal

For the adjudication of the industrial disputes, the appropriate government may, by notification constitute one or more industrial tribunals. Matters relating to the following are:

- Retrenchment of labour.
- Compensatory and other allowances and rules of the discipline in the workplace.

- If the company is in profit, then matter related to bonus and profit sharing.
- Work manual such as hours of working and interval for rest.
- Wages and provident fund of workmen.
- The duty of the Industrial Tribunal to hold its proceedings fast and submit its report to the state government within the specified time given.

Duties of Labour Court :

Labour Court shall hold its proceedings within the specified period and shall submit its award to the Government. Such award must be in writing and signed by the presiding officer.

The Labour Court has the same power of a Civil Court. The proceeding of the Labour Court shall not be questioned on the ground that it is not properly constituted

Functions of the Labour Court :

The functions of the Labor Court are laid down in Section 7 of the said Act.

(I) Adjudicating upon industrial dispute specified in the second schedule of the said Act; are as follows

- (1) The propriety or legality of any order passed by an employer under the standing orders;
- (2) The application and interpretation of the Standing Orders
- (3) Discharge or dismissal of the workman including reinstatement of, or grant of relief to, the workman wrongfully dismissed;
- (4) Withdrawal of any customary concession or privilege
- (5) Illegality or otherwise of a strike or Lockout; and
- (6) All matters other than those specified in the Third Schedule which fall within the jurisdiction of Industrial Tribunal.

The End