

## **R.M.M. Law College, Saharsa**

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**L.L.B Part- 3<sup>rd</sup>**

**Subject- Labour Law**

**Paper- 6<sup>th</sup>**

**Date- 25/09/2020**

**Topic- What do you understand by 'Strike' and 'Lockout'? Distinguish between 'Strike' and 'Lockout'.**

### **Intrtroduction-**

Strike and lockout are the actions taken by the employees and employers respectively to fulfill their demands. The strike is the remedy for employees while the lockout is the remedy is for the employer of the company or industry.

In the struggle between the employers and employees, lockout and strikes work as weapons. Strike makes the effect on the production in the industry whereas the lockout makes the effects on the salary of the employees. Law gives the room for strike and lockout to place in the industry. But both must be peaceful and must fulfill the conditions of the Industrial dispute act, 1947.

### **Essentials of strike-**

Section 2(Q) of the industrial dispute act, 1947 defines the Strike that 'Strike is a temporary cessation of the work by the group of the employees of the industry with the same intention to stop the work.

There are two essentials of the strike

1. **Cessation of work**
2. **Cessation of work in combination by a group of employed persons in the industry**

### **1.Cessation of work-**

Cessation of the work in the industry is the essential element for the strike. Cessation of work means the work of the industry has been stopped. Even the period for the stoppage is only half-hour still it will fall in the definition of a strike if the other requirements of the definition are fulfilled.

## **2.Cessation of work in combination by a group of employed persons in the industry-**

The stoppage of work must be with the common intention of the employees and that too in defiance of the authority of employers.

### **Essentials of Lock-out-**

**Lock-out** means temporary closing of the industry, or suspension of work, or the refusal of the work by the employer of the industry to continue employ to any number of workmen employed within the industry.

There are two essentials of the Lock-out

- 1) Closing of the industry
- 2) Suspension of work
- 3) Refusal by the employer to continue to employ any number of workmen employed in the industry

The coercion and retaliation are the main elements of the Lock-out which must be used by the employer. The mere suspension of the work without accompanied by an intention to retaliate will not amount to Lock-out.

If the employer of the industry shut down the work because the raw material, or the fuel or any necessary material is not present, it will not amount to Lock-out.

### **Prohibition of strike and lockout-**

The stopping or cessations of work whether by the workmen or by the employer of the industry is harmful to the production and economy of the society. For this, the industrial dispute act is providing some prohibition of strikes and lockout.

### **Prohibition of strikes-**

The strike is not allowed by the persons employed in public utility services:

1. Without giving the 6 weeks prior notice to the employer before striking,
2. Within 14 days of giving such notice,
3. Before the expiry date of the strike which was given in the notice,
4. During the pendency of any proceedings under conciliation,
5. Before the seven days of the decision of the conciliation officer.

### **Prohibition of lock-out-**

The lock-out shall not allow the employer carrying on any public utility service:

1. Without giving the 6 weeks prior notice to the employees before lock-out,
2. Within 14 days of giving such notice,
3. Before the expiry date of a lock-out which was given in the notice,
4. During the pendency of any proceedings under conciliation,
5. Before the seven days of the decision of the conciliation officer.

### **Difference between strikes and lockouts-**

| <b>S. No.</b> | <b>STRIKE</b>   | <b>LOCK-OUT</b>   |
|---------------|---|---|
| 1             | It is the weapon of employees against employers.                                    | It is the weapon of the employer against employees.                     |
| 2             | Cessation of work by employees.   | Cessation of work by the employer.                                      |
| 3             | It is a full cessation of work by employees until the fulfillment of their demands. | It is a temporal shutdown by the employer, refusal of employ.           |
| 4             | The reasons are often economic.   | Reasons can be economic or non-economic                                 |
| 5             | The strike is of various types.   | The lock-out does not have varieties.                                   |
| 6             | The strike is conducted to gain a concession from the employer.                     | Lock-out is used to enforce the terms of employment during the dispute. |

**The End**

