

R.M.M. Law College, Saharsa

Pt. Lecturer- KESHAV KUMAR SHRIVASTAVA

L.L.B Part- 3rd

Subject- Labour Law

Paper- 6th

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Topic- Write short notes on the “penalty for illegal strike” under the Industrial Dispute Act. Is it an offence to give financial aid to an illegal strike or lockout? Explain.

Introduction-

Penalties are imposed when the act is done which is prohibited or illegal under any law. Penalties are a way of imposing restriction upon the person not to do any activity or act which is prohibited .

Penalty for illegal strikes and lock outs.-

Section 26(1) prescribes a penalty which can be imposed on any workman who commences, continues or otherwise acts in furtherance of a strike which is illegal under this act .

Thus to penalise a workman under 26(1) two conditions must be fulfilled namely:-

- A workman must commence, continue or in some other manner act in furtherance of a strike and
- Such strike must be illegal under this act.

Section 26(2) provides that an employer shall be punishable with imprisonment extending to one month or with maximum fine of rupees one thousand or with both if,

Such employer commences, continues or otherwise acts in furtherance of a lock out and Such lock out us illegal under this act.

Section 27. Penalty for instigation ,etc.-

This section makes the following acts punishable , namely-

- Instigation to others to take part in an illegal strike or lock-out.
- Incitement to others to take part in illegal strike or lock-out.
- Otherwise acting in furtherance of a strike or lock-out which is illegal under this act.

Section 28. Penalty for giving financial aid to illegal strikes and lock -outs.-

To attract this provision of section 28 it should be proved that the strike or lock – out was illegal and the accused had knowledge that it was illegal.

Section 29. Penalty for the breach of settlement or award-

In order that a person may be penalised under section 29 of the act the following facts must be proved which are as follows

- An award or settlement in operation at the time of breach
- Such award or settlement must be valid
- The award or settlement must be binding on the accused
- The accused must be responsible for committing breach of such award or settlement
- The appropriate government must have made complaint regarding the breach

If the above mentioned requirements are cumulatively fulfilled the accused shall be punishable with imprisonment extending to six months or with fine or with both.

Section 30. Penalty for disclosing confidential information.-

Section 21 provides that certain matters are to be kept confidential. Any person who discloses any information in contravention of section 21 shall be penalised under section 30 of the act.

Punishment provided imprisonment extending to six months or fine upto rupees one thousand or both.

Section 30-A. Penalty for closure without notice.-

Any employer who closes down any undertaking without complying with the provisions of section 25- FFA shall be punishable with imprisonment for a term which may extend to six months ,or with fine which may extend to one thousand rupees or with both.

Section 31. Penalty for other offences.-

Section 31(1) provides that any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Section 31 (2) provides that whoever contravenes any of the provisions of this act or any rule made thereunder, shall, if no other penalty is elsewhere provided by or under this act for such contravention, be punishable with fine which may extend to one hundred rupees.

All the above mentioned penalties are the penalties which have been penalised under this act.

Is it an offence to give financial aid to an illegal strike or lockout?

Section 25 of the Act prohibits financial aid to illegal strikes and lock-outs. The provisions of this section are attracted only if the strike or lock-out is illegal and not otherwise. It says that no person shall knowingly spend or apply any money in direct furtherance or support of an illegal strike or lock-out. This section has the following ingredients: (i) Spending or applying money; (ii) Money spent or applied in direct furtherance or support of an illegal strike or lock-out; (iii) The strike or lock-out must actually be illegal; (iv) Knowledge on the part of the person expending or applying money that the strike or lock-out is illegal. Thus for prosecuting a person for the contravention of Section 25, the prosecution must prove:- (a) That the strike or lock-out was illegal; (b) That the accused had the knowledge that the strike or lock-out was illegal and that the money spent by him was direct furtherance or support of the same. (c) That the money was spent by the accused. It is only spending of money in support of a strike which is prohibited under this section. Therefore, helping the strikers by way of providing clothes or any other sort of help is not punishable under this Act. Section 28 provides penalty for giving financial aid to illegal strikes and lock-outs. Punishment may extend to six months' imprisonment or one thousand rupees fine or both.

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