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L.L.B Part- 3rd

Subject- Labour Law

Paper- 6th

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Topic- Write short notes on the following:

1. Workmen, 2. Badli Kamgar, 3. Protected Workmen, 4. Public Utility Service

1. Workmen

Workmen under the Industrial Disputes Act, 1947 (Act) are defined as employees who have been engaged to do manual, unskilled, skilled, technical work but excludes people who are (a) employed in managerial or administrative capacity; and (b) employed in supervisory capacity if their wages exceed Rs 10,000 per month.

There are certain employee who cannot be considered as workmen by the statute as per section 2 (s) :

But does not include any such person-

(i) who is subject to the Air Force Act, 1950 (45 of 1950) or the Army Act 1950 (46 of 1950) or the Navy Act 1957 (62 of 1957) or,

(ii) who is employed in the police service or as an officer or other employee of a prison, or,

(iii) who is employed mainly in managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity draws wages exceeding Rs. 6500/- per month or exercises, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature."

2. Badli Kamgar

'Badli' means a worker who is appointed in the post of a permanent worker or of a probationer who is temporarily absent; acc to the Model Standing Orders given in the Industrial Employment (Standing Orders) Act, that means Badli worker is one who is appointed for the time being to do some work of regular nature when the person who has been doing that work goes on leave or is absent due to any reason. The job will cease to exist when the regular employee for whose absence he is appointed resumes duty.

3. Protected Workmen

When we learn Industrial Disputes Act, 1947, there are some terms and definitions which require a lot of explanations. Even the courts have tried to interpret these terms in different situations in different ways. Hence an ordinary student will be confused in understanding these terms. The term '**Protected workmen**' is one among those most confusing and much interpreted one.

"Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute--

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Rule 61(1) of Industrial Disputes (Central) Rules, 1957, provides that every registered trade union connected with an industrial establishment shall communicate to the employer before the 30th April every year, the names and addresses of the officers of the union who are employed in that establishment who should be recognised as protected workmen. Rule 61(2) makes it obligatory on the part of employer to recognise such number of workers as provided u/s 33 (4) of the Industrial Disputes Act, 1947, as 'protected' for a period of 12 months, within fifteen days of receipt of the proposal from the union.

As per Section 33 (4) of the Industrial Disputes Act, 1947, the number of workmen to be recognised as protected workmen shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen.

Where the total number of names received by the employer exceeds the maximum number of protected workmen, admissible for the establishment, u/s 33(4) of the Act, the employer shall recognise only such maximum number of workmen as "protected".

Where there are more than one registered trade unions in the establishment, the maximum number of protected workmen shall be distributed among the unions in such a way that each union shall have representation as protected workmen in proportion to the membership of the unions. If the union is informed that the number of protected workmen allotted to the union is less than that proposed by the union; after submission of the list, the union will have to select

from the proposed list the names of such persons who should be recognised as protected workmen and intimate the names to the employer within five days.

4. Public Utility Service

Public Utility are those organizations, company or corporations which provide the essential services to the public. The undertakings which supply the basic necessary services such as electricity, water, gas, power, transport etc. comes under the purview of the public utility services.

These public utility services are maintained and regulated by the government vis local, state and national government according to their respective level of authority.

According to Business Dictionary, “public utility is government or private sector owned provider of energy, telecommunications, transportation, waste disposal, water or other such basic goods or services”

The public utility includes all the services which are necessary for the livelihood, and for that reason also they are to be regulated and should be available at reasonable rate. These services involve a huge investment; government gives various incentives to these industries son that they can fulfill their requirements along with providing the services at reasonable rate.

The main features of the public Utility services are: –

- Public Utility services includes those goods and services which are indispensable part of human life and without them it would be a great hardship for the human to survive.
- The Public utility services are mostly local in character and are regulated by the local government.
- These public utilities are organized as monopolies by the government as they provide basic necessities, so any deficit in the quality of their product and services would lead to big social problems.
- Public utilities involve huge investments, the entire investments had to be, made prior to the commencement of the operations.
- There is significantly lower risk in public utilities as there is no fear of change in demand and preferences of the customers. The demand and supply of the goods and services for hand in hand.
- Public utilities also achieve economies of scale as they producer on a large scale for a wide population.

The Public utility services are regulated under the Industrial dispute act. It is the duty of these utilities to provide its services to all without any discrimination and at a reasonable price. It should indulge in unfair trade practices and should not hike the prices. It should provide goods and services at a fair rate and of good qualities to all. The Industrial Disputes act ensures it for the protection of the consumers.

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