

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

**Pt. Lecturer- KESHAV KUMAR SHRIVASTAVA**

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

**Subject- Labour Law**

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

**Date- 06/02/2021**

**Topic- Define term 'Trade Union'. Who are disqualified to be a member and office-bearer of a Registered trade union? Can an outsider be an office-bearer of a Registered Trade Union?**

### **Trade Union**

A trade union is an organisation made up of members (a membership-based organisation) and its membership must be made up mainly of workers.

One of a trade union's main aims is to protect and advance the interests of its members in the workplace.

Most trade unions are independent of any employer. However, trade unions try to develop close working relationships with employers. This can sometimes take the form of a partnership agreement between the employer and the trade union which identifies their common interests and objectives.

Trade unions:

- negotiate agreements with employers on pay and conditions
- discuss major changes to the workplace such as large scale redundancy
- discuss members' concerns with employers
- accompany members in disciplinary and grievance meetings
- provide members with legal and financial advice
- provide education facilities and certain consumer benefits such as discounted insurance
- Employers which recognise a union will negotiate with it over members' pay and conditions.
- Many recognition agreements are reached voluntarily, sometimes with the help of the Labour Relations Agency.

- If agreement can't be reached and the organisation employs more than 20 people, a union may apply for statutory recognition. To do so, it must first request recognition from the employer in writing. If this is unsuccessful, the union can apply to the court for a decision.
- In considering the union's application, the Court must assess many factors including the level of union membership and the presence of any other unions. Often, the Court will organise a ballot among the affected workforce to decide whether recognition should be awarded. Throughout the process, the emphasis is on reaching voluntary agreement.

### **Disqualifications of office-bearers of Trade Unions.**

(1) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union if—

(i) he has not attained the age of eighteen years,

(ii) he has been convicted by a Court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of five years has elapsed since his release.

(2) Any member of the executive or other office-bearer of a registered Trade Union who, before the commencement of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964), has been convicted of any offence involving moral turpitude and sentenced to imprisonment, shall on the date of such commencement cease to be such member or office-bearer unless a period of five years has elapsed since his release before that date.] 4\*[

(3) In its application to the State of Jammu and Kashmir, reference in sub-section (2) to the commencement of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964), shall be construed as reference to the commencement of this Act in the said State.

The Union government has dropped a proposal to allow only employees working in factories becoming office-bearers of trade unions in those units.

The government had proposed the move in the Code on Industrial Relations Bill, 2015, in an attempt to keeping a check on “politicisation of trade unions”. However, the central trade unions viewed this as an attack on the trade union movement and said the government should not interfere in composition of unions.

“The provisions on restricting outsiders from becoming office-bearers in trade unions have been dropped following widespread consultations and studies on best international practices. All the countries that we studied have allowed outsiders to become part of the trade union leadership,” said a senior labour and employment ministry official on the conditions of anonymity.

The labour ministry observed that the proposed provisions were against International Labour Organisation conventions. The ILO Convention 87 on freedom of association states that workers have the right to elect their representatives “in full freedom”.

“Though the convention has not been ratified by India, but we studied other countries such as China and the United States that have not ratified it. In these countries, too, outsiders are allowed to be part of executives of trade unions,” the ministry official said.

According to the proposed Labour Code on Industrial Relations Bill, only people engaged or employed in an industry can become office-bearers of a trade union in the organised sector and two outsiders can be office-bearers of a trade union in the unorganised sector. The Bill has been circulated for inter-ministerial consultations and is expected to be sent to the Cabinet in May, following which it will be introduced in Parliament. The government has also removed a proposed provision disqualifying a person as an office-bearer if he is an office-bearer in 10 other trade unions.

**The End**