



# M.I.E.T. ENGINEERING COLLEGE

(Approved by AICTE, New Delhi, Affiliated to Anna University, Chennai)  
UG - CSE, EEE & MECH Programs Accredited by NBA, New Delhi  
Accredited with 'A+' grade by NAAC  
An ISO 9001:2015 Certified Institution  
Recognized by UGC under section 2(f) & 12(B) of UGC Act, 1956  
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**BA4016 INDUSTRIAL RELATIONS AND LABOUR LEGISLATIONS** **LT PC**  
**30 03**

### COURSEOBJECTIVES:

- To explore contemporary knowledge and gain a conceptual understanding of industrial relations.
- To have abroad understanding of the legal principles governing the employment relationship at individual and collective level.

<b>UNIT I</b>	<b>INDUSTRIAL RELATIONS</b>	<b>9</b>
Concept, scope- objectives- Importance - Approaches to IR- Industrial relations system in India. Trade Unions Act,1926- trade union movement in India- objective - role - functions-procedure for registration of trade unions- Rights and responsibilities-problems-Employee relations in IT sector.		
<b>UNIT II</b>	<b>INDUSTRIALCONFLICTS AND LABOURWELFARE</b>	<b>9</b>
The Industrial Disputes Act, 1947-Disputes - Impact - Causes - Strikes - Prevention - Industrial Peace- Government Machinery-Conciliation-Arbitration-Adjudication Labour welfare- statutory-Voluntary-welfare funds- welfare of un organized labour		
<b>UNIT III</b>	<b>LABOUR LEGISLATIONS-I</b>	<b>9</b>
Origin and growth of labour legislation in India- Principles of labour legislations-Factories Act 1948-Minimum Wages Act,1948-Payment of Wages Act, 1936-Payment of Bonus Act,1965-		
<b>UNIT IV</b>	<b>LABOUR LEGISLATIONS-II</b>	<b>9</b>
The Industrial employment (standingorders)Act,1946-The Apprentices act,1961-The Equal Remunerationact,1976- Payment of Gratuity act1972-Employee compensation act in 2013		
<b>UNIT V</b>	<b>LABOUR LEGISLATIONS-III</b>	<b>9</b>
Employees' Provident fund and Miscellaneous provisions act, 1952- Employees' state insurance (ESI)Act, 1948- Maternity Benefit Act, 1961- Contract Labour Regulations and Abolition Act, 1970 -The Child Labour Prevention and RegulationAct,1986.		

**TOTAL: 45 PERIODS**





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## COURSEOUTCOMES:

The student gets to learn about

1. Industrial relations system and Trade unions
2. Industrial Disputes and labour welfare measures
3. Labour legislation introduction and legal provisions for factory workers, wages and Bonus
4. Legal provisions for equal remuneration, gratuity, compensation, industrial employment and Apprenticeship
5. Legal provisions for EPF, ESI, Maternity, contract labours, and child labour prevention.

## REFERENCES:

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8. Srivastava, Industrial Relations and Labour laws, Vikas, 2015.
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## **INDUSTRIAL RELATIONS AND LABOUR WELFARE (BA4016)**

### **UNIT-I**

#### **INTRODUCTION OF INDUSTRIAL RELATION**

Industrial prosperity of a country is based on industrial peace and labor harmony not only of these two; there must be a congenial work atmosphere in the industrial units between management and employees, among employees and above all between government and industrial sectors. Hence, IR is the prime need for industrial peace and labor harmony paving the way for economic prosperity of the organization.

#### **Explain the term “Industrial Relations”.**

More specially, Industrial Relations is concerned with the systems, rules and procedures used by unions and employers to determine the reward for effort and other conditions of employment, to protect the interests of the employed and their employers and to regulate the ways in which employers treat their employees.

#### **What are the Areas of IR?**

Areas of IR are:

- 1) Collective Bargaining.
- 2) Role of management, union and government.
- 3) Resolution of industrial dispute.
- 4) Individual grievance and disciplinary policy.
- 5) Labour legislation.
- 6) Industrial relations training.

#### **What is the importance of IR?**

Importance of IR:

- To protect the interest of workers and improve their economic conditions.
- To protect the rights of managers.
- To regulate the ways in which employers treat their employees.
- To increase productivity.

#### **Explain in detail the evolution of Industrial Relations.**

Evolution of Industrial Relations - Industrial Relations evolved during the late 19<sup>th</sup> century.

#### **Stages of Evolution**

##### **Agrarian Economy Stage:**

- Property owners (landlords) treated employees as slaves.
- Employer and employee relationship was that of a master / servant relationship.
- Employees were not paid but were provided with basic amenities like food, shelter and clothing.
- There were few levels in the strata.
- No interference of Government.

### **Handicrafts Stage:**

- Growth of towns, cities, trade and commerce and decline in power of landlords introduced an innovation in the career of workers. They could move from the rank of workers to employers.
- The craftsman owned their production.
- They sold products directly to customers.\
- There was no middleman.
- Introduction of apprenticeship.
- Introduction of employment conditions and determination of wages.
- Introduction of fraternal benefits like death, disability and employment benefits.

### **Cottage or Putting-out Stage:**

- Development of economy and industrial units.
- Expansion of markets and Trade.
- Traders undertook to buy raw materials and supply finances to craftsman.
- Hiring of craftsman by traders to produce products.

### **Factory or The Industrial Capitalism Stage:**

- Growth of trader capitalists
- Replacement of labor by machines.
- Employment of women and child labor.
- Poor working conditions
- Relationship between employer and employee was impersonal.
- Maximization of profit was the sole objective.

### **Early British Rule:**

- Indigo Plantation started in 1931.
- Cotton Mill was started in Bombay in 1853.
- Manufacture of jute in Calcutta in 1855.
- Coal fields were connected by rails to the port city of Calcutta.
- Expansion of rail lines throughout India.
- Majority of the working population was in agriculture.
- Working hours was more than 20hrs / day.
- Wages were miserable.
- First indication of industrial unrest and earlier work stoppage came into force in 1877 on the initiative of weavers of Express Mills, Nagpur.
- The powerless workers were dismissed and victimized by the employers.
- 1895 – Employees strike in Budge Budge Jutemill resulted in a loss of Rs.18000/-.
- Passing of Factories Act 1881, awakened working class.
- A memorandum was presented by 5000 workers to the Bombay Factory Labor Commission.

### **First World War to Pre-Independence Period:**

- First World War (1914 – 1918) was a boon for employers.

- Increase in employers profits.
- Strike by workers in Ahmedabad led by Mahatma Gandhiji was an outstanding one.
- Various acts were enacted like
  - Workmen's Compensation Act (1923)
  - Trade Unions Act (1926)
  - Trade Disputes Act (1917)

### **Second World War (1939 to 1945):**

- Employers profit was enormous
- Bonus and Dearness Allowances were granted but no rise in wage.
- Increase in number of Trade Unions.
- Industrial Disputes Act (1947) was formed for the settlement of disputes.

### **Independence and After:**

- Enactment of acts to put a stop to strikes and lockout. They include the following:
  - Minimum Wages Act
  - Factories Act (1948)
  - Employee State Insurance Act (1948)
- First Five Year Plan gave more importance to maintenance of Industrial peace.
- Second Five Year Plan evolved certain norms, guidelines for rationalization, code of discipline, code of conduct and workers participation in management.
- 3<sup>rd</sup> Five Year Plan enacted the Bonus Act in the year 1965.
- 1969 – Submission of report to National Commission on labor for maintenance and improvement of Industrial Relations.
- 1975 – 1976 - Industrial Relations was quite peaceful.
- Due to repeated changes in the Government and unfavourable economic environment Industrial Relations is exhibiting an irregular pattern.

### **List out the various causes for poor Industrial Relations.**

- Politicalisation
- Inter-union rivalry
- Instability of policies and procedures
- Poor organizational climate
- Heterogeneity
- Employee absenteeism
- Communication process
- Attitude of management
- Discrimination among employees
- Exploitation of employees
- Ignorance and illiteracy
- Limited representatives of both employer and employees

### **What the pre-requisites for good IR?**

- Economical benefit
- Social and psychological benefit

- Better wages
- Better working environment
- Unity among union members
- Positive attitude of management and workers
- Better education
- Training and development programme
- Reduce disputes
- Recognition of unions

### Bring out the parties and their role in Industrial Relations.

- representatives.
- Share decision making with employees.
- Engage in a power structure with trade unions.

#### a) Employers Association

Confederation of Indian Industries (CII) is a powerful body which is doing an admirable job of protecting and promoting the legitimate interests of owners of industries.

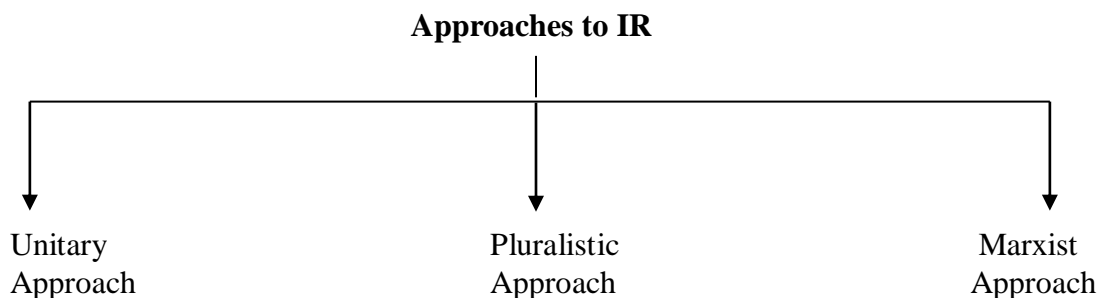
Objectives of CII include:

- Representing employers in collective bargaining.
- Developing machinery for the avoidance of disputes.
- Providing information on employee relations and to give advice to employers.
- Representing members on national issues.

#### b) Government

- Regulates the relationship between management and labor.
- Seeks to protect the interests of both the groups.
- Wage boards, labor courts, tribunals and laws are enacted to lay down norms and to enforce their compliance.
- on the constitutionality of legislation.

What are the different Theories or Approaches to Industrial Relations? Explain them in detail.



#### Unitary approach:

- Mutual co-operation between employees and management.
- Union co-operative with management.



- Common interest.
- Promotion of Harmony (strikes are regarded as unnecessary).

**Pluralistic approach:**

- Management's authority is not accepted.
- Conflict between management and workers are considered as inevitable for innovation and growth.
- Employees join union to protect their interest and influence management's decision making.
- Society interests are protected by state intervention through legislation.

**Marxist approach:**

- Regard conflicts as a product of capitalism.
- Conflicts arise not towards the interests of the organisation but because of the division of those who own and those who have only labour.
- Trade unions are seen as labour reaction to exploitation by management.
- Concerns for wage-related disputes are secondary.
- Co-operative worker culture and employee participation are not acceptable.

**CONCEPTS AND IMPORTANCE OF INDUSTRIAL RELATIONS****EXPLAIN THE VARIOUS CONCEPTS OF INDUSTRIAL RELATION?**

❖ The term **Industrial Relations** refers to the complex of human relationships which emerges in work situations. These situations bring people together for services which are bought and sold at a price.

**Uninterrupted production:**

The most important benefit of industrial relations is that this ensures continuity of production. This means, continuous employment for all from manager to workers. The resources are fully utilized, resulting in the maximum possible production. There is uninterrupted flow of income for all. Smooth running of an industry is of vital importance for several other industries; to other industries if the products are intermediaries or inputs; to exporters if these are export goods; to consumers and workers, if these are goods of mass consumption

**Reduction in industrial disputes:**

Good industrial relations reduce the industrial disputes. Disputes are reflection of the failure of basic human urges or motivations to secure adequate satisfaction or expression which are fully cured by good industrial relations. **Strikes, lockouts, go-slow tactics, gherao and grievances** are some of the reflections of industrial unrest which do not spring up in an atmosphere of industrial peace. It helps promoting co-operation and increasing production

**High morale:**

Good industrial relations improve the morale of the employees. Employees work with great zeal with the feeling in mind that the interest of employer and employees is one and the same, i.e. to increase production. Every worker feels that he is a co-owner of the gains of industry. The employer in his turn must realize that the gains of industry are not for him alone but should be shared equally and generously with his workers.

### **Mental revolution:**

The main object of industrial relation is a complete mental revolution of workers and employees. The industrial peace lies ultimately in a transformed outlook on the part of both. It is the business of leadership in the ranks of workers, employees and government to work out a new

### **Who is called Employer?**

An employer can be defined from different perspectives as:-

- a person or business that pays a wage or fixed payment to other person(s) in exchange for the services of such persons.
- a person who directly engages a worker/employee in employment.
- any person who employs, whether directly or through another person or agency, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed.

### **Who is an Employee?**

- Employee is a person who is hired by another person or business for a wage or fixed payment in exchange for personal services and who does not provide the services as part of an independent business.
- An employee is any individual employed by an employer.
- A person who works for a public or private employer and receives remuneration in wages or salary by his employer while working on a commission basis, piece-rates or time rate.
- Employee, as per Employee State Insurance Act 1948, is any person employed for wages in or in connection with work of a factory or establishment to which the act applies.

### **Importance of Industrial Relation:**

- To achieve the production with speed, economy, and efficiency, the relationship between the management and employees and among the employees must be cordial & congenial based on common understanding.
- Planning, efficient co-ordination, effective control, appropriate recruitment, staffing & budgeting are very much based on IR. IR could be established provided work/job/task are given due importance by the management and the workers.
- IR is like a life-blood in an organization. Unless, there is proper IR in an organization, conflict is bound to emerge which definitely would affect the production program. From the stage of receipt of the raw materials to the stage of producing a finished product, several operations take place. Each department has to handle the material carefully and ensure that they complete the task of their part of the work.

**It discourages unfair practices on the part of both management and unions:**





Industrial relations involve setting up machinery to solve problems confronted by management and employees through mutual agreement to which both these parties are bound. This results in banning of the unfair practices being used by employers or trade unions.

**It prompts enactment of sound labour legislation:**

Industrial relations necessitate passing of certain labour laws to protect and promote the welfare of labour and safeguard interests of all the parties against unfair means or practices.

**It facilitates change:**

Good industrial relations help in improvement of cooperation, team work, performance and productivity and hence in taking full advantages of modern inventions, innovations and other scientific and technological advances. It helps the work force to adjust them to change easily and quickly

**DEFINE INDUSTRIAL RELATION NATURE AND CHARACTERISTIC OF INDUSTRIAL RELATIONS?**

According to **Dale Yoder**, IR is described as relationships between management and employees, or employees and their organizations that characterizes or grow out of employment”.

**Prof. T. N. Kapoor** states that IR is the dynamic and a developing concept which is not limited to complex relations between trade unions and management but also refers to the general web of relationships normally existing between employers and employees, a web much more complex than the simple concept of labor- capital conflict.

“**Industrial Relation** are the art of living together for purpose of production”

**J. Henry**

**Richardson**

**Meaning for Definition of IR**

The workers and the employers, have a common purpose-production. They willingly bind themselves to work together. The most prominent feature of Industrial relations is, that it is an art which the two parties learn by acquiring the skills of adjustment. N

**Nature & Scope of Industrial Relation:**

Industrialization signifies automation of machinery in the place of manual labor. Naturally, the bulk of the work involves activities of diversified functions. This results in classification of workers as skilled, unskilled, technical, clerical and supervisory staff.

In order to achieve the production target, the workers find it necessary to co-ordinate with the functions of the fellow workers. And the managerial executives have to supervise the work; the working relation between the employees and the employers and among employees’ has a chance of getting affecting / distorted.

**What are the various approaches of industrial relations?**

Industrial conflicts are the results of several socio-economic, psychological and political factors. Various lines of thoughts have been expressed and approaches used to explain his complex



- The philosophy and programme of public sector undertakings are incorporated in the Industrial Policy Resolutions of 1984 and 1956.
- The Industrial Policy Resolution of 1984 declared that —a dynamic national policy must be directed to a continuous increase in production by all possible means, side by side with measures to secure its equitable distribution.
- The problem of State participation in industry and the condition in which private enterprise should be allowed to operate must be judged in this context.
- Consequently, expansion in public sector began to be take after this period

**What is lockout?**

According to **Industrial Disputes Act 1947**, lock-out means the temporary closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him. Lockout is employers’ weapon while a strike is raised on part of employees.

**What is picketing?**

When workers are **dissuaded (someone not to take a particular course of action)** from work by stationing certain men at the factory gates, such a step is known as picketing. If picketing does not involve any violence, it is perfectly legal. Pickets are workers who are on strike that stand at the entrance to their workplace. It is basically a method **of drawing public attention** towards the fact that there is a dispute between the management and employees.

The purpose of picketing is:

- to stop or persuade workers not to go to work
- to tell the public about the strike
- to persuade workers to take their union's side

**What is Gherao?**

Gherao in Hindi means to surround. It denotes a collective action **initiated by a group of workers under which members of the management are prohibited from leaving the industrial establishment premises by workers who block the exit gates** by forming human barricades. The workers may gherao the members of the management by blocking their exits and forcing them to stay inside their cabins. The main object of gherao is to inflict physical and mental torture to the person being gheraoed and hence this weapon disturbs the industrial peace to a great extent.

**Differentiate between Industrial relation and labor harmony:**

<b>Industrial Relation</b>	<b>Labor Harmony</b>
1. Restricted Term, signifying the absence of dispute, Lay-off, Strike, Lock- out & Closure	1. Positive Concept, Consolidated unity among workers.

2. Achieving the production target.	2. Speaks about the identity of workers & mutual co-existence among workers.
3. Only an attempt to implement scientific Management	3. based on human relationship – Caring & sufferings of the other.
4. Integral part of IR & Task Oriented scheme. Eg., accomplishing production target	4. Believes in consolidating the workers' unity by developing team spirit.
5. Industrial Peace by coercive methods, imposing discipline, will not last long.	5. Promotes human relationship by informal interaction. Eg. Arrangement of Sports, entertainment & Mgt Games.
6. Based on work to rule principle	6. Based on introducing program to enable workers to do their work with Joy & Happiness.
7 IR is purely set on the model of line organization, namely one department working under the other. One dept's performance depends on the other.	Labor harmony is based on functional aspect giving importance to the role of individual workers working with co-existence with his fellow workers.
8. Not giving scope for consultation with the workers in giving direction, instructions, commands, etc., It speaks about management's role.	8. It says you the Management's attitude that sometimes the workers set the target of production by mutual discussion with the management.
9. Gives importance to formal relationship.	9. Gives room for informal relationship.

**Differences between Human Relations & Industrial Relations:**

<b>Human Relations</b>	<b>Industrial Relations</b>
1. Aims at improving the overall performance of the workers concerned by making committing with the Job.	Aims at the limited purpose of render their service irrespective of the fact Whether the worker likes or dislikes to do
2. The inner & inherent potentials are encouraged to develop leadership qualities.	Only the performance is taken into account & Management provides incentive to get the work
3. Personal problem are addressed to make the employee to denote for the work.	Performance of the employees is more important than their status & rights.

4. Humanistic Approach is followed because it is relation –oriented management.	Based on scientific approaches and this school of thought aims more at task-oriented achieving target.
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### Indicators of Poor Industrial Relations:

- **Absenteeism:** It is unauthorized absence from work. Stated differently, it amounts to absenteeism when an employee is scheduled to work but fails to report for duty.
- **Employee turnover:** it is that situation in which the employee himself resigns and leaves the job permanently.
- **Strikes:** A strike is a collective stoppage of work by a group of workers.
- **Lockouts:** Closing down of an undertaking or the suspension of work or the refusal of an employer to continue to employ any number of persons employed by him is known as lockouts.
- **Grievances:** Grievance means any discontent or dissatisfaction, whether expressed or not, whether valid or not, arising out of anything connected with the company which employee thinks, believe or even feels to be unfair.
- **Indiscipline:** it is code of misconduct. Indiscipline is violation of rules and norms of behavior (both formal and informal).

### Causes of Poor Industrial Relations:

Various factors responsible for poor IR are as follows:

**1. Nature of Work:** If the nature of work is uninteresting, it may produce chance of poor IR as the employees raise demands which may be much more than justifies compensating the behavioral problems arising out of uninteresting work.

**2. Poor Wages and Working Conditions:** Often poor wages and working conditions, taken together, constitute an important factor for poor industrial relations. Poor wages are a matter of interpretation which is measured in terms of equity. The concept of equity is based on comparison.

**3. Defective Trade Union System:** Defective trade union system prevailing in the country has been one of- the most responsible factors for poor industrial relations in the country.

**4. Occupational Instability:** Another important factor which sometimes affects good industrial relations is the spectra of change in occupation. Occupational stability makes workers feel secure on their jobs. It produces mentally or physically weak effect on them. Workers who have held a job for several years generally wing confidence on that job and do not like any change being made in it because they fear the following consequences to ensure:

1. The new job will not give them as much satisfaction as the earlier job.
2. The new job will reduce their wages and seniority structure.
3. The new job will require them to undergo some training.
4. The new job will change the existing social relationships.
5. The new job will reduce opportunities for growth and development.

**5. Poor Behavioral Climate:** the behavioral climate of an enterprise which is made up of its culture, traditions and methods of action may be either favorable to the worker or unfavorable. Favorable climate is one which helps him meet his economic, social and psychological wants. It produces a good image of the enterprise in his mind.

## **GROWTH OF TRADE UNIONS:**

### **EXPLAIN ABOUT THE TRADE UNION AND ITS VARIOUS GROWTHS?**

#### **INTRODUCTION:**

Trade union is an outcome of the factory system. It is based on labour philosophy – “united we stand, divided we fall.” Industrial revolutions in India have changed the traditional outlook in the labour management relationship.

**Objectives of Trade Unions:** The important objectives of trade unions are as follows:

- 1. Providing Income Security:** Trade unions strive to improve the economic life of the employees by getting better wage deals from the employers through collective action.
- 2. Maintaining Job Security:** Trade unions aim at protecting the jobs of the employees. Whenever the employees face a threat of elimination from the employers, in various forms like dismissal, discharge, layoff, retrenchment or compulsory retirement, trade unions resist strongly such designs of the employers to terminate the employees’ services.
- 3. Preserving Physical Security:** Trade unions seek to preserve the health and safety of the employees by asking the employers to provide suitable physical work environment and by insisting on their adherence to safety policies and provisions.
- 4. Providing Social Security:** Trade unions endeavor to provide a peaceful retirement life to the employees by asking the employers to provide adequate retirement and other benefits.
- 5. Providing Emotional Security:** Trade unions make every effort to improve the employer-employee relationship by constantly engaging in negotiations with the management. They also work systematically to improve the superior-subordinate relationship by resolving the workplace grievances of the workers through appropriate means.
- 6. Procuring Political Prowess:** Trade unions attempt to improve the bargaining power of the employees by working closely with the political parties of the country. Interestingly the inter-relations and interactions between trade unions and political parties are quite common in India.

#### **Functions of Trade Unions:**

Functions of Trade Unions are as follows;

##### **1. Militant Functions**

1. To achieve higher wages and better working conditions.
2. To raise the status of workers as a part of industry.
3. To protect labors against victimization and injustice.



## 2. Fraternal functions

1. To take-up welfare measures for improving the morale of workers.
2. To generate self-confidence among workers
3. To encourage sincerity and discipline among workers.
4. To provide opportunities for promotion and growth
5. To protect women workers against discrimination.

## 3. Social Functions: Social functions may be grouped under following heads:

- **Welfare Activities:** Welfare activities provided to improve the quality of work life including organization of mutual funds, cooperative credit societies for providing housing, cooperative stores, cultural programs, banking and medical facilities, and training for women in various crafts to help them to supplement their family income.
- **Education:** Education of members in all aspects of their working life including improving their civic life, awareness in the environment around there enhancement of their knowledge particularly in regard to issues that concern them, their statutory and other rights and responsibilities, workers' participation scheme, and procedure for redressing their grievances.
- **Publication of Periodicals, News Letters, or Magazines:** Publication of periodicals, newsletters, or magazines for establishing communication with their members, making the latter aware of union policy and stand on certain principal issues and personnel matters concerning members, such as births, deaths, marriages, promotion and achievements.
- **Research:** Research is gaining importance and is intended mainly to provide updated information to union negotiators at the bargaining table. Such research is to be more practical than academic, concerning problems relating to day-to-day affairs of the union and its activities and union and management relations.

**4. Political Functions:** In Political function, unions have to influence government policy decisions in the interest of workers. Legislative support which unions require for realizing some of their objectives and achievement of their long-term interests has taken them into the region of politics. Unions are not only to contribute in the formulation of policies but have also to see that policies are implemented.

## Types of Trade Unions:

Types of Trade Unions are as follows:

**1. Union Classified According to Purpose:** Trade unions based on their purposes can be broadly classified into;

### Reformist Unions:

Reformist unions aim at preservation of the capitalist economy and the maintenance of competitive production based industrial relations. They would like to continue the existing, social, economic and political structures.;

**Business Unions:**

This type of unions is built around congenial employee-employer cooperation. Business unions primarily protect the workers interest by participating in collective bargaining with the employer.

**Friendly or Uplift Unions:**

These unions aspire to elevate the moral, Intellectual and social life of workers. These unions concentrate on health, education, insurance and benefits. These unions are non craft-conscious but interest conscious of the workers.

**Revolutionary Unions:**

These unions aim at replacing the present system with the new and different institutions based on the ideals that are regarded as preferable. These unions aim at destroying the capitalistic system, abolish private property and installing socialist or communistic systems. These unions are of four types;

**Political Unions:**

The unions gain power through political action. These unions resort to political action to protect the workers interest the unions prefer minimization of wage differentials.

**Anarchist Unions:** These unions try to destroy the existing economic system by revolutionary means.

**Predatory Unions:**

According to Dr. Hoxie a third type of union named predatory union also exists. A predatory union does not have any ideology. It can adopt any method which will deliver the goods and it sticks at nothing.

**Hold-up Unions:**

This variety is usually to be found in large industrial centers masquerading as business unionism. It appears to be conservative from outside. It focuses a belief in harmony of interests between employer and employee. It claims to respect the force of contract.

**Guerrilla Union:**

it is the second type of predatory union. The guerrilla union does not believe in co-operation with employers. In other words, this union works on secret and violent methods. It is totally different from hold-up union because it operates always directly against its employers, never in combination with them, and that is its main feature. Its leaders are unscrupulous, ruthless and irresponsible. This type of unionism creates terrorism to enforce the demands.

**Dependent Unions:**

Prof. Hoxie has introduced forth type of union which is named as dependent union. The basic feature of this union is that it is dependent wholly or partly on other types of unions or employees.

**Explain the various stages involved in the growth of trade union?****A. SOCIAL WELFARE PERIOD – (1875 – 1918)**

- This period witnessed growth of industries as well as exploitation of women and child labour and unhealthy work conditions.
- Conditions were taking a bad shape as days passed by but there was no sign of opposition from side of workers
- In addition to it there was no attempt at obtaining redress through concerted effort
- The labour movement in India began around 1850. Few enactment which marketed the beginning of trade unions movement in India are:
  1. The factory commission in 1875
  2. The factories act, 1881
  3. The second Bombay factory commission in 1884
- The labour movement in India was commenced by Bombay millhands association in 1890. The purpose of this movement was to provide a platform to workers where their grievances could be forwarded to management and to draw public attention to the cause of labour
- This movement was followed by formation of various groups which are running in the similar lines:
  1. The amalgamated society of railways servants of India.
  2. The Bombay postal unions
  3. The social service league
  4. The printers' union of Calcutta
  5. Promote welfare activities
  6. Spread literacy among the factory workers and
  7. Redress grievances through constitutional methods

## **B. EARLY TRADE UNIONS PERIOD (1918 – 1924)**

- The year 1918 holds significance for Indian trade unions movements
- It was the year when leadership of trade unions passed from hands of social workers to the hands of politicians

### **Explain the three phases involved in trade unionism?**

The trade unionism in India developed quite slowly as compared to the western nations. Indian trade union movement can be divided into three phases.

#### **The first phase (1850 to 1900)**

During this phase the inception of trade unions took place. During this period, the working and living conditions of the labor were poor and their working hours were long. Capitalists were only interested in their productivity and profitability. In addition, the wages were also low and general economic conditions were poor in industries. In order to regulate the working hours and other service conditions of the Indian textile laborers, the Indian Factories Act was enacted in 1881. As a result, employment of child labor was prohibited.





## **TRADE UNIONS THEORIES**

### **EXPLAIN THE TRADE UNIONS THEORIES/ (OR) EXPLAIN THE VARIOUS THEORIES/ MOVEMENTS IN TRADE UNION**

- (i) Karl Marx: Class Conflict and Communist Manifesto
- (ii) Sydney and Beatrice Webb – The Socialist Pattern of Society
- (iii) Robert Hoxie – Unions under the American Capitalist System
- (iv) Mahatma Gandhi – The Concept of Trusteeship
- (v) Cole's Theory of union control industry
- (vi) Mitchell's economic protection theory
- (vii) Simon's theory of monopolistic, anti –democratic trade unionism
- (viii) Perlman's theory of the “scarcity consciousness “ of manual workers
- (ix) Hoxies functional classification of unionism
- (x) Tannenaum's theory of Man Vs machine(1951)
- (xi) Common's environment theory

## **CODES OF CONDUCT:**

### **WHAT ARE THE VARIOUS CODES OF CONDUCT IN THE INDUSTRIAL RELATIONS?**

#### **Meaning of Code of Conduct:**

Code of Conduct is a set of conventional principles and expectations that are considered binding on any person who is a member of a particular group.

#### **Objectives of Code of Conduct**

- To ensure that employers and employees recognize each other's rights and obligations
- To promote constructive co-operation between the parties concerned at all levels
- To secure settlement of disputes and grievances by negotiation, conciliation and voluntary arbitration
- To eliminate all forms of coercion, intimidation and violence in industrial relations
- To avoid work stoppages
- To maintain discipline in industry.

#### **Explain the principles followed as code of discipline/ code of conduct?**

- This Policy aims to provide guidance to all Employees of the Company on how and in which manner should the conduct of Employees be when they are undertaking business on behalf of the Company.

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The Company also expects its managers to lead by example and perform their duties in accordance with this Policy and ensure that the content of this Policy are communicated to all persons reporting to them.





REFERENCE:

1. Indian Relations and labor legislations - Memoria
2. Dynamics of Industrial Relations by Mamoria, Gankar.
3. Industrial relation and labour welfare – R. Sreenivasav

**UNIVERSITY POSSIBLE QUESTION**

**CLASS: II MBA**

**UNITS: I**

**SUBJECT: Industrial Relation and Labour Legislation**

**Unit – I      PART- A      2 Marks**

1. Define Industrial Relation.
2. Mention the features pertaining to good Industrial relation
3. What are the aspects of industrial relation?
4. Specify some of the factors that affect industrial relation?
- 5.. Name the Components of Industrial relations.
- 6 .Mention the importance of Industrial relation.
7. Define Trade Union.
8. State the features of Trade Unions.
9. State the functions of Trade Unions.
10. What are the goals of Trade Union?
11. What are the objectives of Trade Union?

**PART-B      13 Marks**

- 1.) Explain the concept of Industrial Relations.
- 2) Enumerate the various factors that affect industrial relation.
- 3) Explain the Various approaches to Industrial relations.
- 4) Briefly discuss on the various problems of Indian Trade unions.
- 5) Write an essay on the growth of trade union in India.
- 6) Discuss the problems of industrial relation in public sector.
- 7) Explain the Components of Industrial relations system.
- 8) Explain the features & Functions of Trade Unions.

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## UNIT – II

### DISPUTES:

## **WRITE SHORT NOTES ABOUT INDUSTRIAL CONFLICTS/INDUSTRIAL DISPUTES IN INDUSTRIAL RELATIONS?**

### **Industrial Disputes Act, 1947**

#### **MEANING OF DISPUTES:**

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, over pay and other working conditions and can result in industrial actions.

#### **OBJECTIVE:**

Thus the main object of all labour legislation is to ensure fair wages and to prevent disputes so that the production might not be adversely affected. The principal objects of Industrial Disputes Act as analyzed and interpreted by the Supreme Court are as follows.

- (1) The promotion of measures for securing and preserving amity and good relations between employers and workmen;
- (2) Investigation and settlement of industrial dispute between employers and employees, employers and workmen, or between workmen and workmen with a right of representation by a registered Trade Union or Federation of Trade Unions or Association of Employers or a Federation of Association of Employers.

#### **Define a Dispute:**

According to the Industrial Dispute Act, 1947, Section 2(k), "Industrial disputes means any dispute or difference between employers and employees, or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or terms of employment or with the conditions of labor of any person".

### IMPACT OF DISPUTES:



- Poor relations with peers and superiors, and so on.

3. Organizational causes :

- Non-recognition of unions,
- Unfair practices,
- Violation of collective agreements,
- Improper implementation of Standing Orders and Labor Laws,
- Duality of command and supervision,
- Faulty communication system and so on.

4. Physical causes :

- Poor working conditions,
- Worn-out plant,
- Complex technology,
- Poor layout,
- Inadequate maintenance and so on.

**5. Wages and allowances:** Since the cost of living index is increasing, workers generally bargain for higher wages to meet the rising cost of living index and to increase their standards of living. In 2002, 21.4% of disputes were caused by demand of higher wages.

This percentage was 20.4% during 2003 and during 2004 increased up to 26.2%. In 2005, wages and allowances accounted for 21.8% of disputes.

**6. Personnel and retrenchment:** The personnel and retrenchment have also been an important factor which accounted for disputes. During the year 2002, disputes caused by personnel were 14.1% while those caused by retrenchment and layoffs were 2.2% and 0.4% respectively. In 2003, a similar trend could be seen, wherein 11.2% of the disputes were caused by personnel, while 2.4% and 0.6% of disputes were caused by retrenchment and layoffs. In year 2005, only 9.6% of the disputes were caused by personnel, and only 0.4% was caused by retrenchment

**7. Indiscipline and violence:** From the given table, it is evident that the number of disputes caused by indiscipline has shown an increasing trend. followed by cause-groups wage and allowance and personnel with 20.4% and 11.2% respectively

**8. Bonus:** Bonus has always been an important factor in industrial disputes. 6.7% of the disputes were because of bonus in 2002 and 2003 as compared to 3.5% and 3.6% in 2004 and 2005 respectively.

**9. Leave and working hours:** Leaves and working hours have not been so important causes of industrial disputes. During 2002, 0.5% of the disputes were because of leave and hours of work while this percentage increased to 1% in 2003. During 2004, only 0.4% of the disputes were because of leaves and working hours.

1. **Explain in detail the Methods for the Prevention and Settlement of Industrial Disputes.**

Prevention and settlement of industrial disputes operates at two levels:

1. Voluntary Level and
2. Statutory Level.

## **Voluntary Level:**

The various methods at the voluntary level are:

1. Collective Bargaining.
2. Code of Discipline.
3. Arbitration.
4. Permanent Negotiating Machinery and Joint Consultative Machinery and
5. Tripartite Bodies.

### **1. Collective bargaining**

- It can be defined as the process in which conditions of employment are determined by agreement between representatives of the union, on one hand and those of the employer on the other.
- It is used as a means to secure immediate solutions for disputes.

### **2. Code of Discipline**

The code consists of three sets of principles to be followed by the parties to labor relations. These are as under:

- Management and Union(s) agrees.
- Management Agrees.
- Union(s) Agrees.

### **3. Arbitration**

- One or more arbitrators are appointed by the parties concerned to investigate the dispute and submit a report to the government concerned.
- The parties must enter into a written agreement called the “arbitration agreement” to refer the dispute to an arbitrator.

### **4. Permanent Negotiating Machinery**

- The Permanent Negotiating Machineries (PNM) are operating in the Railways and Telegraph Industries.
- The machinery has 3 tiers consisting of people of lower & higher unit.
- Matters generally discussed are: Job analysis, workload analysis, demand for more staff, administrative matters such as delay in redressal of grievances, non-implementation of orders etc.

### **5. Joint Consultative Machinery**

- The Joint Consultative Machinery (JCM) deals with issues related to service conditions in the Government Sector. The machinery has three tiers :
- There is a National Council at the national level to deal with matters affecting all Central Government employees generally like minimum remuneration, dearness allowance, pay etc.
- There are Departmental Councils at the departmental levels and
- Regional Office Councils at the regional or local levels.

### **6. Tripartite Bodies**

- There are a number of Tripartite Bodies that operate at the Central and State levels.
- The Indian Labor Conference, Standing Labor Committees, Wage Boards and Industrial Committees operate at the Central level and State Labor Advisory Boards operate at the State level.
- All these bodies play an important role in reaching at voluntary agreements on various labor matters.

### **Statutory Level:**

The Industrial Disputes Act, 1947 makes important provisions both for preventing industrial disputes and for settling them. The Act tries to prevent disputes by:

1. Giving a list of unfair labor practices and making them punishable,
2. Regulation of strikes and lockouts,
3. Laying down law relating to lay off, retrenchment and closure, and
4. Prohibiting changes in conditions of service of a worker.

#### **1. Unfair Labor Practices:**

On the part of employers and their unions:

1. To interfere with workmen in the exercise of they're right.
2. To contribute support, financial or otherwise, to any trade union.
3. To establish employer-sponsored unions for workmen.

#### **On the part of workmen and trade unions:**

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.
2. To coerce workmen in the exercise of their fight to self-organization or to join a trade union or refrain from joining any trade union.
3. Force a recognized union to refuse to bargain collectively in good faith with the employer.

#### **2. Regulation of Strikes and Lockouts:**

- Employees do not have any right to go on strike without proper notice before 14 days nor do employers have such right to impose lockout without prior permission from Government before 1 month.
- The Industrial Disputes Act lays down several restrictions, on the rights of both the parties.
- A strike or lockout commenced or continued in contravention of these restrictions is termed illegal and there is severe punishment provided for the same.

#### **Consequences of Illegal Strike or Lockout:**

1. Sec. 26(1) prescribes punishment to a workman for commencing, continuing or otherwise acting in furtherance of a strike that is "illegal" under Sec.24 of the Industrial Disputes Act.
2. The penalty in this case is imprisonment for a term that may extend to one month, or with a fine of Rs.50/- or both.
3. Sec. 26(2) prescribes punishment to an employer who commences, continues or otherwise acts in furtherance of an illegal lockout.





According to Sec.9A of the Industrial Disputes Act, an employer cannot effect any change in the conditions of service of a worker without giving a 21 days' notice in the prescribed form. Change in Conditions of Service includes the following:

1. Wages including the period and mode of payment.
2. Contributions payable by employer to provident fund, pension fund or any other fund for benefit of the workmen.
3. Hours of work and rest intervals.
4. Leave with wages and holidays.
5. Compensatory and other allowances.
6. Classification by grades.
7. Withdrawal of any privilege or change in usage.
8. Introduction of new rules of discipline.
9. Any increase or reduction in the number of persons employed or to be employed.

### **STRIKES**

#### **EXPLAIN ABOUT THE VARIOUS STRIKES AND ITS IMPORTANT?**

##### **Concept of strike**

A strike is a very powerful weapon used by trade unions and other labor associations to get their demands accepted. It generally involves quitting of work by a group of workers for the purpose of bringing the pressure on their employer so that their demands get accepted.

**According to Industrial Disputes Act 1947**, a strike is “a cessation of work by a body of persons employed in an industry acting in combination; or a concerted refusal of any number of persons who are or have been so employed to continue to work or to accept employment; or a refusal under a common understanding of any number of such persons to continue to work or to accept employment”.

##### **What are the causes of strikes/ reason of strike?**

Strikes can occur because of the following reasons:

- Dissatisfaction with company policy
- Salary and incentive problems
- Increment not up to the mark
- Wrongful discharge or dismissal of workmen
- Withdrawal of any concession or privilege
- Hours of work and rest intervals
- Leaves with wages and holidays
- Bonus, profit sharing, Provident fund and gratuity
- Retrenchment of workmen and closure of establishment



## Effects of strikes:

- Cuts out the creation of profit
- Cuts off the employer from his market
- Results in mass unemployment
- It sometimes lead to damage to costly equipments and property

## Explain the consequences of illegal strikes and lock-outs

1. **Penalty for illegal strikes [Sec.26(1)]:** Any workman who commences, continues or otherwise acts in furtherance of a strike which is illegal, shall be punishable with imprisonment for a term which may extend to 1 month, or with fine which may extend to Rs. 50, or with both.
2. **Penalty for illegal lock-out [Sec.26(2)]:** Any employer who commences, continues or otherwise acts in furtherance of a lock-out which is illegal, shall be punishable with imprisonment for a term which may extend to 1 month, or with fine which may extend to Rs. 1,000 or with both.
3. **Penalty for instigation, etc. [Sec. 27]:** Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal, shall be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs. 1,000 or with both.
4. **Penalty for giving financial aid for illegal strikes and lock-outs [Sec. 28]:** Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with an imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs. 1,000 or with both.

## STRIKES PREVENTION

### EXPLAIN ABOUT THE STRIKES PREVENTION IN INDUSTRIAL CONFLICTS

#### How to prevent or prohibit conflicts arise in industry?

Employees are prohibited from striking according to the section 22 of Industrial Disputes Act 1947. Employees, who are working in a public utility service, cannot go on a strike without giving a notice of strike within the six weeks before striking.

- ✓ The notice of strike or lockout is not necessary when there is already a strike or lockout going on in the company.
- ✓ However, a notice should be issued on the day on which the lockout is declared just to intimate the appropriate authorities about the lockout.
- ✓ The employer is supposed to report the number of notices of strikes received by him to the appropriate Government or the authority prescribed by the government within the five days of receiving such notices.

#### 1. Illegal Strikes and Lock-Outs:

A strike or a lock-out is illegal if it is declared in noncompliance with the section 22 (as

defined above) of Industrial Disputes Act 1947, that is, if the notice period is not served or if the strike is held within the fourteen days of issuing the notice of strike.

**2. Penalty for Illegal Strikes and Lock-outs:**

A workman who is involved in an illegal strike can be penalized with imprisonment for a term extendable to a month or with a fine or fifty rupees or both.



**INDUSTRIAL PEACE**

**EXPLAIN ABOUT INDUSTRIAL PEACE TO SURVIVE IN THE INDUSTRY.**

**Meaning and Definition of Peace:** Peace describes a society or a relationship that is operating harmoniously and without violent conflict. Peace is commonly understood as the absence of hostility or the existence of healthy or newly healed interpersonal or international relationships, safety in meters of social or economic welfare, the acknowledgement of quality, and fairness in political relationships.

According to Sumner, "Peace in industrial relations can be defined as a state of antagonistic cooperation".

**Preconditions for industrial peace:**

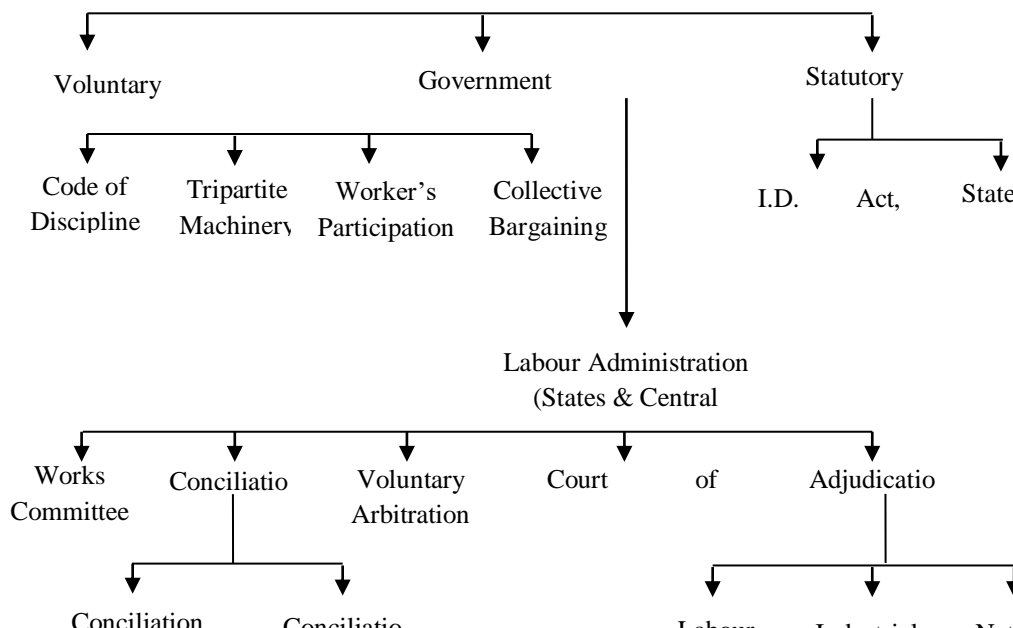
- There should be strong trade unions with democratic norms.
- The employers should have a progressive outlook. They should recognize the rights of the workers.

**Measures of Industrial Peace:**

- Liberal and fair management policy regarding wages and other benefits.
- Satisfactory working conditions
- Healthy supervision, fair treatment and demonstrably impartial treatment of workers.
- Evolution of a strong, representative and responsible trade union.
- Effective measures and techniques for preservation and improvement of employee's morale and motivation.

**MACHINERY FOR PREVENTION AND SETTLEMENT OF INDUSTRIAL RELATIONS**

**Machinery for Prevention and Settlement of Industrial Relations**



## **GOVERNMENT MACHINERY:**

### **WHAT ARE THE MACHINERY FOR PREVENTION AND SETTLEMENT OF INDUSTRIAL RELATIONS?**

The Ministry of Labour and Employment at the centre is the key agency for the policy formulation and administration in all the matters pertaining to labour. The State governments with the cooperation of their labour departments are responsible for the enforcement thereof. The

#### **Works committees:**

The IDA, 1947 provides for setting up works committees in every organisation having 100 or more employees. Having representatives of employees and employees, these are consultative bodies and are set up for maintaining harmonious relations at the work place and sort out the difference if any.

#### **Who are the Authorities concerned in the Settlement of Disputes? Explain their duties & responsibilities.**

The Industrial Disputes Act provides for the setting up of the following authorities for the settlement of industrial disputes:

1. Works Committee
2. Conciliation Officers
3. Boards of Conciliation
4. Court of Enquiry
5. Labor Court, Tribunal and National Tribunal

#### **Works Committee:**

The works committee comprises of representatives of employers and workmen engaged in the industrial establishment in equal number. A works committee is purely a consultative body.

The primary duty of a Works Committee is:

1. To promote measures for securing and preserving good relations between the employer and workmen.
2. To comment upon matters of their common interest or concern.
3. To smooth away frictions that might arise between the workmen and the management in day-to-day work.

#### **Conciliation Officer:**

- Conciliation Officer is appointed by the appropriate government by notification in the Official Gazette.

#### **Conciliation has certain advantages:**

1. In this method each party has the satisfaction that it is the architect of its own solution.



2. In this method parties save a lot of time and expense.
3. In this method settlement is binding on, all workmen.
4. In this method settlement is final.

**Board of Conciliation:**

- The appropriate government may by notification in the Official Gazette constitute a Board of Conciliation for promoting settlement of an industrial dispute.

**Court of Enquiry:**

- The act empowers the appropriate government to constitute a Court of Enquiry to inquire into any matter appearing to be connected with or relevant to an industrial dispute and submit its report to the appropriate government ordinarily within 6 months from the commencement of the inquiry.
- The primary objective of the Court is to inquire into and reveal the causes of an industrial dispute.

**Adjudication:**

Adjudication is a judicial process for settlement of Industrial Disputes.

**Labor Court, Industrial Tribunal & National Tribunal:**

- The final phase in the settlement of disputes is compulsory arbitration or adjudication.

**CONCILIATION:**

When the services of a neutral party are availed for the amicable solution of a dispute between the disputing parties, this practice is known as conciliation. The IDA, 1947 provides for conciliation and it can be utilized either by appointing Conciliation Officer or by setting up Board or Conciliation.

**The functions of a Conciliator are:**

- To assist the parties in an independent and impartial manner, to reach an amicable settlement of their dispute.
- To be guided by principles of objectivity, fairness and justice.
- To give consideration to rights and obligations of the parties, trade usages, circumstances surrounding the dispute and any previous business practice between the parties.
- To conduct the conciliation proceedings in an appropriate manner, taking into account the circumstances of the case and wishes of the parties.

**The conciliation proceedings shall be terminated when:**

- A settlement agreement is signed by the parties,
- A written declaration is made by the conciliators after consultation with the parties, that further efforts at conciliation are no longer justified,

- A written declaration is made by the conciliator, after the deposits required in relation to costs of the proceedings are not received from the parties, that the proceedings are terminated,
- A written declaration is made by the parties to the conciliator, that the conciliation proceedings are terminated,
- A written declaration is sent by a party to the other party and the conciliator, that the conciliation proceedings are terminated.

### **ARBITRATION:**

**The Arbitration and Conciliation Act, 1996** is the prime legislation relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards and also to define the law relating to conciliation and for matters connected therewith or incidental thereto. It repealed the three statutory provisions for arbitration:- (i) **the Arbitration Act, 1940**; (ii) **the Arbitration (Protocol and Convention) Act, 1937**; and (iii) **the Foreign Awards (Recognition and Enforcement) Act, 1961**.

**Domestic Arbitration** is defined as an alternative dispute resolution mechanism in which the parties get their disputes settled through the intervention of a third person and without having recourse to the court of law. It is a mode in which the dispute is referred to a nominated person who decides the issue in a quasi-judicial manner after hearing both sides. Generally, the disputing parties refer their case to an arbitral tribunal and the decision arrived at by the tribunal is known as an 'award'.

#### **The major provisions relating to Arbitration in the Act are:-**

- The parties to a present dispute may make an agreement called as the 'arbitration agreement' that instead of going to the court; they shall refer the dispute to arbitration. The parties to the agreement may refer to arbitration, a dispute:-
  - Which has arisen or which may arise between them,
  - In respect of a defined legal relationship, whether contractual or not.

Thus, all matters of civil nature whether they relate to present or future disputes may form the subject matter of reference. Even disputes such as infringement of intellectual property rights shall also be covered.

#### **What are the duties of the arbitral tribunal?**

- (i) To act independently and impartially and treat the parties equally; (ii) to give each party full opportunity to present his case.
- The parties may agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings. In the absence of such agreement, the arbitral tribunal may conduct the proceedings in the manner it considers appropriate and shall be empowered to determine the admissibility, relevance, materiality and weight of any evidence. The tribunal shall decide whether to hold oral hearings for presentation of evidence or for oral argument, or whether to conduct the proceedings on the basis of documents and other materials.

#### **The arbitral proceedings shall be terminated when:-**

- The final arbitral award is made,

- The claimant withdraws his claim, and the respondent does not object to it,
- The parties agree on the termination,

The continuation of proceedings has for any other reason become unnecessary or impossible

## ADJUDICATION

### **Meaning of Adjudication:**

Adjudication is the ultimate remedy for the settlement of disputes in India. Adjudication consists of settling disputes through the intervention of a third party appointed by the government. An industrial dispute can be referred to adjudication by the mutual consent of the disputing parties. The government can also refer a dispute to adjudication without the consent of the parties. The Industrial Disputes Act, 1947, provides three-tier adjudication machinery for the settlement of industrial disputes, namely:

- Labor Courts,
- Industrial Tribunals,
- National Tribunals.

### **Labor Courts:**

The appropriate Government may, by notification in the Official Gazette, constitute one or more labor courts for adjudication of industrial disputes relating to any matters specified in the second schedule. These courts shall also perform such other functions as may be assigned to them.

Qualification for Appointment as Judges of a Labor Court

**Section 7 (3)** of the act provides in this regard that a person shall not be qualified for appointment as the presiding officer of a labor court, unless:

He is, or has been, a judge of a High Court; or

### **Duties of Labor Courts:**

- The labor court deals with disputes relating to;
- The propriety or legality of an order passed by an employer under the standing orders.
- The application and interpretation of standing orders.
- Discharge or dismissal of workers, including reinstatement of, or grant of relief to wrongly dismissed persons.
- Withdrawal of any statutory concession or privilege
- Illegality or otherwise of a strike or lockout
- All matters except those reserved for industrial tribunals.

### **Industrial Tribunals:**

The appropriate government may, by notification in the official gazette, constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the second schedule or the third schedule and for performing such other

### **Duties of industries tribunal:**

It has a wider jurisdiction than the labor court. The government concerned may appoint two assessors to advise the presiding officer in the proceedings. An industrial tribunal can adjudicate on the following matters:

- Wages including the period and mode of payment; compensatory and other allowances;
- Hours of work and rest periods;
- Leave with wages and holidays;
- Bonus, profit sharing, provident fund and gratuity
- Rules of discipline;
- Rationalization

### **National Tribunal:**

This is the third one-man adjudicatory body to be appointed by the Central Government to deal with disputes of national importance or issues which are likely to affect the industrial establishments in more than one state.

- ❖ If the dispute is not settled by any other method, the government may refer it for adjudication. Hence it is a compulsory method which provides for three-tier system for adjudication of industrial disputes. This machinery consists of Labour Court, Industrial Tribunals and National Tribunal.

### **Advantages of Arbitration over Adjudication:**

- ❖ It must be recognized that in modern welfare state, healthy industrial are a matter of paramount importance. In attempting to solve industrial disputes; industrial adjudication therefore, should not be delayed. Voluntary arbitration appears to be the best method for settlement of industrial disputes.

## **VOLUNTARY METHODS**

### **Code of discipline**

Formally announced in 1958, the Code of Discipline provides guidelines for the workers, unions and employers. The code which was approved by major national trade unions and principal organisation of employers enjoyed on them to create an environment of mutual trust and cooperation and to settle the disputes by mutual negotiation, conciliation and voluntary arbitration. It required the employers and workers to utilize the existing machinery for the settlement of disputes.

A few important provisions of code of discipline are:

- Strikes and lockout cannot be declared without proper notice.

### **Tripartite machinery**

Tripartite machinery consists of various bodies like Indian Labour Conference, the Standing Labour Committee, the International Committees, the Central Implementation and Evaluation Committee and the Committee on conventions. Generally, these committees include representatives

### **Workers' participation in management**

Workers' participation in management is an essential ingredient of industrial democracy. The concept of workers participation in management is based on "Human Relations" approach to management which brought about new set of values to labour and management.

### **Collective bargaining**



4. Mention Management related factors which cause Industrial disputes.
5. Mention Government related factors which cause Industrial disputes.
6. What is the Impact of Industrial dispute?
7. What is a Strike?
8. What are the essential features of a strike?
9. What is Stay away strike?
10. What is Sit-down and stay-in strike?
11. What is Tools-down strike/ Pen-down strike?
12. What is Go-Slow Strike?
13. What is Gherao and picketing?
14. What is Hunger Strike?
15. How to prevent a strike from happening?
16. Define Industrial Peace
17. What is lay-off?
18. What is lock-out?
19. Define Conciliation and qualities of conciliator.

**PART- B** 13 Marks

1. What is industrial dispute?
2. Elaborate the causes for Industrial disputes.
3. Discuss in detail about Strike.
4. Explain the concept of Conciliation
5. Explain the concept of Arbitration
6. Discuss in detail about labour court in adjudication system.
7. Discuss in detail about Industrial tribunal in three-tier system of adjudication.
8. Write a essay on National tribunal in three-tier system of adjudication.
9. Elaborate Industrial Peace
10. State the advantages and evils of Arbitration process?



## Unit - 3

### What is labour legislation

‘Labour legislation’ is a body of law formed for the working class of people to provide them with legal rights, and also restrict them with rules and regulations. It defines the rights and obligations of the working class. Labour law covers several areas-

- Certification of Labour Unions – The Labour Union is issued with a formal document which ensures them the right to represent on behalf of all the labourers. This Union acts as an exclusive bargaining agent.
- Collective Bargaining – The workers through their unions put demands before their employers, like the terms of their employment, payment, leave, health and safety policies and the number of working hours.

### Principles of labour legislation

There are various principles of labour legislation-

- **Principle of Social Justice** – It ensures social equality for people and ensures that opportunities aren’t denied to them on the basis of religion, caste or any other prejudicial grounds. No matter whichever place they come from they must be provided with equal opportunities to work. Their social status should not be considered a ground for anything and they should be treated in a well-mannered way. The profits earned by a company must be distributed on fair grounds between the workers and the owner.
- **Social Equity** – It mentions that the maintenance of labour is based on social equity of labour. As the time and circumstances keep changing it demands new laws and rules to suit workers’ needs accordingly. This intervention of the government in bringing new Acts and amendments according to the situation prevailing is based upon social equity. ‘Equity’ means to be fair and impartial. Social equity means to form equal working standards for the people with the help of provisions and obligations to do so. Laws should be flexible enough to meet the demands of the industrial society.

### Objectives of labour legislation

- Establishment of all kinds of justice for the working people – social, economic, and political.
- The availability of equal opportunities to all workers, irrespective of caste, creed, religion and beliefs for their overall personality development.

- Protection of weaker sections of workers who are not financially well off to protect themselves.
- Maintenance of industrial peace.
- Protection and improvement of living standards of the labourers.
- Protection of workers from all sorts of exploitation – mentally or physically and creating a better working environment.
- Grant rights to workmen to unite and form their unions so that they could bargain collectively with their owners for the betterment of their livelihood.
- Keep checks on the government about their active participation in the working areas for social well-being.
- Ensures human rights and human dignity.

### History and development of labour legislation

The roots of labour legislation lie in the relentless struggle faced by the workers at their master's work. There was inequality between two classes of people. The contract between labour and capital could never be struck on equitable terms. Such practices required a change, and this need became the basis for the formation of labour laws.

### Factors influencing labour legislation

Impact of contemporary events

- Along with the Industrial Revolution, the revolutionary thinking of people like Rousseau, J.S Mill, Hegel, Marx and Engels impacted labour jurisprudence. The French and the Russian Revolution greatly influenced the thought process of the public and set the pace of labour jurisprudence.
- The World Wars also made the labourers realise their core importance, that unless they sweat, it would be hard for the nation to fight and win the rough battles, therefore it is important for the masters to provide a quality of life to their workers.

### THE FACTORIES ACT-1948

- It came in to force on 01.04.1949
- Its object is to regulate the conditions of work in manufacturing establishments which come within the definition of the term 'factory'.

**Factory:** A factory is a premise whereon 10 or more persons are engaged if power is used, or 20 or more persons are engaged if power is not used in a manufacturing process.

\* Factory does not include: Mines, Railway running shed, a hotel & restaurant

### Approval, Licensing & Registration of factories:

- The state govt. is empowered for giving approval, licensing and registration
- Application for permission to be sent to – Chief inspector or the State govt.

**Occupier:** The person who has ultimate control over the affairs of the factory

**Labour welfare:** The term 'Labour Welfare' refers to the facilities provided to workers in and outside the factory premises such as canteens, rest and recreation facilities, housing and all other services that contribute to the wellbeing of workers.

## THE INSPECTION STAFF

The Factories Act empowers the State Government to appoint Inspectors, Chief Inspectors of Factories, Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors. Every District

Magistrate is an Inspector for his district. No person can act as an Inspector if he is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

**Powers of Inspectors.** Section 9 provides that subject to any rules made in this behalf, an Inspector may exercise the following powers within the local limits for which he is appointed :

- (a) enter, with such assistants, being persons in the service of the Government or any local or other public authority, as he thinks fit, and place which is used, or which he has reason to believe is used, as a factory ;

## CERTIFYING SURGEONS

Section 10 provides that the State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of the Act for specified local areas or for specified factories or class of factories.

## # Health, Safety and Welfare

### PROVISIONS REGARDING THE HEALTH OF WORKERS

Sections 11 to 20 of the Act contain certain provisions intended to ensure that the conditions under which work is carried on in factories do not affect the health of the workers injuriously. The summary of the provisions are explained below :

Summary of the provisions of the Factories Act. relating to the health of workers are stated below.

1. **Cleanliness.** Every factory shall be kept clean and free from dirt, and the outflow of drains etc. The floors must be cleaned. Drainage shall be provided. Inside walls, partitions and ceilings must be repainted at least once in five years. When washable water paint is used they must be painted once every three years and washed at least every period of six months.-Sec. 11,' as amended in 1976.

2. **Disposal of wastes and effluents.** The waste materials produced from the manufacturing process must be effectively disposed *off-Sec. 12.*

3. **Ventilation 'and Temperature.** There must be provision for adequate ventilation by the circulation of fresh air: The temperature must be kept at a comfortable level. Hot parts of machines must be 'separated and insulated.-Sec. 13.

4. **Dust and Fume.** If the manufacturing process used. gives off injurious or offensive dust and fume steps must be taken so that they are not inhaled or accumulated. The exhaust fumes of

internal combustion engines must be conducted outside the factory.--Sec. 14.

**5. Artificial humidification.** The water used for this purpose must be pure. It must be taken from some source of drinking water supply. The State Government can frame rules regarding the process of humidification etc.-Sec. 15.

**6. Over Crowding.** There must be no overcrowding in a factory. In factories existing before the commencement of the Act there must be at least 350 c.ft. (~r 55 cubic metres) of space per worker. For factories built afterwards, there must be at least 500 c.ft. (or 75 cubic metres) of space. In calculating the space, an account is to be taken of space above 14 ft. (or 5 metres) from the floor.-Sec. 16.

**7. Lighting.** Factories must be well lighted. Effective measures must be adopted to prevent glare or formation of shadows which might cause eyestrain.-sec. 17.

## PROVISIONS REGARDING THE SAFETY OF WORKERS

Sections 21 to 40A, 40B and 41 of the Act lay down rules for the purpose of securing the safety of workers. Summary of the provisions of the Factories Act regarding the safety of the workers are stated below: (Sections 21 to 41) .

**1. Fencing to machinery.** All *dangerous machinery* must be securely fenced *e.g.*, moving parts of prime movers and flywheels connected to every prime mover, electric generators, etc.-Sec. 21.

**2. Work on or near machinery in motion.** Work on or near machinery in motion must be carried out only by specially *trained adult male workers* wearing tightly fitting clothes.-Sec. 22.

**3. Employment of young persons on dangerous machines.** No young person shall work at any 'dangerous machine' unless he has been specially instructed as to the dangers and the *precautions* to be observed, has received sufficient training about the work, and is under the supervision of some person having thorough knowledge and experience of the machine.-Sec. 23.

**4. Striking gear and devices for cutting off power.** In every factory suitable devices for *cutting off power* in emergencies from running machinery shall be provided and maintained in every workroom.-Sec. 24.

**5. Self-acting machines.** *Moving parts* of a self-acting machine must not be allowed to come within 45 cms. of any fixed structure which is not part of the machine.-Sec. 25.

**6. Casing of new machinery.** In all machinery installed after the commencement of the Act, certain parts must be sunk, encased or otherwise *effectively guarded e.g.*, set screw, bolt, toothed gearing etc. -sec. 26.

**7. Women and children near cotton Openers.** Women and children must not be allowed to work near *cotton openers*, except in certain cases.-Sec. 27

**8. Hoists, lifts, chains etc.** Every *hoist and lift* must be so constructed as to be safe. There are detailed rules as to how such safety is to be secured. There are similar provisions regarding lifting machines, chains, ropes and lifting tackle .Sec. 28, 29.

**9. Revolving machinery.** Where grinding is carried on the maximum safe working speed of every revolving *machinery* connected therewith must be notified. Steps must be taken to see that the safe speed is not exceeded.-Sec. 30.

**10. Pressure plant.** Where any operation is carried on at a pressure higher than the *atmospheric pressure*, steps must be taken to ensure that the safe working pressure is not exceeded.-sec. 31.

**11. Floors, stairs and means of access.** All floors, steps, stairs, passage and gangways shall be of *sound construction and properly* maintained. Handrails shall be provided where necessary. Safe means of access shall be provided to the place where the worker will carry on any work.-Sec. 32.

**12. Pits, sumps, openings in floors etc.** Pits, sumps, openings in floors etc. must be *securely covered* or fenced.-Sec. 33.

**13. Excessive weights.** No worker shall be made to carry a *load so heavy* as to cause him injury.-Sec. 34.

**14. Protection of eyes.** Effective screen or suitable goggles shall be provided to *protect the eyes* of the worker from fragments thrown off in course of any manufacturing process and from excessive light if any.-Sec. 35.

**15. Precautions against dangerous fumes.** No person shall be allowed to enter any chamber, tank etc. where *dangerous fumes* are likely to be present, unless it is equipped with a manhole or other means of going out. In such space no portable electric light of more than 24 volts shall be used. Only a lamp or light of flame proof construction can be used in such space. For people entering such space suitable breathing apparatus, reviving apparatus etc. shall be provided. Such places shall be cooled by ventilation before any person is allowed to enter.-Secs. 36 and 36A.

**16. Explosive or inflammable gas etc.** where a manufacturing process produces inflammable gas, dust, fume, etc. steps must be taken to enclose the machine concerned, prevent the accumulation of substances and exclude all possible sources of *ignition*. Extra precautionary measures are to be taken where such substances are worked at greater than the atmospheric pressure.-Sec. 37.

## PROVISIONS REGARDING THE WELFARE OF WORKERS

Summary of the provisions of the Factories Act regarding the welfare of workers are stated below :

**1. Washing.** In every factory adequate and suitable facilities for washing shall be provided and maintained. They shall be conveniently accessible and shall be kept clean. There must be separate provisions for male and female workers.-Sec. 42.

**2. Storing and drying.** The State Government may make rules requiring the provision of suitable facilities for *storing and drying clothing*.-Sec. 43.

**3. Sitting.** *Sitting facilities* must be provided for workers who have to work in a standing position, so that they may take rest when possible. When work can be done in a sitting position efficiently the Chief Inspector may direct the provision of sitting arrangements. Sec. 44.

**4. First aid.** Every factory must provide *first aid boxes* or cupboard. They must contain the prescribed materials and they must be in charge of persons trained in first aid treatment. Factories employing more than 500 persons must maintain an ambulance room containing the prescribed equipment and in charge of the prescribed medical and nursing staff.-Sec. 45.

**5. Canteens.** Where more than 250 workers are employed, the state Government may require the opening of *canteen or canteens* for workers. Rules may be framed regarding the food served, its management etc.,-Sec. 46.

**6. Shelters.** In every factory where more than 150 workers are employed there must be provided adequate and suitable *shelters or rest rooms and a lunch room* (with drinking water supply) where workers may eat meals brought by them. Such rooms must be sufficiently lighted and ventilated and must be maintained in a cool and clean condition. The standards may be fixed

by the State Government. -Sec. 47,

**7. Creches.** In every factory where more than 30 women are employed, a *room shall be provided for the use of the children* (below 6 years) of such women. The room shall be adequate size, well lighted and ventilated, maintained in a clean and sanitary condition and shall be in charge of a woman trained in the care of children and infants. The standards shall be laid down by the State Government. Sec. 48.

**8. Welfare officers.** *Welfare officers* must be appointed in every factory where 500 or more workers are employed. The State Government may prescribe the duties, qualifications etc. of such officers. Sec. 49.

**9. Rules.** The State Government may *make rules* regarding the welfare of workers.-Sec. 50.



## EMPLOYMENT OF YOUNG PERSONS

**Children:** The age of children not completed 14 year shall not be allowed /employed in a factory

**Young person (Adolescent):** Who has completed the age of 14 years and not completed the age of 18 years

**Adult :** Who has completed the age of 18 years

**Certificate of fitness (CoF):**

It should be produced by young person before joining a duty or getting employment.

*Apply :* For getting CoF, the Young person by himself or guardian must apply for that

*Validity :* The CoF valid for 12 months from the date of issue, but it can be renewed.

*Revocation of CoF:* It can be revoked any time by the certifying surgeon.

*Fees :* Fees for getting CoF to be paid by the employer ( at the time of renewal)

Working hours to Young persons:

- Not more than 4 1/2 hours per day
- Weekly holiday is must
- No young persons allowed to work in two factories
- Female young person to be allowed to work only between 8am to 7pm
- Display of notice of work of young person must be there
- Register of young person workers should be maintained by the manager.

## EMPLOYMENT OF WOMEN

All provisions regarding employment of adult male worker is applicable to adult female worker, except the following:

1. Work on or near machinery in motion is not allowed
2. Prohibition of employment near cotton openers
3. Crèches
4. Maximum of 48 hours in a week and 9 hrs. per day
5. Working hrs. between 6am to 7pm
6. Certificate of fitness (CoF) is must
7. Restricting the employment of women in dangerous operations/ machines
8. Annual leave: One day for every 20/15 days (15 days for Female young person) and Maximum maternity leave 12 weeks

## The Minimum Wages Act, 1948

Introduction: Our country is facing the problem of unemployment and this lead to work on wages which are even not able to fulfill the basic needs of workers and their family. Thus, the Minimum Wages Act, 1948 has been enacted to prevent exploitation of workers and to fix minimum wages in certain employments. The Minimum Wages Act, 1948 came into force on 15th March, 1948. The Act extends to whole of India.

### Objects of Minimum Wages Act, 1948

- To prevent exploitation of labour.
- To provide for fixing minimum rates of wages in certain employments. The employments are those which are included in the schedule and are referred to as 'Scheduled Employments'.

- To empower the Appropriate Government to take steps to prescribe minimum rates of wages in the scheduled industries and
- To empower the Appropriate Government to give effect to other provisions of Act.

Definitions:

**Adolescent** [Section 2(a)]: Adolescent means a person who has completed his 14 year of age but has not completed his 18 year.

**Adult** [Section 2(aa)] : Adult means a person who has completed his 18 year of age.

**Appropriate Government** [Section 2(b)] : Appropriate Government means:

(1) In relation to any scheduled employment carried on by or under the authority of the Central or a railway administration, or in relation to a mine, oilfield or major part or any corporation established by a Central Act: The Central Government and

(2) In relation to any other scheduled employment: The State Government.

**Child** [Section 2(bb)]: Child means a person who has not completed his fourteenth year of age.

**Employee** [Section 2(i)]: Employee means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical in a scheduled employment in respect of which minimum rates of wages have been fixed.

Employee also includes an employee declared to be an employee by the Appropriate Government.

Any members of Armed Forces of the Union are not employee under the Act.

**Employer** [Section 2(e)]: Employer means any person who employs directly or through contractor employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes:

**Local Authority:** The person appointed for the supervision and control of employees. There are no person is so appointed, the Chief Executive Officer of the local authority.

In any other case Any person responsible to the owner for the supervision and control of the employees or for the payment of wages.

**Scheduled employment** [Section 2(g)]: Scheduled employment means an employment specified in the Schedule or any process or branch of work forming part of such employment.

Note: The schedule is divided into two parts namely, Part I and Part II. When originally enacted Part I of Schedule had 12 entries. Part II relates to employment in agriculture.

**Wages** [Section 2(h)]: Thages means all remunerations capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes House Rent Allowance (HRA).

**Wages does not include following:**

- (1) The value of:
  - (a) House accommodation, supply of light, water medical attendance
  - (b) Other amenity/service excluded by order of the Appropriate Government
- (2) PF & ESI contributions
- (3) Travelling allowance/travelling concession
- (4) Sum paid to defray special expenses due to nature of his employment
- (5) Gratuity payable on discharge

### **FIXATION & REVISION OF MINIMUM WAGES**

**Fixation of minimum rates of wages [Section 3]**

- Appropriate Government shall fix the minimum rates of wages, payable to employees in an employment specified in Parts I & II of the Schedule.
- In the case of an employment covered in Part I, the minimum rates of wages must be fixed for the entire State, no parts of the State being omitted.
- In case of the employments specified in Part II, the minimum rates of wages may not be fixed for the entire State. Parts of the State may be left out altogether.

- If there are less than 1000 employees in the whole State in any scheduled employment the Appropriate Government may not fix minimum rates of wages for that scheduled employment. But when number increases 1,000 or more Appropriate Government shall fix minimum wage rate. [Section 3(1A)]

#### **Revision of minimum wages [Section 3(1)(b)]**

- Appropriate Government may review minimum rate of wages at intervals not exceeding 5 years. This means that minimum wages can be revised earlier than 5 years but gap between two revisions should not be more than 5 years.
- Manner of fixation/revision of minimum wages [Section 3(2)]
  - Further, minimum rates of wages may be fixed by any one or more of the following wage periods, namely:
    - By the hour
    - By the day
    - By the month or
    - By such other large wage periods as may be prescribed
  - Such rates are fixed by the day or by the month, the manner of calculating wages for month or for a day as the case may be, may be indicated.

#### **Minimum rate of wages [Section 4]**

Any minimum rate of wages may consist of:

- Basic rate of wages (+) cost of living allowance or
- Basic rate of wages (+) cost of living allowance (+) cash value of the concession for supplies of essential commodities at concessional rates or

**The Appropriate Government can follow either of the two methods described below :**

(1) **Committee Method:** The Appropriate Government may appoint committee to hold enquiries and advise it in respect of such fixation or revision of minimum wages. After considering the advice of the committee the Appropriate Government shall fix or revise the minimum rates of wages by notification in the Official Gazette.

(2) **Notification Method:** As per this method the Appropriate Government shall by notification, in the Official Gazette publish its proposals for the information of persons likely to be affected and give 2 months time for making representation by the interested parties. After considering all the representations and consulting with the Advisory Board, the Appropriate Government shall fix or revise the minimum rates of wages by notification in the Official Gazette.

#### **ADVISORY BOARD & CENTRAL ADVISORY BOARD**

Constitution of Advisory Board [Section 7]

The Advisory Board is constituted by the Appropriate Government for the purpose of:

- Co-ordinating the work of committees appointed u/s 5 and
- Advising the Appropriate Government for fixing and revising of minimum rates of wages.

#### **Composition of Advisory Board [Section 9]**

The Advisory Board shall consist of persons to be nominated by the Appropriate Government representing employers and employees in the scheduled employment who shall be equal in number, and independent persons not exceeding 1/3rd of its total number of members. One of such independent persons shall be appointed as the Chairman by the Appropriate Government.

#### **Constitution of Central Advisory Board [Section 8]**

Central Government shall appoint a Central Advisory Board for the purpose of advising the Central and State Government in the matters of:

- Fixation and revision of minimum rates of wages and other matters
- For co-ordinating work of the advisory boards.

Composition of Central Advisory Board [Section 9]

## **LIABILITY OF PAYMENT OF MINIMUM WAGES & CONSEQUENCES**

### **Wages in kind [Section 11]**

Minimum wages shall be paid in cash. It can also be paid in kind if there is custom and approved by Appropriate Government. Supply of essential commodities at concessional rates can also be authorized.

### **Payment of minimum rate of wages [Section 12]**

- It is to be noted that minimum wages must be paid irrespective of the extent of profits, the financial condition of the establishment.
- The employer shall pay to every employee engaged in a scheduled employment wages which should not be less than the minimum wages fixed by the Appropriate Government. Payment of less than the minimum wages notified by the Appropriate Government is an offence.

## **FIXATION OF NORMAL WORKING HOURS & OVER TIME PAYMENT**

Fixation of normal working hours for normal working day [Section 13]

Fixing of minimum rates of wages without reference to working hours may not achieve the purpose for which wages are fixed. Thus, the Appropriate Government may:

- (a) Fix the number of working hours which shall constitute a normal working day, inclusive of specified interval.
- (b) Provide a paid holiday in every period of 7 days.
- (c) Provide for payment of work on a paid holiday at a rate not less than the overtime rate.

## **THE PAYMENT OF WAGES ACT - 1936**

It was passed to regulate the payment & unauthorized deductions of wages to certain classes of persons employed in a factory or industry.

Time of payment of wages (Rules):

1. Wages to be paid before 7<sup>th</sup> or 10<sup>th</sup> day of every month
  - Less than 1000 persons 7<sup>th</sup> day
  - More than 1000 persons 10<sup>th</sup> day
2. Wages in case of termination of employment
  - To be paid before the expiry of the 2<sup>nd</sup> working day from the date of termination
3. Wages to be paid on a working day only

## **DEDUCTIONS WHICH MAY BE MADE FROM WAGES**

At the time of payment of the wage to employees, employer should make deductions according to this act only. Employer should not make deductions as he like. Every amount paid by the employee to his employer is called as deductions.

The following are not called as the deduction

- Stoppage of the increment of employee.
- Stoppage of the promotion of the employee.

The above said actions taken by the employer should have good and sufficient cause.

## **Deductions [Sec 7 (2)]**

Deduction made by the employer should be made in accordance with this act only. The following are said to be the deductions and which are acceptable according to this act.

- Fines,
- Deductions for absence from duty,

- Deductions for damage to or loss of goods made by the employee due to his negligence,
- Deductions for house-accommodation supplied by the employer or by government or any housing board,
- Deductions for such amenities and services supplied by the employer as the State Government or any officer,
- Deductions for recovery of advances connected with the excess payments or advance payments of wages,
- Deductions for recovery of loans made from welfare labour fund,

## **Deductions from wages**

### **1. Deductions for fines:**

No fine – before showing cause and completed age of 15 years

Fine should be imposed by the employer on employee with the approval of the state government or prescribed authority. Employer should follow the rules mentioned below

- Notice board of fines on employee should be displayed in the work premises and it should contain activities that should not be made by employee.
- Fine should not be imposed on the employee until he gives the explanation and cause for the act or omission he made.
- Total amount of fine should not exceed 3% of his wage.

### **2. Deductions for absence from duty**

- Deductions can be made by the employer for the absence of duty by the employee for one day or for any period.
- The amount deducted for absence from the duty should not exceed a sum which bears the same relationship to the wage payable in respect of the wage-period as this period of absence does to such wage-period. (Example: if the salary of an employee is 6000/- per month and he was absent for duty for one month. Deduction from the salary for absence of duty should not exceed 6000/-)

### **3. Deductions for damages or loss**

- Employer should give an opportunity to the employee to explain the reason and cause for the damage or loss happened and deductions made by employer from the employee wage should not exceed the value or amount of damage or loss made by the employee.  
[Sec 10 (2)] All such deduction and all realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

### **4. Deductions for services provided by the employer**

House-accommodation amenity or service provided by the employer should be accepted by the employee, than only the employer can make deduction from the wage of the employee. Deduction should not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied.

### **5. Deductions for recovery of advances**

In case of advance paid to the employees by the employer before employment began, such advance should be recovered by the employer from the first payment of the wages /salary to the employee. But employer should not recover the advance given for the travelling expense for the employee.

### **6. Deductions for recovery of loans**

Deductions for recovery of loans granted for house-building or other purposes shall be subject to any rules made by the State Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.

## **7. Deductions for payment to co-operative societies and insurance schemes**

Deductions for payments to co-operative societies or deductions for payments to scheme of insurance maintained by the Indian Post Office or with employee acceptance deductions made for payment of any premium on his life insurance policy to the Life Insurance Corporation shall be subject to such conditions as the State Government may impose.

## **8. Other deductions:**

- Deductions of income tax
- Deductions by order of court
- Deductions for payment to co-op societies advances
- Deductions for provident fund
- Deductions for insurance premium
- Deductions made with written authorization of the employee to donations

**Note:** The total deduction shall not exceed 75% of such wages

## **Maintenance of Registers & Records**

The employer shall maintain the following registers and records

1. The work performed by them
2. The wages paid to them
3. Deductions made from their wages
4. The receipts given by them

## **Penalty for offences under the Act (To employer)**

1. Penalty for delaying payment of wages within prescribed period
2. Penalty for not paying wages on a working day or in current coins or currency
3. Penalty for failure to maintain / furnish/ return records
4. Penalty for obstructing inspectors/ officials

## **Punishable with fine which shall not be less than 1000/- rupees but which may extend to 7500/- rupees.**

- If Wage period exceed one month.
- Failure in payments of wages on a working day.
- Wages not paid in form of current coin or currency notes or in both.
- Failure to maintain record for collected fines from employee.
- Improper usage of fine collected from employees.
- Failure of employee to display notice containing such abstracts of this Act and of the rules made.

## **punishable with fine which may extend 3000/- rupees**

- Whoever obstructs an Inspector in the discharge of his duties under this Act
- Whoever willfully refuses to produce on the demand of an Inspector any register or other document.
- Whoever refuses or willfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorized by or under this Act

## **punishable with fine which shall not be less than 1000/- rupees but which may extend to 7500/- rupees**

Whoever repeats the same offence committed before.

Imprisonment for a term which shall not be less than one month but which may extend to 6 months and fine which shall not be less than 3750/- rupees but which may extend 20500/-rupees.



## THE PAYMENT OF BONUS ACT – 1965

Bonus – Something to the good

This act is to provide for the payment of bonus to persons employed in certain establishments for their contribution in profit.

- To impose statutory liability upon an employer
- To define principles of payment of bonus
- To provide minimum & maximum bonus
- To provide machinery for enforcement of the liability for payment of bonus
- A minimum bonus of 8.33% of the wage or salary is payable, whether the establishment has made profit or loss.
- **Liability for bonus is a statutory liability**

### \* Application of the Act

- Every factory coming under Factories act 1948
- Every other establishment, there employees strength more than 20 persons

### Act not applicable to the following categories of employees:

- Employees of LIC
- University & other educational Institutions
- Employed by NABARD, UTI, SIDBI
- Employees of red-cross society & its branches
- Seamen
- Employed through contractors
- Any other financial institutions (other than banking company)
- RBI employees

### \* Power of exemption for giving bonus

The appropriate Govt. alone empowered to give exemption to the establishment for giving bonus, based on its financial position and other relevant circumstances by notification in the official Gazette.

The order of exemption can be refused by affected parties and apposed through Quasi- Judicial with proper reasons.

### \* Eligibility & Distribution for Bonus:

Eligibility (U/S.8): Every employee shall be entitled to receive bonus, if he works not less then 30 working days in a financial year.

If he worked less than 30 days, the bonus could be reduced proportionately

### \* Disqualification (U/S: 9):

The employee shall be disqualified from receiving bonus, if he is dismissed from service for: Fraud, Violent behaviour, Theft and Sabotage of any property of factory.

## DETERMINATION OF BONUS

Bonus cannot be claimed by workers as a matter of right

The following is the procedure for determining bonus for two different establishments, namely Banking Company and others.

1. Determination of Gross Profit(GP) – For Banks and Others
2. Determination of available surplus
3. Allocable surplus

4. Proportionate reduction in bonus in certain cases
5. Adjustment of interim bonus paid
6. Time limit for payment of bonus
7. Recovery of bonus

**1. Determination of Gross Profit (GP):**

At first we have to Determine GP from given Net Profit, GP can be calculated as follows:

- A) For a Banking Company – First schedule - Computation of GP from NP

Particulars	Amt.	Amount (in Rs.)
Net Profit (from P&L account)		XXXX
<b>ADD: Items to be added back to NP-(A)</b>		
- Provision for bonus	XXX	
- Provision for depreciation	X	
- Any reserves	XXX	
- Any gratuity paid/given	X	
- Donations in excess of admissible for IT	XXX	
- Capital expenditure and Capital losses	X	<u>XXX</u>
- Losses from business situated out side india	XXX	<u>X</u>
	X	XXX
<b>LESS: Items to be deducted from NP – (B)</b>		
- Capital receipts	XXX	X
- Profit of any business situated outside India	X	
- Refund of any excess direct tax paid	XXX	
- Cash subsidy given by Govt.	X	
	<u>XXX</u>	<u>XXXX</u>
<b>Gross Profit for Bonus</b>	<u>X</u>	
	XXX	<b>XXXX</b>
	X XX	

- A) For Other Companies – First schedule

- Computation of GP form NP

Particulars	Amt.	Amount (in Rs.)
Net Profit (from P&L account)		XXXX

<b>ADD:</b> Items to be added back to NP-(A)		
- Provision for bonus	XXX	
- Provision for depreciation/ Direct taxes	X	
- Any reserves	XXX	
- Any gratuity paid/given	X	
- Donations in excess of admissible for IT	XXX	
- Capital expenditure and Capital losses	X	<u>XXX</u>
- Losses from business situated out side india	XXX	<u>X</u>
	X	XXX
<b>LESS:</b> Items to be deducted from NP – (B)	XXX	
- Capital receipts	X	X
- Profit of any business situated outside India	XXX	
- Refund of any excess direct tax paid	X	
- Cash subsidy given by Govt.	<u>XXX</u>	<u>XXXX</u>
	<u>X</u>	
<b>Gross Profit for Bonus</b>	XXX	<b>XXXX</b>

**2. Determination of available surplus:** After determining the GP, the establishment should determine the available surplus as under.

Particulars	Amt.	Amount (in Rs.)
Gross Profit (Calculated as above)		XXXX
<b>Less:</b> Items to be deducted	XXX	
- Any depreciation admissible	X	
- Any amount spent for development	XXX	
- Any direct taxes paid	X	
- Amount specified in <b>3<sup>rd</sup> Shedule*</b>	XXX	<u>XXXX</u>
	X	
<b>Available surplus</b>	XXX	<b><u>XXXX</u></b>
	X	
	<u>XXX</u>	
	<u>X</u>	

\* **The items specified in 3<sup>rd</sup> Schedule:**

- Dividend payable to preference share holders
- 8.5/ 7.5% of its paid up equity share capital for commencement of Business
- 6% of it reserves
- Remuneration payable to the partners of the firm
- Rs. 48,000 or remuneration paid to employees which ever is less.

### 3. Allocable surplus:

After determining the available surplus, the employee's share is called allocable surplus. The allocable surplus is the workers' share in the available surplus.

a. *The amount of bonus:*

- Mini.. bonus: **8.33%** of the salary earned during the accounting year (U/s.10) **or**  
**Rs.100 p.m.**(Rs.60 in case of below 15 years)w.e.is Higher.

- Maximum Bonus: (U/s. 11): It is possible only the allocable surplus exceeds the minimum bonus – i.e **20%** of salary.

b. *'Set on' & 'Set off' of allocable surplus (u/s.15):*

The rule set-on and set-off is applicable on the allocable surplus.

- (i) 'Set on' : Where the allocable surplus for any accounting year exceeds the maximum bonus amount, the excess shall be carried forward to next/succeeding years. It should be utilized only for payment of bonus (the year in which there is no allocable surplus)
- (ii) 'Set- off': In an accounting year, if the allocable surplus is not available to pay minimum bonus, the unpaid amount is set-off to next year.

**Ex. The 4<sup>th</sup> schedule.**

Minimum bonus: Rs.1,04,167

Maximum bonus: Rs.2,50,000

Year	Allocable surplus	Bonus	Set-off / Set-on	Total C/f
1	1,04,167	1,04,167	Nil	Nil
2	6,35,000	2,50,000	2,50,000 (maxi)	
3	2,20,000	2,50,000 (30000 from 2 <sup>nd</sup> year)	-	2,20,000
4	Nil	1,04,167	1,15,833	Nil

**4. Proportionate reduction in bonus in certain cases:** If any employee has not worked for all the working days in an accounting year, the minimum bonus will be reduced proportionately.

**5. Adjustment of interim bonus paid:** If any interim bonus paid during that accounting year, that shall be reduced from actual bonus.

**6. Time limit for payment of bonus:** - With in a month from the date on which the settlement comes into operation. - Or with in a period of 8 months, from the close of the accounting year.

**7. Recovery of bonus:** In case of any due in payment of bonus, the affected person can recover them through Government.

## **Unit IV**

### **Standing order act**

**The Industrial Employment (Standing orders) Act, 1946 was introduced for the employers in industrial establishments to ensure the employment conditions under the establishments. Standing Orders states the laws which govern the relationship between the employer and a workman in an industrial establishment with includes the elements such as classification of workers, working hours, attendance, suspension, termination etc.**

**Is standing order mandatory**

#### **Objective of the Act**

The objective of the Industrial Employment (Standing Orders) Act, are as follows:

- To provide regular standing orders for workers, factories, and working relationship.
- To ensure that the employer recognises the terms and conditions of the employees and thus to minimise exploitation of the workers.
- To promote industrial peace and harmony by supporting fair industrial practices.

#### **Applicability of the Act**

The Act applies to all industrial establishments involving 100 or more workers under Section 1(3). Under section 2(i) Industrial Establishment are the following entities are listed below:

- An industrial establishment as specified in section 2(i) of Payment of Wages Act.
- Factory as explained in section 2(m) of Factories Act.
- Railway Industry

#### **Details Enclosed in Standing Orders**

The particular information which is generally provided in the standing orders include:

- Workmen classification into categories such as permanent, temporary, on probation, etc.
- Method of informing the workmen about working hours, holidays, etc.
- Shift working.
- Temporary stoppages of.

#### **Modification of Standing Order**

Standing orders finally certified by the certifying officer is not liable to change, except by an agreement between the employer and workers to the contrary, until the expiry of six months from the date on which the standing orders or the last modification came into operation.

# **The Apprentices Act, 1961**

The National Apprenticeship Act was launched in the year 1959 at first on voluntary cause. The Apprentices Act 1961 was presented in the Parliament during 1961 and came into effect from 1st January 1963. The act was eventually amended in 1973 and 1986. In the starting, the Act was meant for the training of trade apprentices.

## **Definition of Apprentices Act**

An Act to provide for the regulation and control of training of apprentices and for matters connected therewith.

## **Purpose of Apprentices Act 1961**

The main purpose of the Act is to provide practical training to technically qualified persons in various trades.

The objective is promotion of new skilled manpower.

## **Who are Apprentices**

An apprentice is someone who takes training in some company to master the competencies and crafts of a specific craft.

The main requisites for a person to receive an apprentice training are that he/she should have attained an age of 14 years and for the trades where safety issues are concerned to the apprentice should have attained 18 years..

## **Applicability**

As per the Apprentice Act 1961, for the industries and trades which were informed by the Central Government in the Official Gazette, the act is applicable.

## **Duration of Apprenticeship Training**

Cleared the trade exam or any examinations conducted that particular Council

Duration of Apprenticeship may be from six months to four years.

## **Duties of an Apprentice**

- An apprentice must master the selected trade with utmost attentiveness and awareness. He ought to strive exceptionally to qualify himself as a skilled person in the related trade for the period of apprenticeship.

## **The Responsibilities of an Employer**

- An employing company is obligated to deliver a duplicate of every apprenticeship agreement that he enters into within 30 days from the date of entering to the Apprenticeship marketing consultant. Once a portal internet site is made with the aid of the imperative government for this reason, then the business enterprise would possibly send the info of contracts within seven days from the date of entering.



## **Termination of Contract**

On completion of the duration of the apprenticeship training, the contract shall be terminated. The employer or The Apprentice can send the application for the termination of the contract to the concerned Apprenticeship Advisor and afterwards, can send a copy of the application to the other party.

## **Common Misuses of Apprentice Act**

- **Some employers are engaging the apprentices who are not qualified enough for hiring and also failing to execute the terms and conditions of a contract/agreement of apprenticeship** or breach the provisions of the Act regarding the number of apprentices which he is supposed to hire as per the provisions of the act.
- **Most of the employers are not paying the stipend to the apprentice as per the Rule 11 of the Apprenticeship Rules, 1991.**
- **The employers are violating the provisions of the act and are not paying the stipend for the month before the 10th day of the following month.**

## **Equal Remuneration Act, 1976.**

To provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

### **The purpose of the equal remuneration Act**

Act provides for payment of equal wages for work of same and similar nature to male and female workers and for not making discrimination against female employees in the matters of transfers, training and promotion etc.

**Duty of employer to pay equal remuneration to men and women workers for the same work or work of similar nature**

**No discrimination to be made while recruiting men and women workers**

### **Advisory Committee**

Section 6(3) states, the factors which make a difference in the decision are:

1. Number of women at work
2. Nature of work
3. Hours of work
4. Suitability of women
5. Need to provide opportunities

After consideration of all these factors, the committee must decide in bringing the appropriate norms in effect.

## **Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints**

Section 7 of the Act states, the complaints and claims regarding the infringement of this Act shall be addressed to the appointed officer. The applicants have to make sure that they have accurate proof of the commitment of the offence. The offenders will certainly be sued for any inequality in payment. In cases where the discrimination is made in two or more works, the consequences will be decided by the appointed officer.

## **Miscellaneous**

There are several miscellaneous duties and powers

### **Duty of employers to maintain registers**

Section 8 of the Act specifies a duty of Employers to maintain a record of the employees, which must contain detailed information regarding the remuneration. This is done in order to gauge, if there is an discrimination in pay on the basis of sex. The ascertainment of offence is important in order to impose the correct amount of liability.

### **Inspectors**

In order to ascertain the offence, the appropriate government is given a task to appoint an Inspector, who will be responsible for carrying out the investigations.

### **Penalties**

Penalties are charged in case, any employer fails to comply with the norms provided in the Act. Section 10 of the Act specifies that if an employer fails to:

- Fails to maintain a register;
- Fails to produce the register when required;

shall be punishable with at least a fine of 10,000, which may extend till 20,000 or imprisonment, not less than 3 months, which may extend to one year. In case of more than one offence, the punishment will increase, accordingly.

### **Power to make rules**

The Central Government has the power to make regulations in order to protect the interest of the employees. Section 13 of the act mentions the powers of the government to form policies and regulate changes in the Act.

The Houses of Parliament can implement changes by following due procedure. The employers will have to comply with the norms, so provided.

### **Power of Central Government to give directions**

Section 14 of the Act states that the Central Government has the power to direct the state government as to the execution of the Act. The state government will have to comply with the directions, so provided.

### **Power to remove difficulties**

The Central Government has the power to make any order, which might be inconsistent with the provisions of the Act, but are necessary for the circumstances of that case. Such

act must be necessary for the removal of such difficulty. The implementation of the provisions must be carried out smoothly, without any difficulties.

## **THE PAYMENT OF GRATUITY ACT, 1972**

Gratuity is a monetary benefit given by the employer to his employee at the time of retirement.

### **The rule for payment of gratuity**

The Act provides for payment of gratuity at the rate of 15 days wages for each completed year of service subject to a maximum of Rs. ten lakh. In the case of seasonal establishment, gratuity is payable at the rate of seven days wages for each season.

### **Calculation of Gratuity**

Gratuity calculation depends on two major factors that are last drawn salary and number of years provided by an employee as service.

As per the Payment of Gratuity Act 1972, Gratuity should not exceed an amount of 20 Lakhs and the act has categorized non-government employees into two categories;

### **Application and extent**

The act applies to all factories, mines, oilfields, plantations, ports and railway companies. But in the case of shops or establishments, other than those stated before, it applies to those organizations with 10 or more persons are employed on any day of the preceding 12 months.

### **Application for gratuity.**

1) An employee who is eligible for payment of gratuity under the Act, or any person authorized, in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in Form 'T' to the employer:

Provided that where the date of superannuation or retirement of an employee is known, the employee may apply to the employer before thirty days of the date of superannuation or

Retirement.

### **Mode of payment of gratuity**

The gratuity payable under the Act shall be paid in cash or, if so desired by the payee, in Demand Draft or bank Cheque to the eligible employee, nominee or legal heir,

\*\*\*\*\*UNIT-IV COMPLETED\*\*\*\*\*

## Unit V

### **Provision of Employees' Provident Funds and Miscellaneous Provisions Act, 1952**

Provident Fund scheme was started by few concerns even before the enactment of the act. The government in 1952 framed this act for the benefit and welfare of the employees. This act is applicable to employees drawing pay not more than Rs. 6,500 pm but at the time of registration the same employee pay should not exceed Rs. 5,000. This act deals with:

1. The Employees' Provident Fund Schemes, 1952,
2. The Employees' Pension Scheme, 1995, and
3. The Employees' Deposit linked Insurance Scheme, 1976

#### **Applicability:**

- a. To every establishment which is a factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed, and
- b. To any other establishment employing 20 or more persons or class of such establishments which the Central Government by notification on the official gazette specify in this behalf.

#### **Non-Applicability:**

- a. Establishment registered under the Co-operative Societies Act, 1912 or under any other law for the time being in state relating to cooperative societies, employing less than 50 person without the aid of power,
- b. Establishment belonging to Central or State Government whose employees are entitled to the benefit of these provident and pension funds in accordance with any scheme or rule framed by Central or State Government governing such benefits,
- c. Establishment belonging to Provincial or State Act whose employees are entitled to the benefit of these provident and pension funds in accordance with any act governing such benefits, If once such establishment falls within this act, then the act will apply to such establishment even if the number of employee falls below 20.

### **The Employees' Provident Fund Schemes, 1952**

This act has been passed by Central Government. This fund is administered by Central Board which is administered by Board of Trustees.

Employee entitled and required to join Provident Fund: Every Employee of the establishment earning salary or wages upto Rs. 6,500, except:

1. An employee who having been a member withdraws full amount of his accumulations in the fund,
2. An employee whose pay at the time he is otherwise entitled to become a member of the fund exceeds Rs. 5,000 pm

**Due Date:** Employer is required to pay amount received from employee on or before 15th of the following month, i.e. contribution of Oct before 15th November.

**Procedure of Application:** Provident fund form is to be filled up along with incorporation documents, MOA, AOA, PAN, Address Proof; etc as before 30 days from the date such act becomes applicable on the establishment.

**Withdrawal: Funds can be withdrawn by filling up Form 19.** A employee can withdraw the amount only if he/she don't get into employment for the 2 month's period. This requirement of 2 months is not applicable if girl withdraws such amount for her marriage.

**Advance:** Advance can be taken on this account for marriages (self, siblings, children, etc), buying a house, major surgical operations, repayment of loans, etc in certain cases, etc which is non refundable in nature.

**Transfer:** Provident fund can be transferred in case person goes for another job at another place after filling up relevant Form.

**Online Provident Fund facility:** Now online facility of EPF is available. One can see the members detail, correct the information present. DSC of the authorized person is required for online submission of claims. Here

### **The Employees' Pension Scheme, 1995:**

Government has introduced this scheme under section 6A, to claim this: Minimum 10 years contributory service is required, and

- a. Have attained 58 years of age, or
- b. Retirement, or
- c. Permanent total disablement, or
- d. Children pension, or

e. Orphan pension.

### **The Employees' Deposit linked Insurance Scheme, 1976:**

The act was framed in 1976. This act came into force from 1st August, 1976.

- a. **Applicability:** All members of Provident Fund Scheme
- b. **Contributions:** 1% of total emoluments i.e. basic wages, dearness allowances including cash value of food concessions and retaining allowances.
- c. **Administrative Expenses:** Employers are required to pay charges to the insurance fund at the rate of 0.01% of the pay of the employee members for meeting various expenses subject to a minimum of Rs. 2/month

### **Employees State Insurance Act 1948**

The **Employees State Insurance Act 1948** by the Parliament was the first major social security legislation for workers in India. The ESI Act 1948 covers certain health-related incidents the workers are exposed to, such as maternity, sickness, permanent or temporary disablement, or death due to employment injury, which can result in the loss of earning capacity. The Employees State Insurance Act 1948 functions under the Ministry of Labor & Employment.

### **Benefits of Employees State Insurance Act 1948**

The benefits of the Employees State Insurance Act 1948 are as follows:

- **Medical Benefit-** medical care will be given to the person and his family members. There will be no ceiling on the expenditure.
- **Maternity Benefit-** for pregnancy is payable for 26 weeks as well under the ESI Act 1948, which can be extended up to one month on medical advice.
- **Sickness Benefit-** it will be given in the form of cash compensation at the rate of 70 percent of wages.
- **Dependants Benefit-** this is paid in the form of monthly payments to the dependants in cases where the death occurred due to occupational hazards or employment injury.
- **Disablement Benefit-**
  - **Temporary disablement benefit (TDB)** at the rate of 90% of wage is payable so long as the disability continues.



- Permanent disablement benefit (PDB) is paid at the rate of 90% of wage in the form of monthly payments. It depends on the extent of the loss.
- Other Benefits of Employees State Insurance Act 1948
  - Funeral Expenses
  - Physical Rehabilitation
  - Old Age Medical Care
  - Confinement Expenses
  - Vocational Rehabilitation

### **Coverage of Employees State Insurance Act 1948**

The Employees State Insurance applies to the factories and other establishments institutions where 10 or more persons are employed. However some states, the limit is 20.

- Under section 1(5) of the Employees State Insurance Act 1948, the ESI scheme has been extended to hotels, shops, cinemas, and restaurants, including road-motor transport, preview theatres and newspaper establishments where employees are 10 or more.

### **The Maternity Benefit Act, 1961**

Maternity Benefit is a benefit given to the mothers-to-be or the mothers of the newly born with fully paid leave from employment along with other benefits before and after the delivery of the child, with a motive to facilitate the women in taking care of the child.

The case of **Mamta v. Employee State Insurance Corpn. (2014)** held that giving birth to and taking care of the child is covered under the fundamental right of the child and the woman and hence the employer shall be held liable to pay maternity benefits.

### **APPLICABILITY**

Under the scope of **Section 2(1)(a)**, the Act applies to all establishments including:

- factories,
- plantations,

- mines,
- shops or establishments covered under the ambit of law having 10 or more than 10 employees. (As provided by the 2017 amendment) This includes the private sector as well.

In the case of **Thomas John Muthoot v. Labour Officer (2014)** it was held that a firm with only 3 employees will not be covered under the Act.

- government organizations,
- organizations centered by the central government or
- an establishment wherein persons are employed for the exhibition of equestrian, acrobatics, and other performances

### ELIGIBILITY

In Section 5(2) of the Act, it is mentioned that a woman, to be eligible for the maternity benefits under the Act, has to be employed in the establishment **for not less than 80 days** in the twelve months immediately preceding the expected delivery of the woman. (The period has been reduced from **160 days to 80 days** by the virtue of 2017 amendment)

### DURATION OF LEAVE

As per the provisions mentioned in the Act, the duration of the maternity leave in different cases is as follows:

- **26 weeks**, for a woman with up to 2 surviving children. The woman, at discretion, can take up to 8 weeks of maternity leave before the delivery and the remaining 18 weeks after the delivery.
- **12 weeks**, for a woman already having 2 or more children. Herein, the woman, at discretion, can take up to 6 weeks of leave before the delivery and the remaining 6 weeks after the delivery of the child.
- **12 weeks**, for a woman who has adopted a child below the age of 3 months from the date of handover of the child.
- **12 weeks**, for a commissioning mother, i.e., a mother who puts her embryo in another woman (another woman is called the host/surrogate) from the day of handover of such child.

- **6 weeks**, for a woman who has gone through miscarriage from the date of termination of pregnancy, on the production of proof, as mentioned in **Section 6** of the Act.

Further, a woman who has gone through a miscarriage but hasn't worked in the establishment for 160 days in the preceding 12 months can also claim the leave for miscarriage as decided in the matter of **Management of Kallayar Estate, Jay Shree Tea and Industries Ltd. v. Chief Inspector of Plantations (1998)**.

### **KIND OF WORK**

The women employee cannot be employed to complete tasks of the following nature under the ambit of **Section 4** of the Act:

- Work of arduous nature
- Work involving long hours of standing
- Work that is likely to intervene with the pregnancy or the normal growth of the fetus

### **BENEFITS PROVIDED**

- **Monetary Benefits:** Under the ambit of **Section 5 (1)**, every woman is entitled to receive maternity benefits calculated at the rate of average daily wage for the period of her actual absence i.e., for the whole of the maternity leave (including the period preceding the delivery, the actual delivery date, and the period post-delivery)
- **Nursing Breaks:** As per **Section 11** of the Act, every woman is entitled to 2 nursing breaks of the prescribed duration for nursing the child until the child turns 15 months old, apart from the rest interval allowed, through her daily course of work.
- **Creche Facility:** As per **Section 11(A)** of the Act (added via 2017 amendment) every establishment with more than 50 employees is prescribed to have a creche facility for the baby and the mother should be allowed 4 visits to the creche in a day which shall include the nursing breaks and the rest intervals allowed to her.
- **Work From Home:** As per **Section 5 (5)** of the Act (as inserted by the 2017 amendment) if the job profile of the women facilitates, the employer may allow the provision of work from home to such women after the completion of the maternity break. The period and conditions of such work can be mutually decided between the employer and the employee.

- **Medical Bonus:** The woman is entitled to receive an amount of Rs. 1000 from the employer in case the pre-natal and post-natal care is not provided by the employer at zero cost as mentioned in **Section 8(1)** of the Act.
- **Prevention from dismissal:** The Act under the provision of **Section 12** makes it unlawful for the employer to dismiss or deprive an employee of claiming maternity benefits as prescribed by the Act. Except in the cases of gross misconduct by the woman employee.

The women employee on being dismissed or deprived of such benefits may, within 60 days from the date of the order being received, file an appeal to the prescribed authority.

### **PAYMENT OF MATERNITY BENEFITS UNDER DIFFERENT CIRCUMSTANCES**

As per the provisions of the act, in cases of death, the maternity benefit will be provided accordingly:

- Wherein both, the mother and child survive then, the maternity benefits will be provided as per 26 weeks.
- In case the woman survives but the child doesn't even then the maternity benefit of the duration of leave shall be provided. Herein as per **Section 7** of the Act, the maternity benefit will be provided to the legal representative or nominee.
- If the mother dies and the child survives, the maternity benefit will still be provided for the child.
- In the case where both, the mother and the child die then the maternity benefit till the time of the death will be provided, which will also include the day of the death.
- In the case where the mother died and the child survived but later died too, the maternity benefit will be provided till the day of the child's death.

### **PAYMENT OF THE MATERNITY BENEFIT**

As per the provisions of Section 6(5) of the Act, the amount for maternity benefits preceding the date of delivery shall be paid in advance and for the period after the delivery, the payment shall be made within 48 hours of production of proof.

### **COMBINING OF LEAVES**

As per the CCS Rules, 1972, for the government servants, maternity leave can be combined with any other kind of leave. Also, the maternity leave does not disturb the course of leaves otherwise.

## DISMISSAL OF THE MOTHER

As per **Section 12** of the Act, the employer, in case of gross misconduct can dismiss the employee or deprive her of the maternity benefit or the bonus or both by giving an order in writing. The term gross misconduct is not defined in the Act but **Section 28** empowers states to decide what prescribes gross misconduct. In the case of **National Tobacco Co. of India Ltd. and Orsvs Fourth Industrial Tribunal and Ors (1959)** it was observed by the court that gross conduct in itself means dismissal. If there is a case of gross conduct, there will be left no scope for victimization and the employee might not be in a position to challenge the order.

## PENALTIES FOR NON-COMPLIANCE / DEFAULT

S.No.	Section	Default	Penalty
1)	<b>Section 21</b> of the Act.	1) Failure in paying benefits or discharge or dismissal of the mother, on account of absence due to maternity, from the employment (apart from the provisions of <b>Section 12</b> i.e., in cases of Gross Misconduct)  2) Contravention into the provisions of the act by the employer regarding maternity benefit or payment of any other amount and when recovery of such maternity benefit or the amount has not already been made.	Imprisonment up to 3 months fine up to Rs. 500/- or both  Recovery of such maternity benefit or amount as if it were a fine and the same is paid to the entitled pe
2)	<b>Section 22</b> of the Act	On-demand made by the inspector if the person fails to produce any registered document or conceals a document or prevents a person from appearing before the inspector	Imprisonment up to 3 months or a fine of Rs. 500/- or both

## Child Labour (Prohibition and Regulation) Act, 1986

- The Child Labour (Prohibition and Regulation) Act of 1986 designates a child as a person who has not completed their 14th year of age. It aims to regulate the hours

and the working conditions of child workers and to prohibit child workers from being employed in hazardous industries.

### Child Labour (Prohibition and Regulation) Amendment Act, 2016

- The raw act in the Constitution that was amended in the year 2016 can be stated as:
  - *“An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto.”*

### Child Labour (Prohibition and Regulation) Amendment Rules, 2017

The Government of India decided to make further amendments in the Act after extensive consultation with the stakeholders. Provisions under the Child Labour (Prohibition and Regulation) Amendment Rules are as follows:

- A broad and specific framework for prevention, prohibition, rescue and rehabilitation of children and as well as adolescent workers.
- Clarity on issues related to family enterprises.
- Safeguards for creative workers or artists that have been permitted to work under the Act, with respect to working hours and working conditions.

S.No	Before the amendment	After the amendment	Impact
1	Children below the age of 14 years will be allowed to work in occupations except for 18 occupations and 65 processes.	Complete prohibition of employment of children below the age of 14	Complete ban that ensures all children under 14 years are in school as per the Right To Education Act.
2	No help was provided to children working after school hours who were below the age of 14 yrs.	Children allowed to work only after school hours or during vacations under the condition that the occupations were hazardous.	This allows the working kids to learn their traditional skills and also helps them build life values such as a sense of discipline, decision making, responsibility, and so on.
3	Children below the age of 14 years will be permitted to work in Family	Children below the age of 14 years will be allowed to work in Family	This protects the health and ensures children's well being. Children could work in their

	Business/occupation both hazardous and non-hazardous.	Business/Enterprises only if they are non-hazardous.	family businesses only if it is safe for them.
4	Children will be able to work in family businesses even if it didn't belong to the child's family.	Children will be able to work in family businesses even if it didn't belong to the child's family only if the occupation is non-hazardous.	This allows the working children to learn their traditional skills and values of life.
5	Children above the age of 14 years didn't have any prohibitions on employment.	Children between 14-18 years are categorised as Adolescents and are not allowed to work in hazardous occupations.	Protection of adolescent's health.
6	Adolescents were not provided with any working regulations regarding working hours and conditions.	Regulated working conditions for adolescents working in non-hazardous occupations are in place.	Adolescent working in non-hazardous occupations cannot be exploited.
7	Schedule of 18 occupations and 65 processes ( called certain occupations & processes) applicable for a child; tells where a child cannot work.	A child can't work in any occupation, so the list of prohibited occupations has been made infinite as there is a complete ban on employment.	There is a complete ban on work and not just on the 18 occupations and 65 processes.
8	No schedule of hazardous occupations and processes where an adolescent cannot work.	Schedule of hazardous processes and occupations provided where an adolescent cannot work.	Protection of adolescents health.
9	No provision of providing a positive list of occupations where an adolescent can work.	The government can provide a positive list of non-hazardous occupations where an adolescent can work and a child can assist.	Enabling provision to allow the Government to restrict the employment of adolescents in occupations that are classified as non-hazardous.



10	Contravention of provisions non-cognizable offence.	It is a cognizable offence.	There is no need of an approval of the DM to take action on the FIR on violation of the child labour law.
11	No Officer responsible for the implementation of Act.	District Magistrate or a subordinate officer can be made responsible for enforcement and can be conferred with such powers.	Provision for laying specific responsibility on the designated Officer for violating the provisions of the Act – this ensures better enforcement.
12	No provision of rehabilitation fund for rescued children.	Statutory provision for a child and adolescent labour rehabilitation fund with contribution of appropriate Government also ensured for each child rescued.	The statutory provision for a rehabilitation fund will ensure that the child/adolescent is not only rescued but his/her future is secured by the amount collected in the fund. This amount can be used for the education and welfare of the rescued child.

- Set of specific duties and responsibilities for law enforcement agencies to ensure effective implementation and compliance of the Act.

### Child Labour does not include the following work

- It is also important to know that not all work done by children should be classified as child labor targeted for elimination. In fact, children's or adolescents' participation in work that does not affect their health and personal development or interfere with their schooling, is generally regarded as being something positive.
- This includes activities such as helping their parents around the home, assisting in a family business, or earning pocket money outside school hours and during school holidays. These activities are in fact believed to contribute to children's development.

### International Laws on Child Labour

- The UN Convention on the Rights of the Child, 1989: It contains the idea that children are not just objects who belong to their parents and for whom decisions are made or adults in training. Rather, they are human beings and individuals with their own rights.

International Labour Organizations Conventions on the minimum age for admission to the employment of the year 1973 (ILO convention 138) and on the worst forms of child labour of the year 1999 (ILO convention 182).

## **Contract Labour (Regulation and Abolition) Act, 1970**

### **Introduction**

In India, Contract labourers are protected by the contract labour Regulation and Abolition Act, 1970. A Contract Labour is Defined in Act as one who is hired in connection with the work of an establishment by the principal employer through a contractor. While a contract is the supplier of contract labour for the organisation, a principal employer is a person responsible for the control of the establishment.

The act extends **the whole territory of India.**

The Contract Labour (Regulation and Abolition) Act, 1970 is read with **Contract Labour (Regulation and Abolition) Central Rules, 1971.**

**Principal Employer:** A principal Employer would mean and include the head of any government or local authority; the 'Owner' or 'Occupier' or 'Manager' of a factory (under the Factories Act); Owner, agent or manager of mine; or any person responsible for the supervision and control in the establishment.

**Contractor:** A contractor would mean by any person, who supplies contract labour for any work of an establishment and include a sub- contractor. Any contractor to whom act applies has to take a licence under the act.

### **What are the categories of Establishment to which the act is Applicable?**

- **Establishment:** Applies to every establishment in which 20 or more workmen are employed or were employed on any given day of the preceding 12 months as contract labour;
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### **What are the categories of Establishments to which the Act is not applicable?**

The act is not applicable to the establishments which perform work of casual or intermittent nature.

Intermittent nature of work means:

- If the work is seasonal and is not performed for more than 60 days
- Other cases, if it was performed for less than 120 days in the preceding 12 months

## **compliance Requirement under the for Principal Employer and Contractor**

### **Principal Employer**

#### **Registration of Establishments employing Contract Labors under Act**

- The principal employer of the establishment shall apply for Registration of the establishment to the Registering Officer for employing contract labour

### **Register and Records**

#### **Form XII – Register of Contractors**

#### **Employer's liability on non-compliance of contractor**

- If the contractor fails to provide Rest Rooms, Canteens, First Aid, Latrines, Urinals, or washing facilities, then the principal employer should provide the same on behalf of the contractor.
- It the Responsibility of the principal employer to ensure that the Contractor is complying with the requirements various applicable labour laws
- All the expenses incurred on providing them must be recovered by the principal employer either by deduction or by way of debt

### **Returns**

- Unified Annual Return in **FORM XIV** is filled online by principal employer and contractor on ShramSuvidha Portal under Ministry of Labour and Employment on or before 1st Feb.

### **Contractor**

#### **Licensing**

- Any contractor who executes any work through Contract Labour, should apply for License before the Licensing Officer.
- The application should be made in **FORM II** and in triplicate
- Every application must be annexed with certificate from Principal Employer in **FORM III** stating that the applicant has been appointed by principal employer as contractor for his establishment
- Demand Draft should be attached to every application of license showing: Security amount + Payment of fees
- Copy of license must be kept at premises where work is carried on.

## Register and Records

- **Form A:** Register for contract labour (specified in the Schedule to the Ease of Compliance to Maintain Registers under various Labour Laws Rules, 2017)
- **Form B:** Wage Register
- **Form C:** Loan/Recoveries/Damages Register
- **Form D:** Attendance/Muster Roll Register
- **Form XII:** Contractor should issue employment card to the contract labours within 3 days of their employment
- **Form VIII:** The contractor issues service certificate 7 on Termination of any contract labor
- Register of overtime in **FORM B** should be maintained by the contractor
- **Form XIX:** Wage slips is issued if wage period is 1 week or more by the contractor at least a day before disbursement of wages  
Contractor should take thumb impression or sign of the workers in the register against their entries  
Such register should be maintained in Hindi, English or in language spoken by majority of the people in the establishment

## Returns

Unified Annual Return in **FORM XIV** is filled online by principal employer and contractor on ShramSuvidha Portal under Ministry of Labour and Employment on or before 1st Feb.

## The Responsibility of contractors regarding Payment of Wages

- The contractor is responsible for payment of wage to the contract labour within a period of **1 month**
- If there are less than 1000 contract labour in any establishment, the wages should be paid to them **before the expiry of 7th day**, after the last day of the wage period
- In any other case, **before the expiry of 10th day**, after the last day of wage period

## Offences and Penalties provided by the Act

- A person obstructs an inspector in performing his duty – Punishment of Imprisonment up to 3 months; or fine up to Rs 500; or both
- A person who refuses to produce any Register, records, documents demanded by an inspector; or; attempts or prevents any person from appearing before inspector - Punishment of Imprisonment up to 3 months; or fine up to Rs 500; or both
- Person who contravenes any provision of the Act, Rules made relating to prohibiting, regulating or restricting the employment of contract labour; or; person

who contravenes any conditions of license- Imprisonment up to 3 months; or fine up to Rs 1,000; or both;

## **The benefits to Contract Labours in relation to their welfare and health**

### **nCanteens**

- It should be properly maintained by the contractor or principal employer
- It should have a dining hall, kitchen, store-room, pantry and washing places separately for workers and for utensils
- Properly lighted
- The floor shall be made of smooth and impervious material, inside walls shall be lime-washed or colour-washed at least once in each year
- walls should be maintained in clean and sanitary condition
- wastewater should be carried in suitable drains
- arrangements for disposal of garbage

### **Rest Rooms**

- Establishments where workers halt at night for work should be provided with restrooms
- Separate rooms for women employees
- Adequate ventilation and circulation of fresh air should be maintained
- Must provide adequate protection against heat, wind, rain and shall have a smooth, hard and impervious floor surface
- Should have a proper supply of drinking water

### **Latrines and urinals**

- At least 1 latrine for every 25 females and 1 for every 25 male
- Should be covered and partitioned to provide privacy
- Display outside the urinals, stating “for men only”, “for female only”
- 1 urinal for male worker up to 50 and 1 urinals for 50 female workers

### **Washing facilities**

- Separate and adequate screening facilities
- Should be accessible and must be kept in a clean and hygienic conditions

### **First Aid Facilities**

- Readily available first aid boxes should be available
- At least 1 box for every 150-contract labour

\*\*\*\*\*UNIT-V COMPLETED\*\*\*\*\*

**UNIVERSITY POSSIBLE QUESTIONS**

**PART- A    2 MARKS**

- 1.. Define provident fund
2. What are the Principal of ESI
3. Mention types of leave under the maternity benefit act
4. w h a t i s m e a n t b y c o n t r a c t l a b o u r ?
5. Mention the labour prevention and regulation act
6. What is the impact of child aboliation act

**PART- B    13 Marks**

1. What are the provisions of employee provident fund and miscellenous provisions
2. Elaborate the types of benefit under maternity benefit act 1961.
3. Discuss in detail about ESI act and what are the provisions under ESI 1948
4. Explain the provisions of contact labour regulation and aboloition act 1970
5. Explain the child aprevention and regulation act1986.

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