

**POST GRADUATE DIPLOMA IN
HUMAN RESOURCE MANAGEMENT
(PGDHRM)**

**PAPER III
INDUSTRIAL RELATION AND LABOUR WELFARE**

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UNIT – I

Industrial Relations

Concept :

Industrial relations play a crucial role in establishing and maintaining the industrial democracy in the country. Industrial relations means relationship between management and employees and their organisation that characterise or grow out of employment. The term industrial relation is very comprehensive and it includes in its fold all the relationship in the modern industrial society which arise out of employee – employer relationship and also the role of the state regarding these relations. According to R.A. Lester, “Industrial relations involve attempt to workable solutions between conflicting objectives and values between incentive and economic security, between discipline and industrial democracy, between authority and freedom and between bargaining and cooperation”. A comprehensive definition of industrial relations is provided by the Encyclopaedia Britannica : “The concept of industrial relations has been tended to denote the relations of the state with employers, workers and their organisations. The subject, therefore includes individual relations and joint consultation between employers and workpeople at their work place; collective relations between employers and their organisations and trade unions and the part played by the state in regulating these relations”. According to ILO, “industrial relations deals with either the relationship between the state and employers and workers organisation or the relation between the occupational organisation themselves”.

The ILO has used the expression to denote such matters as freedom of association and right to organise and the application of principle of the right to organise, the right of collective bargaining, collective agreement, conciliation and arbitration proceedings and the machinery for co-operation between authorities and the occupational organisations at various levels of the economy.

Thus, industrial relations are an integral aspect of social relations arising out of employer – employee interaction in modern industries which are regulated by the state in varying degrees, in conjunction with organised social forces and influenced by the existing institutions

APPROACHES TO INDUSTRIAL RELATIONS :

The concept of industrial relations carries a wide meaning Industrial relations itself means relationship that emerges out of day-to-day working and association of labour and management. In wider sense industrial relation includes the relation between an employer and employee in the course of running the industry. Industrial conflict is a part of industrial relations which arise due to several socio-economic, psychological and political factors. Therefore several approaches have cropped up to analyse such complex phenomenon. These approaches are —

1. Psychological approach to Industrial Relations :

The psychologists feel that problems of industrial relations have their origin in perceptions of the management, unions and rank and file workers. These perceptions are usually observation based on situations which give rise to conflict. Heins had conducted behavioural experiments on two groups; the union leaders and the executives and arrived at interesting conclusion. They are —

- (a) General impression about a person is different as a representative of management than as a representative of labour.
- (b) Management and labour each sees the other as less appreciative and dependable of others positions than he himself is.
- (c) Management and labour see each other as deficient in thinking regarding the emotional characteristics and inter-personal relations in comparison with himself.

The perceptions of situations and issues are different because these are viewed differently by different people in the organisation. Some people are more susceptible to a particular situation than others. Therefore, the perceptions of unions and of the management of the same issue widely vary which gives rise to conflicts between two parties. Some factors which affect perception are income level, education, personal prejudice, motivation and goals of the persons involved.

The other factors important in psychological approach are prestige, power, status, recognition, security etc. This approach also states that conflicts arise due to mismatch between economic goals and ego fulfillment goals which is often the result of frustration in the individual. Frustrations, again are the result of various restrictions and policies of the government condition of the market, frequent changes in trade policies etc. Usually frustrations so lead to aggressive behaviour, like strikes, arson, looting, destroying property, setting fire to building and raw materials.

Thus psychological approach is a psychological understanding of the strained industrial relations between employer and employees, which is commonly known as industrial conflict. Such situations arise due to varying degree in perception level of individuals in an organisation.

2. Sociological Approach to Industrial Relations :

Sociological Approach deals with social world, which is a combination of different people and their personalities, the environment and social structure in which they reside, family and educational background, sentiments, likes and dislikes, attitude and behaviour. The industry has to consider such social aspects in day-to-day running. Thus the complex interpersonal and inter group relations maintained in an industrial society provide an interesting analysis.

Though industrial relations have been looked upon as an area of economic problems associated with various factors such as wage working conditions and welfare activities social factors plays an equally important part. Social factors that influence industrial relations network are culture of the society, value-systems, institutions, customs, structural changes, status-symbols, rationality, acceptance or resistance to change, tolerance etc. Again it is observed that though the main function of an industry is economic its social consequences, such as urbanisation, social mobility, housing and transport problems in industrial areas, stress and strain delinquency, gambling, drinking are inseparable. Industries, provide new relationships, institutions and behavioural patterns.

Other factors considered relevant to this approach are collective interest, social responsibility, voluntarism, mutuality, faith and understanding, etc.

Role of social change is important in industrial relations. These may be changes in industrial society, worker and the nature of management. Social responsibility is an often used clause in industrial circles. Social responsibility is targetted towards workers, shareholders, consumers and the community at large. The concept of social audit is recognised. Decision making process at industries is relatively democratised. Thus sociological approach to industrial relations is considered to be contemporary and most essential is understanding the concept of industrial relations.

3. Human Relations Approach to Industrial Relations

Human Relations Approach is vital to understanding the concept of industrial relations. Ultimately industrial relations is based on human resources, who are human beings and not machines. They are a bundle of feelings, perceptions, ideas, possesses freedom of thought, speech, expression and movement. These statistics have to be thoroughly considered by the management in taking any decision involving individuals in the organisation. The employers have to treat them accordingly. Any violation may lead to escalation of tension, hatred, pressures, etc which may take ugly shape later on. These may be countered by protective measures on the part of workers like, workers organisation, association and trade unions.

Usually industries seek services of specialists in behavioural sciences like psychologists, industrial engineers, human relations expert and personal managers. Understanding of human behaviour is significant in resolving industrial conflicts. Since attitudes arise from underlying needs, the management must learn and know the basic needs of man and the art of motivating him. The basic needs namely, economic, psychological needs and need for expression are inter-related. Economic needs are basic need for food, clothing and shelter. Such needs may be met by providing reasonable wages. The need for psychological security is a demand for being safe from the hazards of life, from uncertainty, from anxiety brought about by changes new relationships. Such needs may be difficult to meet.

The need for recognition is satisfied through appropriate managerial action. The third basic need is that of an opportunity to participate in its freedom to actualise ones capacity to the full and facilitates to widen the perimeter of ones job. Therefore human relations approach is thought to be an approach which explains the behaviour of the individual and groups at the work place and the manner of modifying that behaviour, so as to achieve the objectives of the organisation and fulfill the aspirations of organisations members.

Human relations approach is inter-disciplinary in native as it draws contribution from psychology, sociology social psychology, social antropology, industrial psychology, industrial sociology, economics, political science etc. This approach suggests freedom for sub-ordinates so that they can satisfy their needs for freedom for a sense of responsibility; responsibility for rank and file should be increased by providing job opportunities, so that their social and ego needs may be satisfied; workers should be given share in decision making activities and should be consulted in matters affecting the interest of a largenumber of people. Such approach can be applied in industrial relations for better work environment and increased satisfaction level of the employees at work.

4. Gandhian Approach to Industrial Relations :

Gandhian Approach has its roots in Gandhian philosophy of truth and non-violence, non-possession, which led to concepts of non-cooperation and trusteeship. These principles are also applied to industrial relations. Gandhiji advocated a peaceful co-existence of capital and labour. His solution to conflict is non-violence and non-cooperation. Thus, labourers can resort to peaceful means, like peaceful strikes in a non-violent manner. The principle of trusteeship implies that present capitalist order of the society can be transformed into an egalitarian society. Trusteeship also means that there is no room for conflict of interests between capitalists and labourers, because though legally wealth belonged to its owners, morally it belonged to the society. Gandhiji advocated two things from workers, awakening and unity and the organisation between them.

Gandhiji wanted the following rules to be observed in the process of resolving disputes.

- (a) Workers should collectively seek redressal of demands.
- (b) The workers should resort to peaceful means in case of strikes.
- (c) Workers should avoid strikes as far as possible in industries of essential service.
- (d) Workers should avoid formation of unions in philanthropical organisations.
- (e) Strikes should be resorted to, only after other legitimate measures have failed.
- (f) As far as possible workers should take recourse to voluntary arbitration where direct settlement have failed.

Therefore, Gandhian approach to Industrial Relations is relevant and this relevance is evident from the peaceful means of protests like strikes, non-co-operation etc, in settlement of disputes. In fact Gandhian philosophy have become a part and parcel of industrial relations scenario in India.

Aspects of Industrial Relations :

The main aspects of Industrial Relations are :

- (i) Co-operation ; and
- (ii) Conflict.

(I) Co-operation : One of the main aspects of industrial relations is to bring about co-operation between and management which can be achieved through the following means :

- (a) Development of trade unions and association of employers. These organisations improve workers' strength, enhance job security, help in increasing workers' participation in management and give labour a dignified role in society. These associations also help in creating grounds for negotiations, consultations and discussions on a mutual basis which ultimately lead to good labour - management relations;
- (b) Strengthening collective bargaining which will help the parties to arrive at a speedier settlement of disputes, between themselves.
- (c) Administration of welfare schemes which will improve labour management relations and contribute to industrial peace.

(II) Conflict : Another aspect of industrial relations is minimization of industrial conflict and promotion of sound relations between employers and employees which presupposes.

- (a) Presence of a machinery for the prevention and settlement of industrial dispute in the form of legislative enactments and administrative action, for example, the Trade Union Act, the Industrial Disputes Act, Industrial Employment (Standing orders) Act, works committees and joint management councils; conciliation officers and conciliation boards; labour courts, industrial tribunals, national tribunals, courts of enquiry; and voluntary arbitration.
- (b) Power of Government to refer disputes to an adjudicator when the situation gets out of control and the industry is faced with economic collapse because of strikes or when it is urgent and in the public interest to so refer disputes for adjudication.
- (c) Power of Government to maintain the status quo and exercise it when it discovers that after a dispute has been referred to an adjudicator, a strike or lockout continues, and that strike or lockout is likely to adversely affect the economic life of the community or create chaotic conditions in an industry.

- (d) Provision for bipartite and tripartite forms of the settlement of disputes which operate on the basis of the Code of Discipline in Industry, the Code of Conduct, the Code of Efficiency and welfare, and on the basis of Model Standing Orders, Grievance Redressal Procedure and the grant of voluntary recognition to trade unions by industrial organisations.
- (c) Creation and maintenance of implementation and evaluation committee which will ensure the implementation of agreements, settlements and awards and lock into any violation of statutory provisions of the various labour laws.

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UNIT – II

Industrial Conflict

The industrial organisational environment is a dynamic one producing continuous differences, problems and tensions. To cite an engineering example, every production process involving the manufacture of a finished product in a machine simultaneously produces scrap. Any process that manages finished product should also simultaneously have a management of scrap. If management of scrap is not kept at the same tune as management of finished product the scrap will overwhelm the process of finished product manufacture very soon. Similarly, when the human resources in an organisation are engaged in generating finished products through their manual or intellectual efforts, they simultaneously produce a similar “scrap” of problems, which also require the same type of continuous processing as scrap management.

All this goes to show that the industrial process is not a harmonious or peaceful exercise as such, but a dynamic, tension and conflict producing activity. These tensions and conflicts are not unnatural but normal in the tempo of industrial activity.

Therefore, the objectives of any industrial relations exercise are not to seek just peace and harmony, but performance under conditions of dynamism, tension and conflict. Thus the emphasis is on both – performance and peace or harmony.

Industrial Conflicts / Disputes :

Industrial conflict is a rather general concept. When it acquire specific dimensions, it becomes an industrial dispute. The various terms, such as industrial dispute, labour dispute or trade dispute are used in different countries to refer the differences between employers and workers. Here these terms are regarded as equivalent and to avoid complexity the expression industrial dispute has been used.

Meaning : Disputes constitutes open manifestations of the feelings of unrest and dissatisfaction on the part of workers.

According to Industrial Disputes Act, 1947, the term “industrial dispute 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 the terms of employment or the conditions of labour of any person.

DYNAMICS OF INDUSTRIAL CONFLICTS :

Conflicts are usual phenomenon in industrial set-ups. Conflicts may occur within a person or between members of a group and between groups. Inter-group conflicts are most frequent among the others. Usually such occurrences take place between management and workers (unions). Conflicts arise due to differences between the goals of separate groups or even several individuals in a group. Management demands profit-maximisation which usually result in installation of new machineries, adoption of newer methods of production, transfers, retrenchment and compulsory retirement of workers. The workers, on the other hand, expect stability in their income, security of employment, protection of skills and improvement in their status. The causes of industrial conflict can be classified into the following broad categories —

- (1) **Economic causes** :— Wage, bonus, overtime payment etc.
- (2) **Political causes** :— Political instability, various parties and their affiliations with unions.
- (3) **Social causes** :— Low morale in society, permissiveness, bankruptcy of social values and norms.
- (4) **Technological causes** :— Unsuitable technology i.e. difficulty in technological adaptation, resistance to change, fear of unemployment.
- (5) **Psychological causes** :— Conflict in individual and organisational objectives motivational problems, personality and attitude.
- (6) **Market situation** :— Rising prices and shortages.
- (7) **Legal causes** :— Inadequacy of legal machinery, injustice.

Though conflict is undesirable, sometimes conflict is beneficial because it brings about social change as a consequence. Conflicts maintain group stability by forcing them to air grievances and resolve problems, thereby eliminating unhealthy relationships and ill feelings between groups. Conflict brings out issues in the open so that public opinion helps in resolving them. Sometimes outside groups exert influence for resolving conflicts which may be detrimental at times.

Classification of Industrial Disputes :

Industrial disputes are broadly categorised into —

- A) Interest Disputes** :— Interest disputes arise out of deadlocks in the negotiations for a collective agreement. They are also called conflict of interests or economic disputes. These disputes originate from trade union demands or proposals for improvement of wages, fringe benefits, job security or other terms and conditions of employment. Usually these disputes come up when negotiations or collective bargaining fails. Recourses is sought in bargaining power, compromise etc.
- B) Grievance or Rights Disputes** :— These disputes arise from day to day workers grievances or disputes. They are also known as conflicts of rights or legal disputes. They originate from day-to-day working relations in the undertaking usually as a protest by the worker/ workers concerned against an act of management that is considered to violate workers rights. Gievances usually arise on aspects like discipline, dismissal, payment of wages and fringe benefits, working time, overtimes, time-off entitlements, promotion, demotion, transfer, rights deriving from seniority, rights of superirors and union officers job classification problems and so on. Grievance disputes should be carefully tackled so as to create a cogenial industrial environment.
- C) Disputes over Unfair Labour Practicis** :— Unfair labour practices arise from acts of interference with the exercise of right to organise. Unfair labour practics are interference, restraint or coercion of employees from exerising their right to organise, join or assist a union, establishment of employer sponsored union, refusal to bargain collectively in good faith with the recognised union, recruiting new employees during a strike which is not an illegal strike, failure to implement an accord, settlement or agreement, indulging in acts of force or evidence etc. These unfair practices are also known as trade union victimisation.
- D) Recognition Disputes** :— Recognition dispute arises when the management of an undertaking or an employers organisation refuses to recognise a trade union for purposes of collective bargaining. Managements

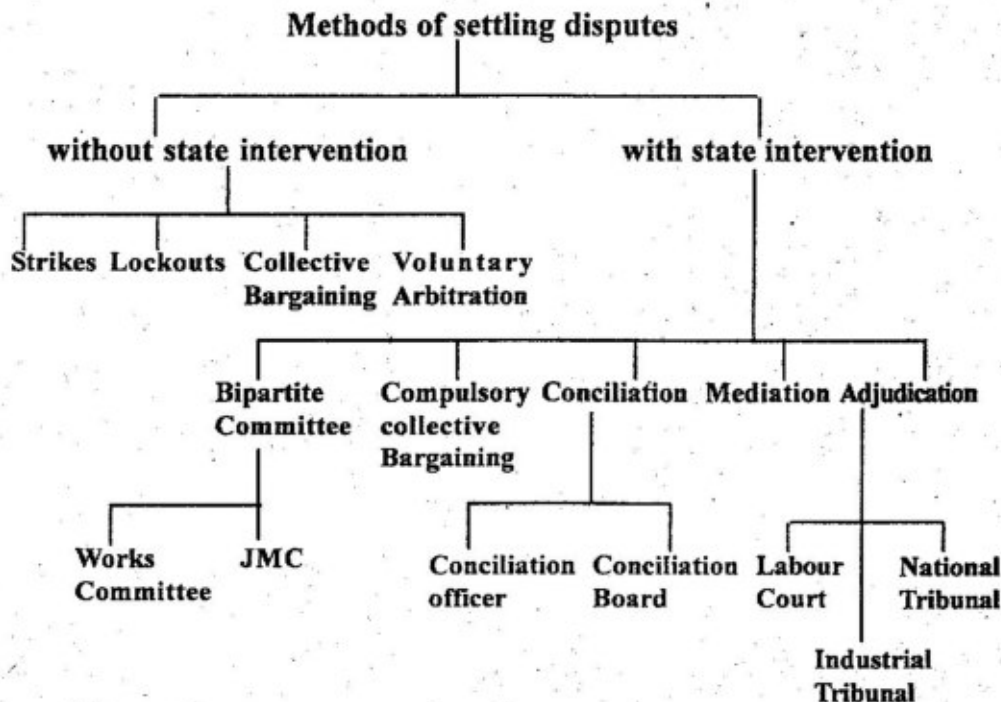
refusal to recognise a trade union may be due to inadequate representation, or due to existence of several unions making conflicting claims to recognition.

Methods of Settling Disputes :

Industrial disputes generate consequences which are harmful from the economic, social and human view points as well. Industrial unrest reflects failure of human motivation to help employees secure adequate satisfaction in life. It also generates class hatred during the period of dispute which is very difficult to remove in future.

There are two ways to settle industrial dispute i.e.,

- (i) without state intervention;
- (ii) with state intervention.



Methods of settling dispute without state intervention :

These measure are voluntary in nature and help in resolving the conflict. These methods are discussed in detail below :

1. Strike : Strike is a weapon of collective bargaining in the armour of workers. It owes its origin to old English word, 'stricken to go'. In common parlance it means hit, impress, occur to, to quit work on a trade dispute.

According to sec 2(a) of the Industrial Disputes Act 1947, strike means "a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.

The following points may be noted regarding the definition of strike :

1. There must be cessation of work;
2. The cessation of work must be by a body of persons employed in any industry;
3. The strikers must have been acting in combination;
4. The strikers must be working in any establishment which can be called industry within the meaning of see 2 (j);
5. There must be a concerted refusal;
6. Refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment;
7. They must stop work for some demands relating to employment, non-employment or the terms of employment or the conditions of labour of the workman.

Types of Strike :

(i) Stay-in, sit down, pen-down or tool-down strike :

In all such cases, the workmen after taking their seats, refuse to do work. Even when asked to leave the premises, they refuse to do so. All such acts on the part of the workmen acting in combination, amount to strike. Since such strikes are directed against the employer, they are also called primary strikes.

(ii) Go - slow :

Go-slow does not amount to strike, but it is a serious case of misconduct. In the case of *Bharat Sugar Mills Ltd. V. Jai Singh*, (1961) II LLJ 644 (647) SC, the Supreme Court explained the legality of go-slow in the following words : "Go-slow which is a picturesque description of deliberate delaying of production by workmen pretending to be engaged in the factory, is one of the most pernicious practices that discontented and disgruntled workmen sometimes resort to. Thus while delaying production and thereby reducing the output, the workmen claim to have remained employed and entitled to full wages. Apart from this go-slow is likely to be much more harmful than total cessation of work by strike. During a go-slow much of the machinery is kept going on a reduced speed which is often-extremely damaging to the machinery parts. For all these reasons, 'go-slow' has always been considered serious type of misconduct." It is not a legitimate weapon in the armoury of labour. It has been regarded as a misconduct.

(iii) Sympathetic Strike :

Cessation of work in the support of the demands of workmen belonging to other employer is called a sympathetic strike. This is an unjustifiable invasion of the right of employer who is not at all involved in the dispute. The management can take disciplinary action for the absence of workmen.

(iv) Hunger Strike :

Some workers may resort to fast on or near the place of work or residence of the employer. If it is peaceful and does not result in cessation of work, it will not constitute a strike. But if due to such act, even those present for work, could not be given work, it will amount to strike.

(v) Stay away strike :

In this type of strike, workmen stay away from the work place. In other words, workers do not come to the work place during the prescribed working hours. Instead, they organise rallies and

demonstrations with a view to drawing the attention of the employer to their grievances.

(vi) Gherao :

Gherao is a physical blockade of a target by encirclement, intended to block the egress and ingress from and to a particular office, workshop, factory or residence or forcible occupation. The object of gherao is to compel these who control industry to submit to the demand of workers.

Declaration of a strike as illegal :

See 24 of the Industrial Disputes Act, 1947, provides that a strike or a lockout shall be illegal in the following circumstances :

- 1) If it is commenced or declared in contravention of see 22 or see 23; or
- 2) It is continued in contravention of an order made under sec 10(3) or sec 10A(4A).

Lockout :

Lockout is an antithesis to strike. Just as strike is a weapon available to the employees for enforcing their industrial demands, a 'lockout' is a weapon available to the employer to persuade by a coercive process the employees to see his point of view and to accept his demands. In other words, in lockout, the employer temporarily closes down his undertaking or refuses to provide work at all, provided that by doing so he seeks to compel his employees to accept demands made either by him or another employer or to withdraw demands made by them on him or other employees upon another employer or other employers.

According to see 2(1) of the Industrial Disputes Act, 1947, lockout 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".

Following are the requirements of lockout :

- (1) Temporary closing of place of employment.
- (2) The element of a demand for which the industrial establishment is locked out, must be present.
- (3) The intension to re-open or take the workers back if they accept the demands must exist.
- (4) The employer and the employee must be engaged in an industrial process carried on in an institution falling within the meaning of industry as defined in see 2(j).

Collective Bargaining :

Collective bargaining is a made of negotiations between representative of management and labour to accomplish a written agreement covering terms and conditions of employment. It is indeed a bargain between interested parties and the readiness of both the parties to reach a workable agreement. Although both the parties involved in the bargaining process attempt to get their own terms accepted by the other party, yet by its nature it implies a compromise and balancing of opposing views. It is indeed the process of employer – trade union negotiation for the purpose of reaching agreement as to the terms and conditions of employment for a specific period.

In its essence, collective bargaining is a form of industrial democracy involving give-and-take process.

Subject Matter of Collective Bargaining :

The usual topics which lend to collective bargaining may be summed up as follows :

1. Wages and hours of work;
2. Working conditions;
3. Union recognition and scope of bargaining unit;
4. Strikes and lockouts;
5. Union activities and responsibilities;
6. Union security;
7. Management rights;
8. Job rights and seniority;
9. Discipline, suspension and discharge;
10. Grievance handling;
11. Health and safety;
12. Insurance and benefit programmes; and
13. Any other matter which can be subject for collective bargaining.

Voluntary Arbitration :

Arbitration is a process in which a dispute is submitted to an impartial outsider for his decision which is usually binding on both parties. Arbitration may be of two types – voluntary and compulsory. Compulsory arbitration is the instance of Government is resorted to, to maintain industrial peace by stopping the parties from causing work stoppages.

The Industrial Disputes Act, 1947, also recognizes voluntary arbitration as a method of settling disputes in which third party acts as a judge to decide the matter which is binding on the union and management. This type of reference is known as a ‘voluntary reference’, for the parties themselves volunteer to come to a settlement through an arbitration machinery.

Methods of settling disputes with state intervention :

There are several methods of settling disputes with state intervention. They are mentioned below :

1. **Bipartite committee** :— ‘Bipartite bodies’ in industry are composed of two aspects, i.e., the management and the workers. It has been formed to bring about a settlement in disputes relating to industry without third party intervention. Whenever, an industrial dispute cannot be settled or remains unresolved, the matter is referred to the bipartite consultative machinery.
2. **Bipartite Bodies** :— The bipartite consultative machinery comprises two important constituents viz., the works Committees and the joint management Councils.

A) Works Committees :

The Industrial Disputes Act, 1947, provides for the setting up of works committees which consists of representatives of employers and employees. The Act provides for these bodies in every undertaking employing 100 or more workmen.

The aim of setting up of these bodies is to promote measures for securing and preserving amity and good relations between the employer and workmen and to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

In the case of *Metal Box Co. of India v. Their Workmen*, (1952) I.L.L.J.822, it was observed that

the powers of works committees extends to wide range of subjects. There is no subject concerning the relations of employer and employees which works committees is precluded from considering. The Supreme Court in *North Broomfield Co. Ltd v. Their Workmen* AIR 1960 S.C. 879, observed. "The language used by the legislature makes it clear that the works committees was not intended to supplant or supersede the union for the purpose of collective bargaining; they are not authorised to consider real or substantial change in the conditions of services; their task is only to remove frictions that might arise between workmen and the management in day-to-day work. The duties and functions of the works committee do not include the decision on such an important matter as the alteration in the condition of service by rationalisation".

(B) Joint Management Council :

Joint Management Council is another bipartite consultative body to settle the disputes / conflicts in the industry. The main objectives of Joint Management Council are :

- (1) to increase the association of employers and employees thereby promoting cordial relations between them;
- (2) to improve the operational efficiency of the workers;
- (3) to provide welfare facilities to them;
- (4) to educate workers so that they are well equipped to participate in these schemes; and
- (5) to satisfy his psychological needs.

Conciliation :

Conciliation is also called mediation in many countries. In the field of industrial relations, conciliation has been most frequently used for settling disputes. It involves the friendly intervention of a neutral third party in a dispute to help the disputing parties to arrive at an amicable settlement.

Conciliation machinery :

In India, the Industrial Disputes Act, 1947, provides for conciliation as a method for settlement of disputes. Therefore, in order to promote the settlement of an industrial dispute, the appropriate Government may as occasion arises by notification in the official Gazette, either appoint conciliation officer or constitute a board of conciliation.

Conciliation officer :

The appropriate Government has been empowered by the Industrial Disputes Act, 1947, to appoint such number of persons as it thinks fit to be conciliation office. The appropriate Government may appoint such officers either for a specified area or for specified industries in a specified area or for one or more specified industries charged with the duty of mediating in and promoting the settlement of industrial dispute.

Duties of Conciliation officer : The ID Act lays down the following duties of conciliation officer in respect of settlement of industrial dispute :

- 1) Conciliation, under the provisions of this Act, is compulsory for public utility services while it is not so in private ones. Therefore, in case the dispute relates to a public utility concerns, the conciliation officer must hold conciliation proceedings. Whereas, in the case of non-utility concerns, holding of conciliation proceedings is left to the discretion of the conciliation officer, but he must use his discretion judiciously.

- (2) The Conciliation officer has to investigate the dispute and all matters affecting the merits and the right settlement thereof and he may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.
- (3) If a settlement is arrived at in the course of conciliation proceedings, the conciliation officer must send a report, together with a memorandum of settlement signed by the parties to the dispute, to the appropriate Government.
- (4) If no settlement is reached, the conciliation officer is required to send immediately full report to the appropriate government setting forth the steps taken by him and the probable reasons for failure.

Qualities of a Conciliator :

There are certain basic characteristics essential to the work of conciliation which a conciliator must possess if he is to win the trust and confidence of the parties.

1. **Independence and impartiality** are the two attributes which every conciliator should possess. It is essential that he should not only possess these qualities but he is also seen to possess them.
2. Since conciliation, in certain cases, means arduous work, a conciliator **should be physically and psychologically fit for the rigours of his task**. He must have a strong and deeply held conviction of the importance and usefulness of conciliation, and he must like or learn to like the work.
3. Because of the nature of his work, a conciliator must have the ability to get along well with the people. He must be, to a certain extent, a **specialist in human relations**. He must be honest, polite, tactful, self-confident and patient in trying to accomplish results.
4. **A conciliator should have a friendly personality, a sense of humour**, specially for relieving tensions of joint discussion. A special alacrity of mind will enable him to grasp quickly and analyse rapidly the main elements of controversy.
5. Since a conciliator has to deal with different persons he must give an **impression of expression, responsibility, clearheadedness and mature judgement**.
6. **A conciliator should be fully familiar with the law and regulations concerning industrial relations** and the settlement of industrial disputes. He should be familiar with the industrial relations system, e.g., the development and structure of trade union and employers' associations, etc.
7. He should be **well-trained in different aspects of management process**. He should have some knowledge of products and services, the production methods, practices, etc; knowledge about wage rates and other financial matters, incentive schemes, etc.
8. He must **have ability and versatility to form judgement**. He should acquire knowledge in social institutions, group behaviour and cultural change.

Role of the conciliator :

The conciliator is a multifaceted individual, such as, as a Discussion Leader, as a Safety Valve, as a Communication Link and so on. The important role of a conciliator may be discussed under the following heads :

As a Discussion Leader

As a discussion leader the conciliator reduces irrationality and antagonism between the parties. He guides them towards a problem — solving approach to their dispute; he helps them to analyse their problem, always striving to keep the analysis on rational ground; he identifies the elements of the problem, both for the parties' benefit and for his own.

As a Safety Valve

The conciliator places himself in the position of alternative target when he feels that the parties are in an aggressive mood. By setting a substitute target, the parties can achieve an emotional release without direct and immediate damage to the negotiations.

As a Communication Link

The conciliator fulfils an important function as a communication link between the parties : serving as a communication link may either constitute his main conciliatory effort or be a contribution to it. He not only works as a conduit through which messages relayed from one side to the other, are passed, but he also provides a thorough explanation and interprets the intention of the party.

As an Innovator

The conciliator acts as an invaluable source of new information, and new thoughts, particularly in providing the parties with different views on the issues, with possible alternative solution and an entirely new approach.

As a Sounding Board

He is often described as a "flying ambulance squad" appearing whenever or wherever a collision or conflict, which threaten to disturb harmonious relationship, occurs or is apprehended to occur between the interests of the parties. He may indicate the parties which of their own judgements, defences and support cannot stand under a rational searching enquiry.

As a Protector

The conciliator plays a protecting role for making the parties ready for collective bargaining positions by exploring alternative solutions during separate meetings.

As a Fait safe Device

The conciliator often assists a party which has overstated its position to the extent of bluff or exaggeration of its reaction to some move on the part of the other; or taken a clearly untenable stance to withdraw gracefully under the banner of reason.

As a Stimulator

Sensing the need for positive action, the conciliator can provide necessary impulse; he makes a concise statement, supplies some data, gives a hint or suggestion. He crystallises changes of opinion, in course of discussions, by intervening at the appropriate moment and giving such ideas a concrete form.

As an Advisor

The conciliator tries to remove misunderstandings regarding the other's position, intentions and capabilities. He tries to see that such misinterpretations do not occur and that each side thoroughly understands the others' point of view, obtains a picture of the opponent's strength and realises its own limitations and weaknesses.

As a Promoter of Collective Bargaining

While intervening in a dispute he is not only concerned with obtaining settlement, but often he assists and promotes collective bargaining and helps and guides the parties in the development of their relationship.

Board of Conciliation :

The Board of Conciliation is a higher forum which is constituted for a specific dispute. This is not a permanent institution like the conciliation officers. The Board consists of an equal number of representatives of employers and employees and an independent chairman, who is selected and appointed by the government.

Mediation

The aim of mediation is to bring about a settlement in dispute through third party intervention. It is an attempt by a neutral third party to help settle disputes. A person who acts as an impartial third party in order to help resolve disputes is called Mediator. A mediator's role is to help the parties to a dispute reach an agreement.

A mediator's suggestions are advisory only, and may be rejected by either or both parties to a dispute. The main duty of a mediator is to mediate in and promote the settlement of industrial dispute. The other duties are :

- (a) To hold conciliatory proceedings;
- (b) To investigate the dispute;
- (c) To send a report and memorandum of settlement to the appropriate government, and
- (d) To send a full report to the appropriate government setting forth the steps taken, in case no settlement is arrived at.

Adjudication :

It refers to a process which involves intervention in the dispute by the third party appointed by the Government, with or without the consent of the parties to the dispute, for the purpose of settling the disputes. The reference of dispute to adjudication is purely the discretion of the government.

Types of Adjudication :

Adjudication may be of two types i.e. voluntary and compulsory.

Voluntary adjudication :— When reference is made to adjudication by the government with the consent of both the parties to the dispute, it is known as voluntary adjudication.

Compulsory adjudication :— On the other hand, when reference is made to adjudication by the

government without the consent of either or both the parties to the dispute, it is known as compulsory Adjudication.

Adjudicating bodies :

The Industrial Disputes Act, 1947, provides a three-tier machinery consisting of :

- (1) Labour courts;
- (2) Industrial Tribunals; and
- (3) National Tribunal.

When a dispute is referred to these adjudicating bodies by the appropriate government, they decide the dispute and pass their awards.

1) Labour Courts : The appropriate Government may constitute one or more labour courts for adjudication of industrial disputes. The labour court shall consist of one independent person who may be the judge of a High Court or District Judge or Additional District Judge with minimum of three years experience.

Duties of Labour Courts : Where an industrial dispute has been referred to a labour court for adjudication, the duties of the Labour Court are :

- 1) to hold its proceedings expeditiously; and
- 2) to submit its award to the appropriate Government within the period specified.

Jurisdiction of the Labour Court :— The matters specified in the Second Schedule are within the jurisdiction of a labour court. The Second Schedule to the Industrial Disputes Act, 1947, specifies following matters :

1. The propriety or legality of an order passed by an employer under the Standing Orders;
2. The application and interpretation of Standing orders;
3. Discharge or dismissal of workmen including reinstatement of or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule.

The Labour Court is authorised to adjudicate industrial dispute relating to aforementioned matters. The Labour Court may exercise a limited jurisdiction over any matter falling within the Third Schedule. Therefore, where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than 100 workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court.

2) Industrial Tribunal : The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial dispute relating to any matter, whether specified in the Second Schedule or the Third Schedule and for performing such other functions as may be assigned to them under this Act.

An Industrial Tribunal consists of one person only who is required to be appointed by the appropriate Government. Such person so appointed by the appropriate Government is known as the

Presiding Officer of the Industrial Tribunal.

Qualification for appointment as a Presiding Officer of an Industrial Tribunal : A person shall not be qualified for appointment as a Presiding Officer of an Industrial Tribunal unless—

- (i) he is, or has been, a Judge of High Court or
- (ii) he has, for a period of not less than three years, been a District Judge or an Additional District Judge.

Assessors : The appropriate Government is authorised to appoint if it thinks fit, two persons as assessors to advise the industrial tribunal in the proceeding before it.

Jurisdiction of the Industrial Tribunal: The matters specified in the Second Schedule or in the Third Schedule are within the jurisdiction of the Industrial Tribunal.

Following matters are specified in Third Schedule :

- 1) Wages, including the period and mode of payment;
- 2) Compensatory and other allowances;
- 3) Hours of work and rest intervals;
- 4) Leave with wages and holidays;
- 5) Bonus, profit sharing, provident fund and gratuity;
- 6) Shift, working otherwise than in accordance with standing orders;
- 7) Classification by grades;
- 8) Rules of discipline;
- 9) Rationalisation;
- 10) Retrenchment of workmen and closure of establishment; and
- 11) Any other matter that may be prescribed.

It may be pointed out that Industrial Tribunal has jurisdiction to adjudicate any industrial dispute relating to any matter whether specified in the Second Schedule or in the Third Schedule. It shows that jurisdiction of the Industrial Tribunal is wider than the Labour Court.

3) National Tribunal : For adjudication of industrial disputes of national importance or such industrial disputes in which industrial establishments situated in more than one State are likely to be interested in or affected by such disputes, national tribunals are constituted by the Central Government.

Constitution of the National Tribunal : The Central Government may, by notification in the official Gazette, constitute a National Tribunal for adjudication of these disputes. A National Industrial Tribunal shall constitute of one person only to be appointed by the Central Government who shall be its presiding officer.

Assessors : The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the national tribunal in the proceeding before it.

Jurisdiction : There is no specific mention of matters which may be considered to be within the

jurisdiction of the national tribunal. Since there is no limitation specified in respect of its jurisdiction like industrial tribunal and labour court, its jurisdiction is wide enough to deal with any industrial dispute on any matter specified in Second or Third Schedule to the Act or any matter which is not specified therein. However, there are two conditions which are required to be fulfilled before it acquires jurisdiction.

- (i) Industrial Disputes must involve questions of national importance in the opinion of Central Government or
- (ii) Industrial Disputes must be of such a nature that industrial establishments situated in more than one State are likely to be interested in or affected by such disputes.

If one of the above conditions is fulfilled the national tribunal acquires jurisdiction over such industrial disputes for adjudication.

Collective Bargaining

During the twentieth century, democratic processes and institutions have come to be widely accepted not only in the governance of countries but also wherever collective decision-making is involved. But unlike in the political sphere, acceptance and practice of democratic principles in decision - making in the economic sphere, particularly in industry where class interests are rather sharp, faced employer's resistance. Today, in all the industrial market economies, employment relations in private and public sectors, including the government are determined through the bipartite democratic process commonly known as collective bargaining.

Concept :

The term collective bargaining was coined in 1891 by Beatrice Potter Webb, though the process was in existence and had gained a fair amount of acceptance in the UK by the 1850s. But the term came to be accepted in the UK only after the publication in 1897 of *Industrial Democracy*, a book co-authored by her husband, Sidney Webb.

The term collective bargaining was coined by the Webbs to describe the process adopted by a collective body of workers to determine wages and other conditions of work, which were superior to those determined in the labour market. Since then, the concept has been interpreted from different perspectives.

The Encyclopaedia Britannica defines the term as the "negotiations between the management and representatives of workers to determine wages and other conditions of employment".

The emphasis in this definition is on negotiation – the give - and - take between the two parties in their endeavour to determine wages and other conditions of employment.

In 1981, the ILO adopted a convention on collective bargaining which defined the term as follows

For the purpose of this convention the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organization, on the one hand, and one or more workers' organisation on the other for :

1. determining working conditions and terms of employment; and /or
2. regulating relations between employers and workers; and / or

3. regulating relations between employers or their organisations and a workers' organisation or workers' organisations.

Many of these definition emphasise, firstly, the objective of negotiations and the subject matter of agreements, and secondly, the parties to the negotiations. They fail to consider other important aspects or features of collective bargaining, such as, collective bargaining as a method of industrial jurisprudence and government, as a method of management and as a social institution. We may, therefore, attempt a definition of the concept in the following terms :

Collective bargaining is a method and a continuous process of negotiations between the representatives of workers and their employers or their respective organisations to reach an agreement on wages, working conditions, and other terms of employment and the issues arising from that agreement, which helps them to define and redefine their relations and ensure industrial peace and harmony.

Contents and Coverage :

Collective bargaining (CB) is multifaceted in character. It is extended to cover subjects and issues that are not only economic but also political and social. In other words, the scope of collective bargaining is highly drastic; it stretches to the extent the negotiators want it. V.D. Kennedy has rightly observed that "the C B relationship and decision – making process places no limits on its own jurisdiction. It will expand to take in any subjects, any concerns the parties want it to. If there are areas it does not reach it is because the parties are not interested".

The National Labour Relations Act, 1947, of USA has classified the subject matters of bargaining into : (1) mandatory, (2) voluntary and (3) illegal subjects. Mandatory subjects are those over which the parties must bargain if they are introduced at the bargaining table by either party through the demand and /or counter offer proposals. Voluntary subjects refer to those middle – range items that are neither mandatory nor illegal. Neither party can be compelled against its wishes to negotiate over these subjects nor can the signing of an agreement be held up as a result of one party's refusal to bargain on a voluntary item. Illegal subjects are those that are forbidden by law. A closed shop, a 'hot cargo' clause, a hiring hall; giving preference to union members, or a union security clause in a right – to work state are examples.

The ILO has also taken view that the range of subjects which may be covered by collective bargaining and agreements is very wide. The ILO has attempted to give an illustrative list of the subjects that can be covered by C B. These are :

1. wages including time rates, piece rates and other incentive methods of payment and procedures for fixing rates for new jobs;
2. hours of work, overtime and rates of pay for overtime; negotiation of hours and duration for continuous shift work; night shifts; rest periods;
3. annual holidays and rates of pay for holidays;
4. sick leave and leave of absence for other reasons (for example, to enable a worker who has been elected as a trade union official to take part in trade union activities); payment of wages during absence in certain cases;
5. seniority rights with regard to laying – off and re – hiring;
6. dismissal for disciplinary offences;
7. number and training of apprentices;

8. 'fringe' benefits, including retirement plans and sickness funds;
9. establishment of fair production standards, including satisfactory quality of output, and methods of increasing productivity and reducing waste;
10. joint consultation procedure;
11. methods of settling grievances and disputes over the interpretation of the agreement;
12. prohibition of strikes and lock-outs during the period covered by the agreement;
13. duration of the agreement, its subsequent continuation unless notice of termination is given, and the length of such notice;
14. procedure for negotiating a new agreement.

This list suggests that the scope of collective bargaining has broadened, virtually eliminating subjects that fall into the category of management prerogative.

To conclude in the words of George W. Taylor, "the essence of collective bargaining is that the scope of the relationship, the procedures for negotiation and joint dealing, and the substantive terms of employment are all matters to be worked out by unions and management". Hence the scope of CB must itself remain a subject of bargaining.

The Process of Collective Bargaining :

The CB process consists of three subprocesses :

- (1) the pre-negotiation phase,
- (2) the contract negotiations stage, and
- (3) the contract administration stage.

(1) The Pre – negotiation phase :

This stage involves three elements, viz. (a) establishing bargaining relationship, (b) laying down a labour policy and (c) preparing for negotiation.

(a) Establishing bargaining relationship :

CB is a representative process in that some men bargain on behalf of others. Bargaining does not begin until unions are sufficiently well-established to undertake the task of representing the workers and are recognized by the employers. The recognition of a labour union as the bargaining agent of the workers by the management is the beginning of the CB relationship.

(b) Establishment of a sound labour policy :

Just an acceptance of a labour union for bargaining purposes is vital, laying down of a sound labour policy is also basic to negotiating a good contract and establishing meaningful and effective CB relationships. The purpose of such a policy is to provide a standard for evaluating the existing contract and the union and company proposals for negotiating a new contract.

(c) Preparation for negotiations :

The third and the most important part of the pre-negotiation phase is that of preparation for negotiations. The preparations involve the following eight steps :

- (1) formulation of demands and their presentation to the other side;
- (2) gathering of factual data and their analysis to support negotiation;
- (3) assessment of demands and issues involved;
- (4) assessment of the style and method of the unions;
- (5) determining the bargaining priorities and objectives;
- (6) costing the demands and assessing alternative results;
- (7) adopting a negotiating policy; and
- (8) intra-organisational bargaining for achieving internal consensus.

(2) Contract negotiation stage :

This is classified into eight sub-stages. These are :

- (a) Pre – negotiation stage,
- (b) posturing stage,
- (c) prioritizing positions,
- (d) bargaining stage and its dynamics,
- (e) package bargaining,
- (f) pressure bargaining,
- (g) bargaining the impose and
- (h) ratification of agreed terms, drafting and signing the contract.

(a) Pre – negotiations stage :

In this stage, pre – negotiation conference is organised where the parties normally agree on the arrangements and procedural issues, such as, the meeting place and time, frequency and duration of the meetings; selection of chairman and vice – chairman etc.

(b) Posturing stage :

At this stage, the parties get to know each other and ‘break the ice’ over a discussion of general issues and try to establish a rapport between the negotiating terms and among the negotiators. Once the ‘ice is broken’ and the members feel that they should get into the business of negotiation, the demands are taken up for consideration.

(c) Prioritising positions :

This stage consists of an indepth assessment of the information generated during the earlier two stages of bargaining, a re-evaluation of target and resistance points based upon the data available with the parties, drafting counterproposals and formulation of a tactical and strategic plan of operation to achieve priority proposals. It is an exploratory stage wherein each party tries to find out where the other side really stands and what position (s) it would take.

(d) The bargaining stage and its dynamics :

CB does not work automatically. Several sessions of negotiations are conducted before the goal is reached. There is no universally applicable procedure, because the actual procedures vary considerably from one case to another.

The purpose of negotiations is to achieve a settlement that will work. If agreement is reached on all

but a few issues which are not of very great importance, an 'interim' agreement may be signed and a committee appointed to negotiate on those issues so that agreement on all issues is reached.

(e) Package bargaining :

Neither the union nor the management can expect to win every issue during bargaining since CB is basically a "win - win" game. The negotiator's job, therefore, because one of fashioning a package of items which reflect, to the greatest extent possible, the priorities of the constituency.

Package bargaining highlights differences in bargaining proposals, transforms these differences into principled issues, and hinders, if not precludes, movement to areas of agreement.

(f) Pressure bargaining :

More often than not most of the issues will have been settled by the time the negotiations enter the final stage. If not, at least those issues preventing final contract settlement will have been identified. The approaching deadline of contract expiry and the possible work stoppage on contract expiry or a formal strike notice provides the incentive for negotiators to settle their remaining differences.

(g) Bargaining the impasse :

Notwithstanding the extensive preparations made by both the parties for bargaining a mutually acceptable agreement, strikes or lockouts invariably take place in the final stage of negotiations.

Even in this atmosphere two factors operate in the direction of settlement. Firstly, the strike losses per day to each party increases with the continuing strike which forces the parties to arrive at a settlement. Secondly, continued negotiations during the work stoppages lead to the correction of misconceptions based upon misinformation transmitted during pro-strike negotiating sessions'. Once the truce resistance point becomes known the union and management are willing to revise the expected benefits and losses and they are less interested in continuing work stoppage.

(h) Ratification of agreed terms, drafting and signing of the contract :

The formal legal function of ratification is to make an agreement binding on the workers and the management. The terms agreed by the negotiating teams on different items and issues must be approved by the rank - and - file of membership and the top management. When the membership refuses to ratify the agreement, the negotiating team must return to the bargaining table and try to gain additional concessions.

Once the union membership ratifies the agreed terms, the agreement is drafted, read and re - read for clarity of meaning of the terms and corrections made. It is usually signed by the negotiating team members and top level management and union leadership. Now the contract is ready for implementation and administration.

Contract administration :

Negotiating an agreement is not the end of the CB process; it is the beginning of a relationship that unfolds over the period of the agreement. The success of contract negotiation is tested when the parties endeavour to administer the agreement.

Primarily, the contract administration process consists of three basic phases according to Randle and Wartman, namely

- (1) introduction of the contract,
- (2) contract alteration and revision during its term
- (3) actual operation of the contract.

(1) Introduction of the contract :

After the contract is signed it should be introduced into the plant as the new law under which the parties are to live.

(2) Contract alteration and revision :

However detailed and well drafted the contract may be the parties face problems in its administration. It may not provide answers to problems that arise in the day - to - day administration. Therefore, the contract may be answered through joint approval or altered or revised by means of contract reopening clauses.

(3) Actual operation of the contract :

It involves two related procedures :

- (a) pressure tactics and strategies during administration and
- (b) grievance procedure.

(a) Pressure tactics :

Pressure tactics such as wild cat strikes by the workers are more common in the initial stage. Under these circumstances, management must adopt a firm attitude and a definite policy.

(b) Grievance procedure :

Though an overwhelming majority of grievance originate with the individual employee, unions and management may also have grievances. For effective implementation of the contract, the grievances must be attended to by the management and a satisfactory solution worked out. This procedure is generally called the grievance procedure

Negotiation Technique :

Just as each negotiator has his own approach to negotiation, each of them have their own techniques. The several bargaining techniques used by the negotiators may be classified and analysed as follows :

(1) Review the pre-negotiation session :

At the conclusion of the pre - negotiation session, the parties should review the activities before beginning subsequent sessions. There will be some areas in which they are in agreement; in others, only a little more debate may be required before they will agree and in still others, there may be little or no possibility of an agreement. In those areas of agreement or near agreement, either of the two methods may be used.

- (a) It is sound practice to hold back the easy agreements and to sandwich them in between more controversial matters thereby creating a better atmosphere for further agreement on hard - core issues.
- (b) Some bargainers wish to reach agreement as quickly as possible on the 'easy' items and to set them up immediately in contract form as that progress is visible. The theory behind this approach is that the parties will be encouraged by this evidence of significant areas of agreement and thus will find it easier to dispose of the tougher issues.

(2) Nominating a spokesman :

Most bargaining takes place through a spokesman or chairman. There is a distinct advantage in

having a spokesman through whom every statement is made and the views are conveyed to the other side like:

- (a) he will not let the other side know the lack of consensus and internal difference among the team members.
- (b) he may call on the member who possess the required expertise in case the negotiation requires a technical or expert view.

(3) Informal meetings in between formal negotiation :

In the process of formal negotiation it is quite feasible for the parties to hold informal sessions. Going into an informal session at an appropriate stage in the proceedings enables both parties to stress a point of view with some personal conviction or perhaps to indicate a way forward.

(4) Recess or adjournments :

The value of recess or adjournments cannot be overlooked. Recess or adjournments allows either party to work out the problem in private and return to the meeting with a united front.

(5) Caucus Bargaining :

Sometimes, during the negotiation, the gap between the demands and offers becomes too wide for normal negotiations to reach agreement. In such situations the negotiating teams particularly the union, leaves the conference room for a caucus. It is during the caucus that the union reviews its position and prepares its answers to the management proposal. It is the caucus that real give and take discussion takes place.

(6) Flexibility of approach :

In any bargaining situation, within the area of possible agreement, there is plenty of room for manoeuvring. The parties must exhibit flexibility of position or else negotiations will break down.

(7) Keep the proposals alive till the final settlement emerges and avoid bluffing :

When negotiations involve several issues, the bargaining teams should not turn down any proposal with an immediate flat "No"; such a refusal may amount to an unfair practice. The bargaining team should avoid bluffing as it will only result in an impasse or severe retardation of the bargaining process.

(8) Making Counterproposals :

Counter proposals are good bargaining tools. It should be initiated to correct deficiencies in the contract.

(9) Conflict avoidance :

Impasses and conflicts are an integral part of the CB process, but often avoidable. Seasoned negotiators recognise the need to avoid unnecessary impasses and conflicts. The most common and effective techniques of conflict avoidance include use of a bargaining book, discovery of areas of common interest, presentation of alternative proposals, problem – centred discussions etc.

(10) Closing the negotiations :

Closing the negotiations is an important step in the bargaining process. The decision as to when to

close the negotiations is a matter of judgement, but there are certain techniques, like concession closure, summary closure and all or nothing closure, that can be used to close the negotiations.

The above discussion on bargaining techniques is by no means exhaustive. There may be many more techniques that the reasoned negotiator uses in different situations.

Importance of Collective Bargaining :

CB, according to Dunlop and Healy, seeks to fulfil three purposes :

- (i) it fixes the price of labour services ;
- (ii) it provides a system of industrial jurisprudence;
- (iii) it represents the extension of democratic ideals into the work community. Within these broad objectives, both labour unions and managements seek to realise their own objectives.

The objectives which unions seek to realise through CB are to :

- (1) influence the wage and effort bargain,
- (2) take labour out of self-competition,
- (3) gradual improvement of working conditions and
- (4) establish a system of individual security, to obtain justice at the workplace.

Management's objectives in CB fall into the following five categories

- (1) Preservation and strengthening of the business enterprise,
- (2) Retaining control over business and preserving the freedom to exercise managerial functions,
- (3) Stability and predictability in CB relations,
- (4) Preservation of the enterprise system and
- (5) Personal goals of managers.

Moreover a CB agreement is important for a number of reasons :

1. CB regulates the economic, political and social psychological behaviour of employers and workers within and outside the enterprise and brings about a change in their attitudes towards each other.
2. Through institutionalisation of industrial conflict, it creates a stable means for resolving conflict and establishes a balanced power relationship between management and union.
3. It protects and upholds the rights, dignity and worth of workers as individual citizens while preserving the enterprise system.
4. It provides the means for promoting social change in an industrial society by ordering and reordering the relationship between labour and managements and provide stability to their mutual relations over a period of time.

Inhibiting factors :

The Collective bargaining principle has been applied in India from time to time in past in various situations. Even then it has made that much headway as in some other countries because of the following reasons :

1. Rigid attitude of most managements. Some of such managements are still allergic to trade unions.

2. Weakness of trade unions due to their multiplicity, intra and inter union rivalries, poor financial conditions, lack of leadership.
3. Different political affiliation of unions and consequent political rivalry make it difficult to settle disputes amicably by mutual negotiations.
4. Easy availability of Government interventions for conciliation and adjudication of industrial disputes.
5. Lack of mutual trust, respect and the spirit of give and take.
6. Restricted rights of workers and employers to strike and declare a lockout.
7. Surplus manpower.

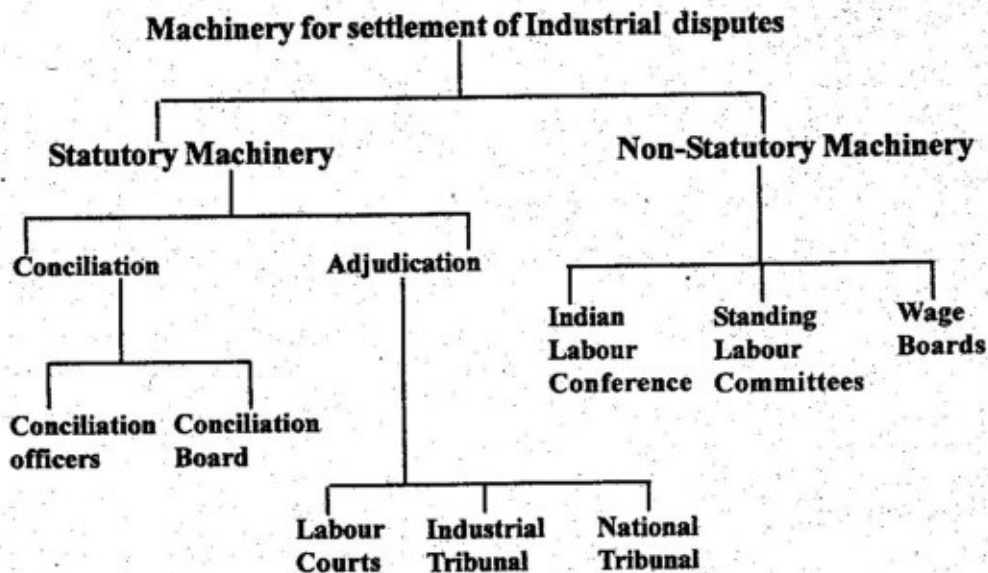


UNIT – III

MACHINERY FOR SETTLEMENT OF INDUSTRIAL DISPUTES IN INDIA

The industrial relations system in India has predominantly been tripartite. The industrial relations policy, practices, procedures and machinery have been designed to strengthen tripartism and to make the third party the ultimate decision – maker in labour management relations – the third party being the state. Not only are the conditions of employment and working laid down by the state through various legislations but also through the recommendations of the tripartite committees, commissions and boards.

In sum, the industrial relation machinery, in India, can be broadly categorised into statutory machinery and non-statutory machinery. Statutory machinery includes the various types of machinery set up by government under the Industrial Disputes Act, 1947, like Conciliation and adjudication. Whereas, non-statutory machinery includes – Indian Labour Conference and Standing Labour Committee and Wage Boards.



Statutory Machinery :

As already mentioned Industrial relations in India is characterised by tripartism. During the period of World War II, the state became an active intervener in matters of industrial relations. The employers and workers had to submit their differences to the state conciliation machinery first, and failing conciliation, to the labour and industrial courts created under the provisions of rule 81 A of Defence of India Rules, 1941. This war measure to regulate labour management relations was extended beyond 1945 and later incorporated under the Industrial Disputes Act, 1947 for the simple reason that it had successfully prevented strikes and lockouts on the one hand and on the other vested the government with powers to control and regulate both labour and management.

Therefore, the industrial relations processes provided under the Act includes conciliation and adjudication.

Conciliation :

In India conciliation is quasi – compulsory in nature. The labour and management in all public utility services are required to seek the intervention of the conciliation machinery and submit their differences to the machinery instead of resorting to a strike or lockout as a means of arriving at an agreement. The parties interested in resorting to work stoppage is required to issue a six week’s notice of their intentions to the other party and the employer/management has to forward a copy of that notice to the conciliation officer who, on receiving the copy of the notice, initiates the conciliation proceedings. But in practice the conciliation officer initiates the proceedings as soon as he receives notice or information of a strike or lockout irrespective of whether it relates to a public utility or non-public utility service.

Conciliation Machinery :

The conciliation machinery consists of the adhoc and the standing conciliation machinery composed of the conciliation officers. The appropriate government, may as occasion arises by notification in the official Gazette either appoint conciliation officer or constitute a Board of Conciliation.

The conciliation officers are appointed by the appropriate government under section 4 of the Industrial Disputes Act, stipulating their jurisdiction. As per the legal provisions, the conciliation officers may be appointed for different industries or different regions or on any other basis. On the other hand, the BOC is set up by the appropriate government when the parties to a dispute approach the government to refer their dispute to a board instead of seeking the intervention of a conciliation officer.

Adjudication :

Adjudication has been another tripartite method of dispute settlement in India that is resorted to when conciliation fails and when the government decides to refer the dispute to a labour court or tribunal.

Adjudication, according to Lockwood, is the ‘judicial’ conception of arbitration as distinguished from its political conception. But in the Indian industrial relations system no such distinction can be made, for both labour courts and industrial tribunals are required to determine or judge the disputes in terms of either party being “right” or wrong”. It has thus been both a process of settling the existing labour controversies and of judging the merits of the conflicting issues.

Forms of adjudication :

Although adjudication is a judicial process of determining the disputes, it is both a voluntary and compulsory system under the Industrial Disputes Act. When the parties to a dispute, subsequent to failure of their negotiations or at times on failure of conciliation, request the appropriate government in writing, jointly or separately, to refer their dispute for adjudication, it is called voluntary adjudication. Whereas, when a dispute is referred by the appropriate government consequent to the failure of conciliation or even without waiting for the conciliation proceedings to be completed, it takes the form of compulsory adjudication.

Adjudication Machinery :

The labour Courts, the Industrial tribunals and the national industrial tribunals constitute the adjudication machinery. The labour court and the Industrial tribunals are constituted by the appropriate governments under sections 7 and 7A of the Industrial Disputes Act, the national tribunal is appointed by the central government under section 7B of the same Act.

Non – statutory machinery :

With the establishment of the ILO in 1919 all its member nations have become, though in varying degrees, the third party in industrial relations. The role of the state, as a third party, has taken different forms in different countries, depending upon the political, economic and social conditions prevailing.

In India, a large number of tripartite bodies have been set up by the government to provide a forum of discussion and consultation on various labour – related issues. The important constituents of Non – statutory machinery are – Indian Labour Conference and the Standing Labour Committees and wage Boards.

Objectives of Indian Labour Conference and Standing Labour Committee :

The objectives of ILC and SLC are :

- 1) Promotion of uniformity in labour Legislation.
- 2) Laying down a procedure for settling industrial disputes.
- 3) Discussion of matters of national importance as between employers and employees.

Functions of ILC and SLC :

The functions of ILC are :

- (1) to advise the Government of India on any matter referred to it for advice and
- (2) take into account the suggestions made by the provincial government, the state and the representatives of the organisations of workers and employers.

The main functions of SLC are :

- (1) consider and examine such questions as may be referred to it by the Plenary Conference or the Central Government.
- (2) to render advice taking into account the suggestions made by various governments, workers and employers.

Evolution of ILC and SLC :

The ILC and the SLC have immensely contributed to attainment of the objectives set before them. Various legislative proposals are discussed and recommended by the ILC and SLCs. Such proposals include the Enactment of Industrial Employment (Standing Orders) Act, 1946, the Factories Act, 1948, the Revision of Employment of Children Act, 1938, etc. These bodies facilitated the formulations of comprehensive procedures for the settlement of disputes under the Industrial Dispute Act, 1947.

Apart from these legal proposals, other important issues like workers' education, workers' participating in management, training within industry etc. are discussed and recommendations are made by these bodies. Thus over the years, these institutions have become a powerful instrument in the formulation of labour policy.

Wage Boards :

Besides providing for tripartite methods of dispute settlement and making them compulsory in actual practice, the government introduced the tripartite method of wage fixation by constituting tripartite Wage Boards for different industries, starting during the period of the Second Five Year Plan. The Wage Board was considered "as a more acceptable machinery for settling wage disputes, a machinery which gives the

parties themselves a hand in formulating the wage structure than an award handed down by a third party".

Therefore, the first Wage Board was set up in 1957 for the cotton textile industries. Subsequently, up to 1968, more than a dozen Wage Boards have come to be established for industries such as sugar, cement, iron ore, mining industries, engineering, limestone and colamine and working journalists and so on.

Composition :

A Wage Board normally comprises an independent Chairman appointed by the Government and two representatives of management and two representatives of works and two independent members, nominated by the Government.

Evaluation of Wage Boards :

Examining the working of Wage Boards so far, it is said that their working and implementation of their recommendations are on the whole satisfactory. It is observed that Government has put great faith in Wage Boards and also trade unions appear to prefer Wage Boards to adjudication by Industrial Tribunals.

The main criticism of Wage Boards are :

1. Delays caused by extremely dilatory procedure as a result of public hearings,
2. There is no definite linkage between higher wages and productivity ,
3. No scientific elements in wage structure have been introduced,
4. Wage Boards have discouraged collective bargaining.

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Unit - IV

Labour management co-operation

Workers' Participation in Management

Concept :

Rapid industrialisation is one of the principle instruments for achieving economic growth. It is a means for the availability of goods and services in abundance and large job opportunities, the success of the strategy for economic development is dependent on the industrial programme. It is in this context that the importance of industrial peace as a necessary accomplishment of the discipline of the development is emphasised. Therefore, the primary requirement for attaining the declared goal of the country is that the conflicting interest must not be allowed to create the hindrances in the path and ought to be kept at the bottom which without the wholehearted co-operation between management and workers is difficult to achieve.

The traditional law relating to master and servant relationship in the past differs from the law relating to relationship of employer and employee of the present day, In these days industrial conditions have so much affected the freedom of the master in the field of contractual obligations that as matter of fact, he is now no more a master in the traditional sense. The principle of *lassiez - faire* is now no more the policy of the Government regarding the settling of disputes between the management and the managed as it was in the past. The courts and industrial tribunals and other authorities settle the disputes not only on the basis of contractual obligations but also on extra judicial consideration of policy which has great leaning towards labour.

The capitalist mode of production has brought about a change in this concept. It has created several phenomenon of social injustice such as economic inequalities, poverty, unemployment insecurity and exploitations of have nots by the haves. This situation inspired many thinkers to formulate socialistic theories to remove the imbalance and maladjustment created by the law and ethics of the acquisitive society. They advocated the participation of workers in the process of production with a view to give its due share to the less privileged people out of the productive pool of the economy.

Meaning :

Workers' participation in management is an important part of human relations because it offers an enormous potential for higher productivity, improved satisfaction and creative thinking.

Keith Danis defines workers' participation in management as "a mental and emotional involvement of a person in a group situation which encourages him to contribute to group goals and share responsibility in them".

This statement contains three ideas of importance to managers.

1. First, participation means mental and emotional involvement, rather than mere muscular activity.
2. The second idea in participation is that it motivates persons to contribute to the situation.

3. The third idea is that it encourages people to accept responsibility in an activity.

Reasons for the Appearance and Development of the concept of workers' Participation

Generally speaking, there were three reasons for the appearance and development of the concept of workers participation.

First, the proletarianization of workers as a consequence of industrialisation had become a social fact. The creators of material goods were alienated from the values and usefulness of their product. In the sphere of production, worker was reduced to a status singular to that of marketable goods. In this context, workers participation appeared as a movement designed to reassign to workers the status lost by them in the capitalistic economy.

Second, workers total subordination to employers in the economic sphere was contrary to their democratic citizenship rights. Also, the discrepancy between their formal and actual political status caused by their assigned role in the economic activity was quite obvious. Participation was seen as a mechanism to reduce their discrepancy at both levels.

Third. The mechanized method of production broke physical and economic links between the producer and the results of his work. As individualization of work in machine fabrication became objectively impossible, social amity of the work process disintegrated. Thus, the personal and psychological links between conceptualization of work process and its effects with regard to work were lost. Participation tends to re-establish these links.

Modes of Participation :

Participation may be formal and informal. Formal participation is carried on by formally constituted bodies set up by agreement or under legal compulsion which follow a clearly laid down procedure. The purpose of such participation is human, psychological, economic and social. Its human purpose is to enlist man's creative ability. Its psychological purpose is to provide him with an opportunity for self-expression and participation. Its economic purpose is to make workers think of the proving their job and motivate them to increase productivity. Its social purpose is to promote morale among the employees. The formal way of participation may take three forms :

- (a) multiple management;
- (b) suggestive system;
- (c) consultative management.

Informal participation, is the continuous day-to-day hour-to-hour give and take opinion that may go on in every department between the juniors and the seniors. It occurs at work group level where the supervisors provide opportunities for the group to participate in the problem-solving and decision-making process without any formal institution for this purpose.

Accordingly to K. C. Alexander, the workers can participate in company management in the following important ways as below :

- (a) Information sharing;
- (b) Consultation;
- (c) Association;

- (d) Joint decision-making and administration; and
- (e) Collective bargaining.

(a) Information sharing : Informative participation facilitate sharing of information between workers and management - for instance, the information regarding production figures, the balance sheet of the company, economic conditions, etc. Such participation gives the employees the right to know about the industry in which they are employed. But it does not allow them to exercise influence over managerial decision-making.

(b) Consultation : In consultative form, participation entitles workers to be consulted by the management on certain matters before decisions are taken but the management has the right either to accept or to reject the advice.

(c) Association : In associate participation, those to whom the decisions would apply are invited to offer their suggestions before any decision is taken. In such participation, the management accepts the suggestions of the council for solving a problem on hand. The management is obliged to accept and implement if the committees take unanimous decisions regarding a problem.

(d) Joint-decision making and administration : In joint-decision making form, the parties involved take decisions together and administer them jointly. This may include administration of welfare measures, operation of vocational training and apprentice schemes and preparation of work schedules. This involve higher degrees of delegation of authority and responsibility to the lower rank and file of the organisation.

(e) Collective bargaining : Collective bargaining includes issues over which the interests of workers and managers are competitive, for instance, wage rates, bonus rates, working hours, number of holidays etc.

Kenneth F. Walker further analyzed the various forms of workers' participation in management as below :

(a) Ascending participation : Where workers may be given an opportunity to influence, managerial decisions at higher levels, through their elected representatives to works councils or the board of enterprise.

(b) Descending participation : The workers give more power to plan and make decision about their own work.

(c) Disjunctive participation : The workers may participate through collective bargaining while they may also participate informally when a manager adopts a participative style of supervision or workers apply unofficial restrictive practices.

Level of Participation :

WPM is possible at all levels of management. The areas and degrees may differ very considerably at different levels of management. Broadly speaking, there are four stages of participation :

1. At the initial stage, participation may be **informative and associative** participation: It is here that the members receive information, discuss and give suggestions on the general economic situation of the concern, the state of the market, production and sales programmes, organisation and general running of the undertaking, circumstances affecting the economic position of the concern, methods of manufacture and work etc.

2. In **consultative participation**, members are consulted on matter relating to welfare amenities, adoption of new technology and the problems emanating from it, safety measures etc. This stage, therefore, involve a higher degree of sharing of views of the members and giving them an opportunity to express their feelings.

3. **Administrative participation**, at the third stage, involves a greater degree of sharing of authority and responsibility of the management functions. At this stages the members are given a little more autonomy in the exercise of administrative and supervisory powers in respect of welfare measures and safety works, the operation of vocational training and apprenticeship schemes etc.

4. **Decisions participation**, the forth stage, is the highest form of participation. At this stage, sharing in the decision-making power is complete and the delegation of authority and responsibility of managerial function to such a body is maximum. Decisions are naturally taken in the matters like economics, financial and administrative polices.

In sum, WPM can deal with and exercise supervisory, advisory and administrative functions on matters concerning safety, welfare etc.

Problems :

What is carpeted out of workers participation in management should be realistic. Some of the problems associated with workers participation in management are as under :

1. Participation will not be a panacea for all problems of the management nor of the workers.
2. All conflicts between labour and management will not necessarily disappear; some issues of conflict may persist and will have to be resolved through other industrial relations practices.
3. Even in ideal conditions not all workers but only a small minority of them will participate. This is what happens in all democratic process.
4. Not all objectives of either side can be satisfied, there will be constraints, both internal and external to the organisation, which will render it impossible to achieve all objectives of both sides.

Evaluation of Participative Management in India :

An official review of the working of the labour participation schemes drew attention to the practical difficulties faced in the working of such schemes. In the official view, it was in the public sector undertakings that their working was unsatisfactory. People concerned were losing faith in such participation schemes in public undertakings because unanimous decisions reached at joint councils had to be referred to the Government for approval and final orders, instead of allowing managements of public sector undertakings to implement them. Hence the proposal to extend the scheme of joint councils to new public undertakings is viewed with skepticism by the parties involved. Persistence of old attitudes and institutions have been hampering. The working of joint councils which incidentally have been established mostly in those undertakings where industrial relations are already satisfactory.

It is essential that the system of collective bargain be properly evolved before the joint councils start functioning. In India collective bargaining is still in its infant stage and this naturally hampers the working of joint councils. First must come first.

More importantly, a majority of workers harassed by their harsh living conditions are more or even solely interested in matters such as wages, allowances, conditions of work and job security. Therefore, it would be premature to expect them to take interest in management problems which at present are distant for them.

In the third place, there should be a clear undertaking of the role and functions of joint management councils. This is lacking at present.

These are some of the practical problems that are hampering the working of JMC and participation of workers in management. Unless these are satisfactorily solved, it is doubtful whether the working of JMC and participative management would be truly effective in the true sense of the term.

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Unit - V

Trade Union

The freedom of association has been the cornerstone of society. This freedom finds its best expression in a democratic form of government. It is not solely concerned with political freedom, though this is an integral part of freedom which democracy seeks to ensure. It gives freedom and scope for the formation of purposes, the freedom of forming opinions that is educational freedom and freedom of conscience; freedom of speech or the right to decide by resort to experience, to deliberate in public and to combine. These form part of the endeavours of common people to achieve liberty in the modern state.

The freedom of association has given rise to many voluntary organisations in society. The majority of voluntary societies known today have arisen out of the conditions of the capitalist system in the eighteenth and nineteenth centuries. The rising industrialists were so concerned with their material achievements, so enthralled by their machines, that they ignored the conditions of the workers who provided the labour without which the machine could not work.

It makes clear that in uneven socio-economic conditions the people organised themselves to have equal status, equal share in economic production and to remove social barriers, inequalities and abolish private monopolies and concentration of economic power in the hands of a few persons of society. In this way, the capitalist class and the labour class, the class of 'haves' and 'have nots' recognised since the commencement of industrial age, came into conflict. It is within the industry that the most autocratic and feudalistic practices of modern democratic communities occur. Trade Unions are a reaction against these practices, against the belief that within the four walls of the factory the employer can exercise arbitrary control over workers, against the philosophy of hire and fire. The intervention of trade unions in the determination of worker management relations has set in motion a process of democratisation of industry.

Thus trade unionism has been a movement launched against the concentration of economic power in the hands of a few individuals of society and for the purpose of promoting the working of working class. But even where a trade union is only concerned with a narrow function of improving the condition of workers in relation to their jobs it contributes to the effective application of democracy. The more highly paid a worker is, the more satisfied and secure he is, then the more democracy becomes to him a reality and political democracy in particular of positive value.

History of Trade Union Movement :

The Industrial revolution in Great Britain and later on in other countries brought about a sudden and drastic change in the economic sphere. These changes were so sudden and quick that it was very difficult to bring a complete social, economic and political adjustment. Large scale production and a minute division of labour made production a collective process. In such system the interests between the masters and workman appeared divergent. The factory system subordinated the workers while at the same time the powers of the masters were considerably increased. The new economic order was a challenge. The workers sought to meet the challenge through the formation of associations known as Trade Unions to defend their rights, living and working conditions.

The rise of Trade Unions was not easy and smooth in the beginning. The early organisers had to face considerable difficulties. The combination Acts in Great Britain and the Sherman Act in U.S.A. were passed to prevent association of workers and condemn them, as criminal conspiracies. Large number of prosecutions was the price that had to be paid by the early Trade Unionists.

History of Trade Union Movement in England :

It would be desirable to mention a brief history of trade Union movement in England. The history of Trade Union Movement in England indicates that Trade Union Movement had to face onslaught of legislation where such unions were regarded against the common law. They were looked down as criminal conspiracies. The combinations Act of 1799-1800 was repealed in 1824, 1825. The repeal of Combination Act did not provide complete freedom to trade unions. The first Trade Union Act was passed in 1871. Even then, the battle for trade union rights was not won. There were several judgements which restricted the rights of trade unions. The Trade Union Act was amended in 1913. Thus, it was after a battle of more than 100 years that trade unions secured their rights.

History of Trade union Movement in India :

The Trade Union Movement in our country also has passed through the similar conditions after the advent of factory system in India. It would be desirable to know how the factory system came in our country, with all its evils and problems.

The first Cotton Mill in India was established in 1851 in Bombay and the first Jute Mill in 1855 in Bengal. This was the beginning of the modern factory system in India. After 1851 and 1855, the number of factories began to increase both in Bombay and Bengal. The modern factory system brought in its wake employment of women and children, long and excessive hours of work, undermining of morality, lack of education, poor housing and an excessively high death rate. The secretary of State for India was kept informed of all these evils of the modern factory system and the first Factory Commission was appointed in Bombay in the year 1875 and the first Factories Act was passed in 1881.

The 1881 Act proved highly inadequate. Consequently, another Factory Commission was appointed in 1884. Mr. Lokhandey organised a conference of workers in Bombay and submitted a memorandum containing various demands of workers to the Factory Commission. This was the beginning of modern Trade Union Movement in India.

The condition, however, did not improve and therefore, another representation was submitted to the Government in 1890. In the same year the Bombay Mill bands Association was established under the Presidentship in India. However, it cannot be classified as genuine Trade Union as it had no existence as an organised body having no roll of membership, no funds and no rules.

A large number of labour associations were started after 1890. For example, Amalgamated Society of Railways Servants of India, the Kamgar Hitwardhak Sabha, social Service League, the Printers' Union etc. The Society and all other labour associations established were essential Labour Welfare Organisations. They could hardly be regarded as modern Trade Unions. The most notable feature of this period was the absence of strikes as a means of getting grievances redressed. Strikes during this period were only exceptional.

The declaration of war in 1914 had very much helped in the growth of labour movement in India. The entire economic situation was changed. There was a considerable increase in the prices of essential commodities like salt, cotton, cloth, kerosene oil, etc. The cost of living was steadily increasing and wages

lagged behind. The consequent distress of workers whose wages were not correspondingly increased generated series of strikes waves in 1918-19. The strike of Buckingham and Carnatic Mills workers in Madras gave a fillip to the Trade Union Movement in the South. The noncooperation movement of Gandhiji provided willing leadership to the Labour Movement.

The Russian revolution and the establishment of U.S.S.R. had its own favourable effect on our Trade Union Movement. The setting of International Labour Organisation - a tripartite body has also helped in the organisation of labour association in this country.

All these factors brought a change in the moral and mental outlook of the workers. The Madras Labour Union was the first trade union of modern type in India. Its progress was mostly because of the spirit and sacrifice of its president, B. P. Wadia. By 1920, a large number of unions were formed. The All India Trade Union Congress was established. The foundation of All India Trade Union Congress marked the first recognition of the common interest of labour throughout the country.

The passing of the Trade Unions Act in 1926 is an important landmark in the history of the trade union movement in the country. In addition to recognizing the right to organise, it gave a legal status to the registered trade union.

Thus after the passing of the Trade Unions Act, 1926, it may be observed that from criminal and illegal associations trade unions have now become legalised and recognised institutions.

ORIGIN OF TRADE UNIONS (APPROACHES)

(A) Social-Psychological Approaches of Robert F. Hoxie.

This approach of Robert F. Hoxie states that trade unions are a result of social psychological environment of the workers. According to him workers who work in similar economic environment are closely associated, develop a common interpretation of the social situation and common solution of the problem of living. Trade unions are a result of group psychology which develops out of environment conditions and temperamental characteristics of members. Hoxie classified unions according to structure and functional operation. His classification is business unionism, friendly or uplift unionism, revolutionary unionism and predatory unionism. He defines business unionism as bread and butter unionism which aims at stressing on immediate goals, improvement in wages and social action unless they directly enhance economic goals. Business unionism operates within the framework of capitalistic organisation and its goals are met primarily through collective bargaining, relying on the strike weapon. They are generally temperate and cooperative but is tough when it comes to action like strike. "Friendly or Uplift Unionism" is idealistic in nature and aspires to elevate moral, intellectual and social life of workers. Though collective bargaining is a chief weapon it relies on weapons of political action, mutual insurance programmes, co-operative enterprises and profit-sharing. "Revolutionary Union" are class conscious unions and rejects private ownership of productive resources and the wage system. Its weapons include form of violence and strikes.

"Predatory Unionism" has no ideology and adopts any method which will deliver the goods. It may be conservative or radical, trade-conscious or class-conscious. It has little concern of ethical or legal codes and resorts to any method and ruthless pursuit of meeting the objectives. Hoxie believed that the functions type of unions that he classified were separate and distinct, although no unions could correspond exactly to any one of them.

(B) Sociological Approach of Frank Taonnenbaum

The industrial revolution brought lot of changes to the society. The worker became completely dependent on others for livehood. He needed job desperately and in this process he was at the mercy of his employer. Tannenbaum observed that workers are engaging in an unconcious rebellion against the automization of industrial society. He thought that emergence of unionism was a spontaneous concept inherent in the growth of capitalism. Tannenbaum thought that unions are not merely economic organisation, they are also social and ethical system with moral objectives. Therefore unions have become powerful organisations. The unions organises all workers within its umbrella and attempts to gain monopoly control over the labour supply to that industry. Unions do not use their power to create a socialistic or communistic state. He observed that the quarrel between labour and management has always been a family quarrel. The two protagonists are different aspects of the same institution. The process will ultimately lead to unions absorbing all the functions of management. The unions will have the funds to buy into corporations as a result of their control over trust funds set up under various union welfare programmes. Tannenbaum's main concept of trade union is its lack of ideology and its concentration on immediate end. It is a unconcious rebellion against automation of industrial society. According to him unionism has no solution because it is not a problem but a process inherent in the industrial society. Trade union gives back to the worker his society and code of conduct by which he can live.

(C) Scarcity Conciousness Approach of Selig Perlman

Perlman concluded that three factors are basic in any labour situation; first, the resistance power of capitalism determined by its own historical development; second, the degree of dominance over the labour movements by the intellectuals mentality; third, the degree of maturity of trade union mentality.

According to Perlman unionism developed because of workers scarcity conciousness or their economic position which was barely sufficient to cover minimum essentials of an ordinary standard of living. Therefore, scarcity conciousness gave rise to a job concious unionism which controls job opportunity. He observed that intellectuals are non-manualists (outsiders) who attempt to impose their ideology on the labour movement. They consider the workers economic position to be most unfortunte and claim that it can be remedied only by the acceptance of their ideology. Intellectuals have a desire to manipulate the unions, using them as weapons to bring about great political, social and economic changes. Perlman observed that labour movement led to attack on the institution of private property. Unions restrict the absolute rights of private property through strikes boycotts etc. The unions capitalised on the self interest of skilled worker and concentrated its attention on their immediate economic needs.

(D) Classless society Approach of Karl Marx

According to Karl Marx trade unions represent class struggle between proletarian workers and capitalist businessman. He observed that capitalism developed.

- (a) tendency of heavy concentration of wealth and capital in the hands of few capitalists reduces the number of natural supporters of capitalism;
- (b) tendency towards a steady depression of wages and a growing misery of the wage earning class keeps going the revolutionary order;
- (c) the inevitable and frequent economic crisis under capitalism disorganise it and leads towards destruction.

Therefore, Marx concluded that working class must be revolutionary and this revolution is to eliminate capitalism. He believed that origin of trade unionism go to the growth of industrial capitalism. Marx and Engels thought that proletariat increases with development of industries and concentrates in greater masses with more strength. The growth of bourgeois leads to more fluctuating wages in the workers. It is then that the workers begin to form trade unions against the bourgeois, Marx observed that competition as a result of large scale concentration of industry in one place divides the interest of workers. But the maintenance of wages unites them in a common thought of resistance combination. The combination aims at stopping competition among workers, so that they can carry on the general competition with the capitalists.

Marx thought that trade unions did not properly represent the workers. According to him, trade unions should not limit its functions to securing economic benefits to its members but should in the long run use their organised power to destroy the capitalists system itself. Therefore Marx felt that trade unions leads to conflict between the oppressor and the oppressed finds the origin of unions in capitalist order. Trade unions is only one form of working class struggle which emerges during industrial capitalism. Unions must be guided. The revolutionary role of working class must be taught to workers. Permanent gains from trade unions can be achieved only with the establishment of a socialist state.

(E) Gandhiji's Approach

Gandhiji's principles are based on truth, non-violence and trusteeship. He considers trade unions as reformist and economic organisations. He says that capital and labour should supplement each other. Capital should cater to material welfare and moral welfare too.

Gandhiji observed that trade unions should improve the economic condition of workers and also raise the moral and intellectual standards of the labour and should bring about a all round development. The aims and objectives of trade union is not anti-capitalist, or not to paralise capital but to reform the labours from within by their own self-consciousness, by educating labour, for leadership and self-restraint. The idea of trade unionism is internal reform and evolution of internal strength.

The workers should also treat the business of their employers as their own business and give to it their honest attention. Gandhiji was never against strikes as he himself was involved in it at some point of time. Gandhiji was against unions taking part in political activity. Firstly, because the workers are not enlightened and secondly, because political parties exploit the workers to meet their own ends.

Pattern and Structure :

Pattern and structure of trade union vary from country to country. Trade unions may be classified according to :

- (a) the purpose for which they are formed, and
- (b) the variation in the composition of their membership.

A. Unions classified according to purpose :

Such unions may be classified into two major categories, namely

- (1) Reformist, and
- (2) revolutionary.

1. Reformist Unions :

Reformist unions are those which aim at the preservation of the capitalist society and the maintenance of usual employer-employee relationship and of competitive production. They seek no comprehensive change. They do not wish to destroy the existing social, economic or political structure. They desire only to modify these in accordance with what their members consider to be current mores in society.

The reformist unions have been so classified according to their objectives, by Prof. Hoxie, into Business Unionism and Uplift Unionism.

(a) **Business Unionism** is that form of labour cooperation in which employees enter about successful business relationships with employers. In other words, business unions are those that are maintained primarily to represent workers in collective bargaining with their employers.

(b) **Friendly or Uplift Unionism** is idealistic in nature and aspires to elevate the moral, intellectual and social life to workers and advocate idealistic plans for social regeneration. It emphasises such other considerations as education, health, insurance and benefits.

2. Revolutionary Unions :

Such are those unions which aim at destroying the present order in its entirety and replace it with new and different institutions according to the ideals that are regarded as preferable. It is extremely class-conscious rather than trade-conscious.

The Revolutionary unionism is also of two types, (a) political and (b) anarchist.

(a) **Political Unions** are those which gain power through political action, the enactment of laws eliminating the power of capital and capitalists, distributing wealth and giving predominant power to workers.

(b) **Anarchist Unions** are those unions which try to destroy the existing economic system by revolutionary means.

Prof. Hoxie also enumerates a third type of union, namely the Predatory Unionism, which he further subdivides into two subclasses, the holding union and the guerilla union.

Predatory unionism does not subscribe to any ideology, it can adopt any method which will deliver the goods and it sticks at nothing. Its distinguishing characteristic is the ruthless pursuit of the matter in hand by whatever means seems most appropriate at the time, regardless of ethical and legal codes or effect upon those outside its own membership.

It is dominated by gangsters and is "a tool for the enrichment of its leaders".

(a) **Holdup Union** represents a combination of unscrupulous business agents of labour organisation with equal unscrupulous employer to force exorbitant prices from customers. When a craft is sufficiently organised so as virtually to control the local market, the bosses in an agreement with employers set excessive prices of the services they render to the public, workers generally receive only a small part of increases in charges, for their bosses and employers retain greater portion.

(b) **Guerilla Union** does not involve cooperation with employers. Its leaders are unscrupulous, ruthless and irresponsible and they frequently make use of all sorts of violence in their programmes of exploitation.

A third type of union has also been added by the followers of Prof. Haxie, namely, the Dependant Union : the existence of this type of union is dependant wholly or partly on the other unions or the employees.

B. Unions Classified on the basis of membership or Structure :

Unions have also been classified according to variations in the compositions of their members. On this basis, four types of unions have been recognised, namely, labour union, craft unions, industrial unions and general unions.

(i) Labour Union : The term 'Labour Union' is popularly used to refer to both craft and industrial unions. It implies, in some degree, a community of outlook and presupposes some solidarity between workers in different traders or industries. Labour union draws its membership from amongst workers regardless of skill, occupation or industry. It works at local, regional, national or even international level, and is suited for political action.

(ii) Craft Union : It is an organisation of workers employed in a particular craft or trade or in a single or two or three related trades/crafts/occupations. Such organisations link together those workers who have similar skills, some craft training and specialisation. Ahmedabad Weavers union, the Kanpur Suti Mill Mazdoor Sabha, the International Wood Carvers' Association and the Indian Pilots' Guild are the standing examples of such unions.

(iii) Industrial Union : It is an organisation of workers which link all craftsmen and skilled workers in any one industry (such as coal, engineering, plantation, textile etc.) regardless of differences of craft, skill, grade or position or user. It is organised upon an industry wise rather than a craft wise basis.

The Textile labour Association of Ahmedabad, the Rastriya Mill Mazdoor Sangh, Bombay, the Engineering Mazdoor Sabha, Bombay, the Labour Mines Mazdoor Sangh Udaipur, are important examples.

(iv) General Unions : It is that organisation which covers various industries and labourers possessing different types of skills. Jamshedpur Labour Union, Jamshedpur; the National Union of Municipal and General Workers, the Transport and General Workers' Union in the U.K. are the example of such unions.

Organisational Structure of Trade Unions in India :

In India, the organisational structure consists of three levels : plan/shop or local, the State and the Centre. It is generally from the central level that the ideology of the important central federations of labour in India percolate down to State and local level. Every national or central federation of labour in India has State branches, State committees or State councils, from where its organisation works up down to the local level.

There are two types of organisations to which trade unions in India are affiliated :

- (i) National federation and
- (ii) Federation of unions.

(i) National federation :

The national federation have all the trade unions in a given industry as their affiliated members. Every trade union irrespective of the industry to which it belongs can join a general national federation. Such federations are at the apex of trade union structure. They are necessary to bring about coordination in the activities of trade unions and to give trade union policies a national colour. The central unions organisations

are national federations of labour based upon different political ideologies and because of their political leanings the affiliated trade unions in the field of labour relations follow either a militant policy or policy of cooperation with the employers and the government or policy of continuous strife and litigation.

The national/central federations are empowered to decide the question of jurisdiction of the various local and national unions. Majority of these federations allow their affiliates to bargain independently, with the respective employers. The federations only set as coordinating authority for different unions under their control. They also select delegates, for representing workman in international conference organised by the International Labour Organisation or the International Confederation of Free Trade Union.

The all-India federation of trade unions have a regular structure, for example

the INTUC consists of the central organisation, the affiliated unions, the industrial federation, regional branches and councils functioning under the direct control supervision of the central organisation, the assembly of delegates, the general council and the working committees.

The AITUC functions through its affiliated unions, delegates' assembly, General Council (including office bearers) the Working Committees of the general council and the Pradesh bodies.

The UTUC consists of the General Body (i.e, delegates' assembly), General Council, and the Working Committee of the General Council.

The HMS works through the General Council Working Committee, and the affiliated organisation.

(ii) Federation of Unions :

These have as their objectives the establishment of new unions, uniting and strengthening the existing ones, creating harmonious relations between capital and labour and improving the status of trade unions and workers.

Objects and Functions of Trade Unions :

Trade unions are formed to act as an instrument for meeting some of the economic, political, social and psychological problems of large scale industry. They are a means of achieving working class desires and goals.

On the economic side, trade unions through collective bargaining help to improve worker's wage and job security. On the governmental side they serve as an agency for industrial democracy seeking to establish rights of workers and to afford them protection against arbitrary and unfair treatment on the job. On psychological grounds, the worker, from membership in a labour organisation, enjoys both a sense of power that helps to overcome feelings of inferiority and creates a sense of belonging to a group's movement.

Unions may also help fulfil the needs of members on the social side. Through such activities as educational, health and welfare, and community service programmes they may develop new patters in community affairs.

On the basis of the above functions of trade unions we may briefly recount their objectives as follows

1. Trade Unions act to secure better wages for their members, in keeping with the prevailing standards of life and cost of living in the country.
2. They strive to obtain a part of the increased property of industry for their members in the form of bonus.
3. They work to attain better working conditions for the workers by procuring shorter working hours,

- leave with wages, social security benefits and other welfare facilities.
4. They help workers to fulfil their social needs through such activities as educational, health and welfare and group benefit schemes.
 5. They strive for securing stable employment for workers by working against retrenchment of workers or rationalisation plans.
 6. The trade unions remove the sense of insecurity among the workers by granting a number of benefits such as sickness benefits, old age pensions, accident compensation and unemployment allowances.
 7. They enable workers to participate in legislative activity by sending their representatives to Parliament and State legislatures.
 8. They also enhance self-respect and dignity of the workers.

Problems of Trade Union :

(1) Domination of Political Parties : The trade unions in India are dominated by political parties and leaders. The political aims overshadow the genuine objectives of the trade unions. In fact, the greatest obstacle to the growth of healthy trade union movement in India is the unhealthy influence of rival political parties.

(2) Inadequacy of Finances : The finances of almost all the unions are rather poor, with the result that they are not in a position to do much for the welfare of the workers.

(3) Absence of Unity : There are too many rival unions. This militates against cohesive and united action on the part of all the workers.

(4) Small number of Members : The trade unions do not command good membership, as this meagre membership is spread over a large number of unions thereby weakening individual union.

(5) Lack of Common Goal : For the success of any organised group the individual member of the group must have commonness of mind. There is absence of commonness of mind because of the domination of political parties with different ways of achieving ends, so the goals also differ.

(6) Absence of Craft Unions : We have no craft unions in our country, all workers being unionised unit wise or industry wise. The workers following different crafts becoming members of the same union often create problems rather than meeting them.

Advantages :

The following are the advantages of trade unions :

1. It organises all eligible members under one platform.
2. It represents the workers to management in cases of disputes or differences.
3. It represents workers on various participative forums.
4. It helps in securing steady improvement of conditions of work, life and status of the workers in industry and society.
5. It helps in obtaining for the workers various measures of social security involving adequate provision in respect of accidents, maternity, sickness, old age and unemployment.

6. It helps in regulating hours and other conditions of work in keeping with the requirements of the workers in the matter of health, recreation and cultural development.
7. It helps in securing living wage for every worker in normal employment and brings about a progressive improvement in his standard of life.
8. It helps in securing suitable legislative enactments for ameliorating the condition of workers and to ensure proper enforcement of legislation for the protection and uplift of labour.

We may conclude that trade union as commonly understood is a voluntary association of workers constituted for promoting, advancing and protecting their interests by means of united action formed with a view to secure maximum benefits, rights, privileges and welfare of the labour class.

PRESENT SCENARIO OF TRADE UNION MOVEMENT

Trade unions are permanent features of industrial societies. However trade unions in India have been receiving political patronage from the very beginning and is also a present feature.

At present there are 9 Central trade unions and various registered federations in various industries in India. Such federations are, All India Bank Employees Association, National Federation of Indian Railwaymen, All India Port and Dock Workers Federation, All Indian Mine Workers Federation etc. Besides these, the Confederation of Free Trade Unions (CFTU) was formed in 1962 with the active support of the Christian Trade Unions. The chief trade unions in India are :—

1) The Indian National Trade Union Congress (INTUC)

INTUC was formed in 1948. It had Sri S.C. Banerjee as its President and Sri Khandubhai Desai as its general secretary. The objectives of INTUC was inspired by Sarvodaya Philosophy. The constitution of INTUC emphasises on adoption of peaceful means consistent with Gandhian philosophy of co-trusteeship, ahimsa and truth. The weapons to be used includes negotiation, conciliation and if necessary adjudication of disputes. The INTUC is associated with ILO since 1949 and is the founder member of International Confederation of Free Trade Union Congress. The chief objectives of INTUC are :—

- (i) to place industry under national ownership and control in a suitable form.
- (ii) to secure increasing association and participation of workers in the administration of industry.
- (iii) to establish an order of the society which leads to all round development of members.
- (iv) to establish just industrial relations.
- (v) to ensure full employment and optimum utilization of manpowers.
- (vi) to promote social, civic and political interest of working class.
- (vii) to secure redressal of grievances by negotiation, conciliation, arbitration or adjudication without stoppage of work.
- (viii) to take suitable methods of strikes or Satyagraha where adjudication is not applied.
- (ix) to ensure speedy conclusion of authorised strikes.
- (x) to raise workers standard of efficiency and discipline.

2) All India Trade Union Congress AITUC

The AITUC was established in 1920 with its first president being Lala Lajpat Rai. The AITUC seeks to achieve its objectives by peaceful and democratic means such as legislation, education, propaganda, negotiation and strike as a last resort. The AITUC is affiliated to the world federation of Trade Union (WFTU). Its objectives are :—

- (i) to establish a socialist state in India.
- (ii) to socialise and nationalise means of production, distribution and exchange.
- (iii) to ameliorate the economic and social conditions of working class.
- (iv) to look into matters relating to workers employment.
- (v) to coordinate activities of labour unions affiliated to AITUC.
- (vi) to abolish political or economic advantage based on caste, creed, community, race or religion.
- (vii) to secure and maintain for workers the right to strike.

B) Hind Mazdoor Sabha (HMS)

Formed in the year 1948 it is an organ of the Praja Socialist Party. The Hind Mazdoor Panchayat is another secessionist union formed in 1962. These union subscribe to Marxist new of class struggle. The objectives are :—

- (i) to organise and promote the establishment of a democate socialist society in India.
- (ii) to provide opportunities for all round development of workers.
- (iii) to strive for getting a living wage to all workers.
- (iv) to guarantee work to every worker.
- (v) to get adequal leisure, reasonable hours of work and holidays for workers.
- (vi) to arrange for housing facilities of the workers.
- (vii) to arrange for introduction of free and compulsory education and facilities for vocational guidance.
- (viii) to get effective recognition of the right of the collective bargaining.
- (ix) to co-operate with other organisations in the country and outside having similar aims and objectives.

4) United Trade Union Congress (UTUC)

Formed in 1949 its chief objectives are :—

- (i) to establish a socialist state in India.
- (ii) to nationalise and socialise means of production, distribution and exchange.
- (iii) to safeguard and promote the interest, right and privileges of workers in all matter, social, cultural, economic and political.
- (iv) to bring about unity in trade union movement.
- (v) to secure and maintain workers freedom of speech, freedom of press, freedom of association, freedom of assembly, right to strike, right to work or maintenance and the right to social security.



Unit VI

Employee Grievances

In their working lives, employees occasionally have cause to be uncomfortable, disappointed or aggrieved either about certain managerial decisions, practices or service conditions. The question then is whether this particular system or feeling is given any attention or is ignored altogether. In the present day social context, especially in democratic systems, it is accepted that employees should be able to express their dissatisfaction, whether it be a minor irritation, a serious problem, or a difference of opinions with the supervisor over terms and conditions of employment.

Meaning of Grievance :

Literally, grievance means any real or imagined feeling of personal injustice which an employee has, concerning his employment relationship. The origin of grievance may be taken to have stemmed out of 'grief' though in real sense grief would mean "deep or violent sorrow" which is physiological phenomena on account of some occurrence.

According to Yoder, grievance is a written complaint filed by an employee and claiming unfair treatment. According to ILO grievance is defined as "a complaint of one or more workers in respect of wages, allowances, conditions of work and interpretation of service stipulations covering such as overtime, leave, transfer, promotion, seniority, job assignment and termination of service".

Thus, on the basis of above definition, one can say that grievance refers to feelings real or imaginary which an employee may have in regards to his employment.

Grievances is the result of not one but of multiple factors or sources. Some of the major sources of grievance are listed as under :

- (i) Contract terms which are too general, contradictory or ambiguous.
- (ii) Working conditions and pay arrangement which are in some manners unsatisfactory to employees.
- (iii) Supervisors who fail to properly abide by and administer the contract.
- (iv) Employees who fails to live up conditions set by a management or who neglect to adhere to the terms of contract.

Grievances procedure is the problem solving or dispute settling machinery. It is orderly means by which the union or the employee raises and processes a claim for settlement. Grievance procedure is a formal process. It is also a means available to management to keep a check on relevant diagnostic data on the state of the organisation's health.

Approaches to the Grievance Machinery

Various approaches have been documented reflecting the attitude of management and employees to the grievances machinery. Management could take a legalistic view and follow the negotiated contract, it need not have a contract but have a grievance machinery oriented towards a human relations approach to its workers. Or, alternatively, management could, with or without contract, have an open door policy. We shall now examine some of these approaches.

The labour contract approach is a unholy legalistic approach. The management and the worker, categories covered by the contract follow the provisions therein. Grievances are those defined by the contract, and the process for dealing with the grievance is clear to all concerned and specified with the time span for each stage.

The human relations school is the antithesis of the legal contract school. The employers and his specific problem is the major concern. The concern is for understanding and doing something to help overcome the individual's problem, the fundamental assumption being that individuals are more important than production targets. It is quite likely that understanding their needs and grievances will help in attaining production targets, but primarily individuals are the end rather than a means to the end.

Obviously, these are two extreme situations; many organisations have practices somewhere in-between. It is possible to envisage a contract with a human relations approach. In fact, in the final analysis, it amounts to the "spirit" in which the grievance procedure is implemented in an organisation involving both managerial and worker attitudes.

In an organisation where human beings work together there is a likelihood of frictions and misunderstanding. Some of these areas of friction could lead to unhappiness or dissatisfaction among workers. If the dissatisfactions of the employees go unattained or the conditions causing it are not corrected, the irritation is likely to increase and lead to unfavourable attitude towards the management and unhealthy relations in the organisation. It is, therefore, essential for the management to allow individual employees to express dissatisfaction concerning their jobs or working conditions to an immediate superior. These manifestations of worker's dimensions against working conditions, terms of services, leave and holidays and management decisions are commonly referred to as grievance.

The formal mechanism for dealing with such workers' dissatisfaction is called the Grievance procedures. It is generally a formal system of several steps through which an affected employee can take his Grievance to successively higher level of management for redressal.

Nature of Grievance :

A grievance may be submitted by a worker, or several workers, in respect of any measure or situation which directly affects, or is likely to affect, the conditions of employment of one or several workers in the organisation. Where a grievance is transformed into a general claim - either by the union or by a large members of workers - it falls outside the grievance procedure and normally comes under the preview of collective bargaining.

Causes or Sources of Grievances :

Grievance generally arise from day-to-day working relations in the undertaking, usually a worker or trade union protest against an act or omission of management that is considered to violate workers' right.

Bethel and others have given typical examples of workers' grievances. These are :

(i) Concerning Wage :

- (a) Demand for individual adjustment; the worker feels that he is underpaid;
- (b) Complaints about incentives; price rates are too low or too complicated;
- (c) Mistakes in calculating the wages of worker ;

(ii) Concerning Supervision :

- (a) Complaints against discipline; the foreman picks on him; inadequate instructions given for job

performance;

(b) Objection to having a particular foreman; the foreman is playing favorites; the foreman ignores complaints;

(c) Objection to the manner in which the general methods of supervision are used; there are too many rules; regulations are not clearly posted; supervisors indulge in a great deal of snooping.

(iii) Concerning Individual Advancement :

(a) Complaint that the employee's record of continuous service has been unfairly broken.

(b) Complaint that the claims of senior persons have been ignored; that seniority has been wrongly determined; that younger workers have been promoted ahead of older and more experienced employees.

(c) Changes are made that disciplinary discharge or lay-off has been unfair; that the penalty is too severe for the offence that is supposed to have been committed; that the company wanted to get rid of the employee; hence the charges against him.

(iv) General Working Conditions :

(a) Complaints about toilets facilities being inadequate; about inadequate and/or dirty lunch rooms;

(b) Complaints about working conditions; dampness, noise, fumes and other unpleasant or unsafe conditions, which can be easily corrected; overtime is unnecessary; an employee loses too much time because materials are not supplied to him in time.

(v) Collective Bargaining :

(a) The company is attempting to undermine the trade union and the workers who belong to that union; the contract with labour has been violated; the company does not deal effectively or expeditiously with union grievances;

(b) The company does not allow the supervisors to deal with, and settle, the grievances of the employees;

(c) The company disregards precedents and agreements already arrived at with the workers and/or their trade union.

To sum up, employees grievances may be due to :

(i) Demands for individual wage adjustments;

(ii) Complaints about the incentive system;

(iii) Complaints about the job classifications;

(iv) Complaints against a particular foreman;

(v) Complaints concerning disciplinary measures and procedures;

(vi) Objections to the general methods of supervision;

(vii) Loose calculation and interpretation of seniority rules, and unsatisfactory interpretation of agreements;

(viii) Promotions;

(ix) Disciplinary discharge or layoff;

(x) Transfer for another department or another shift;

(xi) Inadequacy of safety and health services/devices;

- (xii) Non-availability of materials in time;
- (xiii) Violation of contracts relating to collective bargaining;
- (xiv) Improper job assignment; and
- (xv) Undesirable or unsatisfactory conditions of work.

The management, too, has grievances against its employees. These concern :

- (i) Indiscipline;
- (ii) Go slow tactics;
- (iii) Non-fulfillment of the terms of the contracts signed between the management and the workers of their trade union;
- (iv) Failure of the trade union to live up to its promises to the management;
- (v) Questionable methods adopted by trade unions to enlist members;
- (vi) Trade union rules which conflict with the terms of contract arrived at between a trade union and the management;
- (vii) Irresponsible changes made against the management by trade union leaders in the form of statements to the press, or leaflets, or public speeches.

It should be noted that some grievances are more serious than others since they are usually more difficult to settle. Discipline cases and seniority problems (including promotions, transfer and layoffs) would top this list. Others would include grievances growing out of job evaluation and work assignments, overtime, vacations, incentive plans and holidays.

The Grievance procedure :

It has been widely recognised that there should be appropriate procedures through which the grievances of workers may be submitted and settled. In this context, we shall consider two examples, the first being an industry procedure and the other at the plant level.

The Textile labour association and the textile mill owners of Ahmedabad have had well formulated and smooth procedures for several years. In fact, even though the agreement provides for outside conciliation in case there is a failure of the various earlier steps to mitigate the grievance, a proportionately small number has been referred to conciliation.

In the mills the several departments each have a union shop representative (Pratinidhi) who taken up the employee's grievance to the department head and, if necessary, to higher levels. The union tries to know a ratio of one representative for every hundred workers. If there is no resolution at this stage, the matter is taken over by the union officials, starting with the lower level inspectors of the union who go to the mill, interview the grievant and then discuss the situation with the department head. Failure at this stage brings in the higher functionaries of the union who discuss the issue with the top management of the mill and if necessary the mill owners' association. Failure even at this stage leads to conciliation and arbitration process set up by the parties, i.e. the management and the union on behalf of the aggrieved employee.

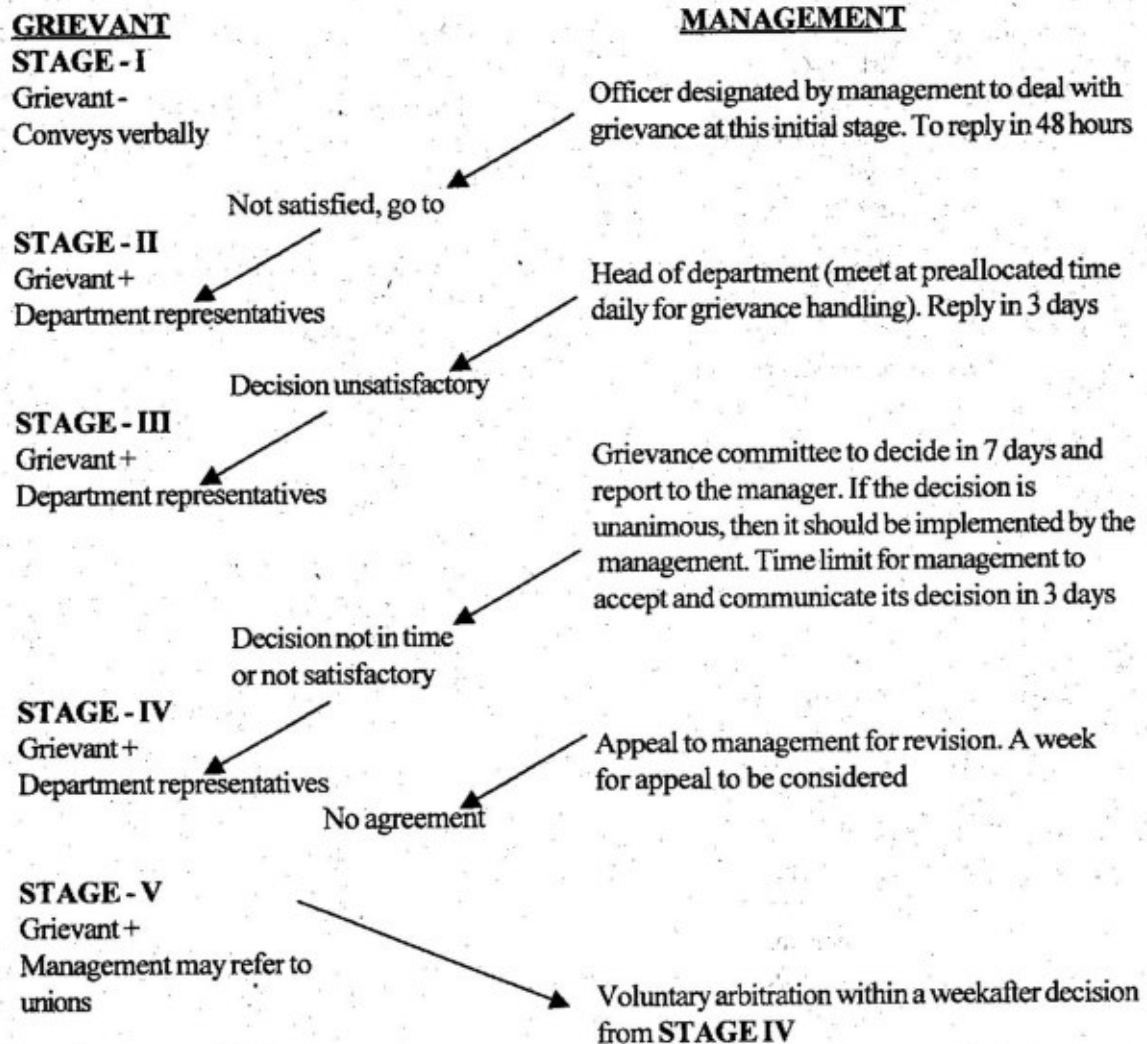
We shall consider next a unit level procedure as followed in Tatar Iron and Steel Company (works). The procedure consists of several stages. At stage 1, the worker with a grievance fills in a form and submit it to the shift in charge for consideration. If he is not satisfied with the decision he goes to stage 2, where his grievance is considered by the department head. If he is still dissatisfied he forwards it to the appropriate chairman of the zonal works committee (ZWC). If the zonal works committee cannot reach a unanimous

decision, the grievance is referred to the central works committee which consists of representatives of top management and union officials. If, however, no unanimous decision is reached in this committee either, the matter is referred to chairman of the company for the final decision.

The National Commission on labour has suggested a model grievance procedure (Fig.).

The commission also suggests that the formal conciliation machinery, i.e., the offices of the state labour department's conciliation officers should not be availed of till all the steps in the procedure are exhausted. Evidently, if the grievance is referred to voluntary arbitration, which would also be one of the suggestions of the conciliation officers failing conciliation, then both the parties proceed with the understanding that the arbitration decision is final and binding. A grievance becomes a dispute only when all the steps have gone through and the final decision of the management is unacceptable to the employee concerned.

The level at which settlement takes place is an index of the climate or the spirit that prevails in the firm. The lower the level of settlement, the quicker the redressal of a grievance. From the grievant's point of view, the delay would only increase his frustration and anxiety, perhaps affecting his moral and productivity which in turn would influence his colleagues.



Grievance and Industrial Relations :

The code of discipline, which was a voluntary, self-enforcing type of code formulated towards the end of 1958, suggested a grievance procedure. This was part of the strategy to promote good relations between employers and workers. Subsequently, as we have seen, the national commission on labour also made a similar suggestion and suggested a model grievance procedure. It needs to be reiterated that the lack of a grievance machinery will find an outlet, in one form of indiscipline or another over a period of time, or else cooperations will not be in line with managerial expectation reflecting perhaps in the production/output.

In fact, the Factories Act (1948) required the appointment of a labour welfare officer in every firm of 500 or more employee. Responsibilities and duties pertaining to labour welfare and working condition are spelt out in special rules issued by the State Government under the Factories Act of 1948. The inspectorate is responsible for ensuring the observance and implementation of several provisions by management. The Factories Act, admittedly, has a limited scope in terms of welfare, working conditions and safety, mainly it is the responsibility of the inspector to ensure compliance with the legislation, which in itself only sets the floor.

In the absence of a formal grievance procedure, works committee also play a role in discussing and settling grievance. The establishment of works committee is a statutory requirement according to the Industrial Disputes Act of 1947. Formally, the main objective of the works committee was to discuss the day-to-day affairs of the plant which are of mutual interest to , management and workers - productions, working conditions, welfare, hours of works, etc. An atmosphere of cordiality and cooperation is facilitated through such mutual discussions of problems which may otherwise have precipitated a conflict situation.

In addition, trade unions also play an important role in protecting the individual worker in terms of his interest and problems. By joining a body such as trade union the worker hopes, in fact, to get this kind of protection because in collective bargaining lies strength and protection for the individual. For instance, the worker realise that as an individual grievant he would be given less attention than if he had the backing of the union, which in its larger representational and organisational strength could get more attention for his grievance.

Summary :

A formal grievance procedure has the advantage that facts rather than perceptions speak for themselves. This ensures parity of individuals and objectivity as far as treatment from management is concerned. If both parties used the grievance procedure meticulously, then firmness would not be resented because the worker wants, above all, "fairness" in treatment. A grievance procedure would also, to some extent, ensure that an employee is not victimised; this would be possible only if there is a union to protect the worker's rights. Having the procedure is the first step but workers also need to be aware of the process and what exactly constitutes a grievance, i.e., what their rights are, if the procedure is to be meaningful to them. Finally, much depends on the spirit in which the grievance procedure is used. Is each grievance seen as a battle to be won; or is a problem - solving atmosphere cultivated? Only when an atmosphere of give and take prevails making possible a compromise solution - will the grievance machinery be of value.

Discipline :

Discipline is very essential for a healthy industrial atmosphere and the achievement of organisational goals. An acceptable performance from the subordinates in an organisation depends on their willingness to

carry out instructions and the orders of their superior, to abide by the rules of conduct, and maintain satisfactory standards of works.

The term 'discipline' can be interpreted variously. It connotes a state of order in an organisation. It also means compliance with the accepted order or proper appreciation of the hierarchical - superior - subordinate - relationship. It is sometimes understood as a sort of check or restraint on the liberty of an individual. It is adherence to established norms and regulations.

The term 'indiscipline' on the other hand can be described as nonconformity to formal and informal rules and regulations. It is necessary to correct indisciplines in an organisation as soon as it is observed because of its adverse influence on the morale and motivation of the employees as well as the organisation. Indiscipline results in chaos, confusion and diffusion of results. It gives rise to strikes, 'go-slows', absenteeism, leading to loss of production, profits and wages.

In order to correct indisciplines in an organisation the following approaches may be used :

1. The Judicial Approach : It is commonly followed in India. Various kinds of misconduct are listed in the standing orders and penalties are also mentioned. The decisions of the Supreme Court on various cases also serve as guidelines. This approach is elaborated upon subsequently.

2. The Human Relations Approach : It calls for treating an employee as a human being and considers the totality of his personality and behaviour while correcting faults that contribute to indiscipline.

3. The Human resources Approach : The approach calls for treating every employee as a resource and an asset to the organisation. Before punishing the worker, the cause for indiscipline has to be ascertained. An analysis of the cause is made, to find out whether indiscipline is due to the failure of his training and motivating system or the individual's own failure to meet the requirements, and accordingly corrections are made.

4. The Group Discipline Approach : The management in this approach sets and conveys well established norms and tries to involve groups of employees. The group as a whole controls indiscipline and awards appropriate punishments. The trade union may also act as a disciplinary agency.

5. The Leadership Approach : In this case, every superiors or manager has to guide, control, train, develop, lead a group and administers the rules for discipline.

Judicial Approach to Discipline :

The present-day manager has to handle a variety of disciplinary issues. The complexity is increasing in this arbitrary managerial function due to intervention by the Government, by providing legislation for governing terms of employment and illiteracy among industrial labour. In order to assure security of jobs, the Government has tried to assure protection to industrial labour from likely misuse of managerial power to hire and fire.

Industrial Employment (Standing Orders) Act, 1946 :

In order to improve the industrial relations climate and standardize conditions of employment including the procedures for disciplinary action, the Industrial Employment (standing Orders) Act was passed in 1946. This Act extends to the whole of India and is applicable to industrial establishments employing 100 or more workmen on any day of the preceding 12 months. Both the Central and the state Governments have power to apply this Act conditionally or unconditionally any establishment from any or all provisions

of the Act.

This Act necessitates the establishment to define its service rules and prepare standing orders and it is the duty of the employer not only to certify the standing orders but make it known to the workman and thereby it is obligatory on the part of workman to comply with the provisions of the standing order.

Model standing orders contain various provisions which relate to the following areas :

1. Classification of workman into permanent, probationers', badli's, temporary, casual and apprentices and the meaning of each.
2. Rules for publication of working time, holidays and pay days, wage rates, shift working etc.
3. Notices of change in shift working.
4. Provisions regarding attendance and late coming.
5. Provisions for leave and various types of leave.
6. Provisions for payment of wages.
7. Provisions for stoppage of work.
8. Termination of employment.
9. Provision for a certificate on termination of service.
10. Disciplinary action for misconduct like wilful insubordination or disobedience to any lawful and reasonable order of the superior, theft, fraud, or dishonesty in connections with the employer's business or property, etc. This list is not exhaustive. Various forms of punishment like discharge, dismissal, etc. are also specified.
11. Liability of manager.
12. Provision for exhibition of standing orders.

Model, standing orders specify the terms and conditions which govern day-to-day employer-employee relationships, infringement of which could result in a charge of misconduct.

The standing order provide the management with a basis for taking disciplinary action against employees in an organisation.

Classification of Workmen in Model Standing Orders

The model standing order classifies workmen into 6 categories. A permanent worker is defined as one who has been engaged on permanent basis and includes any person who has satisfactorily completed a probationary period of three month in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lock out, strike (other than illegal strike) or voluntary closure of the establishment.

A probationer is a workmen who is provisionally employed to fill in permanent vacancy in a post and has not completed three months service therein.

A badli is a workman who is appointed in the post of permanent workman or probationer who is temporarily absent.

A temporary workman is one who has been engaged for work of an essentially temporary nature likely to be finished within a limited period

A casual workman is one whose employment is of a casual nature .

An apprentice is a learner who is paid an allowance during the period of his training.

Under model standing orders every workman should be given a permanent ticket unless he is a probationer, badli and temporary worker or an apprentice and every permanent workman should be provided with a departmental ticket showing this number which shall be subject to inspections by unauthorized person.

Every badli workman should be provided with a badli card and the number of days worked by him should be recorded in it. The card shall be surrendered if the badli workman obtains permanent employment.

Every temporary workman should be provided with a temporary ticket which shall be surrendered on his discharge. Every casual worker should be provided with a casual card on which the number of days worked by him in the establishment shall be recorded and every apprentice should be furnished an apprentice card which he shall surrender on obtaining the permanent employment.

Publication of Work Time, Holidays, Pay Days and Wage Rates

The period and hours of work for all classes of workers in each shift should be exhibited in English and in the principal language of workmen on notice boards maintained at or near the main entrance of the establishment and at the time keepers office, if any. Notice specifying the days of holidays, the pay day and the rates of wages payable to and for all classes of workmen and work should be displayed on the notice boards meant for the purpose.

Shift Working

The model standing orders provide that more than one shift may be worked in the departments/ sections of the establishment at the discretion of the employer and in such case the workman shall be liable to be transferred from one shift to another. No shift work should be discontinued without two months prior notice to the workman. However no such notice is required if the shift is discontinued under an agreement with the effected workman. The model standing orders lay down that in any case any workman is retrenched as a result of the discontinuance such retrenchment should be effected under the provisions of the Industrial Disputes Act 1947 and the rules framed thereunder. If shift working is restored the workmen shall be given notice and reemployed in accordance with the provision of the said Act and rules.

Attendance and Late Coming

All workmen should be present at the establishment at the appointed time and in case of late attendance the concerned workmen shall be liable to deductions under the Payment of Wages Act 1936.

Leave and Holidays

The model standing orders lay down that holiday with pay should be allowed to workmen as provided in the Factory's Act 1948 and other holiday in accordance with law, contract, custom and wage. In case a workmen desires to obtain leave, he should apply to the manager and the manager should issue orders on the leave application within a week of its submission or two days prior to the commencement of the leave whichever is earlier of. If the required leave is to commence on the date of application or within three days there of the order should be given on the same day. In case the leave is granted a leave pass should be issued to the worker. In case the leave is refused, the fact of such refusal or postponement and the reasons thereof should be recorded in the register maintained for the purpose. A copy of such entry

may also be supplied to the worker. The manager is required to send a written reply granting or refusing such leave to the worker if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to the worker. The worker shall lose his lien on his appointment in case he remains absent beyond the period of his leave originally granted or extended unless he returns within eight days of the expiry of the leave and expresses his inability to return in time to the satisfaction of the manager. If the workman loses his lien, he shall be entitled to be on the badli list.

Casual Leave

A workman may be granted 10 days casual leave in a calendar year to meet unforeseen circumstances but not exceeding three days at a time except in case of sickness. Generally the prior permission of the head of the department should be obtained before availing of this leave and in case it is not possible he should be informed in writing of the absence and the duration of such absence.

Payment and Wages

The Model standing orders provide that wages should be paid to all the workmen on a working day but before the expiry of the seventh or tenth days of the last day of the concerned wage period depending on the fact whether the number of the workmen employed in the establishment does not exceed or exceeds one thousand. Any unclaimed wages shall be paid by the employer on a unclaimed wage pay day in each week after notice to this effect has been displayed on the notice board.

Stoppage of Work

In the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemic and commotion or other causes beyond ones control the employer may stop working of any section of the establishment wholly or partially for any period of time without notice at any time. In the event of such stoppage, during working hours, the effected workman should be notified, as soon as possible, as to whether they are to remain or to leave the place of work. Ordinarily the workmen should not be required to remain for more than two hours after the commencement of the stoppage. In case, the workman are detained for more than an hour they shall be entitled to receive wages for the whole time detained on account of stoppage, but to no other compensation. In case of piece rated workman the average daily earning in the previous month is to be taken as the daily wage. Reasonable notice for resumption of duty shall be given to workman whenever possible. In case the workmen are laid off for short period on account to failure of plant or a temporary curtailment of production the period of unemployment shall be treated as compulsory leave either with or without pay. However, in case indefinite long lay-off, the workmen may be retrenched after giving them due notice or pay in lieu thereof.

In the event of strike effecting wholly or partially any section or department of the establishment the employer may close down wholly or partially the concerned section/department or any other section or department affected by such closedown. Such closure shall be duly notified to the workmen as also the date when the work shall be resumed.

Termination of employment

In order to terminate the employment of a permanent workman one month notice in writing in case he is monthly rated and two weeks notice in other cases should be given to him or pay in lieu thereof by the employer. However no temporary probation or badli workman shall be entitled to any notice or pay in lieu

thereof but the service of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him. In case of termination of employment of any workman his earned wages and other dues shall be paid to him.

Disciplinary Action for Misconduct

The model standing orders provide that the workman may be fined upto 2 percent of his wages in a months for any act or omission specified therein. A workman may also be suspended for a period not exceeding four days at a time or dismissed with out notice or pay in lieu thereof, if he is found guilty of misconduct. The acts and omissions which are to be treated as misconduct according to the order are

- wilful insubordination in disobedience.
- theft, fraud or dishonesty in connection with the employers business or property.
- wilful damage or loss of employers property.
- taking or giving bribes or any illegal gratification.
- habitual absence without leave for more than 10 days.
- habitual late attendance.
- habitual breach of any law applicable to the establishment.
- riotious or disorderly behaviour during working hours or any act subversive of discipline.
- habitual negligence or neglect of work.
- frequent repetition of any act or omission for which a fine may be imposed to a maximum 2 percent of the wages in a month.
- striking work or inciting others to strike work in contravention of any law.

However no dismissal shall be made unless the concerned workman is informed in writing and is given an opportunity to explain the alleged charges. But in case the approval of the manager or the employer (where there is no manager) is to be obtained in case of dismissal and if warranted a manager/employer may institute independent enquiries before dealing with the charges against a workman.

Suspension

In case of suspension the order shall be in writing and may take effect immediately on delivery to the workman. Such order should set out in detail the alleged misconduct and the workman should be given the opportunity to explain the allegations. If on enquiry the order is confirmed the workman shall be deemed to have been absent from duty for the period of his suspension and shall not be entitled to any remuneration. The order provides that in awarding punishment, the manager shall take into account the gravity of the misconduct, the previous record of the workman or any other extenuating or aggravating circumstances that may exist and forward a copy of his order to the concerned workman.

Complaints :

All complaint arising out employment including those related to unfair treatment or wrongful exaction on the part of the employer or his agent shall be submitted to the manager or other authorised person with

a right to appeal to the employer.

The model standing orders provide that a copy of the orders in English and in the principal language of the workmen shall be pasted at the manager's office and notice board maintained at or near the main entrance of the establishment and shall be kept in legible condition.

Punishment :

The standing orders may specify various forms of punishment for misconduct. Depending on the gravity of the misconduct, the past record of the employee and the judgement of the management, appropriate punishment is awarded. The alternative forms of punishment are :

1. dismissal,
2. discharge,
3. discharge simpliciter,
4. suspension,
5. demotion to a lower grade,
6. withholding of increments,
7. fine,
8. Warning or censure.

In establishments where the Industrial Employment (Standing Orders) Act is applicable, the punishments are specified in model standing orders or certified standing orders, hence the management cannot award punishments other than those mentioned in the standing orders.

Process of holding Domestic Enquiries :

The first and primary step is to carry out a preliminary investigation before the employer holds a disciplinary enquiry in order to find out whether a prima facie case of misconduct is evident.

After the preliminary investigation is carried out and a prima facie case of misconduct is established, the following stages of disciplinary enquiry should be followed :

1. issue and service of a charge sheet calling upon the employee to submit an explanation,
2. consideration of the explanation,
3. giving notice of an enquiry into the charges in case of unsatisfactory explanation,
4. suspension with or without pay, pending enquiry (if needed),
5. enquiry into the charge;
 - deciding as to who should conduct
 - deciding as how to proceed
 - deciding about the order of examining witness
6. recording of findings by the enquiry officer,
7. punishment - decision,
8. communication of punishment.

Let us examine each step in detail.

Issue of a Charge Sheet :

As soon as misconduct is observed and confirmed through preliminary investigation a manager should frame a charge sheet which contains charges or a description of misconduct, and an explanation should be asked for. The following points should be considered while framing the charge sheet :

1. The charge sheet should be properly worded and language should not be used so as to create apprehension and confusion in the mind of the concerned workman.
2. While stating the offence, the date, time and place of its commission and all other relevant details should be given.
3. If in a firm, standing orders are in force, then the wording of the charges should be in consonance with the wording in the standing orders.
4. The proposed punishment may be mentioned.
5. It should call upon the worker to submit an explanation in writing within a specified time or date.
6. The charge sheet should be issued under the signature of the disciplinary authority and not of the enquiry officer.
7. The charge sheet should be properly served and there should be strict proof of issue and delivery so that later the worker may not deny it the following alternatives exist :
 - (i) when the workman is present, hand over and obtain signature on duplicate copy;
 - (ii) if he refuse to sign, then the duplicate copy may be signed by the manager and two witness;
 - (iii) deliver it to him by registered post;
 - (iv) if the registered charge sheet is returned undelivered, then it should be displayed on the notice board, with a noting on it, as to when displayed, when removed, etc; and
 - (v) in appropriate cases, the charge sheet should be published in a local newspaper having sufficient circulation or coverage.

Consideration of Explanation :

The workman receiving the charge sheet may :

1. Submit his explanation admitting the charge and ask for leniency - even if such an admission is unqualified and unambiguous, the enquiry should be held before awarding the punishment. In such an enquiry, the enquiry officer need not record findings on the basis of the admission of charges in the worker's presence and his signature may be obtained.
2. Submit his explanation refusing the charge sheet. Then it is to be carefully examined, to find out whether the explanation is satisfactory or not. A further decision about proceeding in the matter and a detailed enquiry is to be taken on that basis.
3. Apply for an extension of time for submitting an explanation. If such an extension is reasonable then it should be given, so as to avoid further controversy.
4. Fail to submit his explanation, the employer may follow further proceedings of enquiry.

Notice of Enquiry :

The enquiry should be normally held within a reasonable time of receiving the explanation. Proper and sufficient advance notice should be given indicating the date, time and venue of the enquiry and name of the enquiry officer, so that the workman can prepare his case.

In certain cases, the following steps may be observed instead of these previously mentioned :

- issue of show cause notice;
- consideration of explanation; and
- issue of charge sheet and notice of enquiry.

Suspension with or without Pay :**Pending Enquiry if Needed :**

Where the nature of misconduct is grave and serious, and if it is in the interest of security and safety and maintenance of good order and discipline in the establishment, the worker may be suspended with or without pay till disciplinary proceedings are completed. A manager may suspend a worker even before the charge sheet is issued or an order of suspension may be given along with the charge sheet. In a case where standing orders limit the period of suspension, the enquiry must either be completed within the period or wage should be paid for the time exceeded.

Conduct of the Enquiry :

Who should hold the enquiry?

Enquiry Officer :

Standing Orders may provide as to who should hold the enquiry. Otherwise, an assistant manager, or administrative officer, or labour welfare officer may be nominated. Thus, he may be either a member of the management, or an outsider, or an employer's lawyer or the manager of another business, but not a person who is witness or who is himself involved in the incident.

Request for Adjournment :

If the workman concerned requests for further time on reasonable grounds then another enquiry date should be fixed and conveyed.

Nominee of the Accused Workman :

If the charge sheeted employee would like another employee to represent and assist him in the conduct of his defence, the enquiry officer should allow this. However, it is left to the discretion of the management to allow a non-employee union official to act as nominee of the workman at the enquiry.

Interpreter :

He may be needed when the workman is not familiar with the language of the enquiry officer.

Order of Examination of Witness :

In the presence of the workman, first the management witness should be examined. Then fair opportunity should be given to the workman to cross-examine the management witnesses. Documentary evidence should also be produced through witness and be made a part of the enquiry proceedings.

At the end of the recording of evidence given by a witness, he should be asked to sign and then the enquiry officer should also sign the evidence.

After that the worker's witnesses including the worker should be examined. They can be cross-examined

and the records should be signed.

Expartite Enquiry :

When the workman does not turn up for the enquiry without notice or reasonable cause or refuses to participate or walks out then the enquiry officer may proceed to hold the enquiry expartite.

Findings of the Enquiry Officer :

At the conclusion of the enquiry proceedings, by applying his mind to all facts that emerged at the enquiry, the enquiry officer should decide as to whether the charges made are valid or not along with reasons for his findings. He may or may not recommended punishment.

Awarding of Punishment :

This is a management task and punishment awarded should be based on the findings of the enquiry and past record of the employee. The gravity of misconduct should be taken into account.

Communication of Punishment :

After a decision is taken regarding punishment, it should be communicated to the concerned workman as expeditiously as possible.



