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AN IN-DEPTH UNDERSTANDING OF **INDUSTRIAL RELATIONS IN INDIA**

Authored By- Mr. J. Jerry Bastin¹ & Ms. Krishnardhula Saruyu²

ABSTRACT:

Industrial relations play a very vital role in the day to day Industrial and manufacturing sector. A good industrial relation promotes Economic growth and development, enhanced democracy, and increases employee morale. The complexity of relations between the parties: employers – employer, employees – employees, or employers – employees must be maintained harmoniously for a greater productivity. This also ensures better communication in the Industrial atmosphere. Industrial relations are a major key for a successful business to run because these relations have a direct repercussions on the working environment as well as the production of goods and the delivery of services.

Keywords: Industrial Relations, Employer Employee Relationship, Industries, International Labour Organization, Laissez Faire Policy, International Labour Standards.

INTRODUCTION:

“The complex interrelations among the managers. Workers and agencies of the government.”
~ Dunlop

The employer employee relationship has given birth to the origin of Industrial Relations. The moment employee is detached from the ownership of materials, their course of action, and means of production, they become wage – earners. The owners of such material, production

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and the masters who overview the course of action become the employers. Initially, the relation shared between the employer and employee was formal, but as time passed along with the growth of giant stocked companies as well as business corporations where each employer employed over thousands of workers, the relation shared between them was no longer intimate and formal. Along with the growth among the aforesaid enterprises, the scope of trade unions, laissez faire, and alternative dispute resolution has increased. These factors has took a charge over the nature of the relation between employer and employee and has transferred the private relationship into a relationship with public importance.

Industrial relations is dynamic in nature. The nature of the same is expressed via an outcome through complex group of dealings within the important players like employers, employees, State and trade unions.

Industrial Relations:

Industry means an establishment in which an individual, or a group of individuals engage themselves in primary, secondary or tertiary sector³, whereas relation means the way in which two or more people are connected. When a relation arises among two people in an industry, it is known as Industrial Relation. There are a few basic objectives of Industrial Relations,

- 1.Safeguarding the interest of labour and management in the industrial establishment to promote mutual understanding and good will among the employers and employees.
- 2.Avoiding any industrial conflict or strike and developing harmonious relations within the employers and employees. This shall also ensure productivity among the workers and the industrial progress of a Country.
- 3.Increasing the productivity to a higher level
- 4.Establishing and promoting the growth of Industrial Democracy on the basis of labour partnerships by sharing profits and being a part of managerial decision benefitting the industry as well as the Country

³ <https://www.economicdiscussion.net/industries/industrial-relations/32249>

5. Eliminating or minimizing the strikes, and lockouts by providing reasonable wages to all the employees, improving the living and working conditions of employees and other fringe benefits
6. Improving the economic conditions of the employees in political government and existing state of industrial managements and

LABOUR LEGISLATION:

Labour legislations means the laws and acts implemented by the concerned government authorities in relation to labour. Labour falls under the category of the Concurrent list and both the State and the Central government authorities can draft and amend laws regarding the same. These labour legislations are considered to be a vital part in the Industrial society as it helps in:

1. Promoting Economic Justice
2. Providing Equal opportunities to everyone at employment
3. Protecting the weaker sections of community in the Country
4. Promoting Industrial Peace
5. Creating better conditions aiming at economic growth
6. Improvising labour standards in the Industrial sector
7. Promoting the workers against exploitation from the employers
8. Forming Associations or Unions
9. Ensuring Collective bargaining rights to all the employers and employees
10. Minimizing State Interference
11. Safeguarding Human Rights and protecting the dignity of the employees

The Labour Legislations aim at fulfilling the aforesaid objectives and importance while keeping in mind the four principles of Labour Legislations. The four labour legislation principles are Social Justice, Social Equality, Social Security, and Social Welfare. Social Justice involves providing everyone an equal opportunity to reach their full potential and assist in pursuing their goals equally whilst realizing their Fundamental Freedom, Social Equality ensures equal education and employment for all the citizens, Social Security guarantees that the State shall provide all the basic amenities to those who are not in a position to afford, and Social Welfare certifies that the shall provide all the necessary reliefs to the citizens who face

a calamity, or if anyone is suffering from any illness or disability.

MASTER – SERVANT RELATIONSHIP AND CONTRACTOR:

Master Servant relationship arises when a person agrees to work under the direction and control of another person, with or without pay. Here, the person who agrees to work is known as a servant and the person who controls and gives direction is known as master. Here, the servant does not have the discretion to act on his own or on behalf of the master. In the case of “P. Lal vs Union of India & Ors”⁴, the severance pay was discussed in detail in regard with the master and servant.

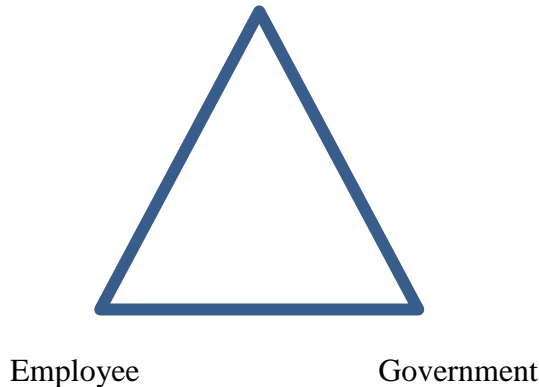
When the master – servant relationship has been established, there are certain duties that has to be executed by both, i.e., the master and the servant. The master has an obligation of not to discharge the servant for a reason which is not mentioned earlier, either spoken or written and he or she cannot discharge the servant from his duty for exercising his or her personal right of filing a complaint for discrimination or for seeking worker’s benefits via an application. At the same time, the servant has the obligation be honest and faithful in his or her performance and if any trade secrets are present, then they must not be revealed, even after the course of their employment.

The relationship between two parties in a Contract is completely different from Master Servant Relationship. When an Industrial establishment gets into a contract with the Contractor. The establishment will only specify what the work is and not prescribe, control, or give directions to the Contractor as to how to execute the said work. The Contractor has the discretion to act on his own, unless the end result of the said acts is the work specified by the Industry.

TRIANGULAR RELATIONSHIP WITHIN INDUSTRIAL RELATIONSHIP:

⁴ Appeal (civil) 1050-1051 of 2003

The Triangle in industrial relations is among the Employers, employees and the government
Employer



All the three corners of the said triangle are inter-connected and have various duties to be discharged and purposes.

Employers:

The employers are obliged to motivate the employees to make them more efficient and enhance their commitment towards to Industrial Establishments. They have certain rights over the employees and can fire them if the said requirements are met, while at the same time, fire them in case they are found guilty of violating any clauses or other reasons. The employers also have the power to affect the interest of the employees by either closing or merging the industrial establishments.

Employees:

Like the employers, even the employee have certain obligations to be fulfilled. The employees can, after going through the terms and conditions of their employment, suggest changes regarding the same. They can also exchange their views with the management and take part in the decision making process. The employees have a special power to voice their grievances, if any, faced due to the employers or the managerial decision taken by the management. The employees can also get support from the Trade Unions and Labour Legislations.

Government:

The Government plays a major role when a conflict arises between the employers and employees. It ensures equal protection of interests of both the employers and the employees. The Government also provides certain remedies in case of violation of rights of the employers

and employees via Wage Boards, Labour Courts, and National Tribunals. The major reason for State intervention in employer – employee relations is the requirements of the welfare state that are listed in the Constitution of India.

LAISSEZ FAIRE:

The term Laissez Faire was first originated in the 18th CE during the Industrial Revolution. Laissez faire advocates government non – intervention, meaning that it supports the idea of Industrial Establishment solving their disputes that has arrived between the parties, i.e., employers and employees, employees and employees, and employers and employees, within the said establishment without having the government interference. Laissez Faire, in other words, support in negotiation rather than seeking other remedial measures like filing a case in front of the Wage Boards, Labour Courts, and National Tribunals. In short, laissez faire means “Political Ideology that rejects the practice of government intervention in an economy”. The main purpose of Laissez Faire is to promote free as well as competitive market which seeks for liberty in a natural state that humans emerge from. Adam Smith, a Scottish Economist and Father of Economics, defined Laissez Faire as “The optimal functioning of markets needed minimal government intervention”

Laissez Faire adopts few benefits, such as Autonomy, innovation and Absence of taxes. Laissez Faire ensures Autonomy, because the Industrial establishment, once adopts the Laissez Faire policy, it will be free from government’s rules and regulations. Laissez Faire Policy is more suitable for companies as it enables them to take risks and invest highly in the economy. This will lead to greater incentives that would maximize the profits of the company leading to economic growth. Laissez Faire promotes Innovation that would facilitate in providing products in a wider range along with more market advantage. Due to this, companies are compelled to be more innovative and creative which, in return, leads to technological advancements and economic growth. Laissez Faire safeguards the Industrial Establishments from Taxes, i.e., there is absence of taxes. This enables the concerned establishment, who implemented Laissez Faire Policy, to have a greater spending power. It also leads to less corruption and discourages the idea of corruption.

COLLECTIE BARGAINING:

“An agreement between a single employer or an association of employers on the one hand and labour union on the other, which regulates the terms and conditions of employment”

~Luidwig Teller

To understand the meaning of collective bargaining in a better way, it is important to study the terms separately first. The word collective is used in a sense which means bringing together the representatives of the employers and the employees for discussing the grievances and the word bargaining is used in a sense which means that the parties negotiate via offering a counter proposal for the proposal already put forth by either of the parties. Put together, collective bargaining means two parties coming together to discuss their grievances and seeking for a feasible solution via negotiation. In other words, “The Collective bargaining refers to a process by which employers and representatives of employees attempt to arrive at agreements covering the working conditions of employees.”

Collective Bargaining is considered as a technique which is used to compromise on the conflicting interests among the parties. It involves discussing and negotiating among the workers and the management on pay for the work performed, work assigned to the employers or the employees and working conditions in the Industrial establishment.

Collective bargaining carries several characteristics. It is a Group Activity where the existence of two more people is necessary for Collective Bargaining to carry on. Collective Bargaining is mutual and flexible, both the parties enter into collective bargaining for the safe of the other party and the proposals and arguments are not rigid. It is an ongoing and continuous activity, and is a democratic process. Similarly, Collective Bargaining aims at

1. Promoting Democratic Approach for solving disputes which are work related.
2. Avoiding any need of third party intervention
3. Improvising the employer and employee relationship
4. Promoting Unilateral Action on the part of the concerned management
5. Giving due recognition to the Trade Unions
6. Assisting the parties in reaching a mutually beneficial agreement

TYPES OF COLLECTIVE BARGAINING:

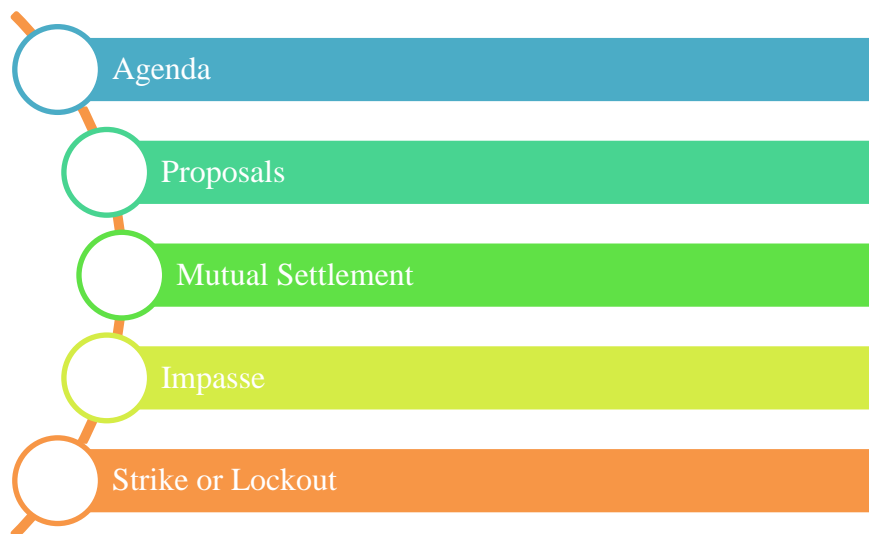
Collective Bargaining can be done through various forms, i.e., Negotiation, Mediation, Conciliation and Arbitration. Negotiation means two parties coming face to face and settling the dispute via negotiating with each other, without third party intervention.

Mediation means, a neutral third party will be present, who will act as a Mediator, to assist the parties in solving the dispute. The Mediator will ensure the smooth functioning of the Mediation session and provide for various remedies, which he / she deems it fit for the conflict between the parties. It is not mandatory for the parties to follow the said suggestions and can proceed with any other solution if the parties does not think the suggestions beneficial.

In the process of Conciliation, the third party will meet each party individually and then will fix a date for both the parties to resolve the dispute. The third party in Conciliation is known as the Conciliator.

In Arbitration, the Arbitrator will act as Judge and an award is passed by the Arbitrator which acts like a Judgment given by the Judge. The Award passed will be binding upon the parties to the conflict. There are two types of Arbitration, Compulsory and Voluntary. Compulsory Arbitration is the one that makes it compulsory for the parties to resolve their disputes via Arbitration and not any other Remedial measures. The same can be made mandatory via contracts signed by the parties, or any other legal document mandating the parties to undergo Arbitration in case of disputes among the parties. Voluntary Arbitration means both the parties agree mutually to resolve the dispute among them via the process of Arbitration.

There are few stages that has to be followed in the process of Collective Bargaining:



1. Drafting an Agenda
2. Offering Proposals and taking out what is common among the said proposals. It also includes negotiating on agreeable and non – agreeable terms
3. Arrive at a mutually agreeable Solution / Settlement
4. Stage of Impasse: This is a stage where no agreement is reached between the parties. In Impasse, an Arbitrator is appointed and the Award passed by him / her will be final.
5. Strike or Lockout: If the Award passed by the Arbitrator is still unsatisfactory, the employees can strike against the same.

INTERNATIONAL LABOUR ORGANIZATION:

International Labour Organization (ILO) is an Agency of the United Nations Organization which is set up to lay down the Universal Labour Standards and ensure Labour peace. It was founded in the year 1919 by the League of Nations. League of Nations was formed after the World War I to safeguard peace and security in the world. Basic objective of the International Labour Organization is to provide a condition to the employees or workers in which they have security, freedom and dignity. They aim at stipulating opportunities for women equal to that of men. The International Labour Standards, laid down by ILO certifies the advancement of the global economy, which in result, is constructive to all.

The ILO has drafted eight Fundamental Conventions, which are listed below:

1. Forced Labour Convention, 1930 (No. 29), along with its 2014 Protocol

2. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
3. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
4. Equal Remuneration Convention, 1951 (No. 100)
5. Abolition of Forced Labour Convention, 1957 (No. 105)
6. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
7. Minimum Age Convention, 1973 (No. 138)
8. Worst Forms of Child Labour Convention, 1999 (No. 182)

The ILO has also drafted four governance conventions, which are:

1. Labour Inspection Convention, 1947 (No. 81)
2. Employment Policy Convention, 1964 (No. 122)
3. Labour Inspection (Agriculture) Convention, 1969 (No. 129)
4. Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

INTERNATIONAL LABOUR STANDARDS:

International Labour Standards are the Legal Instruments drafted by the International Labour Organization Constituents, i.e., Government, Employers, and Employees / Workers. They set out the basic Right and Principles that are to be followed in a work place. They can be in the form of Conventions, protocols, declarations, or legislations. These instruments are legally binding to the International Treaties, where the member states are given a special privilege to make amendments or ratify the said documents.

The member states also have the authority to post their recommendations, which are drawn up by the representatives of ILO during the International Labour Conference. Once the legal instruments are adopted by the member states, the member states are obliged to submit their consent to the respected competent authority, usually Parliament, within 12 months for consideration. If the respected amendments are made in the Constitution parallel to the legal instruments, then the said legal instruments comes into force after a year from the date of ratification.

The International Labour Standards are essential and has to be adopted by every state because,

1. The Basic target of ILS is the Labour Laws of respected Countries and improvising the labour conditions in each and every State.
2. Applying International Laws and Policies at National Level
3. ILS lays down the Social Policy that has to be followed by the Nations
4. It also incorporates Social responsibility by ensuring and promoting responsible, inclusive and sustainable practices in the workplace
5. ILS ensure free trade agreement among the concerned establishments.

CONCLUSION:

To conclude, the relationship between the employers and the employees is a nifty academic arena which helps in studying the employment relation, i.e. the multifaceted interface among the parties, trade unions, and the Government. A good industrial relation among the parties also ensure higher productivity among the employees and a better cooperation within the Industrial Establishment. Encouraging the Industrial Establishments to take up Laissez Faire Policy for their benefits, and promoting Collective Bargaining will be beneficial, both for the industries as well as the economy.

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