Module - I.

Introduction to Industrial Relations

Introduction

The term industrial relations refer to industry and relations. Industrial relations deal with relationship between labour and management and their organization. The concept of IR is very broad and is not only limited to the relation between management and employees but also covers aspects like empowerment of the weak, human relations, collective bargaining, conflict resolution etc.

Definition of IR.

Dale Yoder - IR is a designation of whole field of relationship that exist ~~between~~ because of necessary collaboration of men and women in the employment processes of industry.

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Dale Young- IR is the relationship between labour and management and its organisation which is based on mutual adjustment of interests and goals.

Encyclopedia Britannica- It includes individual relations and joint consultation between employers and workers at their places of work, collective relations b/w employers and trade unions and the part played by State in regulating these relations.

ILO- Industrial relations deal with either relationship between State and employers and workers' organizations or the relations between Occupational organizations themselves.

R.A. Lester- IR involve attempts at workable solutions between conflicting objectives and values b/w. incentive

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and economic security b/w discipline and industrial democracy, between authority and freedom between bargaining and cooperation.

The term IR may be conceptualized as relations b/w labour and management as a result of their composite attitude for the betterment not only of workers but also of management and industry and nation as a whole.

Industrial Relations is a multi-disciplinary field which studies the employment relationship in the organisation. It covers many dimensions impacting a company's activities.

Evolution of Industrial Relations.

Industrial relations has its root in the industrial revolution. It created modern employment relationship by spawning

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free labor market and large scale industrial ~~relations~~ organizations with thousands of wage-workers. There was massive economic and social change which led to labor problems. Low wages, long working hours, monotonous and dangerous work and abusive supervisory practices led to high employee turnover, violent strikes and the threat of social instability. This led to establishment of IR. The concept was first introduced in the book of Sidney and Beatrice namely Industrial democracy in 1897.

In India the evolution of IR developed a long time ago. The caste system greatly influenced the ancient industries and their development. Due to successive foreign invasions in India, the living conditions of slaves and artisans couldn't

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be differentiated. The autocratic regimes of Muslim rulers worsened the conditions of employees. Under the British rule also, the working conditions of workers were harsh, with low pay and tough working conditions. This gave rise to various disputes between management and employees.

During the 1st world war, the Workmen's Compensation Act, 1923, The Trade Union Act, 1926 and Trade Disputes Act 1917 were enforced. After 2nd world war, in 1944 Philadelphia charter was adopted. which stated that labour is not a commodity but a resource.

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Objectives of Industrial Relations.

The primary objective is to bring about good and healthy relations between the two partners in industry labour and mgmt.

The Labour Management Committee of the Asian Regional conference of ILO has highlighted the following objectives of Industrial Relations:

(i) to safeguard the interest of labour as well as of management

(ii) to avoid conflicts and develope harmonious relations

(iii) to reduce the tendency of higher and frequent absenteeism

(iv) to establish and maintain industrial democracy based on labour partnership.

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(v) to bring down strikes, lock outs and gheraos by providing better wages and working conditions.

(vi) to ensure that the state bridges the gap between unbalanced, disordered and maladjusted social order.

Significance of Industrial Relations:

(i) The most important benefit of IR is the continuity of production. There is continuous employment for all.

(ii) Good industrial relations ensure the reduction of industrial disputes. Lack of industrial disputes result in an atmosphere of industrial peace which inturn promotes co-operation and increasing production.

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(iii) Good industrial relations encourage the employees to work with more enthusiasm as it ensures that they are secure economically and are taken care of.

(iv) Good industrial relations promote the new programmes for labours such as training facilities, labour welfare facilities etc. which increases efficiency of workers which results in higher and better production at lower costs.

(v) Good Industrial relations also serve for protection of national interest by ensuring harmonious relationship b/w mgmt and labour and thus efficient production.

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Perspectives of Industrial Relations

(1) Proactive Industrial Relations:-

In this proactive industrial relations, the employer is active to maintain a healthy IR. The employer provides all necessary facilities even before a demand or dispute arises.

(11) Reactive Industrial Relations

It is just opposite to proactive IR. In this situation, the management doesn't actively participate in the maintainance of healthy IR. The mgmt. works in improving IR only when any demand or dispute arises.

Faces or Determinants of Industrial Relations :-

(1) Science building:- In this face the IR is a part of

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Social sciences and it seeks to understand the employment relationship and its institution through research. The IR interact with scholarship in labour economics, industrial sociology, labour & social history, human resource management, political science, law and other areas.

(ii) Problem Solving:- In this face IR seeks to design policies and institutions to help the employment relationship better.

(iii) Ethical :- In this face, IR contains strong normative about the labour not being a commodity but a human resource and there must be protection of their human rights and they must be provide an ethical treatment.

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Role of State in maintaining I.R.

The role of State differs from public sector to private sector. In the public sector, State has a direct interference in the mgmt.-employee relation. But in private sector, State cannot intervene directly. The State must not be a silent spectator and may play persuasive roles in which it act as a mediator or a coercieve role in which it penalises the parties.

Why State intervention?

The state has a special interest to maintain industrial peace and make Statutes for proper functioning of industries and protection of interest of employer and employee.
But one of the major reasons for state intervention is the protection of workers.

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The bargaining power of workers is quite low as compared to that of employer. It may happen that the workers can be exploited and there is no protection of their interest. To ensure that either in private or public sector, the employees are not being exploited and their rights are protected, State intervenes in IR.

The state may intervene by 2 methods:

(i) Conciliation process: The state may act as a mediator and solve the dispute outside the court.
E.g S. 89 of CPC - ADR for speedy justice.

(ii) Compulsory adjudication: The intervention may also be there through conventional method of litigation.

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Impact of globalisation on IR.

- Increase in competition among industries.
- The employees have developed a tendency of switching over from one industry to another.
- The facilitation of human resources have increased from one place to another.
- In this globalising world, many companies have shut down due to competitions in the market, leaving many people unemployed.
- The closure proceedings and retrenchment has become easy which disturbs industrial relations.
- There is no alternative employment.
- The workers are displeased and dissatisfied with benefits given by mgmt. straining the industrial peace.

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* Changing dimension of IR in India.

In the begining of industrialisation the IR b/w mgmt. and employees was more strong. This relation diluted after some time as new machines were invented and hence less labour was required. There are many market imperatives like competition, accumulation, profit maximization & etc. that has changed IR in a manner where the ultimate aim of the ~~com~~ companies has become profit making and not production. This ~~has~~ has a negative impact on IR.

The concept of trade union also emerged in the welfare of employer and employee, mainly protecting the interest of working class. But several policies of government has also diluted this trade union. E.g. Political interference.

The emergence of special Economic Zone where trade-unions

is not allowed, the interest of the employees there is prone to exploitation. At present management is also encouraging the labours to not join the trade union. This is called trade unionism.

The concept of collective bargaining has been decentralised which is less effective. The mgmt has divided the collective bargaining into small components like, unit bargaining, plant bargaining, individual bargaining, commercial bargaining etc.

Due to this decentralization, the bargaining power of labours have also reduced.

Due to disinvestment in public sector, many public companies are converted into private ones. This has led to the indirect control of state over such companies. The mgmt is also compelling many employees to voluntary retire.

The pattern of reward and

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compensation has also changed. Mgmt may give more than the fixed reward or compensation.
When the concept of labour law came into existence, it was pro-~~labour~~ mgmt. After much chaos in the working class of people, labour laws became pro-labour. In the present scenario, labour laws are going back to being pro-mgmt as majority of laws are ~~ma~~ made by consultations from industrialists.
Globalisation has given several opportunities to workers. There is a shift of human resources from one place to another.

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Collective Bargaining.

Meaning.

Mr. Harbison - It is a process of accomodation between two organizations which have both conflicting and common interests.

I.L.O. Labour Manual, 1960 - It is a kind of negotiation about working conditions and terms of employment between an employer, a group of employer, or employer's organisation on one hand and one or more representative organ of workers on the other hand with a view to reaching an agreement.

C.S. Golden:- In his book Causes of Industrial Peace under Collective Bargaining, published in 1949, he defined collective bargaining as a means to equally distribute the benefits derived from industrial process among all participants.

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James Healy- In his book Creative Collective Bargaining published in 1965, he defined collective bargaining as a process by which the terms of employment and conditions of services are determined by agreement b/w mgmt. and employeer. and it is in reality a business deal b/w employer and employee which determine price of labour and terms and conditions of employment.

Basically it is a tool in the hands of the workmen to make the mgmt. fulfil their demands

Object:-

(1) To harmonise industrial relations and promote industrial peace

(4) To create equality between the bargaining power of labours and mgmt.

(4) To ensure a profound representation

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of the interest of the labours.

Evolution.

The term was first used in 1897 by Sydney and Beatrice in the book named Industrial Democracy.
When industrialisation started the hire and fire rule prevailed. There was no job security and employers used unfettered sugar to employ and retrench. The dominance of mgmt. over labours led to a movement against mgmt so as to limit its power. It brought the concept of collective bargaining to the surface.
Initially, it prevailed in industrially advanced countries but as the concept of industrial relations developed, in a parallel segment, this concept of collective bargaining also developed.
In the present scenario,

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this concept has gained a legal recognition of united power of mgmt. against workers and workers against mgmt. It works both ways i.e. in resolving industrial dispute as well as arising disputes.

International Labour Organisation in 1990 also provided for collective bargaining under 3 principles:-

(i) Right to collective bargaining is a fundamental right of labour ~~as a fundamental right~~. and all the ILO members are under Obligation to respect, promote and realise in good faith.

(ii) collective bargaining is realised as right of representation of employer and their organisation on one hand and organization of workers ~~of~~ on other hands.

(iii) The right to collective bargaining should be recognised in private as well as public

sector and state must provide for administration of collective bargaining in private and public

(8) Collective Bargaining in India.

It is justified on the basis of A. 19(1)(c). It is a comparitively new phenomenon to settle industrial dispute and this idea can be enforced in democratic countries.

In no legislation, this term is particularly used expressively. The First Five year plan recognised workers right of association. and that this idea serves as fundamental basis of peaceful IR.
The Second Five year plan recognised the need for mutual settlement of industrial disputes in which collective bargaining serves as a useful tool.
In the Fourth Five year plans, more emphasises was led on collective bargaining and strengthening trade union.

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The 1st National Commission of Labour was constituted in 1966 and gave its report in 1969. This report recommended for collective bargaining and argued that we have to evolve satisfactory arrangement for union recognition by statute and also to create condition in which such arrangement have a chance to succeed. The concept of collective bargaining is useful in western society but it may not be as helpful for Indian industry as it should be. But it can be adopted with some changes.

The 2nd National Commission of Labour submitted its report in 2002 according to which Indian labour laws weaken the protest movement in this country and it has failed to give protection

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Page No
Date

Objectives.

(I) To establish and build union recognition as an authority at workplace. The union of workmen is authorised to raise their demands.

(II) To raise standard of living and to win a better share in company's profit

(III) To express worker's desire to be treated with due respect and to achieve democratic ~~partition~~ participation in decision making effecting their working conditions.

(IV) To establish orderly practices for settlement of disputes.

(V) To defend and promote workers' interest throughout the country

Parties

There are at least 2 parties

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In case of private sector, where State has no direct control the State may act as a party because it supervises the dispute.
The trade unions serve as agent for workers as well as employers.

Subject-matter of C.B.

The ILO has decided subject-matter is decided in categories:-

(I) those which set out living standards for employment.

(II) those which regulate relationship b/w parties by settlement of disputes, recognition of trade union, enforcement of collective voices and negotiations over arguments.

Duration.

The right to collective bargaining can be fixed in period. In USA, the ~~per~~ duration of collective bargaining is from 1yr. to 3yrs.

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Advantages.

(i) It is a democratic method of settlement of dispute.

(ii) Quick and efficient method of settlement of disputes.

(iv) It is a system based on bipartite agreement and is superior to any method involving 3rd party.

Disadvantages.

Serious and prolonged strike ~~with~~ have to be tolerated.

Lack of representation of public interest.

Trade Unions:

Historical Background:

After 1st world war production and prices increased. But the wages and condition of labours were not at all improved. After 1st world war, there were more than 8 million labours in Britain. They united to represent their demands. This union was further strengthened. By 1889, there was a change in political structure and the left wing i.e. communists rose. This left wing propounded the idea of trade unionism that focused on the interest of labour only.

In a parallel scenario, India was also developing this concept of trade unionism. Several philanthropist, social thinkers organised labours in the country and encouraged them to

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speak against the inhuman working conditions. The idea of strike committees also emerged.

Pre Independence.

① Till 1918 -

↳ 1860 - For the very 1st time, a movement represented labour agitation in Bengal. The labours protested against the hardships faced by them in plantations and cultivations. This movement was successful and the British government formed Indigo commission. This commission highlighted the miserable conditions of workers.

↳ 1875 - In Bombay another movement was organised by Sarobji Shapori against the poor working conditions of labour class. Consequentially, Factory Commission was

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formed by British Govt. The Commission recommended that the factories and working conditions of labours therein must be regulated. Upon this recommendation the Factories Act, 1881 was enacted. But this Act failed to address the issues like child labour ~~and~~ as well as working condition of women.

↳ 1884 — A new factory commission was appointed. In the same year N.M. Lokhande organised a conference in Bombay and presented a memorandum to the govt. signed by 5300 labours. The key demands enlisted in it were:-

(i) One-day full rest in a week.
(ii) Fixed working hours
(iii) Provision of lunch-hour

But this memorandum was not considered by the government

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and as a result, this conference failed.

↳ 1889- Another memorandum was presented by ~~Hon~~ N.M. ~~Gokhale~~ Lokhande, which, this time was signed by more than 18000 workers. In this memorandum for the first time the ~~co~~ concept of labour association emerged. In the same year, Deenbandhu started a labour journal. After this memorandum, strikes started throughout the country.

E.g. 1896 – Jute industry, Calcutta.

1903 - Press and Machine section, Madras.

These strikes lasted for more than 6 months.

↳ 1905 – Strike was announced by Govt of India press. The major issues were:-

(1) non-payment of remuneration for holidays.

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(iii) imposition of irregular fines.
(iv) low rates of wages.
(v) Provision for casual leaves.

↳ 1918-24- It is termed as the best era of trade unionism. as most of the trade unions were started. E.g. Madras Labour Union, Indian Seamen Union, Calcutta Clerk Union.

#1919- International Labour Organisation came into existence. India was one of the originating member.

#1920:- All India Trade Union Congress conducted a no. of strikes :-
(i) As an influence of Russian Revolution
(ii) to improve economic conditions of workers

↳ 1925-34

Laws to regulate trade unions

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were formed. Trade Union Act, 1926 was enacted that provided for registration, status and functions.

1929 - A split was there in All India Trade Union Congress. The communists left the congress and constituted All India Trade Union Federation and argued that there is situation of economic hardship for labour class of country and hence trade unions are required. Also, a new Act namely Trade Disputes Act, 1929. was enacted.

↳ 1935-38.

The year 1935 saw the revival of trade unions. Several trade unions were united e.g. All India Red Trade Union and National Trade union Federation merged into All India Trade Union Congress.

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because it gained recognition of INC.

↳ 1939-46- After 2nd world war, the existing Industrial relations was destroyed. This was a period of unrest and to control that labour unrest, trade union activities increased. The industries stopped production leading to increase in unemployment. As a result, trade unions started strike.
In this period, Defence of India 1942 was enacted to adopt coerciave measures to stop the strikes and settle the unrest. Industrial Employment Standing Orders, 1946 was enacted. It was passed to bring uniformity in condition of employment.

Bombay Industrial Relations Act, 1946 - This provided for registration and recognition of trade union.

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5 1947. Till date.

1947- INC supporters made INTUC, 1947. For the first time the Congress party made link directly to the labour class. Its objective was to establish an order in society which is free from hinderances in the way of all round development of its members.

Industrial Dispute Act, 1947 came into existence that provided for amicable settlement of dispute b/w management and employees. Adjudication was made the only way to settle the disputes. Subject to certain formalities, the Act didn't give the workers a right to strike.

The Trade Union Act, 1926, was amended with objective of recognition of trade unions and prohibition of unfair

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labour practices.

#1948- Another Trade union was made by socialist in the country namely Hindu Majdoor Sabha. Its objective was to promote economic, political and social interest of working class of the country. It also tried to establish and promote democratic society in country.

#1949- United Trade Union came into existence. The main objective was to establish socialist society in the country. Its members were dis-satisfied with the non-socialist approach of the Union. Another objective was nationalisation and socialisation of means of production.

After 1950, the trade unions in the country were dominated by one or the other political party.

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#1954- A trade union in the name of Bharatiye Mazdoor Sangh was formed which was supported by Jansangh Party.

#1955- Hindu Maydoor Panchayat Trade union came into existence and Indian Federation of Independent Trade union also came into existence which wasn't affiliated from any political party.

#1960- T.U. Act, 1926 was amended to provide for membership, subscription and duties of trade union.

#1964- A conference was organised by IFITU ~~to~~ ~~create~~ at Patna with an aim to unite all the independent trade unions but no outcome of the meeting was there.

#1970- AITUC communist

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group separated from congress and formed their own trade union namely centre of India Trade Union.

1972 - The three central trade unions — Hindu Mazdoor Sabha, INTUC and AITUC initiated to unite for labour welfare. They met at Delhi and agreed to establish a national Council of central trade union. The main focus was there on the co-operation among all labour unions.

In the same year the trade union for women specially was formed namely SEWA. Its idea was given by Ila Bhatt.

1977. All India Convention of Central Organisation of Trade Union was held. They demanded for -

(i) national policy for wages and price.

(ii) need based wages for

industrial workers.

(iv) time bound program ensuring reduction in wage disparity. This convention failed.

1999- Another unity move was there in India. BMS, AITUC, CITU, INTUC united with object :-

(i) protection of domestic industry because after 1990, the icleca of globalisation arose and foreign MNCs started their company in India.

(ii) strengthening of public sector.

(iv) Inclusion of rural and unorganized labour in social security scheme.

2009- There was consensus among major CTUs and they organised National Convention of workers in New Delhi. In this conference, a

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joint action programme was launched to deal with issues like:-

(i) price rise
(ii) violation of labour laws
(iii) loss of jobs in recession and creation of national social security fund.

#2008 - Social security legislation for workers of unorganised sector was passed but it didn't provided for any fund for workers.

In a Joint Action Programme, All India Protest Day was organised on 28th October, 2009. This was successful and was followed by a massive dharna in front of Parliament on 16th December, 2009. It was termed as Satyagraha and was followed by Jail Bharo Andolan. Inspite of all these movements, government didn't pay heed to the demands of people.

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2012 - A national strike was called by AITUC, BMS, CITU, HMS, INTUC, TUCI and NLO. Their demands were:-

(i) protection against unemployment
(ii) no violation of provision of labour laws.
(iii) no contractualisation of jobs.
(iv) price rise of commodities
(v) no universalization of social security scheme.

In 2002, 2nd National Commission of Labour reported that-

(i) the multiplicity and fragmentation and politicization of trade unions serve as obstacles in unity move.

(ii) from 1983-94 many T.U. were registered.

(iii) some T.Us were kept out

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from the mainstream. It is also against unity move.

(iv) Emergence of SEWA group eliminated the participation of women.

(v) Ad-hoc struggle committees

(vi) demand for abolishment of contract labour and governmental policies like disinvestment and privatisation.

(vii) proxy workers.

(viii) closed shop- the membership of trade union is closed for everyone except members.

union shop- subscription is open to all workers in the same industry.

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Trade Unions Act, 1926.

This Act came into effect on 1st June, 1927 with two broad objectives —

(i) registration of trade unions
(ii) protections of trade unions.

Definition of Trade Unions.

Section- 2(h) of the Act defines trade union as a temporary or permanent combination primarily for regulating relations between employer and workmen, workmen and workmen and employer and employer and for imposing restrictions on conduct of business. and also includes federation of two or more trade unions.

Lester- A trade union is an association of employees designed primarily to maintain and improve the conditions of employment of its workers.

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Sydney & Beatrice - A continuous association of wage earners for the purpose of maintaining the conditions of working people.

Trimula T. Devasthanam V. Commissioner Labour, (1979) - Associations of persons engaged in establishment which carries on any industry are trade unions.

Exceptions: This Act shall not effect-

(i) any agreement between partners on conduct of business.

(ii) any agreement b/w employer and those employed by him as to such employment.

(iii) any agreement in consideration of sale of goodwill of a business or of instruction in any profession of trade and handicraft.

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G.T.T.C. V. Assitant Labour Commission and Dt. Registrar of T.U. 2002

Any group of employees may be registered as trade union under the Act for the purpose of regulating relation b/w them and their employer or b/w themselves. Further, the emphasis is on the purpose for which the T.U. is constituted and not so much on the person who constituted it. Refusal to register a t.u. on the ground that the applicants were not workmen but were supervisory officers and managers is not a valid refusal.

There are 3 factors which are taken into consideration :-

(i) objective
(ii) members
(iii) relation with industry.

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Trade dispute [S. 2(g)] -

Any dispute b/w employer and workmen or workmen and workmen or employer-employer which is connected with -

(i) employment.
(ii) non-employment
(iii) terms of employment
(iv) conditions of labour of any person.

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* Registration of T.U.

One of the main objectives of the Trade Unions Act, 1926 is the registration of trade union. The registration of trade unions is not compulsory. But a registered trade union must set out its object and purpose of using its funds.

↳ Advantages of Registration.

(I) Acquire and hold movable and immovable property.
(II) Immunity from civil and criminal liability.
(III) Defend legal proceedings in its own name.
(IV) Power to contract under its own name.

↳ Authority for Registration. [S.3]

This section provides for appointment of Registrar by appropriate govt. in all states

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and U Is. This section also provides for appointment of deputy and additional registrar. If any additional or deputy registrar discharges the duty of registrar. for that purpose he shall be deemed to be registrar.

Mode for Registration. [S.4].

As per this provision any 7 or more members of a trade union by subscription of their names to the trade union, may apply for trade union.

Proviso:—

① NO T.U. shall be registered unless at least 10% or 100 of the workmen whichever is less ~~engaged~~ employed in the industry with which it is connected.

② No T.U. shall be regd. unless on the date of

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making application at least 7 persons must be engaged in the industry with which T.U. is connected.

4 Application for registration [S.5].

Application shall be made to registrar accompanied by copy of rules of T.U. and statement of :-

(i) name, occupation and address.
(ii) name, occupation, place of work in case of workmen,
(iii) name of trade union.
(iv) Titles.
(v) Titles, name, age, address and occupation of office bearers.

If the trade union is old more than 1 year then general statement of assets and liability is to be attached.

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Page No. ___
Date ___

Ls Contents of copy of rules. [S.6]

No T.U. shall be registered unless the copy of rules containing the following details:-

(i) Name of T.U.
(ii) objects, &
(iii) purposes
(iv) maintainance of list of members of T.U. and adequate facilities for registration thereof.
(v) admission of ordinary members or temporary members.
(vi) payment of minimum subscription by the members-
  (a) Rs. 1 p.a. for rural workers.
  (b) Rs. 3 p.a. for workers in other unorganised sector.
  (c) Rs 12 p.a. in any other places.
(vii) The conditions under which members shall be entitled

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to benefit.

(viii) fine and forfeiture imposed on workers.

(ix) manners in which rules shall be amended, varied and rescinded.

(x) manners in which executive members shall be elected or removed.

(xi) duration of period shall not be more than 3 years for members or office bearers.

(xii) the custody of funds of T.U.

(xiii) the manner in which T.U. may be dissolved.

ACC Rajanka Limestone Quarries Mazdoor V. Registrar of T.U., (1957).

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Inland Steam Navigation workers union v. Registrar of T.U. (1963)

In this case the application for registration of trade union was rejected on the ground that the application was ~~rejected~~ same to prior regd. T.U. The HC observed that registrar has committed a wrong.

ONGC workers Association v. State of W.B. (1988)

Order passed by registrar is purely administrative in nature.

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6. Power to call for particulars and to require alteration of name [S.7].

After receiving the application and copy of rules, if the Registrar isn't satisfied, he may call for further information and may refuse to register the T.U. until such information is obtained.

The Registrar shall ask the applicants to alter the name of T.U. if:-

(i) name is similar to an existing T.U.

(ii) name resembles the name of T.U. in such a way that is likely to decieve the public or members of other T.U.

The Registrar may refuse to register until such alteration is made.

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Registration [S.8].

After satisfied with the formalities, it shall be registered by the registrar.

Registration Certificate [S.9].

The Registrar shall issue a certificate of registration in the prescribed format. It will be a conclusive proof of the T.U. being registered.

S.9[A].

It was added in 2001. After registration at all times T.U. continue to have not less than 10% or 100 workmen whichever is less. Further 7 members must be from the same industry for which T.U. is made.

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Incorporation of regd. T.U. [S.13]-

After registration, the trade union:-

(i) is a body corporate
(ii) can sue and be sued in its own name.
(iii) can acquire movable and immovable property.
(iv) have perpetual succession.

Statutes not applicable to regd. TU. [S. 14]-

(i) Companies Act, 2013
(ii) Society Registration Act
(iii) Co-operative Societies Act

Registered office [S.12].

All communications must be made to regd. office. In case any change of regd. office, it must be notified to the Registrar.

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Page No.
Date

Cancellation of T.U. [S. 10].

The certificate of registration of T.U. may be cancelled or withdrawn by Registrar. Following are the grounds -

(i) On the application of T.U.
(ii) if the registrar is satisfied that —
  - certificate is obtained by fraud or mistake
  - T.U. cease to exist.
  - if the T.U. contravenes the provision of law even after notice by registrar.
(iv) if the T.U. ceases to have required no. of members

Proviso says that notice by registrar is not required in case of application by T.U. But in other cases 2 months prior notice is to be given to the T.U.

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6 Appeal. [S.11]

An appeal by T.U. lies:-
(i) in case of no registration.
(ii) " " " withdrawal.
(iv) " " " cancellation.

The appeal must be filed under 60 days from the notice of the above by the registrar.

The Authorities for appeal are:-
(i) High Court if the H.Q. of regd. T.U. is situated in presidency towns.

(ii) If the Regd. T.U. falls under Labour Court or industrial tribunal jurisdiction.

(iv) Assistant or Additional session judge appointed by the govt.

The court may:-
(i) dismiss the appeal if it is satisfied that it is frivolous

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and not right.

(11) Order the registrar to registrar to register the T.U.

The provisions of CPC will be applicable.

As per S.11(4), when the appeal is dismissed by Labour Court-, an appeal lies in High Court.

Mukul Iron Steel Works Ltd. V. V.V. Deshpande, 1986-

HC Observed that, HC may exercise its power u/A-226 of Constitution and may quash the order of Registrar.

Gujarat-Rajyakamgar Sabha V.V Registrar of T.U. (1999).

Court Observed that-

① registrar must give an opportunity to the T.U. to be heard.

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(ii) registrar must satisfy that the grounds under S.10 really exists.

(iv) registrar must make such orders if he deems it to be necessary.

* Rights and Liabilities of Trade Unions.

1) Agreement Restraining Trade. [S.19].

under contract Act, it is void. But S.19 of this Act provides that any agreement restraining trade is not unlawful.

2) No criminal liability. [S.17].

No member of regd. T.U. will be liable for any criminal conspiracy.

3) No civil liability [S.18].

~~In cases of forbearance of~~ In certain cases no suit can be

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filed against any regd. T.U.

Disqualification of office-bearers [S. 21-A]

Grounds:-

(i) he has not attained the age of 18 yrs.

(ii) he has been convicted on the basis of moral turpitude and imprisoned unless a period of 5 years since his release has elapsed.

Rights of minors to be members of T.U. [S. 25].

Any person above 15 years of age can be member of T.U. It is not limited to workmen only.

Change in name [S. 23].

Any regd. T.U. may change

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its name with the consent of not less than 2/3rd ~~majority~~ of total members.

Amalgamation of T.U. [S. 24]

Any two or more regd. T.U. may amalgamate as one T.U. without or with dissolution. Two conditions are to be followed:

(i) record vote of at least 1/2 member of T.U..
(ii) 60% votes recorded in favour of the proposal of amalgamation.

Rules to be followed for S. 23 and 24. [S. 25].

Notice of change in name or amalgamation must be given to Registrar in writing.

While changing name the notice made to Registrar must be signed by secretary and seven members of T.U.

In case of amalgamation of two or more T.U., such notice

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S.15, 16, 27, 29, 25-A

must be signed by secretary and 7 members of each T.U. to be amalgamated.

Right to spend general funds [S.15].

This section provides for the purposes for which the funds of the Union may be spent. Application of funds on the object not provided under the rules is ultra-vires unless sanctioned by every member.

Right to Constitute a Separate Political fund [S.16].

The regd. T.U. has the authority to constitute as separate fund for carrying out political objects. Such fund may be constituted from separate levy on members.

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Dissolution of Trade Union. [S. 28]

When a Regd. T.U. is dissolved, the notice of dissolution must be signed by ~~the~~ secretary and ~~per~~ 7 members and sent to Registrar within 14 days.

When the Registrar registers the dissolution, if no distribution of funds is provided in the rules of T.U. the Registrar shall divide funds among the members as it thinks fit.

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Module - VI.

Standing Orders. 21/08/17.

Industrial Employment (Standing orders) Act, 1946

Historical Background.

Before 1946, the terms and conditions of employment were not specific and non-uniform. The state worked on concept of laissaize-faire. Hire and fire theory prevailed in the industry. The management was the master of industrial relations. There was a contract b/w employes and employee called as contract b/w unequals due to wide gap in bargaining power. The concept of social justice emerged that necessitated the protection of weaker section of the society.

To deal with these issues, a conference named Tripartite Labour Conference was held in 1943, 1944 and 1945. The recommendation of the conference was to enact a separate legislation

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in name of Standing Orders in which employers were required to precisely define terms and conditions of employment.

The Act took a modern step in the name of statute in which employer has to prescribe the minimum condition of service subject to which employment is provided. It provides standard terms and conditions which are uniform in nature. This Act requires employers to define with sufficient precision, the condition of employment and to make such conditions known to workmen.

Standing Order is a kind of document prepared by employer to lay down terms and condition of employment. It is the duty of employer to make the employees aware of the terms and conditions. It prohibits industrial disputes.

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Jeevanmal and Co. V. Secretary. 1955

The purpose of this Act is to provide for laying down of conditions of employment with sufficient precision and not to lay down the condition themselves and such conditions should not be accepted. It is also necessary to make conditions known to workmen.

S.S Light Railway V. S.S. Railway workers' Union, 1969.

The object of this Act is to require employers to define with certain conditions of service in their establishment and to reduce them in writing and to get them compulsorily satisfied in order to avoid unnecessary industrial disputes.

Uptron India Limited V. Shammi Bhan & Ors. 1998.

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SC observed that the concept of employment under Industrial laws involves 3 ingredients:-

(i) management and employer who gives job.
(ii) employee and workmen who has to do the work.
(iii) contract of employment subject to the supervision and control of employer.

Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamagar Union & ors. (1999).

SC observed that the Act was made by Parliament to require employers of all industrial establishments to define formally the conditions of employment on which the workmen would be engaged.

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Provisions

* Application [S.2].

The Act applies to every industrial establishment where 100 or more than 100 workers are employed or where employed on any day in preceding 12 months.

* Matters to be provided under this Act - [S.2(g)].

(I) classification of workers.
(II) Period and hours of work, holidays, pay-days, wage rates etc.
(III) Shift working.
(IV) attendance and late-coming.
(V) Conditions of procedure and authorities to apply for leave, holidays.
(VI) requirement to enter by certain gates and permit to search.
(VII) closing and re-opening of section of industrial establishment and temporary stoppage

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of work and rights and liabilities of workers and employers arising thereof.

(viii) termination of employment and notice of that to employees.

(ix) suspension on ommission and misconduct.

(x) means of redress for workmen against unfair treatment or wrongful extraction by by employers or its agents.

(xi) any other matters which may be prescribed.

U.P. State Sugar Corporation v. B.K. Mishra (1994).

There is no requirement of standing orders for transfer of workmen and the employer can transfer the workmen from one place to another.

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S.S. Light Railway Co. Ltd. V. Ss. Company workers' union (1969).

One worker was transferred from one plant to other. This transfer was challenged on the ground that no provision for transfer was made in the standing orders. S.C. held that any standing order for transfer may not be required

* Power to appropriate govt. to include any other matter in Standing orders. [S.15].

S.15 of the Act authorizes the appropriate govt. to make rules to carry out the provisions of the Act. But the Govt. is under duty to consult representatives of both the employers and workmen concerned before final rules are made.

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Submission [S.3].

When any employer prepares any standing order:-

(i) within 6 months from the dates of from which the Act becomes applicable, 5 copies of draft of S.O. is to be submitted to certifying officer

(ii) provisions shall be made in such S.O. for every matter set out in schedule and where the model S.O. is provided, in that case the draft S.O. must be in consistency with the model S.O.

(iii) the draft S.O. must be accompanied by statement giving prescribed particulars of workmen along with trade union.

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(iv) for similar industries, a joint S.O. may be filed.

Conditions for certification of S.O. [S.4].

S.O. shall be certified if :-

(i) the draft S.O. contains every matter set out in schedule.
(ii) the draft S.O. is in confirmity with the provisions of the Act.
(iii) the draft S.O. is in conformity with model S.O.
(iv) the draft S.O. is fair and reasonable.

Certification of S.O. [S.5].

On receipt of draft S.O. under S.3, the Certifying Officer shall forward a copy of it to the T.U. or in case of no T.U., to the workmen, together with a notice inviting objections and if any objection is there

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it has to be submitted within 50 days from receipt of such notice. After hearing both the parties, the certifying officer will decide whether any alteration is required or not, and shall make an order in writing. The S.O. are certified and copies of certified S.O. are sent to the employers and to the trade unions or representative of the workmen.

Appeals - [S.6].

This section provides that any person who is aggrieved by the order of certifying officer may file an appeal to the authority within 30 days from which the copies are sent. An appellate authority can either confirm with the S.O. as certified by the certifying officer or amend the said S.O.

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The decision of the Appellate authority shall be final and no further appeal lies against such order. The appellate authority has to send copies of its order to the certifying officer, employer, trade unions or representatives of ~~workmen~~ workmen within 7 days of the order.

Date of Operation of S.O. [S.7]:-

In case of no appeal u/s.6, the S.O. will come into operation upon the expiry of 30 days from the date when the copies of S.O. are sent ~~to~~ under S.5(3). If any appeal arises, the S.O. will come into operation after expiry of 7 days when the appellate authority passes the judgement

Posting of S.O. [S.9]:

The text of S.O. is posted by employer in English and in

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language understood by the majority of his workers.

Duration and modification of S.O. [S.10].

Unless and until there is a contract b/w employer and employee, no modification in S.O. is to be made before expiry of 6 months.

Not applicable in Gujrat and Maharashtra.

Payment of subsistence allowance (S.10-A).

It was added in 1982. In case of suspension of workmen due to his misconduct, the employer shall pay:-

(i) 50% of his wages for first 90 days.

(ii) After 90 days, 75% of wages is to be given.

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Temporary application of model S.O. [S.42-A]

If the Industry doesn't ~~have~~ has its own S.O., ~~or~~ the model S.O. is to be followed. Not applicable in Gujarat & Maharashtra.

Penalties and Procedure. [S.13].

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30/08/17.

Industrial Disputes Act, 1947.

Introduction.

For growth of industry there must not be any dispute.

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Historical Background:

↳ 1860 – For the 1st time, Employer's and workmen Dispute Act, 1860, came into force. Its main object was speedy and summary disposal of disputes. This law also provides for wages of workmen employed in railway, canals and other works.

↳ 1929 – Trade Disputes Act, 1929 was enacted. that provided for constitution of ad-hoc bodies for resolution of industrial disputes – Board of Enquiries and Board of Conciliation. This act aimed to promote amicable resolution of trade dispute. The Act provided that the govt. could intervene in the labour mgmt. relations for 1st time and govt. may also use persuasive

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Processes for settlement of industrial disputes.

↳ 1942. — Defence of India Rules, 1942, was enacted and provided that govt. may refer the dispute for adjudication and conciliation. The govt. could use coercive process to settle trade disputes.

↳ 1947:- The previous 3 legislatures suffered from defects like:-

(i) coercive measures for settlement of industrial disputes.
(ii) no time limit for deciding the industrial disputes.
(iii) no provision of for amicable dispute settlement.

The Industrial Dispute Act, 1947 dealt with these defects

Objectives:

Dimakuchi Tea Estate Karmachari Sangh v. Dimakuchi

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Tea Estate (1958).

SC observed that ~~provisions~~ objectives of this legislation are:-

(i) promotion of measures for securing and preserving amity and good relations b/w employer and workmen.

(ii) investigation and settlement of Industrial dispute b/w W-E, E-E and W-W. and with a right of representation by regd. T.U.

(iii) prevention of illegal strikes and lock-outs.

(iv) relief to workmen in matter of lay-off and retrenchment

(v) Strengthening C.B. of trade union or association of workers.

This Act provides for:-

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(i) Institutions for prevention and settlement of Industrial Dispute.

(ii) Conciliation will be compulsory in all disputes in public utility services and optional in other industries.

(iii) provides for prohibition of strikes and lockouts during pendency of conciliation and adjudication.

(iv) to declare any industry to be public utility services for a period.

LIC India V. D.J. Bahadur (1980). J. V.R. Krishanayyer observed that ID Act is a benign measure which seeks to prevent industrial tension, provide mechanism of dispute resolution and setup machinery so that energy of workmen may be used for more production and this assurance of industrial justice may create a climate of goodwill.

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04/09/17.

Industrial dispute [S. 2(K)].

Any dispute or difference b/w E-W, E-E & W-W which is connected with the employment, non-employment, terms of employment, conditions of labour of any person.

Conditions.

① Factum of I.D.

There must be a real dispute b/w W-E, i.e. any demand is made by worker and such demand is rejected by employer. The demand must always be rejected by mgmt. for existence of I.D.

The dispute must also not be resolved. The dispute

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must be connected to:-
(i) employment (ii) non-employment (iii) terms of employment (iv) conditions of labour of any person.
There must be dispute raised by workmen.

Sindhu Resettlement Corporation Ltd. v. Industrial Tribunal (1968) LLJ.
J. Bhagwati observed that a mere demand to a govt. without a dispute being raised by workmen with their employer cannot become industrial dispute.

Bombay Union of Journalist v. The Hindu (1963) SC.
SC held that ID must be in existence or apprehended on the date of reference. The effect of this principle is that even if the demand was not made and it is raised at the time of

reference or during conciliation proceeding & it is an industrial dispute.

Shambhurath Goyal V. Bank of Baroda (1948) rfd. in Workmen of Hindustan Lever Ltd. v. Hindustan Lever Ltd (1984).

SC observed that expression industrial dispute under the Act has been so widely defined as not to leave anything out of its comprehension and purview involving area of conflict that may be developed b/w E & W in respect of which a compulsory adjudication may not be available.

M/S Village Papers Pvt. Ltd. v. S.O. Himachal Pradesh (1993).

HC observed that:-

(1) a mere demand to

employer cannot become ID without being raised with employer.

(i) govt. can forward the demand of workmen and if it is rejected by employer, it becomes ID.

(ii) It is not necessary that demand must always be in writing except under S.22 of this Act.

(iii) Demand need not to be sent directly to employer ~~that~~ nor it is essential to make it expressely.

(iv) Date of making reference is required.

(v) Only disputes existed or apprehended can be referred.

(vi) The jurisdiction of Labour Court and Industrial Tribunal is limited in the

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sense that- no LC or IT can take cognizance unless reference is made by govt.

(viii) Reference without any demand, employer is not required to point out that-

(2) Parties to ID.

Under S. 2(k), the dispute must be b/w W-W, E-W, & E-E.

Trade Unions act on behalf of workers. "Trade union raises any dispute of a workmen or deemed to be the party to the dispute". [Bangalore's WC and Mills Co. v. Their workmen (1968) SC]

(3) Subject matter of ID.

In order to be ID u/s- 2(k) dispute must be connected with :-

① employment

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(iii) non-employment.
(iv) terms of employment.
(v) condition of labour of any person.

Any person means natural as well as legal person. There are 3 approaches regarding the meaning of any person:-

(i) whether ~~any~~ that person is workman or not, intention of the legislation is to be ~~accreted~~.

(ii) concerned person need not be workman within the meaning of this Act.

(iii) The terms any person is equated with workman.

05/09/17.

Assam Chah Karmachari v. Singh v. Dinakuchi Tea Estate (1958)

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An assitant-medical officer was appointed and was on probation for 3 months. During this period he was terminated and this termination was challenged by him in Industrial Tribunal.

J.S.K. Das while explaining the term any person held that it cannot mean any body. The term is limited to employee or the workmen employed in any industry. The expression any person mean in whose employment, non employment, termination of employmen or condition of labour the workmen has direct and substantial interest and there is community of interest.

In this case, it was observed that there was direct and substantial interest of workmen but there was

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no community interest- and so, representation of trade union is not relevant-.

06/09/17.

In this case workmen united had no substantial interest-. and thus they cannot- raise industrial dispute.
Industrial dispute may not- always be an industrial dispute and may also be an individual dispute. A dispute concerning a person who is not a workman ~~is an~~ may be an individual dispute.

The expression any person may be subject to two limits.

(1) existence of any real dispute
(2) direct and substantial interest- of person concerned.

Bombay Union of Journalist- v. The Hindu. (1963)

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J. Shah observed that the principle that the person who seeks to support the cause of the workman, must themselves be directly and substantially interested in the dispute. The persons who are not employed cannot be regarded as so interested that by their support they may convert an individual dispute into industrial dispute.

S.2A — inserted in 1965 — any dispute of individual workman shall be deemed to be industrial dispute.

There are 3 views regarding industrial dispute covering the individual dispute.

(1) Individual dispute can never be an industrial dispute.

(2) Individual dispute can be covered under industrial dispute under certain circumstances

like providing social security to workman

(4) ~~To consider the~~ Individual dispute cannot only be considered as industrial but if such individual dispute is represented by a trade union, then it can be covered under industrial dispute

Newspapers Ltd v. State Industrial Tribunal (1957).

J. Kapoor observed that he could not be termed as a workman in plural sense. So, this dispute is not industrial dispute u/s 2(k). The UP working Journalist Union was not the union of the workman.

Bombay Union of Journalist v. The Hindu (1963).

J. Shah — In order that it may become industrial dispute, it has to be established that it

has to be taken up by union of employees of The Hindu or by an appropriate number of employees of the Hindu.

Dharampal Premchand V. M/s Dharampal & Premchand (1966).

The SC related that- the requirement- of the union of employee of the ~~same~~ same & industry.
18 workmen were terminated. and besides them no other employee was member of Mercantile Employee Association. The Association was not- authorized to raise dispute, as it was not registered.
It is conceivable that the workmen of the establishment have no union of them and some of them may join the union ~~of the other~~ belonging to same industry. In such a case if the union takes up the cause of workmen working in an

establishment- which has no union of its own, it would be unreasonable to hold that the dispute does not become industrial dispute because which sponsored the dispute is not the union exclusively of workmen working in the establishment- concerned.

M/s western India Match Company Ltd. V. Western India Company Workers (1970).

An individual dispute may be converted into industrial dispute by the workmen representing on the ground that they have community of interest and they have substantial and direct- interest with employmen, non- employment, terms of employment and conditions of labour of concerned employment.

07/09/17.

Individual ~~Industrial~~ dispute is not per se industrial dispute.

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Several points were identified by Supreme Court.

Individual dispute is not industrial dispute unless it is not represented by T.U. and besides this there are following requirement.

(i) The dispute must be represented by appreciable no. of workmen.

(ii) The dispute must be sponsored by T.U. All the costs of proceeding is to be given by the T.U.

(iii) Effect of subsequent withdrawal of support by workmen. The withdrawal can be made after reference by the government.

(iv) Time for representation of dispute, at least time of reference.

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(iv) In case of death of workmen, the dispute is handled by his legal heir.

Constitutional validity of S.2A.

The amendment was challenged on the following grounds:-

(i) Parliament has no power to convert individual dispute into industrial dispute.

(ii) The amendment is repugnant to industrial dispute Act, 1947.

(iii) The amendment is violative of A-14 of Indian Constitution.

Delhi, Punjab & Haryana Mysore, Madras HC upheld the constitutional validity of the section

Calcutta, Allahabad, Patna HC held this provision as

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ultra vires to the Constitution.

Rustom & Hormsby Pvt. Ltd. v. T.B. Kadam (1975).

SC upheld the constitutional validity of the provision.
S.2A was inserted to mitigate the hardship caused as a result of judicial pronouncements.

S.2A is quite limited in the sense of discharge, dismissal retrenchment and termination of employees, to convert individual dispute into industrial dispute.

S.2A(2) - inserted in 2010.
It states that after expiry of 45 days from the date of making an application to govt.; no reference is required to further go to labour court.

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Radheshyam V. S.O. Haryana (1998)

SC held that S.2A contemplates nothing more than to declare individual dispute to be industrial dispute. It doesn't amend the definition of industrial dispute set out in 2(K) of the Act.

S.2A is limited. It only covers only four situation.

In a case of dispute other than four criteria, the principle laid down by the court is still applicable which is creating hardship.

Individual dispute connected with or arising out of DDR, be only considered as industrial dispute

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Page No.
Date 13/09/17.

Industry [S.2(j)]

Industry means any business, trade, manufacturing, undertaking or calling of employers.
and it includes any calling, service, employment, handicraft industrial occupation or allocation of workmen.

1982 - S.2(c) of the amending act provided for definition of industry. But this new definition is not applicable. This definition is based on various judgements by the courts.

D.N. Banerjee v. P.R. Mukharjee (1953). / Budge Budge Municipality case.

For the first time, a question arose that what includes industry.
In this case, the Head Clerk

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and sanitary inspector were dismissed from the Sewerage Board of Municipality. The aggrieved party went to ~~the~~ govt. and govt. contended it to be an industrial dispute. The Industrial Tribunal nullified the termination. The HC also did the same. The case went to SC. The SC held that municipality is an industry, and there exists industrial dispute b/w the municipality and the employees who are terminated.

The court relied on an Australian case. Federated Municipal & Shire council of Employees, Union of Australia v. Lord Mayor Elderman Councillors of Citizens of Melbourne Corporation.

In this case J. Chandrashekhar Aiyyer answered the questions affirmatively and dismissed the petition of the municipality

It was also observed that for any establishment to be industry, the motive of profit making is not necessary.

Baroda Borough municipality v. Its workmen. (1957).

The question before SC was that electricity department is industry or not. SC also followed the D.N. Banerjee judgement and held that electricity department is an industry.

Corporation of City of Nagpur v. Its employees (1960).

This corporation provided a scale of wage which was challenged by its workmen. The question rose that

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The SC focused on 2nd part of definition of industry which includes any calling, service, employment, handicraft, industrial occupation or avocation of workmen.
SC classified the work of Corporation:- (i) Regal function.
(ii) Municipal function.
In case of regal function or sovereign in nature, such functions are not covered under industry. The municipal functions are covered under industry.
SC observed that the definition is quite comprehensive. There are two parts of this definition. The first one part defines it from standpoint of employer and other from employees. If any act falls under either part of definition, it will always be considered as industry. Any activity which falls under the definition of industry, it must be

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organized activity. Regal fuduciou must be excluded from the industry. Services rendered by an individual would also be covered. Services rendered by corporation will also be covered under industry and employees may claim all the benefits. If any establishment discharges many functions SC ruled that neither investment- nor profit motive & Sine qua non for determining whether an activity was industry or not.

Bangalore Water Supply & Sewerage Board v. R.A. Rajappa (1978)

Is Sewerage Board an industry?

This case was decided by 7 judges bench.

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SC critically examined the earlier decisions and has interpreted the term so as to cope with the modern socio-economic requirements and to keep pace with industrial development of the country.

19/09/17.

SC laid down following principles.

(i) ~~There must be~~ The systematic activity organized by coperation b/w employer and employee.

(ii) For production and distribution of goods and rendering of services.

(iii) There must be systematic activity.

These three parameters were set for determination of Industry. This is called triple-test.

Systematic activity - regular activity.

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* Another important points of judgement

↳ Absence of profit motive or gainful objective is irrelevant.
↳ Nature of activity must be functional and decisive with special emphasis on employer-employee relationship.
↳ If the organization is trade or business, it does not cease to be trade or ~~bee~~ business because of philanthropy animating the industry.

SC provided certain exceptions as to definition of industry:-

J. Krishnayyer excluded a single lawyer, rural medical practitioner, urban doctor and rural engineer with little assistance of servant. The reason was that there was no employer-employee relationship in these circumstances.

J. V.R. Krishnayyer also excluded small professionals, handicraft, baker, candle maker.

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on the ground that there was nothing like systematic activity in these

J. Krishnayyer also excluded regal or sovereign function of state on the ground that they are purely sovereign activities and only state may liable for any misconduct.

Court also excluded stray-wage earning employees

Hospitals.

State of Bombay V. Hospital Mazdoor Sabha (1960) SC.

J.J. Group of hospitals was run under State govt.. 2 ward boys were terminated. The persons filed a writ of in HC contending that the retrenchment is illegal. Bombay HC upheld the contention of the ward boys.

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The case was taken to SC.
The question arose that whether hospital is industry or not.
SC held that since hospitals render services, they are industri
SC stated that an activity systematically and habitually undertaken for production of goods or rendering of services must be considered as industry

Mgmt. of Safdurjang Hospital V. Kuldip Singh Sethi (1970) SC

The dispute was related to computation of arrears of wage.

A TB research institute had dispute regarding

Mgmt. of Kurji Holy Family Hospital Patna, terminated 2 employees.

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These 3 issues were merged into one. SC observed that the common question involved in all these 3 appeals was whether the activities carried

In 1970, SC denied 1960 judgement. The court laid down another four factors :-

(i) In view of definition of industry, the 2nd part of definition should not be taken into consideration, independently.

(ii) The word industry must stick and discloses that a workman is to be regarded as employee if he follows one of the vocation.

(iii) The term industry has a definite economic content & authorities ~~have~~ are uniformally accepted as ~~ex~~ professions.

(iv) Material services are not-

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Services which depend wholly on contribution of professional knowledge and skills.

18/09/17.

Educational Institution.

Corporation of city of Nagpur V. Its workers (1960).

SC held that the educational institution run by municipality was a service rendered by the depr and so that subordinate maniel employees of the depr came under Worker and entitled to benefits under this Act.

After 1960, it was argued that the pendulum swang bag

uncertain and curtailing the scope and ambit of industry.

University of Delhi v. Ramnath (1963)

Since 1948, D.U. provided bus services for girls and till 1968 this facility continued. Two drivers and conductors were appointed. The administration decided to stop this facility. The drivers were terminated and were given advance salary of 1 month. Both claimed for compensation for retrenchment under S. 33 C (2). The administration denied the demand as it was argued that university is not industry. The matter was taken to govt. and govt. forwarded it to Tribunal. It was held that the university is an industry.

University raised objection that the labour court has no jurisdiction because university

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is not industry.

SC held that drivers employed by university were not employed in industry. and 3 reasons were noted down by SC:-

(i) The pre-dominance of the university is imparting knowledge

(ii) Teachers are not workman under this Act.

(iii) Other persons were insignificant in number and did insignificant work.

Bangalore water supply case (1978).

SC over ruled the judgement of D.V. and reaffirmed the judgement of Corporation of Nagpur.

J. Krishanayyer observed that

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the test- is not the predominant nature of ~~industry~~ no. employees. The true test- is the pre-dominant- nature of activity. In case of university, the nature of activity is imparting educati- on which is a service to the community. Thus he observed that- it would be strange indeed if the university has 50 transport buses with drivers, conductors, cleaners, technician. How are they to be denied the benefits of the Act, ~~esp~~ especially when their work is separable from academic activities merely because the buses are owned by the same corporate personality.

A. ~~Sundaral~~ Sundarambal v. S.O. Orissa. (1988).

SC observed that- university is an industry

Professional activities.

Lawyers are officers of the court. Hence are not covered under I.D. Act.

Bar Association canteen v. Chief Commissioner Delhi (1967) SC

The Bar Association argued that, the canteen was working in no profit or no loss basis.

SC observed that-

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