

**NARAYANI INSTITUTE OF ENGINEERING & TECHNOLOGY
ARAHAT, ANGUL**

6th Semester, Mining Engineering

MNT – 601

Sub: - Entrepreneurship & Mine Management

Chapter – Industrial Dispute Act

INDUSTRIAL DISPUTES ACT, 1947

INDUSTRIAL DISPUTES ACT, 1947

As per section 2 (k) of Industrial Disputes Act 1947, Industrial Dispute is defined as any dispute or difference between employers and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms employment or with the condition of labour of any person.

OBJECTIVES

- Promotion of measures for securing and preserving amity and good relation between the employers and workers
- Investigation and settlement of industrial disputes
- Prevention of illegal strikes and lock-outs
- Relief to workmen in the matter of lay-off and retrenchment
- Promotion of collective bargaining

FEATURES

- This act extends to the whole of India including the state of Jammu and Kashmir
- It encourages arbitration over the disputes between employers and employees
- It provides for setting up of works committees as machinery for mutual consultation between employers and employees to promote cordial relation
- This Act paved the way for setting up permanent conciliation machinery at various stages having definite time limits for conciliation and arbitration
- This Act emphasis on compulsory adjudication besides conciliation and voluntary arbitration of Industrial Disputes
- The Act empower the Government to make reference of the dispute to an appropriate authority i.e., Labour court, Industrial tribunal and National tribunal depending upon the nature of the dispute either on its own or on the request of the parties
- The right to strike by the workers and lock-out by the employees has been subjected to the restriction as laid down in the Act

- The act prohibits strikes and lock-outs during the pondering of conciliation and Arbitration proceedings and in public utility service and it empowers government to take adequate action

Terms under Industrial Disputes Act, 1947

APPROPRIATE GOVERNMENT – Sec 2 (a)

- Refers to Central Government/State Government

ARBITRATOR – Sec2 (aa)

- Referred as an umpire.
- It means any person who is appointed to determine differences and disputes between two parties.

WAGES – Sec 2(rr)

- It means all remuneration capable of being expressed in terms of money, if the term of employment were fulfilled, be payable to a workman in respect of his employment or of work done in such employment.

INDUSTRY- Sec 2(i)

- Industry means any systematic activity carried on by co-operation between an employer and his workmen whether such work men are employed by such employee directly or by or through any agency including a contractor for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes with a motive to make any gain or profit; not merely spiritual or religious.

WORKMEN - Sec 2(s)

- Means any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward the terms of employment be express or implied and there should be a contractual relationship between master and servant.

INDUSTRIAL ESTABLISHMENT- Sec 2(ka)

- Means an establishment or undertaking in which industry is carried on

PUBLIC UTILITY SERVICE- Sec 2(n)

- Means any industry specified in the First Schedule of Industrial Disputes Act, 1947, can be declared as Public Utility Service by government through a notification in the official Gazette for a fixed period (not more than six months for the first instance)

SETTLEMENT – Sec 2(p)

- Means a written agreement between the employer and workmen arrived in the course of conciliation proceeding provided;
 - a) Such agreement has been signed by the parties there to in the manner prescribed
 - b) A copy has been sent to an officer authorized by the appropriate government and the conciliation officer.

Authorities under Industrial Dispute Act,1947

- 1. WORKS COMMITTEE (Sec 3)**
- 2. CONCILIATION OFFICERS (Sec 4)**
- 3. BOARD OF CONCILIATION (Sec 5)**
- 4. COURT OF INQUIRY (Sec 6)**
- 5. LABOUR COURT (Sec 7)**
- 6. INDUSTRIAL TRIBUNAL (Sec7-A)**
- 7. NATIONAL TRIBUNAL (Sec7-B)**

1. WORKS COMMITTEE (Sec-3)

- Constituted based on appropriate Government order
- Applicable to industrial establishment in which 100 or more workmen are employed on any day in the preceding 12 months
- Consists of representatives of employees and workmen engaged in the establishment.
- Number of workmen representatives shall not be less than the number of employer's representatives

- Representatives of workmen are selected in

DUTIES

1. To promote measures for securing and preserving amity and good relations between the employer and the workmen
2. To comment upon matters of their common interest or concern.

2. CONCILIATION OFFICERS (Sec 4)

- The appropriate government, by notification in the official Gazette appoints a specific number of persons as it think fit to be as conciliation officers
- Conciliation officer may be appointed for a specified area or for specified industries in specified area either as permanent or for a limited period
- A conciliation officer shall be deemed to be as a public servant as per Sec. 21 of Indian penal code 1860

DUTIES

1. When any industrial disputes exist, the conciliation officer should hold conciliation proceedings in a prescribed manner without delay to have right settlement.
2. Whether settlement is reached or not, the conciliation officer must submit the report within 14 days of the commencement of the conciliation proceedings or within the date fixed by the appropriate government
3. If the report submitted is satisfied to the appropriate Government, it may or may not refer the dispute to any authority under the Act. If the Government is not making any reference, it should record and communicate the reason to the contending parties
4. The duty of a conciliation officer is administrative and not judicial

3. BOARD OF CONCILIATION (Sec 5)

- The appropriate Government by a notification in the official Gazette constitutes a Board of Conciliation for promoting the settlement of an industrial dispute
- The Board consists of a Chairman and two or four other members, as the appropriate government thinks fit

- The Chairman shall be an independent person; unconnected with the dispute
- The other members shall be persons appointed in equal number to represent the parties to the dispute
- The person appointed to represent a party shall be appointed on the recommendation of the party
- The appropriate Government appoints a fit person as it thinks, if any party fails to make a recommendation within a prescribed period
- A Board of Conciliation can act only when a dispute is referred to it by the Government

DUTIES

1. When a dispute has been referred to a Board, it will investigate the matter affecting the merits and right settlement of the dispute without delay
2. Whether settlement is reached or not, the Board must submit the report within two months of the date on which the dispute was referred to it
3. If no settlement is arrived, the Government may refer the dispute to the labour court, Industrial Tribunal or National Tribunal.
4. The time for submission of report may be extended by such period as may be agreed to in writing by all the parties to the disputes
5. The report of the Board shall be in writing and shall be signed by all the members of the Board.
6. The report submitted shall be published by the appropriate Government within 30 days from the receipt
7. A Board of Conciliation can only try to bring about a settlement. It has no power to impose settlement on the parties to the dispute

4. COURT OF INQUIRY (Sec 6)

- The appropriate Government, by notification in the official Gazette, constitutes a Court of Inquiry in to any matter relevant to an Industrial dispute
- A Court of Inquiry consists of one independent person or of number of independent persons as the appropriate Government may think fit

- Court of Inquiry consists of two or more members, one of them shall be appointed as Chairman
- The Court of Inquiry can act under a prescribed quorum; even at the absence of Chairman
- If the service of the chairman is ceased by the Government through notification, the court shall not act until a new chairman has been appointed
- All members of the court shall be deemed to be public servants under Sec 21 of the Indian penal code 1860
- Every inquiry by a court shall be deemed to be judicial proceeding
- A Court of Inquiry has same powers as a civil court under the Code of Civil Procedure 1908
- The court has the right to appoint one or more persons having special knowledge of the matter of the dispute as an advisor

DUTIES

1. A Court shall inquire into the matters referred to it and report to the appropriate government within a period of 6 months from the commencement of the inquiry
2. The report of the court shall be in writing and signed by all the members of the court. Members are free to record their dissent
3. The report submitted shall be published within a period of 30 days of its receipt by the Government

5. LABOUR COURT (Sec 7)

- A labour court consists of one person only to be appointed by the appropriate Government
- A person shall not be qualified for appointment as presiding officer of a labour court unless
 - a) He is / has been a Judge of a High Court
 - b) He has been as a District Judge /Additional District Judge for a period not less than three years
 - c) He has held any judicial office in India for not less than seven years

DUTIES

1. Adjudicate upon the industrial disputes relating to any matter specified in the Second Schedule
2. When an industrial dispute has been referred to a labour Court for adjudication, within the specified period, it should submit award to the appropriate Government
3. It shall be published in such manner as the appropriate Government thinks fit within a period of 30 days from the date of its receipt by the appropriate Government

6. INDUSTRIAL TRIBUNAL (Sec7-A)

- The appropriate Government by notification in the official Gazette, constitute one or more industrial tribunals for the adjudication of industrial disputes relating to any matter specified in Second or Third Schedule
- The Tribunal consists of one person to be appointed by the appropriate Government
- A person shall not be qualified for appointment as the presiding officer of an Industrial Tribunal unless
 - a) He is/ has been a Judge of a High Court
 - b) He has been a District Judge / Additional District
 - c) Judge for a period of three years
- No person shall be appointed to or continue in office of a presiding officer if
 - a) He is not an independent person.
 - b) He has attained the age of 65 years.

DUTIES

1. It shall submit its award to the appropriate Government within a specified period if an industrial dispute is referred to an Industrial Tribunal
2. The award shall be in writing and shall be signed by its presiding officer
3. The award shall be published by the appropriate government within a period of 30 days in a manner as the appropriate government thinks fit
4. As it is a quasi – judicial body, it must serve notice upon the parties to the reference by name before making any award

7. NATIONAL TRIBUNAL (Sec7-B)

- The Central government, by notification in the official Gazette constitute one or more National Industrial Tribunals for the adjudication of industrial disputes:
 - a) Involving questions of national importance
 - b) Which are of such a nature that industries are more than one state are likely to be interested in, or affected by, such disputes
 - c) Matters appearing in Second and Third schedule
- A National Tribunal consists of one person to be appointed by Central Government
- A person shall not be qualified for appointment as a presiding officer of a National Tribunal unless he is / has been a Judge of High Court
- No person shall be appointed to, or continue in the office of the presiding officer of a National Tribunal if
 - a) He is not an independent person
 - b) He has attained the age of 65 years

DUTIES

1. When an industrial dispute is referred to the National Tribunal for adjudication, it shall submit its award to the appropriate government
2. The award shall be in writing and shall be signed by the presiding officer of the National Tribunal
3. It shall publish the award within a period of 30 days from the date of its receipt by Central Government