

CHAPTER -5-

COLLECTIVE BARGAINING

- 5.1. MEANING AND DEFINITION
- 5.2. FEATURES OF THE COLLECTIVE BARGAINING
- 5.3. PROCESS OF COLLECTIVE BARGAINING
- 5.4. COLLECTIVE AGREEMENT
- 5.5. MERITS AND DEMERITS OF THE COLLECTIVE BARGAINING

COLLECTIVE BARGAINING:

5.1 Meaning and Definition :

There are many methods for the settlement of Industrial disputes. Collective bargaining is one of them. The term collective bargaining originated in the writings of Sidney and Beatrice Webb, the famous historians, of the British Labour movement. It was first given currency in the United States by Samuel Gompers. Collective Bargaining represents a situation in which the essential conditions of employment are determined and conflicts about wages and working are resolved by a bargaining process undertaken by the representatives of a group of workers on the one hand and of employers on the other. It is called collective because employees pool their interests and bargain as a group rather than as individuals. Collective bargaining is the relationship between the labour unions on the one side and management on the other. Its over-riding purpose is the negotiation of an agreed set of rules to govern the substantive and procedural terms of employment relationship as well as the relationship between the bargaining parties .

A number of definitions of the term 'Collective bargaining ' have been given by different economists and institutions. Collective bargaining has been defined in the

Encyclopaedia of social sciences as "a process of discussion and negotiation between two parties, one or both of whom is a group of persons acting in concern. The resulting bargain is an understanding as to the terms or conditions under which a continuing service is to be performed. More specifically collective bargaining is the procedure by which an employer or employers and a group of employees agree upon the conditions of work"¹.

In the words of L.G.Reynolds "Trade Union try to advance the interest of their members mainly by negotiating agreements usually termed ' Union Contracts ' or ' Collective agreements' with employers. The process by which these agreements are negotiated, administered and enforced are included in the term ' Collective Bargaining'² .

Collective bargaining has been defined by International Labour Organisation (I.L.O.) as ' negotiations on working conditions and terms of employment between an employer or a group of employers', Organisation on the one hand and representatives of workers' organisation on the other, with a view to reaching an agreement."

Collective bargaining would result in mutual benefits to both the parties. In its simplest definition the process of Collective bargaining is a method by which management and labour

1 Encyclopaedia of Social Sciences
Vol.III, P.628.

2 Reynolds L.G. - Labour Economics and Labour Relations ,
Prentice Hall, 4th Edition, p.188.

may explore each other's problems and viewpoints and develop a framework of employment relations within which both may carry on daily association in a spirit of co-operative goodwill for mutual benefit.

5.2. Features of Collective bargaining :

- (i) Collective bargaining is a collective action which rests on the foundations of mutual respects to levance and maintenance of contracts,
- (ii) It is a contineous process. It never ends with the negotiations,
- (iii) It is the process of meeting presenting demands, discussing, presenting counter offers, haggling cajoling, threatending and hast of other activities which go into the negotiations of an agreement,
- (iv) It is not a one sided process since it involves both the parties. The interest of both the parties are taken into account and skill for negotiations of both of them accounts for the settlement. Unilateral action is prevented,
- (v) It enables the industrial democracy to be effective,
- (vi) It is a flexible and dynamic process. It take into account the day to day changes into policies, potentialities, capacities and interests and it also provides scope for improvement from time to time,

5.3. The process of Collective bargaining :-

The process of collective bargaining contains four elements charter of demands, selection, selection of representatives, negotiation and agreement.

Charter of Demands -

All labour management negotiations begin with the charter of demands. These demands put forward by the union would ordinarily have to be preapproved by the membership of union. The process of collective bargaining starts when a trade union in a undertaking desires to have a discussion with the management on the basis of the charter of demands. Sometimes it starts with the management asking the trade union to meet and discuss the matter of mutual interest. But in the majority cases the management would take initiative in calling a joint meeting only when it receives a demand notice from the trade union.

Selection of Representatives -

A collective bargaining is generally arrived at by mutual discussion between the parties at one or more meetings. There is no fixed number of representatives from the trade union and management. When negotiations are conducted by a local union, the representatives of National Union also participate. The committee which negotiates an agreement on behalf of the employees, is usually elected by the members of

the local union from among those affected by bargaining.

The employer's side is represented by at least one top management official and one or more, senior officials of the firm including the personnel manager. Workers' and employers' representatives meet at the table discuss the issue under disputes. This happens when collective bargaining take place at the industry level. The employer's side may often consists of a group of employers or an association of employers.

Negotiation Process

There are normal stages through which negotiations passes. First comes the statement in support of the demands. Then follow general exploratory discussion which may seem rather tedious, particularly as both sides know that the ultimate objectives will have to be modified, but this discussion does serve a purpose. It reveals both sides possible areas of agreement and gives some indication of how far each side is prepared to go to meet the other and where the possible striking point lie. Next come the proposals and counter proposals in which both parties try to frame their offers or demands in a form more acceptable to the other side. Following these preliminaries, the demand letter enumerating the union's minimum demands, for immediate consideration under various headings - wages, dearness, allowances, holidays, promotions, gratuity, reduction of working hours etc. After this the union and management maintain statistical data which

would lend support to particular viewpoints. This reveals the magnitude of the demands put forward. Bargaining involves a compromise which is not the result of pure data and reasoning but is essentially a power conflict.

The Agreement :-

Workers and employers' representatives meet at the table, discuss the issues under dispute, exchange views, negotiate and iron out the differences and draft the memorandum of agreement. After an agreement has been arrived at and reduced into a written document, both ~~the~~ parties have to submit the agreement for ratification by members. Ratification becomes complicated where there are large number of issues.

Normally, if a bipartite agreement cannot be reached after negotiations, the parties may submit the matter for conciliation.

5.4. Collective Agreement -

The process of collective bargaining comes to an end, with accepting an agreement by the parties. Collective agreement means " all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more ^{representatives of} employers' organisation on the one hand and one or more representatives of workers organisation, or in the absence of such organisation, the representatives of the workers duly elected and

authorised by them in accordance with national laws and regulations on the other."³

Contents of Collective Agreement -

The collective agreement has some definite contents. A brief description of these contents is given below :-

Purpose of Agreement -

Usually an agreement starts with making reference to the union's charter and demands which formed the starting point for discussion. This is followed by a definition of terms used in the document. The purpose of agreement is to provide, orderly collective bargaining relation to secure, prompt and fair disposition of grievances to relationship, between employees and the management to prevent strikes and lockouts, to attain efficient and uninterrupted operation in the plant, and promote the stability, and the prosperity of the industry for the benefit of all, who are dependent on the industry, For achieving the above objectives the company and the union agree to encourage, the highest relationship between their respective representatives at all levels and with and between all workers.

Rights and Responsibilities :

A statement of principles such as the rights and

3 I.L.O. Recommendation No.91.

responsibilities of both the parties including from the management side recognition of the union, acceptance of the unions right to organise trade union, right to represent grievances and from the union sides recognition of compass right to organise the business and carry out the normal activities of management . Among the rights of ~~the~~ management the collective agreements make special mention of -

- (i) The right to maintain the discipline and efficiency in the industry,
- (ii) The right to live and disciplines workmen and to discharge or transfer or to relieve them from duty,
- (iii) The right to plan, direct and control operation of the plant, to introduce new and improved production methods to expand production facilities,
- (iv) The right make such reasonable rules and regulations, for the purpose of maintaining order, safety or effective operation of the industry work, .

Scope of Agreement -

The collective agreements cover a very wide field of labour management relation in industry. The issues of bargaining relate to -

(1) Wages clause -

The wage clause is usually the most important and the most complicated clause in agreement. The clause includes the wages, dearness allowance, ~~wages~~ and ~~pay scales~~ scales and

increments. Workmen are generally classified as casual, temporary, permanent, skilled and unskilled. In the agreements monthly scales are prescribed and also provide for appropriate wages and increments.

The dearness allowance is classified under two heads -

- 1) Fixed dearness allowance and
- 2) Variable dearness allowance,

The fixed dearness allowance is based on the cost of living index. Variable dearness allowance shall vary at some rate for each point and the rate of variable dearness allowance shall be revised every quarter according to rise or fall in the cost of living index number .

2) Bonus clause -

Bonus is the second major clause in collective agreements. There are different principles about the payment of bonus. In some factories bonus is paid on the basis of available surplus and in some factories it is paid on the basis of production.

3) Fringe Benefits clause -

Fringe benefit clause also occupy a very important position in collective agreements. These benefits are related to canteens, night shift allowance, hospital allowance, leave and holidays, medical aid, provident fund, gratuity and other retirement benefits, ^{Employees} state insurance scheme and

State Insurance (ESI) . In this regard the important issue is the rate of contribution to provident fund gratuity,.

4) Hours of work and seniority clause -

Collective agreements also include clauses dealing with working hours and seniority clause. This clause is related, to working hours and various shift managements, seniority rights and promotion. Generally the patterns are adopted as provided under the factories Act.

5) Other clauses -

Other clauses includes issues, such as Recognition of the Trade Union, Grievance procedure etc.

6) Duration of the Agreement -

In terms of period collective bargaining are of two types -

- (a) Those that are for a specific period,
- (b) Those that continue indefinitely,

when an agreement is of indefinite period negotiations for changes in it may be reopened or agreement may ended if either the employer or the union so desires, but advance notice must be given.

5.5 The Merits and Demerits of Collective Bargaining -

Collective bargaining as a method of settling industrial disputes has some merits and demerits. These can be out lined as below:-

Merits:

- 1) It leads to an internal settlement which is willingly accepted by both the parties,
- 2) The settlement is flexible and can be altered by the two parties, whenever necessary, without reference to any external authority,
- 3) It ensures peace and co-operation during the period of the agreement,
- 4) It avoids imposition of an external settlement which is always rigid and may have many defects and inadequacies owing to insufficient acquaintance with the intricacies at the work place,
- 5) It helps the growth of trade unions and employers' bodies as independent organisation
and
- 6) It is a democratic and effective method of settling disputes through discussion and adjustment.

Demerits:

- (1) If the two parties are not evenly balanced, the bargaining may be unfair to the weaker party.
- (2) It leaves the door opened for a strike or a lockout.
- (3) The two parties may compromise and a wage rise may lead to a price rise to the disadvantage of the consumers.
- (4) It may affect adversely the wage, income and price policy of Government and priorities of the National Plan.