

C H A P T E R - I

(A) SELECTION OF THE TOPIC :

" A STUDY OF INDUSTRIAL RELATIONS IN KIRLOSKAR
GHATGE PATIL AUTO LIMITED, KOLHAPUR."

1.A.1 INTRODUCTION :

In modern industrial society "Industrial Relations" pose one of the most delicate and complex problems. With growing prosperity and increase in wages, workers have achieved a higher standard of living. Employees have their own trade unions and have thus gained a bargaining power which enables them to give a tough fight against their employers to establish their rights. Lot of changes have taken place in the technique and methods of production. Employees always required and demand more facilities and monetary benefits which are always refusable by the Management. Labour Employer relations have therefore become more complex than they were in the past and have been given a sharp edge because of wide spread labour unrest. The Government has stepped in and plays an important role in establishing harmonious industrial relations partly because it has itself become an employer of

millions of industrial workers, but mainly because it has enacted a vast body of legislation to ensure that the rights of industrial workers in private enterprises are suitably safeguarded. In the circumstances, a clear understanding of the factors which make for industrial unrest and which are likely to eliminate it, would be a rewarding experience for anyone who is interested in industrial harmony.

Industrialisation has a major role to play in the economic development of the country. The industrial sector which possesses a relatively high marginal propensity to save and invest contributes significantly to the eventual achievement of a self sustaining economy with continued high levels of investment and rapid rate of increase in income and industrial employment.

Healthy industrial relations is one of the important factor on which success of industry depends. The industry in which healthy industrial relation are in existence, definately it will lead towards the victory.

1.A.2 OBJECTIVES AND PURPOSE OF STUDY :

I have kept following objectives for the

purpose of study.

- 1) To study the existing industrial relation in Kirloskar Ghatge Patil Auto Limited.
- 2) To ensure whether the industrial relation in Kirloskar Ghatge Patil Auto Ltd. are healthy or not and upon that to suggest the solution to safeguard the interest of labour and management by securing the highest level of mutual understanding and goodwill among all those sections in the industry which participate in the process of production.
- 3) To find out solution to avoid industrial dispute strike and develop healthy relation, which are an essential factor in the productivity of workers and the industrial progress of the country.
- 4) To suggest ways to raise productivity to a higher level in an era of full employment by lessening the tendency to high turnover and frequent absentee.
- 5) To stress means to establish and nurse the growth of an industrial democracy based on labour partnership in the sharing of profit and of managerial decisions.
- 6) To suggest solution to eliminate strikes lockouts etc.

1.A.3 SELECTION OF TOPIC AND RESEARCH METHODOLOGY

1. SELECTION OF TOPIC :

As per the syllabus prescribed for the degree of Master of Philosophy in Commerce, I have selected the Subject " A Study of Industrial Relations in Kirloskar Ghatge Patil Auto Ltd., Kolhapur " for my Project Report. Healthy industrial relations are quite essential for the economic development of the Country. Workers are basic factors of the industrialisation. Without industrialisation, a Country cannot improve its economic position. Healthy industrial relations are key to rapid industrial growth in the Country. In this research essay I have made an attempt to throw focus on concept of industrial relations, its importance necessity etc.

2. SELECTION OF UNIT :

I have selected " Kirloskar Ghatge Patil Auto Ltd., Kolhapur " for the project study.

This unit is one of the leading manufacturer in auto industry in India.

3. DATA COLLECTION :

Collection of data forms an important step in the process of research. There are various tools used for data collection. I have used following tools for data collection.

(A) QUESTIONNAIRE :

A questionnaire is a form of collecting information. It is an instrument by which a researcher can peep into the minds of the respondent. In my research the questionnaire has played very important role. I had prepared a questionnaire under the guidance of my Guide. Questionnaire includes questiones about personal data, induction procedure, working condition, wage policy, industrial disputes, welfare facilities recreation, trade union, workers' participation in management and workers' education. I had prepared questionnaire in such a nature that it will cover all relevant information regarding my subject.

The premission was sought from the principal to approach Kirloskar Ghatge Patil Auto Ltd., Kolhapur for data collection. There I took permission from the Personnel Manager to collect the necessary data.

By using random sampling and stratified sampling method I fixed 50 workers working in various departments and I had given a scope for proper representation of the workers by covering all the departments in the Unit. I had circulated 50 copies of questionnaire amongst population selected. Then I got the questionnaire duly filled in by the 50 workers who work in various departments of the Unit.

(B) OBSERVATION :

Observation is very important tool of collecting information. In my research work observation played very important role. I had observed various things which forms an important part in making industrial relations healthy. I had observed working conditions, light, drinking water, ventilation space between the machines, Urinals and Latrines provided for workers, Canteen food provided by the Canteen, various records viz. Muster roll, wage register, office files and records. Observation is very useful tool of data collection.

(C) INTERVIEW :

Interview is a technique by which the researcher

collects information orally from the respondent. In my research work interview played a vital role. I had conducted interviews of Labour Officer, and Union Leaders. Through interview I came to know reasons of previous strike, benefits awarded by the Management and nature of existing industrial relations. Interview is very popular means of data collection.

Through questionnaire, observation and interview I have collected data without disturbing day to day routine work of the Unit.

4. SOURCES OF DATA COLLECTION :

By using questionnaire, conducting interview and observation I have collected the required data. I have collected the data from 10.00 A.M. to 5 P.M. in the Company without causing any disturbance to the Company.

SOURCES -

Sources of data collection are as under -

- A) Questionnaire
- B) Personal Interview.
- C) Muster Roll

- D) Office files and records.
- E) Discussion with Labour Officer and departmental heads.
- F) Discussion with Union Leader.
- G) Reports and Documents.

5. RESEARCH METHODOLOGY :

Survey method of research is one of the best method of research. This method studies, describes and interprets what exists at present. It is called as descriptive method normative survey, survey and status method. The term survey and status suggest the gathering of evidence relating to current conditions. The term normative implies the determination of normal or typical conditions or practices. Thus normative Survey means a survey to find out the normal condition or typical condition. This method was followed by me. Also I have followed random sampling and stratified sampling method. In random sampling method each individual has an equal chance of being elected.

Stratified sampling is a combination of both random sampling and purposive selection. Under this method population is divided into various sub-groups

or strata of different size and sample is drawn for each strata at random. Thus I have drawn a samples from each strata in the same proportion, as they occur in the universe This type of sampling ensures representations in selecting a sample from a population consisting of sub groups or strata of different size. I selected 50 workers at random basis from various departments according to their respective strength.

I have used survey method as well as random sampling method and stratified sampling method.

6. PREPARATION OF TABLES :

In consultation with my Research Guide Prof. S.V. Deshpande, I prepared statistical tables. Then I came to concluding stage. I started to interpret the data collected. Finally I derived certain conclusions. I concluded my project report with my personal observation.

7. REPORT WRITTING :

At the last stage I started report writting and completed the report in all respects.

1.B.1 "DEFINATION AND CONCEPT OF INDUSTRIAL RELATIONS"

The term ' Industrial Relations ' comprises 'Industry' and'Relations.' Industry means any productive activity in which an individual is engaged. It includes

- a) Primary activities, like agriculture, planation, Forestry, horticulture,

pisciculture, apiculture, Sericulture, mining, hunting, collecting etc. b) Secondary activities like manufacturing, construction, trade, commerce, transport, communication, banking and other tertiary services. And relations means "the relations that exist in the industry between the employer and his workmen."

As per opinion of Dr.Kapoor, Industrial relations is a developing and dynamic concept and as such no more limits itself. Merely to the complex of relations between the Unions and Management but also refers to the general web of relationship normally obtaining between employees a web much more complex than the simple concept of labour capital conflict.

Different authors have defined the term in different way. Below are given some off-quoted definitions :-

- 1) C.B. KUMAR : "Industrial relations are broadly concerned with bargaining between employers and trade union on wages and other terms of employment, the day to day relations, within a plant also constitute one of the important

elements and impinge on the broader aspects of industrial relations".

- 2) V.A. AGNIHOTRI : "The term industrial relations explains the relationship between employees and management which stem directly or indirectly from Union-Employer relationship."

- 3) V.B. SINGH : "Industrial relations are an integral aspect of Social relations rising out of employer-employee interaction in modern industries, which are regulated by the state in varying degrees in conjunction with organised social forces and influenced by prevailing institutions. This involves a study of the state, the legal system, workers' and employers organisations on the institutional level; and that of patterns of industrial organisation (including management), Capital structure (including technology), compensation of labour force and the forces of Market on the economic level."

- 4) T.N.KAPOOR : "The term Industrial Relations should be understood in the sense of labour-management relations as it percolates into a wider set of relationship touching extensively

all aspects of labour such as Union policies, personal policies and practices including wages, Welfare and social security services conditions, Supervision and communication, collective bargaining etc., attitudes of parties and governmental action on labour matter."

- 5) J.HENRY RICHARDSON : " Industrial relations is an art, the art of living together for purpose of production"
- 6) ALLEN FLANDERS : "The subject of industrial relations deals with certain regulated and institutionalised relationship in industry.
- 7) A.S. MATHUR : " Problems of human relationship arising from the sale of services for a wage and working on the premises of employers under their control form the subject matter of industrial relations. They exist and grow out of employment and involve relationship between employees and employers and their organisations, as well as relationships of employers, employees and their organisations."
- 8) H.A. CLEGG : "The field of industrial relation includes the study of workers and their trade m

unions, management, employers' Association and the state institutions concerned with the regulation of employment."

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According to the International Labour Organisation, "Industrial relations deal with either the relationships between the state and employers and workers' organisation or the relation between the occupational organisation themselves. The International Labour Organisation uses the expression to devote such matters as freedom of association and the protection of the right to organise, the application of the principles of the right to organise and the right of collective bargaining, Collective agreements, conciliation and arbitration and machinery for co-operation between the authorities and the occupational organisations at various levels of economy."

ENCYCLOPAEDIA BRITANNICA : "The concept of industrial relations has been extended to devote the relations of the state with employers, workers and their organisations. The subject, therefore, includes individual relations and joint

consultation between employers and work people at their work place; collective relations between employers and their organisations and trade unions and the part played by the state in regulating these relations."

The following points emerge from the analysis of the above definitions.

Industrial relations are the relations which are the out-come of the "employment relationship" in an industrial enterprise. Without the existence of the two parties, the employer and the workmen such relationship cannot exist. It is the industry which provides the setting for industrial relations.

This relationship emphasises on the process of accommodation whereby the parties involved develop skills and method of adjusting to and co-operating with each other.

Every industrial relations system creates a complex of rules and regulations to govern the work place and work community with the main purpose of maintaining harmonious relations between labour and management by solving their problems through

collective bargaining.

Industrial relations may be defined as the relations and interactions in the industry particularly between the labour and the management as a result of their composite attitudes and approaches in regard to the management of the affairs of the industry, for the betterment of not only the management and workers but of the industry and national economy as a whole.¹.

1.B.2 IMPORTANCE OF INDUSTRIAL RELATIONS :

'Industrial Relations' constitute one of the most delicate and complex problems of modern industrial society. With growing prosperity and rising wages, workers have gained higher living wages, more education, sophistication and generally greater mobility. Career patterns have changed as growing proportions have been compelled to leave the farms and become wage and salary earners under

1. Dynamics of Industrial Relations in India.

By C.B. Mamoria and S.Mamoria.



trying factory conditions. Large number of men, women and children have concentrated in a few Urban areas under mass ignorance, drenched in poverty and passing diverse conflicting ideologies. The working organisations in which they are employed have become larger and shifted from individual to corporate ownership. There also exist progressive achieved, status dominated secondary group oriented, universalistic and aspirant sophisticated class in the Urban areas. Employees have their Unions and employers their bargaining associations to give a tough fight to each other and establish their powers. The Government has played a growing role in industrial relations, in part by regulating working conditions in private employment. Besides, repaid changes have taken place in the techniques and methods of production. Technological advances have eliminated long established jobs and have created opportunities that require different patterns of experience and education. Non-fulfilment of many demands of the workers have brought industrial unrest. They are the points of Flexion and the base of industrial edifice. All these changes have made employment relationship more complex. Hence a clear understanding

about these is as interesting as it is a revealing experience.

The maintenance of good relations between the workers and the management is the very basis on which the development of an Industrial Democracy depends. If in turn scales to gain co-operation of the two partners in industry in the field of production and promotes industrial peace. The healthy and orderly industrial relations in an enterprise generate attitudes which procreate progress and stabilise democratic institutions. Stable industrial relations means a situation when requirements of management and the work force are discussed between them in a spirit of mutual trust and confidence and without causing friction. For example, the management would like to develop stable relation with a view to getting a disciplined and conscientious work force for more work. This would reduce supervisory and administrative work as also enable better planning for future production and expansion. The work force, on the other hand, expects liberal thinking by management and a more human approach, to its need by giving stable relations. Stable relationship is, therefore, means to an end and not an end in itself. The Unions are also involved in industrial relations. Through stability they obtain for the work force more benefits. The Government

would like stable relations to prevail both for better production and for easier law and order.

1.B.3. OBJECTIVES OF INDUSTRIAL RELATIONS :

In addition to their primary objectives of bringing about good and healthy relation between employers and employees, industrial relation are designed;

- a) To safeguard the interest of labour and of management by securing the highest level of mutual. Understanding and goodwill among all those sections in the industry which participate in the process of production;
- b) To avoid industrial conflict or strike and develop harmonious relations, which are an essential factor in the productivity of workers and the industrial progress of a country.
- c) To raise productivity to a higher level in an era of full employment by lessening the tendency to high turnover and frequent absenteeism;
- d) To establish and nurse the growth of an industrial democracy based on labour

partnership in the sharing of profit and of managerial decisions, So that an individual's personality may grow to its full stature for the benefit of the industry and of the Country as well;

- e) To eliminate as far as is possible and practicable, strikes, lockouts and gheraos by providing reasonable wages, improved living and working condition, and fringe benefits;
- f) To establish government control of such plants and units as are running at a loss or in which production has to be regulated in the public interest.

The state endeavors to correct, through good and harmonious industrial relations, an imbalanced in ordered and maladjusted social order with a view to reshaping complex social relationships. Following technological advances. It also controls and disciplines both employees and employers, and adjusts their conflicting interest; it protects some and restrains others and tries to evolve a healthy social order.

In other words, the objectives of industrial relations are to facilitate production; to safeguard the

rights and interest of both labour and management by enlisting the co-operation of both; to achieve a sound harmonious and mutually beneficial relationship between employers and employees. According to Kirkaldy, "industrial relations in a Country are intimately connected with the form of its political government; and the objectives of an industrial organisation may change from economic to political ends." He divides the objectives of industrial relations into four categories;

- i) Improvement in the economic conditions of workers in the existing state of industrial Management and political government;
- ii) Control exercised by the state over industrial undertakings with a view to regulating production and promoting harmonious industrial relations;
- iii) Socialisation or rationalisation of industries by making the state itself a major employer; and
- iv) Vesting of a proprietary interest of the workers in the industries in which they are employed.

If political objectives are likely to contribute to disunity in the trade union movement, it would be necessary to provide better and more effective safeguards and exercise greater restraint in order to avoid such a situation.².

1.B.4 PROBLEMS OF LABOUR MANAGEMENT RELATIONS :

The word industrial relations is used to express the nature of relationship between the employer and employee in an industry or an organisation where willing co-operation emanates from employees towards the achievement of organisational goals, there is said to be good industrial relations. There are many causes which have led to poor industrial relations and there are conditions which can generate good industrial relations. A correct perspective of the industrial relations position is possible on an appreciation of the stages of development through which a country has passed over a period of time to the present moment.

The concept of industrial relations has generally developed as a consequence of the industrial Revolution as prior to this the Master and Servant relationship which existed was simple and of a personal nature with

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acceleration in industrialisation, the relations aspect became complex and impersonal.

Under the early factory system, the worker was looked upon as a commodity which could not only be easily secured but also replaced. The attitude was that of considering the supply and demand position as in the case of commodity. As the employer was in a dominating situation, he dictated both the wages as well as the conditions of service of the workers resulting in many industrial and social ills such as low wages, unduly long hours of work, poor working conditions and persecution of trade union activity. The plight of the workers was miserable, not only in India but in other countries such as the United Kingdom and other European Countries. Trade Union leaders were persecuted and victimised and the Government adopted a laissez faire policy.

A new awakening among the working class was brought about after the First World War and the industrial relations position took a new turn. Workers began to take retaliatory action to help themselves get a new deal. They began to strike. In their turn, the employers retaliates by declaring lockout and industrial war began. In the beginning, the Government did not intervene to settle disputes or ensure good industrial relations

except in case of prolonged strikes where it appointed committees of inquiry. It however enacted a few labour laws and ultimately was forced to enact the Trade Disputes Act 1929, basically on the lines of the British Industrial Court Act 1919. As the Royal Commission on labour observed in 1929, "the attempt to deal with unrest must begin rather with the creation of an atmosphere unfavourable to disputes than with machinery for their settlement," However, this was followed by the Industrial Dispute Act 1947, which provided a permanent machinery for settlement of disputes such as works committee, conciliation officer and industrial tribunals.

1.B.5 CAUSES OF POOR INDUSTRIAL RELATIONS :

Perhaps the main cause of poor industrial relations resulting in inefficiency and labour unrest is mental laziness on the part of both management and labour. Management is not sufficiently concerned to ascertain the causes of inefficiency and unrest following the laissez fair policy, until it is faced with strikes and more serious unrest. Even with regard to methods of work, management does not bother to devise the best method but leaves it mainly to the subordinates to work it out, for themselves. Contempt on the part of the employers towards the workers is another major cause.

However, the following are briefly the causes of poor industrial relations -

- 1) Mental inertia on the part of management and labour;
- 2) an intolerant attitude of contempt towards the workers on the part of management;
- 3) inadequate Fixation of wage or wage structure;
- 4) Unhealthy working condition;
- 5) indiscipline;
- 6) lack of human relations skill on the part of Supervisors and other managers;
- 7) desire on the part of the workers for higher bonus or D.A. and the corresponding desire of the employers to give as little as possible;
- 8) inappropriate introduction of automation without providing the right climate;
- 9) Unduly heavy workloads;
- 10) inadequate welfare facilities;
- 11) dispute on sharing the gains of productivity;
- 12) Unfair labour practices, like victimisation and undue dismissal.

- 13) retrenchment dismissals and lock-outs on the part of management and strikes on the part of the workers;
- 14) inter union rivalries; and
- 15) general economic and Political environment, such as rising prices, strikes by others and general indiscipline having their effect on the employees' attitudes. ³.

1.B.6 CONDITIONS OF GOOD INDUSTRIAL RELATIONS :

Every organisation should strive to induce good industrial relations, thus ensuring industrial peace and avoiding labour unrest such as strikes, work stoppages, demonstrations, gheraos and slogan shouting. Importance of good industrial relations and concern for welfare of the labour is best expressed in the words of Dorabji Tata as follows :

" The welfare of the labouring classes must be one of the first cares of every employer. Any betterment of their conditions must proceed more from the employers downward rather than be forced up by demands from below, since labour, contented, well housed, well fed and generally well looked after, is not only an asset and

3. Personnel Management and Industrial Relations.

By - R.S.Davar.

advantage to the employer, but serves to raise the standard of industry and labour in the country." 4.

The following can briefly be stated as the conditions necessary for establishing and maintaining good industrial relations -

- 1) recognition by the employer that the workers are a part and partial of a team working to work common objectives;
- 2) an attitude on the part of the employers of delivering the goods, that is, giving their moneys worth;
- 3) fair redressal of the employees grievances such as regarding working condition, facilities, attitude of superiors and other rights;
- 4) avoidance by workers of being unduly influenced by political leaders staging strikes as a protest or a publicity for their own political gains.
- 5) Payment of Fair wages and adequate wage structure as well as establishment of

4. Words of Dorabji Tata (1917) mentioned in Man Management in Tata Iron & Steel Co.Ltd.,Jamshe

pur. 1974 Page 1.

satisfactory working conditions;

- 6) adoption of a policy which ensures to the workers an equitable share of the gains of increased productivity.
- 7) introduction of a suitable system of employees education at all levels as well as providing them with appropriate equipment, where necessary;
- 8) training in industrial relations and human relations to workers, technical staff and at all managerial levels;
- 9) Sufficient communication to keep the employees informed about decisions which affect their interest; and
- 10) establishment of an atmosphere of participation whether through joint committees or other methods.

1.B.7 UNIONS AND THEIR ROLE :

Trade Union plays a very vital role in maintaining good industrial relations.

EMPLOYEE ASSOCIATIONS

With a view to self protection and self help, labour has organised itself under employee associations and unions. The conflicts between capital and labour in Europe and America resulted in the origin of the trade union movement.

THE TRADE UNION MOVEMENT IN INDIA :

The Trade Union movements origin in a sense can be traced back to a very early date to the time when villages has panchayats and guilds for settling disputes between the Master and their members. The panchayats prescribed the code of conduct which was rigidly observed by its members. Its non observance resulted in expulsion from the community. Trade Unions, as understood today, however originated in the first quarter of the present century although the ground work was laid during the last quarter of the 19th century. In Bombay, as early as in 1875, a movement was started by reformers under the leadership of Sorabji Shapwis. They protested against the appalling conditions of the factory workers and affected for introduction of adequate legislation to prevent them. The credit for laying the foundation of the organised labour movement in India is at times accorded to Mr.N.M.Lokhande, a factory worker himself.

An agitation was organised by him in 1887 in Bombay. This resulted in certain amenities being extended to the Mill workers which led to the organisation of the Bombay Millhands Association.

Actually a real organised labour movement in India started at the end of the First World War. Rising prices, without a corresponding increase in wages, despite the employers making huge profits, led to a new awakening. Many trade unions were formed through out India. There were a number of strikes during 1919 to 1922. To this was added the influence of the Russian Revolution, the establishment of the ILO (International Labour Organisation) and the All India Trade Union Congress. This speeded up the pace of the trade union movement. Following the second world war, there was a spiralling of prices. The workers once again became reztire. This further indirectly strengthened the movement in India.

THE OBJECTS OF TRADE UNIONS :

The following are some of the aims and objects of Trade Unions :

- 1) to secure for the worker fairer wages in the light of the cost of living and the prevailing standard of living in India.

- 2) to improve the workers' working condition by securing shorter working hours, better leave facilities, adequate social security benefits, appropriate educational facilities and other welfare benefits;
- 3) to assure the worker a share in the increased profitability of an industrial unit by providing him payment of adequate bonus;
- 4) to protect the workers' interest and more specifically to avoid their exploitation;
- 5) to ensure the workers' security of employment by resisting retrenchment and victimisation likely to harm them; and
- 6) to protect the larger interest of society by aiding in the improvement of trade and industry.

THE ADVANTAGES OF TRADE UNION :

From the above objects it is clear that there are certain benefits offered by trade union. The good influences can be summarised as follows :

- 1) Trade Unions today can get the best professional assistance. They are thus in a

position to meet the employer on an equal footing.

- 2) This can induce a spirit of self-reliance and self respect among the workers thereby helping to build up national character. No self respecting worker wants gifts or alms, but must be paid a fair share of the results based on the actual work produced.
- 3) As unions act as an organised body, the workers can negotiate with the employer on the basis of status and self respect. Pressure can be brought by them on the employer to ensure that the factories are maintained in a healthy condition and that the hours of work are arranged conveniently. In case of a grievance, the case can be presented through the union, thereby preventing unnecessary strife and disruption of work.
- 4) Trade Unions helps to maintain the wages at a uniform level in terms of the actual economic value.

THE TRADE UNIONS ACT, 1926 :

Before the passing of the Indian Trade Union Act, 1926 the Indian workers were denied the fundamental right of freedom of association. This handicapped the trade union movement in India. Not only were the officers of the trade unions liable for civil action for infringing contractual rights and obligation, but were also exposed to criminal proceedings for taking concerted action. The right to strike and lock-out were ultimately recognised in India indirectly under the provisions of the Indian Trade Disputes Act, 1929 and later under the Industrial Disputes Act, 1947.

The Indian Trade Union Act, 1926 was enacted with a view "to provide for the registration of Trade Union and in certain respects to define the law relating to registered Trade Unions."

DEFINATION OF TRADE UNION :

The Act defines a trade union as meaning - any combination whether temporary or permanent, formal primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers or for

imposing restrictive condition on the conduct of any trade or business and includes any federation of two or more trade unions.

REGISTRATION OF TRADE UNIONS :

Any seven or more members of a trade union can, by subscribing their names to the rules of the trade union and otherwise complying with the provisions of the Act, apply for registration under the Act. The application has to be made to the Registrar of Trade Unions appointed by the appropriate Government for the State (Se.3 a(4)). The application must be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars -

- 1) The names, Occupation and addresses of the Members making the application.
- 2) the name of the Trade Union and the address of its Head Office; and
- 3) the titles, names, ages, addresses and occupations of the officers of the trade union (Sec.5).

Such registration is not given unless the executive is constituted according to the provision of this Act, and the rules of the union provides for the following matters;

- 1) The Name of the Trade Union ;
- 2) the whole of the objects for which the trade union has been established;
- 3) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under the Act;
- 4) the maintenance of List of the members of the Trade Union and adequate facilities for the inspection thereof by the office bearers and members of the trade union;
- 5) the admission of ordinary members who shall be persons actually engaged or employed in any industry with which the Trade Union is connected, and also the admission of the member of honarary or temporary members as office bearers required under Section 22 to form the executive of the Trade Union;

- 6) the payment of a subscription by members of the trade union which shall not be less than twenty five paise per month per member;
- 7) the condition under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;
- 8) the manner in which the rules shall be amended, varied or rescinded;
- 9) the manner in which the members of the executive and the other office bearers of the Trade Union shall be appointed and removed;
- 10) the safe custody of the funds of the trade union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the accounts books by the office bearers and Members of the Trade Union, and
- 11) the manner in which the Trade Union may be dissolved,

The name under which the trade union registration must not be similar to that of any existing

under (E 7). On registration, the Registrar issues a certificate of registration in the prescribed form. This is conclusive evidence that the said trade union has been duly registered.

RECOGNITION OF TRADE UNIONS :

The Trade Union (Amendment) Act 1947 was passed (at though it has not so far been enforced) as it was felt that there should be some obligation on the part of employers to recognise a Trade Union provided it is truly representative. Where a trade union consists of workemen employed by the Central Government or by a Federal Railway or in a major part, mine or oil field, the central Government is given the power to appoint Labour Courts to determine disputes regarding refusal of employers to recognise a particular trade union. If the employer agrees to recognise trade union, a Memorandum of Agreement signed by the Employer and the Officers of the Trade Union must be presented to the Registrar. If the employer fails to recognise within 3 months of the application for recognition the trade union can make an application to the Labour Court for recognition by that employer. For such recognition the trade union has to fulfil the following conditions -

- 1) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with one another;
- 2) that it is representative of all the workmen employed by the employer in that industry or those industries;
- 3) that its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause (2);
- 4) that its rules do not provide for the procedure for declaring a strike;
- 5) that its rules provide that a meeting of its executive shall be held at least once in every six months; and
- 6) that it is a registered trade union and that it has complied with all the provisions of the Act (Sec.28-D)

The Registrar or employer can apply for withdrawal of such recognition on any of the following grounds :-

- a) that the executive or the members of the trade

union have committed any unfair practice within three months prior to the date of the application;

- b) that the trade Union has failed to submit any return as required by the Act; and
- c) that the trade Union has ceased to be representative of the workmen. ⁵.

1.B.8 LAWS DEALING WITH INDUSTRIAL RELATIONS :

These laws relate to -

- 1) trade Unions,
- 2) Standing Orders, and
- 3) Settlement of Industrial Disputes.

1) THE INDIAN TRADE UNIONS ACT, 1926 :

This is a statute enacted by Central Govt. and is intended to provide for registration of Trade Unions and allied matters.

The real purpose of the Act was to provide immunity from civil and criminal action in Courts to trade union officials legitimately exercising their

5. "Labour Welfare Trade Unions & Industrial Relation."

By- S.P.Punekar, S.B. Deodhar &
Mrs. S.Sankara.

function of organising labour. Both the England and India Civil Courts had given decree for damages against trade union leaders organising strikes in factories. Once the right of labour to organise themselves for collective bargaining is conceded, the immunity work appear a natural sequence. The immunity is contained in sections 17 and 18 of the Act.

The Act provides for registration of trade union with the Registrar appointed for the purpose. Any trade union with seven members may apply for registration. A trade Union seeking registration should comply with certain formalities. Important among the formalities is to have rules providing for the objects of the Union, purposes for which funds may be utilised, conditions of admission, election of office bearers, safe custody of fund and annual audit.

A trade union which is registered is entitled to a certificate of Registration from the Registrar. A certificate of Registration may be cancelled, if it has been obtained by fraud or mistake, if the union has ceased to exist has contravened the rules. Before cancellation, the trade union should be heard by the Registrar.

A right of appeal to a Civil Court is given by Sec.11 to 9 person aggrieved by non registration or cancellation

A trade union is a body corporate, it can sue or be sued. Section 15 prescribes the objects on which trade union funds may be expended, in administrative expenses, conduct of trade disputes, publishing of Union Magazine and compensation or allowances to members.

A separate fund may be constituted for political purposes. No member of a trade union shall be compelled to pay for this special fund and no benefit should be denied to any member by reason of his not contributing to the Fund.

At least one half of the total number of officers of a registered trade union should be from employees of the industry. The Act also provides for amalgamation of Trade Unions and matters incidental thereto.

A trade union may be dissolved in accordance with the rules of the Trade Union. Notice of dissolution shall be sent to the Registrar within the ¹⁴days and shall be registered by him. Dissolution shall have

effect from the date of Registration. Funds of the trade union in the absence of any specific provision in the rules shall be divided among members.

Annual Returns in the prescribed form along with audited statement of Income and Expenditure, assets and liabilities shall be sent to the Registrar by a prescribed data. The Govt. is empowered to make regulations for the purpose of carrying into effect the provision of the Act.

Non compliance with the provision of the Act is made penal.

STANDING ORDERS :

The Industrial employment (Standing orders) Act 1946 requires all the employers with 100 or more workers working for them to draw up a set of standing orders regulating the day to day relations between the employers and the workmen. The states are empowered to extend the scope of the Act to undertakings employing less than 100 workmen. In Assam the Act has been extended to industrial establishments employing 10 or more workers, in Bombay and West Bengal to establishments employing 50 or more workers and in U.P. those employing less than 100 workers.

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PROCEDURE :

Employers are required to submit draft standing orders which they propose to adopt for their industrial establishments within six months from the date of application of the Act, to certifying officer appointed for the purpose. Standing orders can be drawn up either by an employer or a group of employers. The draft standing orders should provide for all matters mentioned in the schedule to the Act and should conform to the model standing orders, wherever prescribed.

The Schedule covers the following matters :

- 1) Classification of workmen, e.g. whether permanent, temporary, apprentices, probationers, or budlies;
- 2) Manner of intimating to workmen periods and hours of work, holidays, pay days and wage rates,
- 3) Shift working;
- 4) Attendance and late coming;
- 5) Conditions of Procedure in applying for, and the authority which may grant leave and holidays.

- 6) Requirement to enter premises by certain gates, and liability to search.
- 7) Closing and reopening of Sections of the Industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom;
- 8) Termination of employment, and the notice thereof to be given by employer and workmen;
- 9) Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct;
- 10) Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agent or his servants; and
- 11) Any other matter which may be prescribed.

The standing orders become operative on the expiry of 30 days from the date on which the certifying officer sends the authenticated copies to the parties. The text of the certified Standing Orders is to be posted by the employers in English and in the language of the majority of the workers near the factory entrance and also in all the departments where workers are employed.



THE INDUSTRIAL DISPUTES ACT :

The Industrial Disputes Act was enacted in the year 1947 and is one of the major Acts intended to benefit labour by redressal of their grievances. The Act was further amended in 1976 which contains special provisions relating to lay off, retrenchment and closure in certain establishments.

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of any individual workman such disputes or differences between that workman and his employer shall be deemed to be industrial dispute notwithstanding that no other workman nor any Union of workmen is a party to the dispute.

By an amendment to the Act in 1971, Labour Courts or Tribunals have been empowered to review the cases of discharge or dismissal of workmen when such cases are referred to them and if Labour Court or Tribunal as the case may be is satisfied that the order of discharge or dismissal was not justified it may set aside its award and direct reinstatement of workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of

discharge or dismissal as the circumstances of the case may require. However, the Labour Court or Tribunal will have to rely on the Materialson record and cannot take any fresh evidence in relation to such matter.

By an amendment to the Act in 1976 further curbs regarding lay-off, retrenchment and closure have been placed on industrial establishments employing 300 or more workmen. These restrictions are applicable only to factories as defined in the factories Act, mines as defined in the mines Act or Plantation, as defined in the Plantation Labour Act. In other words commercial establishments etc., are excluded from the new restrictions

Before an industrial establishment wants to lay off any workman (other than a Badali workman or casual workman), it has to seek the permission of the authority as specified by the Government. Unless such lay-off is due to shortage of power or natural calamity. It is for the authority specified, after making such enquiry, as he thinks fit, to grant or refuse, giving necessary reasons, the permission applied for in writting. If the permission or refusal is not communicated to the employer within two months from the date of application, permission would deem to have been granted. Lay-off without seeking

permission or where it is refused would be deemed to be illegal.

It is important to note that if an industrial establishment wants to lay off the workmen because of brake down of machinery, shortage of raw materials, accumulation of stock etc, it cannot do so immediately because previous permission is necessary in such case. In view of the maintenance of plant and machinery, proper planning of inventory control, sales planning etc. would be essential.

Another departure from the original provisions is that even if lay-off is due to strike or slowing down of production on the part of workmen in other 1 part of the establishment the previous permission for the lay-off from the authority is necessary.

Broadly speaking the Act provides for investigation of the grivences of organised labour by governmental machinery in the first instance through the medium of conciliation officers and failing which by reference of appropriate cases for adjudication to the authorities set up under the Act. The Act envisages a three tier system under which disputes of certain types are referred

for adjudication by labour Courts while certain types of other disputes are referred for adjudication to the Industrial Tribunal. Both these authorities function at state level. There is also the National Tribunal intended for adjudication of dispute of a character involving repercussions all over the country e.g. Oil company disputes, other industries situate in more than one state, Banking companies.

The conciliation Officer tries to bring the parties together by making them meet at his table and discuss the differences between them. If the dispute is amicably settled at his level, a settlement is entered in to between the parties and this is called a conciliation settlement. A settlement thus effected determines the dispute. If there is no settlement a report is sent by the conciliation officer to the appropriate Govt. and the Govt. after a perusal of all the relevant circumstances including the report of the conciliation Officer may refer a dispute or not and in the absence of mala fides the decision of the Govt. is final and cannot be questioned in a Court of Law. If the matter is referred to adjudication, the authority goes into the matter and pronounces an award which is forwarded to the Govt. and is published in the gazette. Thirty days after the

publication the award becomes enforceable. The Act also provides for the recovery of monies due to the employees from the employer under an award or otherwise. The relevant provisions are Sec.33(c) and (2)

The Act prohibits strikes and lock-outs in certain circumstances and in certain industries. There is further provision for the payment of compensation for ~~isxy~~ lay-off, retrenchment, or closure. For contravention of any of the provisions of the Act by either party, penalties have been provided which may be a fine or imprisonment.

WHAT IS AN INDUSTRIAL DISPUTE :

The Act as mentioned already provides for the investigation and settlement of "Industrial disputes". In other words, the Act as originally conceived did not provide for the espousal of the individual disputes. The entire object of the Act being to preserve industrial peace, it was in consonance with this basic objective that only collective disputes were considered suitable for the application of the provision of the Act. Individual disputes were more or less ignored other than discharge, dismissal, retrenchment or termination of service of individual on workman. An industrial dispute

has been defined in the Act. Judicial decision on the subject have been not only numerous but also Fairly consistant in principle. It has been held that an individual dispute may become an 'industrial dispute' of a body of workmen of the establishment or a substantial number of them make a common cause with an employee who is unfairly dealt with. It is when they take up the matter that an individual dispute takes the characteristic of a collective dispute. What is substantial number has been left to be decided according to the circumstances. In other words, the question is a question of fact to be dealt with in respect of each individual case. No hard and fast principles have been laid down but it has been stated that 'substantial' does not necessarily mean majority. Even as low as 15 or 20% have been held to be a substantial number. Where particular workman belong to a special category like the clerical staff, the question whether the dispute is an individual dispute or an industrial dispute shall be dealt with by applying the test of 'substantial support' to the members of the clerical staff. Only and not to the totality of the workers including operatives. (B.C.Mills case).

WHAT IS AN INDUSTRY :

The term 'industry' has been defined very widely in

the Act. If the definition in the Act is alone taken hardly no form of activity would escape this definition. Judicial decision have allowed certain cases for finding out where a particular activity constitutes an industry or not. The tests are the following :-

- 1) There should be co-operation between the employer and the employee.
- 2) Such co-operation should be in carrying on an operation or activity;
- 3) The Operation or activity should be directed with a view to the satisfaction of material human needs or rendering material services to community at large or section thereof; and
- 4) The operation or activity should not be casual but systematically or habitually carried on in an organised fashion.

Applying the above tests, the following have been held to be industries :-

Textile Research Association

Hospital

Sugarcane farm attached to Sugar factory

Dispensary run by Municipality.

Conservancy Service run by Municipality.

The following form of activities have been held not to constitute an industry.

University.

Chartered Accountants' Establishment.

Solicitors' establishment.

Charitable Institutions

DISMISSAL OF WORKMEN :

One of the most common items in respect of which industrial disputes are raised, relate to dismissal of workmen. Tribunals have laid down that the employer should normally be allowed to take necessary disciplinary action against erring employees. But that such action should be preceded by a full and fair enquiry. As order of dismissal could be interfered with by the Labour Court only if any of the following ingredients are present.

- 1) Where there is want of good faith;
- 2) When there is victimisation or unfair labour practice;
- 3) When the management has been guilty of a basic error or violation of a principle of natural justice; and
- 4) When on the materials the finding is completely baseless or perverse.

DEFECTIVE ENQUIRY OR NO ENQUIRY :

Where the enquiry has been defective or there has been no enquiry into the charges by the management, it is nevertheless open to the Management to adduce evidence before the Tribunal to justify its action and in such a case it is for the Tribunal to judge whether the action taken by the Management is justified or not.

WAGE FIXATION :

The concept of wages has been defined under three different hand viz

- 1) The minimum wage,
- 2) The Fair Wage and
- 3) The living wage.

The minimum wage is a wage which is necessary to keep the body and soul of a workman together and it has been tell that any industry which cannot pay a minimum wage has no right to exist. The fair wage in the lower limit of the living wage and is intended to provide the workman with "measure of frugal comfort including the education of his children while a living wage is the ideal wage and is intended to provide the workman with a comfortable means for livelihood. Both the fair wage and

the living wage depend on the capacity of the employer to pay unlike the minimum wage which must be paid at all costs. No industry in India pays living wage to its workmen. The wages fixed by the employer on contract with workmen are liable for interference by the Tribunal on properly raised industrial disputes and it is open to the Tribunal to re-fix the wages on the basis of the capacity of the industry to pay and the wage rates prevailing in similar industries to take same region.

LAY OFF COMPENSATION :

The provision relating to lay off compensation was put at the statute book in the year 1954. It provides for payment of half the basic wages and dearness allowance if workmen are denied employment on account of shortage of power, or raw materials, or the accumulation of stocks or the break down of machinery or other reasons similar to the above. The provision for payment of compensation do not apply.

- a) to industrial establishment in which less than 50 workmen on an average per working day have been employed in the preceeding calender month
or

- b) to industrial establishment which are of seasonal character or in which work is performed only intermittently.

It is for the Govt. to decide whether a particular establishment is of seasonal character or not.

Any worker who has put in continuous service of one year which has been defined to mean service for a period of 240 days in any of the working year is entitled to the payment of compensation.

A workman is not entitled to the payment of compensation.

A workman is not entitled to lay off compensation;

- 1) if he refuses to accept alternative employment either in the same establishment where he has been working or in any other establishment belonging to the same employer situated in the same town or village within a radius of 5 miles;
- 2) If he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;

- 3) If such laying off is due to strike or showing down of production on the part of workmen in another part of the establishment.

RETRENCHMENT :

Industrial establishments which are factories, Mines or plantations can defined in the factories Act, Mines Act or plantation Labour Act as the case may be, employing 300 or more workmen will have to give three months' notice or three months pay in lieu of three months' notice to the workmen affected by the retrenchment. Here also the permission of authority as specified by the Government is necessary before retrenching any workmen. It is for the authorities to grant or refuse permission after giving reasons in writing. However, no period has been mentioned for serving notice on the appropriate Government. For the purpose of seeking permission for retrenchment. But if the specified authority does not communicate within three months from the date of receiving the application, the permission for the retrenchment is deemed to have been granted. If the permission is refused the retrenchment will be treated as illegal and the workmen will be treated as if they are in continuation of service. The rate of retrenchment compensation is the same as in the case of

other establishments, i.e. 15 days average pay for every completed year of service.

In the case of closure the employer is required to give 60 days notice of his intention to close down the undertaking in the prescribed manner on the appropriate government mentioning clearly reasons for the intended closure of the undertaking. This permission is not applicable to industrial establishments employing less than 20 workmen or the undertaking set up for construction of buildings, bridges, roads, canals dam or for other construction work or projects.

The industrial establishments which are factories, Mines or plantations as defined in the Factories Act, Mines Act or plantations Act, as the case may be, will have to give 90 days notice of closure in the prescribed form to the government stating reason for the intended closure. The government has reserved the power how to direct the employer not to close down the undertaking. When the permission has been refused for closure, the closure will be treated an illegal and the workmen as if in continuation of service. If permission for closure is granted the workmen will have to be paid retrenchment compensation as in the case of retrenchment.

Penalties by way of imprisonment and fines for lay-off, retrenchment or closure without permission have been laid down.

RETRENCHMENT COMPENSATION :

Retrenchment though defined widely in the Act, really means the discharge of the surplus. An Employer can decide to run his establishment in any manner he wants and may restrict the size of his labour force. The decision to retrench must, however be bonafide. If a care for retrenchment is made out, normally the junior most workmen of each category should be discharged. In other words, it is not open to the employer to pick and choose the employees to be retrenched. The rate of 'last come First go' should normally be applied but may be departed from for reasons to be recorded in writing. The reasons are open to scrutiny by a Tribunal in a dispute. The payment of compensation calculated at 15 days wage for each year of service shall be made before the actual retrenchment takes place. Since this is a condition precedent failure to pay before hand would render the retrenchment null and void. It is open to the employer to set off any amount paid by way of Lay-off compensation during the period of one year prior to retrenchment against the retrenchment compensation due to the workmen. (Retrenched

workers should be given preference if the employer finds the necessity to recruit additional hands at a later date).

TRANSFER OF OWNERSHIP AND CLOSURE :

Service is always considered personal and therefore, a transfer of an undertaking severs the employer-employees relationship ipso facto. It has therefore, been provided that on the transfer of an undertaking workers will be entitled to retrenchment compensation unless the tranferce agreed to keep the workmen in service on the same terms and conditions applicable to the workmen before the closure and also agrees to pay retrenchment compensation for the previous service also in the events of any future necessity for retrenchment.

It was held by the Supreme Court that discharge of workmen on closure did not amount to retrenchment. The Act was, therefore, amended to provide for compensation to workers discharged on closure in the same manner as in the case of retrenchment.

STRIKES AND LOCKOUTS :

A strike has been defined as a cessation of work by a body of workmen to pursuance of a common understanding.

It devotes only concerted refusal and not individual actions. If 100 workers abstained from work on the ground that the day was the Tamil New Years' Day, it cannot be called a strike even though the abstaining number was large and the employer might have been put to ~~his~~ hardship thereby; but if 10 workers joint together and refuse to work demanding that, that day should be declared a holiday it will amount to a strike to constitute a strike there must be a concerted refusal, Similarly a lock out is the shutting down of the place of employment or the suspension of work by an employer. A lock out may be used as an offensive weapon or in retaliation for a strike.

The Act does not favour the rights of the parties either to strike or to lock out. While recognising the rights of the respective parties, it has put sufficient embargo on the use of these accepted but costly methods of solving industrial disputes. In respect of public utility services (by which is meant industries in the running of which the public is closely interested e.g. textile industry, motor transport industry etc.) strikes and lock outs have to be preceded by a fortnights notice. Otherwise they would be illegal. The idea of this notice is only to set in motion the conciliation machinery.

Once conciliation starts there is a prohibition against indulging in strike or lockout. Incidentally, the prohibition on strikes and lockouts during pendency of conciliation proceedings and during pendency of disputes referred before Tribunals or Labour Courts applied to public utility services as well as other industries. The requirement of a notice is, however, confined to public utility services only. The Act provides deterrent penalties for illegal strikes and lock outs. A lock out declared in pursuance of an illegal strike or a strike declared in pursuance of an illegal lock-out is not illegal. It is open to the Government to ban a strike or lock out in existence on the reference for adjudication of a dispute in respect of which the strike or lock out was resorted to.

WORKS COMMITTEES :

The Act also provides for the constitution of works committees. In any industrial establishment in which 100 or more workmen are employed, the appropriate government may by general or special order, require the employer to constitute a works committee consisting of equal representatives of employers and workmen. The workers' representatives ~~is~~ are elected while the

employers' representatives are nominated. The election has to take place in consultation with the trade union of workmen if any. The duty of the works committee is to promote measures for securing and preserving amity and good relations between the employer and the workmen and to that end to comment on matters of common interest and endeavor to comment on matters of common interest and endeavor to compose any material differences of opinion in respect of such matters. 6.

6. Industrial Relations and Labour Legislation

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