

UNIT - II

Industrial Disputes Act, 1947

Definitions • Dispute Resolution Machinery • Adjudication • Awards & Settlements

Including Landmark Supreme Court Judgments

Unit Structure & Learning Outcomes

01

Historical Background & Object

Need for the Act, objects and scheme of the legislation

02

Key Definitions

Industry, Workman, Industrial Dispute, Appropriate Government

03

Dispute Resolution Machinery

Works Committee, Conciliation, Board, Court of Inquiry, GSA

04

Adjudication & Awards

Compulsory adjudication, composition, powers, binding nature & judicial review

Historical Background & Object of the Act

The Industrial Disputes Act, 1947 was enacted to provide a machinery for the investigation and settlement of industrial disputes and for certain other purposes. It replaced the Trade Disputes Act, 1929.

Key Objects:

- Prevention of illegal strikes and lock-outs
- Promotion of measures for securing and preserving amity and good relations between employer and workmen
- Investigation and settlement of industrial disputes through conciliation, arbitration and adjudication
- Regulation of lay-off, retrenchment, closure and transfer of undertakings (later chapters)

The Act is a beneficial legislation intended to ensure industrial peace and social justice.

Definition of “Industry”

Statutory Definition (S. 2(j))

“Industry” means any systematic activity carried on by co-operation between an employer and his workmen (whether such workmen are employed by such employer 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...

Bangalore Water Supply & Sewerage Board v. A. Rajappa (1978) – Triple Test

A seven-judge Bench laid down the famous Triple Test:

1. Systematic activity
2. Organised by co-operation between employer and employee
3. For the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious)

The Court held that the definition is very wide. Hospitals, educational institutions, clubs, and even government departments performing sovereign functions may fall within “industry” if the triple test is satisfied.

Definition of “Workman”

Statutory Definition

“Workman” 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, whether the terms of employment be express or implied.

Exclusions: (i) persons employed mainly in a managerial or administrative capacity; (ii) persons employed in a supervisory capacity drawing wages exceeding the prescribed limit and exercising functions mainly of a managerial nature.

Key Case Law

- H.R. Adyanthaya v. Sandoz (India) Ltd. (1994) – Medical representatives held not workmen (sales promotion).
- Bharati Airtel Ltd. v. A.S. Raghavendra (2024) – Senior employees performing managerial/administrative functions are not workmen even if they lack power to appoint or dismiss.

Industrial Dispute & Individual Dispute

Industrial Dispute – S. 2(k)

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 of employment or with the conditions of labour, of any person.

Landmark: Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea Estate (1958) – two tests: (1) the dispute must be connected with employment/non-employment etc.; (2) the person regarding whom the dispute is raised must be one in whose employment/non-employment the parties have a direct and substantial interest.

Individual Dispute – S. 2A

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with such discharge etc. shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union is a party to the dispute. (Inserted by 1965 amendment)

Appropriate Government

Central Government is the appropriate Government in relation to:

- Any industry carried on by or under the authority of the Central Government
- Railway company
- Controlled industry specified by Central Government
- Banking, insurance, mines, oil fields, major ports, etc. as listed in the Act

In relation to any other industrial dispute, the State Government is the appropriate Government.

Significance: The power to refer disputes under S. 10, prohibit strikes/lock-outs, and appoint authorities vests in the appropriate Government. Incorrect identification can render a reference invalid.

Works Committee & Conciliation Machinery

Works Committee (S. 3)

In establishments employing 100 or more workmen. Consists of equal number of representatives of employer and workmen. Duty to promote measures for securing and preserving amity and good relations.

Conciliation Officers (S. 4)

Appointed by appropriate Government. Duty to mediate and promote settlement of industrial disputes. Has powers of a Civil Court for certain purposes.

Board of Conciliation (S. 5)

Constituted for promoting settlement of disputes. Consists of a chairman and two or four other members representing parties equally.

Court of Inquiry (S. 6)

Appointed to inquire into any matter appearing to be connected with or relevant to an industrial dispute. Report submitted to appropriate Government.

Grievance Settlement Authority & Voluntary Arbitration

Grievance Settlement Authority (S. 9C)

Every industrial establishment employing 20 or more workmen must have one or more Grievance Settlement Authorities for settlement of industrial disputes connected with an individual workman.

Reference of individual disputes to GSA is mandatory before raising an industrial dispute under S. 2A in certain cases.

Aim: Speedy resolution of individual grievances at the plant level.

Voluntary Arbitration (S. 10A)

Where any industrial dispute exists or is apprehended, the employer and the workmen may agree to refer the dispute to arbitration.

Arbitration agreement must be in the prescribed form and a copy forwarded to the appropriate Government and the Conciliation Officer.

The arbitrator investigates the dispute and submits the arbitration award to the appropriate Government.

Award is binding in the same manner as an award of a Labour Court/Tribunal.

Government's Power of Reference (S. 10)

Where an industrial dispute exists or is apprehended, the appropriate Government may, by order in writing:

- (a) refer the dispute to a Board for promoting a settlement; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or
- (c) refer the dispute or any matter to a Labour Court / Tribunal / National Tribunal for adjudication.

Critical Points:

- Power is discretionary but must be exercised bona fide.
- Government can refer even if parties do not request.
- Reference can be made at any stage.
- Failure report of Conciliation Officer is not a condition precedent (except in public utility services for certain purposes).

Landmark: State of Madras v. C.P. Sarathy (1953) – Government's satisfaction is subjective; courts will not sit in appeal over the order of reference unless mala fide or without jurisdiction.

Composition & Qualification of Adjudication Authorities

Labour Court (S. 7)

Presiding Officer: Sitting or retired High Court Judge, or District Judge / Additional District Judge of not less than 3 years standing, or person who has held judicial office for not less than 7 years, or has been the Presiding Officer of a Labour Court for not less than 5 years.

Industrial Tribunal (S. 7A)

Presiding Officer same qualifications as Labour Court. May also include two members (to advise). Jurisdiction over wider range of matters listed in Second & Third Schedules.

National Tribunal (S. 7B)

Constituted by Central Government for disputes of national importance or involving establishments in more than one State. Presiding Officer: sitting or retired Supreme Court / High Court Judge.

Jurisdiction and Powers of Adjudication Authorities

- Labour Court: Matters specified in the Second Schedule (legality of orders, discharge/dismissal, withdrawal of customary concessions, etc.).
- Tribunal: Matters in Second + Third Schedule (wages, compensatory allowances, hours of work, leave, bonus, provident fund, classification of grades, etc.).
- Powers (S. 11): Same powers as are vested in a Civil Court under the CPC when trying a suit in respect of enforcing attendance, examining on oath, compelling production of documents, issuing commissions.
- Section 11A (inserted 1971): Labour Court / Tribunal / National Tribunal may set aside the order of discharge or dismissal and direct reinstatement or give such other relief as it thinks fit, including award of lesser punishment. The authority can reappraise evidence and come to its own conclusion on the quantum of punishment.

Landmark: Workmen of Firestone Tyre & Rubber Co. v. Management (1973) – Scope of S. 11A explained; tribunal can interfere with findings of domestic enquiry if perverse or based on no evidence.

Award and Settlement – Meaning & Binding Nature

Award (S. 2(b))

An interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal and includes an arbitration award made under S. 10A.

Period of operation (S. 19): An award remains in operation for one year (or shorter period as specified). Government may extend the period up to three years.

Binding on: All parties to the dispute, all other parties summoned, and where a party is composed of workmen, all persons employed in the establishment or part thereof.

Settlement (S. 2(p))

A settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties in the prescribed manner.

S. 18(1): Private settlement binds only parties to the agreement.

S. 18(3): Conciliation settlement binds all parties to the dispute, all other parties summoned, and all workmen employed in the establishment.

Judicial Review of Awards

Awards of Labour Courts / Tribunals are subject to judicial review under Articles 226 and 227 of the Constitution and under Article 136.

Grounds of interference:

- Lack of jurisdiction or excess of jurisdiction
- Error of law apparent on the face of the record
- Violation of principles of natural justice
- Perversity of findings (findings based on no evidence or such that no reasonable person could have arrived at)
- Mala fides

Courts do not sit as a court of appeal on facts. Reappraisal of evidence is not permissible unless the finding is perverse.

Landmark cases:

- Bharat Bank Ltd. v. Employees of Bharat Bank (1950) – Tribunals are quasi-judicial bodies; awards open to scrutiny under Art. 136.
- Syed Yakoob v. K.S. Radhakrishnan (1964) – Scope of certiorari against industrial awards explained.

Critical Analysis of Government's Power of Reference

Positive Aspects:

- Enables the State to intervene in the larger interest of industrial peace and public interest.
- Prevents prolonged disputes by compulsory adjudication.
- Protects weaker party (workmen) who may not have bargaining strength.

Criticisms & Judicial Observations:

- Wide discretionary power may be exercised arbitrarily or for political considerations.
- Delay in making reference frustrates the object of the Act.
- Courts have held that the Government must apply its mind; a mechanical order is bad.
- Once a reference is made, the Tribunal cannot question the propriety of the reference on merits (except jurisdictional facts).

Key Cases:

- Avon Services (Production Agencies) Pvt. Ltd. v. Industrial Tribunal (1979) – Government can make a second reference if earlier one was withdrawn or not pursued.
- Telco Convoy Drivers Mazdoor Sangh v. State of Bihar (1989) – Government cannot refuse reference on the ground that the claim is frivolous; that is for the Tribunal to decide.

Landmark Judgments – Definitions & Reference

Bangalore Water Supply v. A. Rajappa (1978)

Triple Test for “industry”. Extremely wide interpretation; almost all organised activities covered.

Workmen of Dimakuchi Tea Estate (1958)

Tests for industrial dispute – direct and substantial interest of workmen in the employment of the person concerned.

State of Madras v. C.P. Sarathy (1953)

Satisfaction of Government under S. 10 is subjective; limited judicial review.

Telco Convoy Drivers Mazdoor Sangh (1989)

Government cannot refuse reference merely because it thinks the claim is not maintainable; that is for the adjudicator.

Landmark Judgments – Adjudication & Awards

Workmen of Firestone Tyre v. Management (1973)

Scope of S. 11A – Tribunal can reappraise evidence and interfere with quantum of punishment.

Bharat Bank Ltd. v. Employees (1950)

Industrial Tribunals exercise quasi-judicial functions; awards subject to Art. 136 scrutiny.

Central Inland Water Transport Corpn. v. Brojo Nath (1986)

Unconscionable terms in contracts of employment can be struck down; public policy considerations.

Punjab National Bank v. All India Punjab National Bank Employees' Federation (1960)

Principles governing discharge/dismissal and the role of the Tribunal.

Scheme of Industrial Dispute Resolution under the Act



Key Takeaways – Unit II

- The ID Act, 1947 is the principal statute for investigation and settlement of industrial disputes in India.
- “Industry” has been given a very wide meaning by the Supreme Court (Bangalore Water Supply).
- Individual disputes relating to discharge, dismissal, retrenchment or termination are deemed industrial disputes under S. 2A.
- The Act provides a multi-tier machinery: Works Committee → Conciliation → Arbitration → Adjudication.
- Government’s power of reference under S. 10 is wide but must be exercised bona fide and after application of mind.
- Awards and conciliation settlements have statutory binding force under S. 18 and remain in operation as per S. 19.

End of Unit – II

Industrial Disputes Act, 1947

Definitions • Authorities • Adjudication • Awards

Proceed to Unit-III: Strikes, Lock-outs & Job Losses