

FAQ'S OF INDUSTRIAL DISPUTE ACT, 1947

1. What are Industrial Disputes?

Industrial Dispute means any dispute or differences between employers and employees 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.

2. What are the different categories of Industrial Disputes?

The Second Schedule of the I.D. Act deals with matters within the jurisdiction of Labour Courts, which fall under the category of Rights Disputes. Such disputes are as follows:

1. The propriety or legality of an order passed by an employer under the standing orders;
2. The application and interpretation of standing orders, which regulate conditions of employment.
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule. The Third Schedule of the I.D. Act deals with matters within the jurisdiction of Industrial Tribunals which could be classified as Interest Disputes. These are as follows: -

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalization;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed.

3. Who can raise an Industrial Dispute?

Any person who is a workman employed in an industry can raise an industrial dispute. A workman includes any person (including an apprentice) employed in an industry to do manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. It excludes those employed in the Army, Navy, Air Force and in the police service, in managerial or administrative capacity. Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.

4. How to raise an Industrial Dispute?

A workman can raise a dispute directly before a Conciliation Officer in the case of discharge, dismissal, retrenchment or any form of termination of service. In all other cases listed at 2 above, the dispute has to be raised by a Union / Management.

5. Who are Conciliation Officers and what do they do?

The Organization of the Chief Labour Commissioner (Central) acts as the primary conciliatory agency in the Central Government for industrial disputes. There are the Regional Labour Commissioners (Central) and Assistant Labour Commissioners (Central) who on behalf of the Chief Labour Commissioner (Central) act as Conciliatory Officers in different parts of the

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country. The Conciliation Officer makes efforts to resolve the dispute through settlement between the workmen and the management. The duties of Conciliation Officers have been laid down under Section 12 of the Industrial Disputes Act.

6. What happens if conciliation fails?

In case of failure of conciliation (FOC) a report is sent to Government (IR Desks in Ministry of Labour). The Ministry of Labour after considering the FOC Report exercises the powers available to it under Section 10 of the Industrial Disputes Act and either refers the dispute for adjudication or refuses to do so. Details of functions of IR Desks and reasons for declining may be seen above. There are at present 17 Central Government Industrial Tribunals-cum-Labour Courts in different parts of the country to whom industrial disputes could be referred for adjudication. These CGITs -cum-Labour Courts are at New Delhi, Mumbai (2 CGITs), Bangalore, Kolkata, Asansol, Dhanbad (2 CGITs), Jabalpur, Chandigarh, Kanpur, Jaipur, Lucknow, Nagpur, Hyderabad, Chennai and Bhubaneswar. Out of these CGITs, 2 CGITs namely Mumbai-I and Kolkata have been declared as National Industrial Tribunals.

7. What happens when the dispute is referred to Labour Court?

After the matter is referred to any of the CGIT-cum-Labour Court, the adjudication process begins. At the end of the proceedings an Award is given by the Presiding Officer. The Ministry of Labour under Section 17 of the I.D. Act publishes the Award in the Official Gazette within a period of 30 days from the date of receipt of the Award.

8. How is the Award implemented?

An Award becomes enforceable on the expiry of 30 days from the date of its publication in the Official Gazette. The Regional Labour Commissioner is the implementing authority of the Awards.

9. What are the provisions for General Prohibition of Strikes and Lockouts?

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lockout: (a) During the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings, (b) During the pendency of such proceedings before a Labour Court, Tribunal or National Tribunal and 2 months after the conclusion of such proceedings, (c) During the pendency of arbitration proceedings before an Arbitrator and 2 months after the conclusion of such proceedings, where a notification has been issued, (d) During any period in which a settlement or Award is in operation in respect of any of the matters covered by the settlement or Award.

10. Does the workman have the Right to go on strike with proper notice in Public Utility Services?

No person employed in a Public Utility Service can go on strike without giving to the employer notice of strike: (a) Within 6 weeks before striking, (b) Within 14 days of giving such notice, (c) Before the expiry of the date of strike specified in such notice, (d) During the pendency of any conciliation proceedings before a Conciliation Officer and 7 days after the conclusion of such proceedings.

11. Does the Employer have the right to lock out any Public Utility Service?

No employer carrying on any Public Utility service can lockout any of his workman: (i) Without giving to them notice of lockout provided within 6 weeks before locking out, (ii) Within 14 days of giving such notice, (iii) Before expiry of the date of lockout specified in any such notice, (iv) During the pendency of any conciliation proceedings before a Conciliation Officer and 7 days after the conclusion of such proceedings.

12. What compensation will a workman get when laid off?

Whenever a workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment employing 50 or more workmen on an average working day and who has completed not less than one year of continuous service under an employer laid off, whether continuously or intermittently, he is to be paid by the employer for all days during which he is so laid off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off.

13. What is the conditions precedent to retrenchment of workmen?

No workmen employed in any industry who has been in continuous service for not less than one year under an employer can be retrenched by that employer until: (a) The workman has to be given one month's notice in writing indicating the reasons for retrenchment or the workman has to be paid in lieu of such notice, wages for the period of the notice. (b) The workman has to be paid, at the time of retrenchment, compensation which is equivalent to fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months; and (c) Notice in the prescribed manner is to be served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette).

14. What compensation will the workman get when an undertaking closes down?

Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure is entitled to notice and compensation in accordance with the provisions as if the workman had been retrenched. Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman is not to exceed his average pay for three months