

BRIEF NOTES ON Industrial Disputes Act, 1947

Industry

The Industrial Disputes Act applies to all industries. Industry for the purpose of Industrial Disputes Act is defined under the Act.

Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947 recognizes certain rights to the employees employed by the employer. For the purposes of Industrial Disputes Act, 1947, workman has been defined as under:

“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, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person:

- who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- who is employed in the police service or as an officer or other employee of a prison; or
- who is employed mainly in a managerial or administrative capacity; or
- who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature

What is Industrial Disputes

Industrial dispute means any dispute or difference 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. The

industrial dispute connotes a real and substantial difference between employers and employers or between employers and workmen or between workmen and workmen, having some elements of persistency and continuity till resolved and likely to endanger industrial peace of the undertaking or the community. An individual dispute espoused by the union becomes an industrial dispute. The disputes regarding modification of standing orders, contract labour, lock outing disguise of closure have been held to be industrial disputes.

There must be following ingredients of an industrial dispute:-

- (i) There must be a relationship of employer and employee.
- (ii) The worker must be on the roll list of the industry.
- (iii) The demands of the workers must have been rejected by the employer.
- (iv) The dispute may be between two employers or between two employees.
- (v) The dispute may be connected with employment or terms of employment or with labour conditions of any person.
- (vi) The industrial unit must be a going concern. It must not be dead.

Forms:-

(a) Strikes-

is a very powerful weapons to get its demand accepted by a trade union. It means quitting work by a group of workers for the purpose of bringing pressure on their employers to accept their demands.

There are many types of strikes.

(a) Economic Strike:-

Under this type of strike, members of trade Union stop work to enforce their economic demands such as increase in wages, bonus & other benefits.

(b) Sympathetic Strike:-

When members of a Union collectively stop work to support or express their sympathy with the members of other union who are on strike.

(1) General Strike:-

Means a strike by members of all or most of unions in a region or an industry. It may be strike of all workers in a particular region to force demands common to all workers.

(2) Sit Down Strike:-

When workers do not leave their place of work but cease work, they are said to be on sit down or stay in strike.

(3) Slow Down Strike:-

Employers remain on their jobs under this type of strike. They do not stop work but restrict rate of output in an organized manner.

Lock-Out:-

Is declared by employers to put pressure on their workers. It is an act on the part of the employers to close down the place of work until workers agree to resume work on terms & conditions specified by employers.

Gherao:-

Denotes a collective action initiated by a group of workers under which members of management of an industrial establishment are prohibited from leaving their business or residential premises by workers who block their way through human barricade.

Reference of disputes to Boards, Courts and Tribunals

Section 10, Industrial Disputes Act, 1947 provides that where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time; by order in writing refer the dispute for redressal before the competent Jurisdictional Tribunals or as provided in the Act.

Further, where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient to do so, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced. Section 10(2) of The Industrial Disputes Act, 1947 provides that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, Labour Court, Tribunal or National Tribunal, the appropriate government, if satisfied that the persons applying represent the majority of each government, party, shall make the reference accordingly.

Reference of disputes to arbitration

Section 10A, Industrial Disputes Act, 1947 provides that where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may at any time before the dispute has been referred to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such persons (including the presidency officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator as may be specified in the arbitration agreement.

Settlement of industrial dispute by conciliation

Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice has been received, shall hold conciliation proceedings in the prescribed manner.

Recovery of money due from an employer

Section 33C (1) of The Industrial Disputes Act, 1947 provides that where any money is due to a workman from an employer under a settlement or an award, the workman himself or any other person authorized by him in writing in this behalf, without prejudice to any other mode of recovery, make an application to the appropriate government for the recovery of the money due to him.

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer.

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate government is satisfied that the applicant had sufficient cause for not making the application within the said period.

Notice of strikes and lock-outs

Section 22, Industrial Disputes Act, 1947 provides that no person employed in a public utility service shall go on strike in breach of contract:

- without giving to the employer notice of strike, within six weeks before striking; or
- within fourteen days of giving such notice; or
- before the expiry of the date of strike specified in any such notice aforesaid; or
- during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

No employer carrying on any public utility service shall lock-out any of his workmen

- without giving them notice of lock-out as hereinafter provided, within six weeks before locking out; or
- within fourteen days of giving such notice; or
- before the expiry of the date of lock-out specified such notice as aforesaid; or
- during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

The notice of strike shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

The notice of lock-out shall be given by an employer in prescribed form. The notice shall be displayed conspicuously by the employer on a notice board

at the main entrance to the establishment and in the manager's office:
Provided that where a registered trade union exists, a copy of the notice shall also be served on the Secretary of the union. The notice of lock-out or strike shall not be necessary, where there is already in existence a strike or as the case may be lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate government either generally or for a particular area or for a particular class of public utility services.

Report of strike or lock-out by employer

If on any day an employer receives from any person employed by him any notice of strike or gives to any persons employed by him any notice of lock-out, he shall within five days thereof, and report to the appropriate government or to such authority as that government may prescribe the number of such notices received or given on that day. The report of notice of a strike or lock-out should be sent by registered post or given personally to the Assistant Labour Commissioner (Central) appointed for the local area concerned, with copy by registered post to concerned departments.

Retrenchment of workman

Section 25F, Industrial Disputes Act, 1947 provides that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall not be retrenched by the employer unless, the workman has been given one month's notice in writing indicating the reasons for retrenchment and period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice.

Procedure for retrenchment

Section 25F, Industrial Disputes Act, provides that where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workman in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last

person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

Dismissal, etc of an individual workman to be an industrial dispute

Section 2A, Industrial Disputes Act provides that where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between the workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workman is a party to the dispute.

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between the workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination, the workmen can raise the dispute directly without reference or intervention of the Government under Section 11A of the Industrial Dispute Act within 6 months from the date of such discharge, dismissal, retrenchment or termination.

(NOTE: *This information is given for the limited purpose)*