



**MASTER IN
MANAGEMENT STUDIES
SEMESTER - III (CBCS)**

**LABOUR LAWS AND
IMPLICATIONS ON
INDUSTRIAL RELATIONS**

SUBJECT CODE : UAMMSHRM.4

Prof.(Dr.) D. T. Shirke

Offg. Vice-Chancellor,
University of Mumbai,

Prin. Dr. Ajay Bhamare

Offg. Pro Vice-Chancellor,
University of Mumbai,

Prof. Prakash Mahanwar

Director,
IDOL, University of Mumbai,

Program Co-ordinator : Ms. Rajashree Pandit

Assistant Professor (Economics),
Head Faculty of Commerce & Management,
IDOL, University of Mumbai, Mumbai.

Course Co-ordinator : Ms. Anitha Menon

Assistant Prof. IDOL,
University of Mumbai, Mumbai

Editor : Ms. Bhairavi Barodia Saha

Co-ordinator, MMS - HR
IDOL, University of Mumbai, Mumbai.

Course Writers : Dr. Khushboo R. Hotchandani

Assistant Prof.
N. M. D. College, Gondia - 441614

January 2023, Print 1

Published by : Director Incharge
Institute of Distance and Open Learning ,
University of Mumbai,
Vidyanagari, Mumbai - 400 098.

DTP Composed : Mumbai University Press
Printed by Vidyanagari, Santacruz (E), Mumbai

CONTENTS

| Unit No. | Title | Page No. |
|----------|---|----------|
| 1. | Overview of Industrial Relations | 1 |
| 2. | Introduction to Labour Laws | 16 |
| 3. | Industrial Relations Regulation | 28 |
| 4. | Regulative laws | 43 |
| 5. | Social Security Legislations | 58 |
| 6. | Wage Legislation's | 72 |
| 7. | Overview of Few Laws | 83 |
| 8. | Internal Assessment of Alternate Dispute Resolution | 92 |



| | | | | |
|--------------------------------------|---|---|-----------------|-------------|
| Semester | : | III-Core | | |
| Title of the Subject / course | : | Labour Laws and Implications on Industrial Relations | | |
| Course Code | : | | | |
| Credits | : | 4 | Duration | : 40 |

Learning Objectives

| | |
|---|---|
| 1 | Understanding Nature and Importance of Labour Laws |
| 2 | To understand various legislations with their history, basic provisions & case laws |
| 3 | To study current amendments in Labour laws |
| 4 | Highlight Labour Laws with IR implications |

Module

| Sr. No. | Content | Activity | Learning outcomes |
|----------------|--|-----------------|---|
| 1. | <p>Overview of IR</p> <ul style="list-style-type: none"> • IR history in brief, System approach to IR and IR model, • Collective Bargaining, Basic Grievance machinery and disciplinary procedure • Importance of Workers Participation in Management with few egs. • Relating IR to labor laws • Labor laws with IR implications for futuristic India | | <p>This is to give a snapshot of IR and the faculty to relate importance of IR to Labor Laws, changing dynamics of IR</p> |

| | | | |
|---|--|-----------|--|
| 2 | Introduction to Labor Laws <ul style="list-style-type: none"> • Government of India Structure, Constitutional provisions for labor • Structure of Courts and appropriate authorities in India. • Principles of Labor Laws Classification of Labor Laws viz: Regulative, Employment, Wage, • Social Security &IR | | Understanding court jurisdictions and basics of labor laws |
| 3 | Industrial Relations Legislations <ul style="list-style-type: none"> • Industrial Dispute Act 1947 • Trade Union Act 1926 & | Case Laws | To study history, provisions, case laws & amendments under each law. |
| | MRTUP & PULP 1971 (only unions politics & recognition provision) <ul style="list-style-type: none"> • Industrial Employment (Standing Order) Act 1946 | | |
| 4 | Regulative Laws <ul style="list-style-type: none"> • The Factories Act, 1948 • The Bombay Shop and Establishment Act, 1948 | Case Laws | To study history, provisions, case laws & amendments under each law. |
| 5 | Social Security Legislations <ul style="list-style-type: none"> • Workmen's Compensation Act 1923 (with sums) • ESI Act 1948 • Gratuity Act 1972 • Provident Fund Act & Mis. 1952 | Case Laws | To study history, provisions, case laws & amendments under each law. |
| 6 | Wage Legislations <ul style="list-style-type: none"> • Payment of Wages Act 1936 • Minimum Wages Act 1948 | Case Laws | To study history, provisions, case laws & amendments under each law. |

| | | | |
|-----|--|-----------|-------------------------------------|
| 8 | Overview of few laws <ul style="list-style-type: none"> • Maternity Benefit Act 1961 • Apprentice Act 1961 • Employment Exchange Act 1951 • Payment of Bonus Act 1965 | Case Laws | Just an overview needs to be taught |
| 9. | Internal Assessments Overview of Alternate Dispute Resolution Mechanisms | | |
| 10. | Revision | | |

Text and Reference books

| | |
|---|--|
| 1 | Mamoria, C. B. & Mamoria, S. Dynamics of Industrial Relations in India. Himalaya Publishing House |
| 2 | Sharma, A. M. Industrial Relations: Conceptual & Legal Framework. Himalaya Publishing House |
| 3 | Mamoria, C. B., Mamoria, S. & S. V. Gankar. Dynamics of Industrial Relations in India. Himalaya Publishing House |
| 4 | Sharma, A. M. Industrial Relations: Industrial Jurisprudence and Labour Legislation. Himalaya Publishing House |
| 5 | Kapoor, N.D: Elements of Mercantile Law. Sultan Chand & Sons |

Assessment

| | |
|--------------|-----|
| Internal | 40% |
| Semester end | 60% |



OVERVIEW OF INDUSTRIAL RELATIONS

Unit Structure :

- 1.1 Objectives
- 1.2 Overview of IR
- 1.3 IR History in brief
- 1.4 System Approach to IR and IR Model
- 1.5 Collective Bargaining
- 1.6 Basic Grievance Machinery and Disciplinary Procedure
- 1.7 Importance of Workers Participation in Management
- 1.8 Case Discussion
- 1.9 Labor Laws relating to IR
- 1.10 Labor Laws with IR implications for futuristic India
- 1.11 Summary
- 1.12 Self-Assessment Test

1.1 OBJECTIVES

After studying this module, you should be able to :

- Understand the nature and relevance of IR
- Importance of IR to Labor Laws
- Changing dynamics of IR
- Concept of collective bargaining
- Importance of workers participation in management
- Understand the various Labor Laws

1.2 OVERVIEW OF INDUSTRIAL RELATIONS

The concept of industrial relation has a broader meaning. Though in a narrow sense, it implies the relation between employer and employee. In a broader sense, the term industrial relations refers to the relation between employer and employee, union and state, employers and government,

employees and government. The study of their relationship is known as industrial relations.

Industrial relations represents the relationship between the employers and employees. The study of their relationship is a subject matter of industrial relation. It refers to a study of examining the relations between employer and employee, employee and employee and employer and employer. The management represents employers and unions represent employees. The government is treated as a third party which acts in the interests of the employees by enacting various laws and legislations. It implies the relation between the employer and employee. The relationship is studied during the period of employment in an industrial organization.

According to the International Labor Organization (ILO), “Industrial relations deals with relationships between either state and employers and workers organizations or the relationship between the occupation organization themselves.”

The main objectives behind the concept of industrial relations is to establish and maintain industrial peace along with safeguarding the interests of both workers and management. It helps to avoid industrial disputes. Good industrial relations raise the production capacity. It also contributes to improving the morale and motivation of employees. With the help of good industrial relations, the labor turnover rate and absenteeism can be minimized. It also minimizes the chances of strikes, lockouts etc.

The concept of industrial relations deals with the relationship of employer and employee. Good industrial relations safeguards the interests of employees. It helps to maintain a balance with employee expectations, employer associations, trade unions, and other social and economic institutions of societies. The disputes between management and union can be avoided with the help of good industrial relations. It establishes communication between workers and management to maintain the sound relationship between the two.

1.3 IR HISTORY IN BRIEF

The history of industrial relations dates back to old times. The origin lies in the employer-employee relationships. The main essence of industrial relations is employer-employee relationships. The relation between employer and employees plays an important role in maintaining industrial peace. The employees were largely dependent on wages as they were not having any ownership of the means of production, instruments and materials. Those who had means of production instruments and materials became the employers and the rest became employees.

The beginning of industrial societies consisted of small competitive businesses and industrial enterprises. In the economic system, the quantity of these establishments were large. Each unit and establishment used to employ a small number of laborers. At that time, when the awareness and system for labor was weak, the relationship between them was personal

and close. The relations between them were informal. In some establishments, they were exploited to some extent or to greater extent due to lack of labor laws and legislations.

After the evolution of joint stock companies and business corporations, thousands of employees were employed. The relationship between the employer and his employees became no longer intimate and informal. The following factors also contributed in creating the gap between laborers and management -

- State intervention
- Trade unions and its growth
- Employee federations
- Growing field of personnel management
- Industrial psychology
- Industrial development etc.

The above mentioned reasons can be considered a boon or a curse for widening a gap between labor and management. These factors have tended to influence the spirit and the course of the relationship between employers and employees. They have changed the nature of the relationship between employer and employee.

The private partnership between management labor and management have changed into public partnership where they are held accountable more for the public rather than for each other. For the public welfare, the first and foremost thing is industrial peace and harmony which can be maintained through good industrial relations. The command of trade unions, federation and associations can be used for the welfare of society or for disruption of society.

The present area of industrial relations revolves around prohibition of strikes and lockouts, maintenance of discipline, promotion of industrial peace, courtesy and harmony, hiring right people and firing wrong people, promotion and transfer, payment of wages, bonus, overtime allowances, other benefits etc.

1.4 SYSTEM APPROACH TO IR AND IR MODEL

“Industrial relation is an art of living together for the purpose of production”

- J. Henry

In 1958, the system approach was developed by J.P. Dunlop of Harvard University. According to Dunlop, the industrial relations system comprises certain actors, certain contexts, and an ideology, which binds them together and a body of rules created to govern the actors at the workplace

and work community. The system approach of industrial relations deals with all the individuals and institutions that interact at the workplace.

It may be defined as comprising the totality of power interactions of participants in a workplace, when these interactions involve industrial relations issues. The system approach can be conceived at different levels, national, regional, industrial and workplace. The system approach concept is operationally definable.

The main characters in the system are -

- The managers
- Workers and their representatives
- Government agencies

The system approach comprises certain actors, certain context and an ideology. The integration of these things is important. The system helps to govern the people at the workplace. The rules in the system approach are classified into two categories - substantive rules and procedural rules. The former determine the conditions under which people are employed while the later govern how substantial rules are to be made and understood.

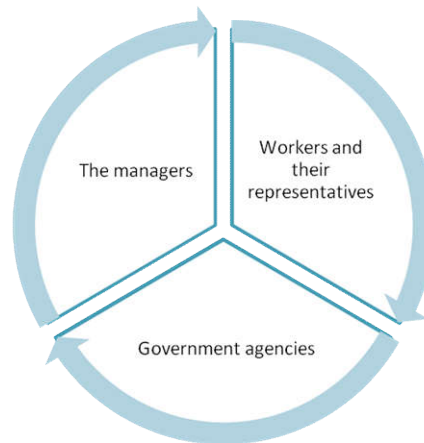


Fig. 1.1: The System Approach

1.5 COLLECTIVE BARGAINING

In the writings of Sidney and Beatrice Webb, the term “Collective Bargaining” originated. Collective bargaining is a process through which the representatives of both the management and employees participate. The process of collective bargaining aims to establish stable relationships between the parties involved. It helps in achieving discipline in the industry.

Collective means united

Bargaining means negotiation

Together, its group or united negotiation.

According to the Encyclopedia of Social Sciences “Collective bargaining is a process of discussion and negotiation between two parties, one or both of whom a group of persons is acting in consent. The resulting bargain is an understanding as to the terms and conditions under which a continuing service is to be performed..... More specifically, collective bargaining is a procedure by which employers and a group of employees agree upon the conditions of work.”

Collective bargaining is a process through which the management and employees resolve their differences. As the name suggests, there is no intervention from a third party. Mutually and collectively, the management and employees discuss and negotiate. Acting in a manner that is beneficial for both parties is the essence of collective bargaining.

To set the terms and conditions of work, to resolve disputes, the technique of collective bargaining is used by the members of management and labor. The process of collective bargaining takes place at different levels. The levels vary from region to region and area to area. Healthcare services, pensions, bonus, working conditions can be discussed through the techniques of collective bargaining. There are various types of bargaining. Cooperative bargaining is one of the methods which is found suitable for the Indian business environment.

1.6 BASIC GRIEVANCE MACHINERY AND DISCIPLINARY PROCEDURE

1.6.1 Grievance

Grievance reflects the type of dissatisfaction or feeling of injustice in connection with the employment. In industrial relations. The focus is on the promotion of the amicable relationship between employees and employers. Grievance is a rust on human relations. There is hardly a company where the employees do not have grievances of one kind or the other. A grievance produces unhappiness, discontent, efficiency and productivity.

The cost of grievance can be high in terms of -

- Conflict
- Poor customer service
- Poor work
- Resentment of employees
- Damage to property
- Time wastage/loss

1.6.2 Definition

In the words of Keith Davis, “Grievance is any real or imagined feeling of personal injustice which an employee has concerning his employment relationship.”

According to Prof. Jucius, “Grievance is any discontent or dissatisfaction, whether expressed or not, whether valid or not, arising out of anything connected with the company that an employee thinks, believes, or even feels is unfair, unjust or inequitable.”

1.6.3 Causes Of Grievances

To understand the concept of grievance, it is important to know the causes of grievances to avoid those reasons to have better industrial relations and peace in an organization. In an organization, a grievance may arise due to several reasons and factors such as -

1. Management policies like -

- Overtime
- No collective agreement
- Leave policy
- Wage rate policy
- Allowances policies

2. Personal Factors like -

- Employees own behavior
- Poor relations with colleagues
- Poor Relations with seniors or juniors
- Conflicts with peers
- Style of leadership
- Lack of coordination with team members
- Understanding problems

3. Reasons related to working conditions like -

- Poor safety conditions
- Negative approach to discipline
- Poor or unrealistic targets
- Non-maintenance of machineries
- Bad physical conditions

1.6.4 Grievance Procedure

For the settlement of dispute, a grievance procedure is followed. Grievance procedure is a formal communication between an employee and the management designed for the settlement of a grievance. The procedure differs from industry to industry, organization to organization.

At the 16th session of the Indian Labour Conference, the Code of Discipline was adopted. The Code of Discipline has highlighted the need for a model grievance procedure on an agreed basis between employees and employers or between the aggrieved parties. Grievances must be settled as near as possible to the point of origin.

The grievance procedure in any organization should be -

- Prompt
- Well-defined
- Simple
- Time-bound
- Settled at the lowest levels

THE 5 POINT FORMULA

An organization can adopt the following steps to redress the grievance. The National Commission On Labour has suggested - The 5 Point formula of Grievance settlement procedure as below :-

1. Rule of 48 Hours

The aggrieved employee should communicate his/her grievance even verbally to the officer concerned who will reply within 48 hours of complaint. The grievance should be reported and settled as early as possible.

2. Rule of 3 Working Days

In case of failure to receive a reply the aggrieved employees will approach the next higher authority who has vested power to hear such complaints. She/he shall reply within 3 working days of the presentation of grievance.

3. Rule of Seven Days

In case of failure to receive such reply the aggrieved employee will refer the matter to the grievance committee which shall give reply within seven days. The management must communicate the decision within three days.

4. Rule of a Week in case of non-satisfaction

In case the employee is yet not satisfied or does not receive the reply he/she shall appeal to the management for revision of the judgment. The management can take a week's time to deliver a decision.

5. Rule of a Week for voluntary arbitration

The employee, if not satisfied even at the above stage, may be referred to a voluntary arbitration within a week after a decision taken by the management at that stage. The decision of the Arbitrator is final and binding on both the parties.

1.7 IMPORTANCE OF WORKERS PARTICIPATION IN MANAGEMENT

1.7.1 Introduction

The concept of workers participation in management is highly complex and relevant for an organization. The main motive of workers participation in management is to promote the democratic practices in the resolution of industrial relations problems. Elevating workers' status in industry is an important aspect of workers participation in management.

For industrial peace and democracy, workers participation in management is an essential ingredient. The concept of workers participation in management refers to the participation of non-managerial employees in the decision making process of the organization. The other name of workers participation in management is participative management and labor participation.

1.7.2 Definition

According to Keith Davis, "Workers' participation refers to the mental and emotional involvement of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them".

Kenneth Walkar says "Worker's participation in management is a resounding phrase, bridging the gap between past and the future. It echoes the millennial vision of the 19th century thinkers while heralding the evolution of new forms of industrial organization under 20th century pressures. The word 'workers' participation is plentifully supplied with ideas, institutions and opinions."

In the words of Mehtras, "Applied to industry, the concept of participation means sharing the decision-making power by the rank and file of an industrial organization through their representatives, at all the appropriate levels of management in the entire range of managerial action".

1.7.3 Objectives

The following are the objectives of Workers Participation in Management -



Fig.1.2: Objectives of WPM

1.7.4 Importance Of Workers Participation In Management



Fig. 1.3: Importance of WPM

1. Increases Productivity

Workers participation in management is a resounding phase. It bridges the past and future. Employees in the present through worker participation feel good about the organization culture. They feel they are also a part and parcel of organization. Thus, it increases productivity of the employees and production.

2. Increases Employee Morale

The term 'participation' is one of the most misunderstood words. It not only deals with the physical form of participation of employees but also it denotes the mental and emotional involvement of employees in an organization. When their self esteem needs are satisfied, the employees feel good and content. Thus, it is said that workers participation in management helps to increase the morale of the employees.

3. Increases Sense of Belongingness

The scope and objectives of workers participation in management depends on the objectives set to be achieved from the level of participation in an organization. The social, political and economic contents play a vital role. A good level of participation ensures that the workers are placed in a good position and it also helps to increase the sense of belongingness among them.

4. Quality Decision-making

Freedom and opportunity for self-expression may lead to better decisions. When many people contribute their ideas, it can facilitate quality decision-making in an organization. Creating a good communication system within the organization can be achieved due to workers participation in management.

5. Identifies Capable Employees

Workers participation in management helps to identify the capable employees within the organization. Through workers participation in management, the energy and intelligence of workers can be utilized with a view to increase the productive efficiency. It also helps to prevent the exploitation of labor.

6. Facilitates Change

Change is inevitable in nature. Organization faces challenges to introduce and implement change. Through Participation, they can facilitate change through proper involvement of workers and communication processes. In fact, for being a part of it, they can readily accept the change and help the organization to work accordingly.

1.8 CASE-DISCUSSION

Mr. Sunil Mehra is working as a HR Manager in Infotech Conclave Private Limited. Under him, there are six people working. Out of these six people, an intern Miss Riya is very keen to know the things about company as she desires to become a manager like Mr. Mehra. In every meeting, the suggestions and ideas given by her are found to be effective by the HR Manager. But, Mr. Mehra favors One more intern from his city Mr. Tushar. Though his ideas are not very effective, they are appreciated and acknowledged.

After going through this case, please identify the answers of the questions given below -

1. What is the problem in this case?
2. What do you feel about the behavior of Mr. Sunil Mehra?
3. Who is at fault - Miss Riya or Mr. Tushar ?
4. Can you add a few more characters to this case?

1.9 LABOR LAWS RELATING TO HR

Labor Law is a separate branch of Law aimed to protect the rights and interests of labor. Labor laws are enacted to facilitate the progressive policy for workers with a view to save them from exploitation. The History of Labor laws in India is very old. To date, India has ratified 39 International Labor Organization (ILO) conventions. The need for labor laws in India is necessary for the health, safety and welfare of workers. To maintain industrial peace and democracy, the Labor laws are necessary. The preservation of health, safety and welfare of workers and maintenance of good relations between employers and employees are the two-fold objectives of Labor Laws.

In the subject of HR, every function under the human resource Management is governed by Labor law. It is a job of a HR Manager to work carefully and in accordance with the Labor Laws relating to HR. The following are some Labor laws enacted to fulfill specific objectives pertaining to various fields of HR like -

- Maintaining Industrial relationships, Code of conduct and Discipline.
- Employee appraisal
- Training and Development
- Recruitment and Selection
- Healthy, Safety and Welfare measures
- Compensation of rewarding

In the next chapters, the students will get a detailed idea about the various Acts and their provisions.

1.10 LABOR LAWS WITH IR IMPLICATIONS FOR FUTURISTIC INDIA

The Industrial Relations Code was passed in the year of 2020. The Industrial Relations Code received the President's assent on September 28. The effective dates of commencement of the code is still pending and the implementing rules working is going on.

After receiving the accent from the President of the nation, on September 29, the government amalgamated the following existing legislative Acts under the IR Code:

- The Industrial Disputes Act (ID Act), 1947
- The Industrial Employment (Standing Orders) Act, 1946
- The Trade Unions Act, 1926

The purpose of the amalgamation is to simplify and consolidate the country's matrix of labor laws, which in turn will make it easier to comply with for foreign investors and the private sector. Under the new Industrial Relations Code, definitions of the terms – industry, worker, employer, industrial dispute, and fixed-term employment have been updated.

Industry

An industry refers to any systemic activity between employers and workers for the purpose of production, supply, or distribution of goods and services, regardless of whether or not this activity is pursued with the motive of profit or capital investment. Hospitals, educational, and scientific institutions now come under industry as per the new definition.

Specifically, an industry is not:

- An institution owned or managed by those organizations that are wholly or substantially engaged in any charitable, social, or philanthropic services
- An activity carried out by certain departments of the federal government dealing in defense, atomic energy, and space research
- Any domestic activity at home
- Any other activity that is not approved by the federal government to be under the ambit of an industry

Worker

The following are now included within the new definition of worker:

- Working journalists as defined under the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
- Sales promotion employees as defined under the Sales Promotion Employees (Conditions of Service) Act, 1976
- Supervisory employees earning less than INR 18,000 (US\$246) a month

Employer

The following are now included within the new definition of employer:

- Contractors
- Legal representatives of deceased employers
- Manager of a factory, so named as per the definition given by the Factories Act, 1948
- Manager or managing director of any establishment who is in full control of it and is entrusted with it

Industrial dispute

This definition is expanded to include any dispute or difference arising between an individual worker and employer that relates to discharge, dismissal, retrenchment, or termination of such worker within the ambit of the Code.

Fixed-term worker

The provisions of a fixed-term worker have been extended to include the following:

- Work hours, wages, and other benefits will not be less than those given to permanent employees for doing the same or similar work.
- Eligibility for gratuity will be granted if services have been provided for a period of one year.
- Eligibility for statutory benefits will be granted in proportion to the services provided, regardless of whether the period of employment extends to the qualifying period of employment needed to attain statutory benefits.

1.11 SUMMARY

- Industrial relations represents the relationship between the employers and employees. The study of their relationship is a subject matter of industrial relation. It refers to a study of examining the relations between employer and employee, employee and employee and employer and employer. The management represents employers and unions represent employees.
- The history of industrial relations dates back to old times. The origin lies in the employer-employee relationships. The main essence of industrial relations is employer-employee relationships. The relation between employer and employees plays an important role in maintaining industrial peace.

- In 1958, the system approach was developed by J.P. Dunlop of Harvard University. According to Dunlop, the industrial relations system comprises certain actors, certain contexts, and an ideology, which binds them together and a body of rules created to govern the actors at the workplace and work community. The system approach of industrial relations deals with all the individuals and institutions that interact at the workplace.
- Collective bargaining is a process through which the management and employees resolve their differences. As the name suggests, there is no intervention from a third party. Mutually and collectively, the management and employees discuss and negotiate. Acting in a manner that is beneficial for both parties is the essence of collective bargaining.
- Grievance reflects the type of dissatisfaction or feeling of injustice in connection with the employment. In industrial relations. The focus is on the promotion of the amicable relationship between employees and employers. Grievance is a rust on human relations. There is hardly a company where the employees do not have grievances of one kind or the other.
- For the settlement of dispute, a grievance procedure is followed. Grievance procedure is a formal communication between an employee and the management designed for the settlement of a grievance. The procedure differs from industry to industry, organization to organization.
- For industrial peace and democracy, workers participation in management is an essential ingredient. The concept of workers participation in management refers to the participation of non-managerial employees in the decision making process of the organization. The other name of workers participation in management is participative management and labor participation.
- In the subject of HR, every function under the human resource Management is governed by Labor law. It is a job of a HR Manager to work carefully and in accordance with the Labor Laws relating to HR.
- The Industrial Relations Code was passed in the year of 2020. The Industrial Relations Code received the President's assent on September 28.

1.12 SELF-ASSESSMENT TEST

1. What is Industrial Relations? Explain the importance of industrial relations in maintaining peace and harmony.
2. Elaborate the system approach to IR. Also explain the IR model by keeping in view the recent changes.

3. What do you mean by collective bargaining? Explain the important features of collective bargaining.
4. What is grievance in IR? Describe the basic steps of Grievance Machinery and Disciplinary Procedure
5. Explain the term 'Workers Participation in Management'. Why is the term 'Workers Participation in Management' considered important?
6. Write a note on various laws relating to IR.
7. Write a note on Labor Laws with IR implications for futuristic India.



INTRODUCTION TO LABOR LAWS

Unit Structure :

- 2.1 Objectives
- 2.2 Introduction to Labor Laws
- 2.3 Government of India, Structure, Constitutional Provisions for Labor
- 2.4 Structure of Courts and Appropriate Authorities in India
- 2.5 Principles of Labor Laws
- 2.6 Classification of Labor Laws
- 2.7 Social Security and IR
- 2.8 Summary

2.1 OBJECTIVES

After studying this module, you should be able to :

- To understand the nature and relevance of Labor Laws
- Importance of Labor Laws
- Changing dynamics of Labor Laws
- Working of courts and appropriate authorities in India
- Importance of Social Security and IR
- Understand the various Labor Laws

2.2 INTRODUCTION TO LABOR LAWS

The focus of the old policy of the government related to labor laws was more focused on the protection of the social system rather than the protection of workers. In India, the industrial jurisprudence is based on three sources - the Constitution, the Legislative enactments and Judicial decisions. Tracing the genesis of labor laws in India indicates the richness and ancientness of this topic. Characterized by rapid changes, the labor laws constitute one of the most delicate and complex elements of the modern industrial society which is characterized by rapid changes, labor problems, low living standard and conflicting ideologies.

There is no unanimity on the meaning and scope of Labor Laws. Labor laws constitute the wider employment relationship and labor market framework. The five main parties actively associated with any industrial

labor laws are the workers, the association of workers, the management body, the State and the Central. Labor administration in labor laws is a wide term. The term 'Labor administration' is primarily concerned with labor affairs and social policy administration.

The meeting was held in Geneva in October 1973 on labor administration. Experts were part of that meeting. It was held that there should be central specialized units for each of the following areas. The major substantive programmes should be framed for the -

1. Social security
2. Manpower planning and employment
3. Training and development
4. Labor relations
5. Inspection of labor
6. Protection of labor
7. Terms of employment
8. Wages
9. Working conditions

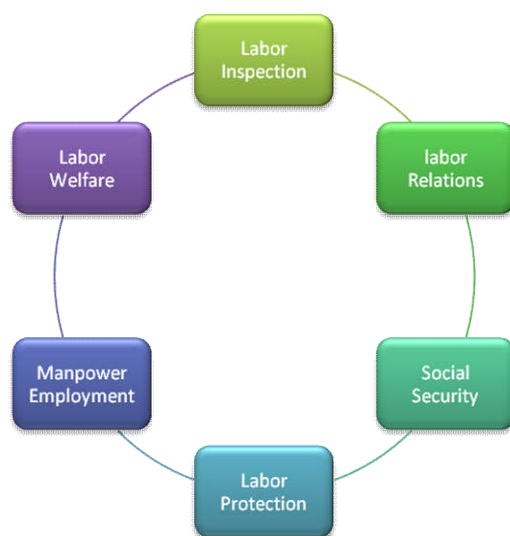


Fig. 2.1: Labor Administration in India

The labor policy is also an important element. The labor policy of a country is a product of the tradition, history, political culture, people orientation and conditions of the economy. The policies are highly influenced by the developmental objectives given by the government.

2.3 ROLE OF GOVERNMENT OF INDIA IN LABOR LAWS

2.3.1 Overview

The Central and State Government is empowered to enact laws and regulation for the betterment of workers and employees. The Constitution of India has empowered the Central and the State Government to take care of and to protect the interest of the workers. The Ministry of Labor and Employment is responsible to protect and safeguard the interest of workers. They are also responsible for safeguarding the interest of poor, marginal and disadvantaged sections of the society.

The main objectives of the labor laws enumerate the role of the government in protecting and safeguarding the interest of the labor class in India. Labor laws in India cover all aspects of labor. The distinguishing feature of labor laws in our country is it covers all aspects more than labor legislation in any other country.

After independence, there was a complete change in the approach to labor legislation in our country. The concept of social justice has evolved as a result of the labor laws in India. Indian labor laws have both positive and negative sides. The coverage of labor laws in our country is very comprehensive and broad. It covers -

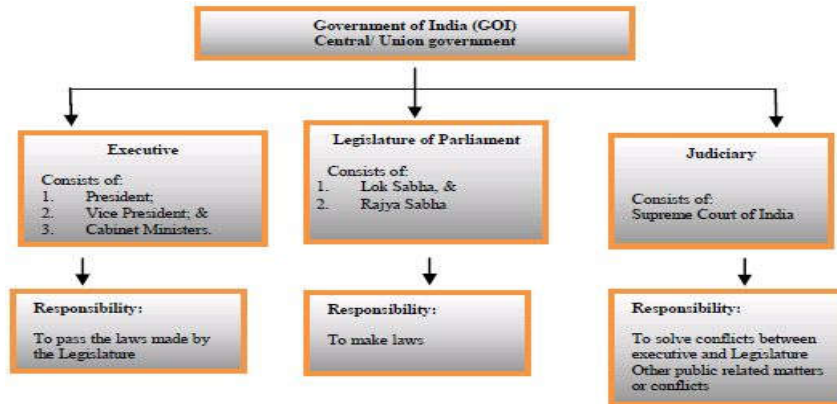
- Industrial Employment
- Industrial Non-employment
- Wages
- Working Conditions
- Social Security
- Labor welfare
- Industrial Relations
- Industrial Peace and Harmony
- Social Justice

2.3.2 Structure

India is a Sovereign Socialist Secular Democratic Republic with a Parliamentary form of government which is federal in structure with unitary features. There is a Council of Ministers with the Prime Minister as its head to advise the President who is the constitutional head of the country. Similarly in states there is a Council of Ministers with the Chief Minister as its head, who advises the Governor.

Under the Constitution of India, the structure of Government of India has three branches -

- 1) The Executive
- 2) The Legislature
- 3) The Judiciary



Source: Mondaq - Constitutional framework of India

1. The Executive :

The Executive part of Government of India is responsible for the daily administration of the state bureaucracy. It works on the idea of separation of powers. The executive power is vested mainly in the President of our country. It consists -

- President
- Vice-Presidents
- Cabinet Ministers

2. The Legislature

Legislature is the legislative body of a State. The powers of the legislature in India are exercised by the Parliament. The Parliament consists two houses -

- Rajya Sabha
- Lok Sabha

Rajya Sabha is known as Upper House while Lok sabha is known as Lower House.

3. The Judiciary

In the Republic of India, the Judiciary is a system of courts that interpret and apply the law. It is the system of courts that interprets, defends, and applies the law in the name of the state. The Judiciary consists -

- Supreme Court of India
- High Courts
- District Courts

2.3.3 Constitutional Provisions For Labor

The Constitution of India has guaranteed some Fundamental Rights to the citizens of the country. The Constitution of India has also laid down certain Directive Principles of State Policy for the achievement of social order. For achieving the social order, the basis is on justice, equality, liberty and fraternity.

The Constitution of India protects the rights and liberty of an individual. The Constitution of India is the touchstone for any Act passed in our country. The Constitution of India is the largest written constitution of the world. The Constitution provides for the upliftment of labor by guaranteeing certain fundamental rights to all.

Article 14 lays down that the State shall not deny to any person equality before the law.

Article 16 lays down that there shall be equal opportunity to all citizens in respect to employment.

Article 19 guarantees the Right to Form Associations and Unions.

Article 21 lays down the right to Right to Livelihood.

Article 23 prohibits Traffic in Human being and Forced Labour

Article 24 prohibits Employment of children in factories or mines or other hazardous work.

Article 39 (d) guarantees Equal Pay for both Men and Women.

Article 41 lays down that The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42 enjoins the State Government to make provision for securing Just and Humane Conditions of work and for maternity relief.

Article 43 lays that The State shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Article 43 A put emphasis on Workers Participation in Management. The Article states that The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management

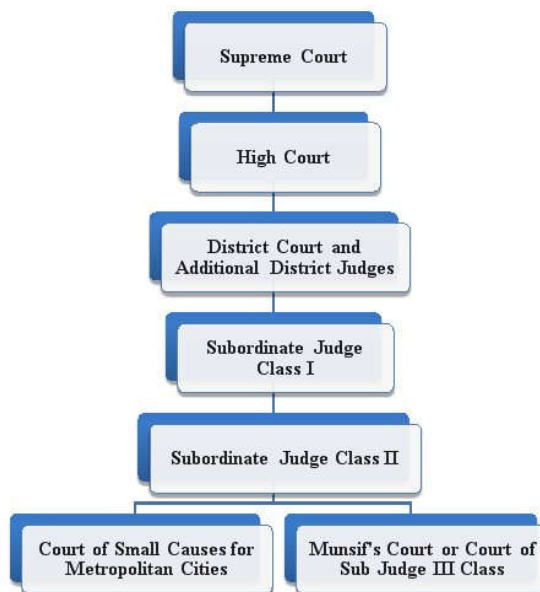
of undertakings, establishments or other organizations engaged in any industry.

The concept of Social Security is guaranteed in our Constitution under Article 39, Article 41 and Article 43.

2.4 STRUCTURE OF COURTS AND APPROPRIATE AUTHORITIES IN INDIA

Under the system of structure of courts, the Supreme Court of India is at the top of the hierarchy followed by High Courts of respective states with District Judges sitting in District Courts and Magistrates of Second Class and Civil Judge (Junior Division) at the bottom.

High Courts are second Courts of Importance of the democracy of India. The State Government is empowered for the establishment of District Courts in every State by taking into account the population of the district. These courts are under administrative control of the High Court of the State to which the district concerned belongs.



Source: Mondaq.com

In every state, besides the High Court there are a number of judicial Courts to administer justice. The courts function under the supervision and control of the High Court. In the hierarchy, The District Courts and The ADJ are followed by Subordinate Judge Class I. The Subordinate Judge Class I is followed by Subordinate Judge Class II.

On the basis of jurisdiction, the Civil Court is divided into following categories -

1. Subject Matter Jurisdiction
2. Territorial Jurisdiction

3. Pecuniary Jurisdiction
4. Appellate Jurisdiction

2.5 PRINCIPLES OF LABOR LAWS

The principles of labor laws help to formulate the rights and entitlements of the working people in a civilized society. Social justice, social equality, social security, social welfare, national economy, and international solidarity are some important principles of labor legislation in India. The modern labor legislation is concerned about the rights and welfare of the labor. The equality and security rights for the labor are demanded and taken care of at every level of the system.

The modern principles of labor laws can be explained as follows -

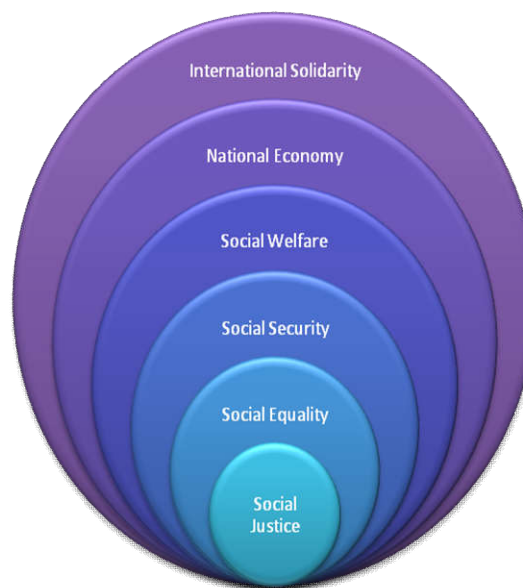


Fig. 2.3: Principles of Labor Laws

1. Social Justice

The term 'social justice' denotes abolition of servitude, freedom of association, collective bargaining and industrial conciliation. Social justice concept also deals with providing opportunity to all the citizens of the country.

2. Social Equality

The term 'Social Equality' covers the concept of equal opportunities of education and employment for all. The term is very broad and covers the concept of social equality completely. It implies that in India all citizens of the country should have equal opportunities for employment and education.

3. Social Security

The principle of social security implies that the State shall provide if any one of the citizens cannot provide for their basic needs. The principle deals with providing social security to the citizens who are unable to fulfill their basic needs of living life.

4. Social Welfare

The principle of social welfare ensures the provision of certain basic amenities to workers at their place of work and also, to improve the living conditions of workers and their family members. It deals with providing relief to any citizen who might face or facing some illness or disability.

5. National Economy

This principle implies the need for economic and industrial development of particular countries. Maintaining industrial peace and harmony, improvement of physical working conditions, machinery for settlement of industrial disputes, formation of forums of workers participation in management are some important aspects of this principle.

6. International Solidarity

This principle implies the support from WTO, ILO, the UN, and other international organizations. It states that all nations should live in peace. The International Labor Organization has greatly influenced the trade union movement in our country.

2.6 CLASSIFICATION OF LABOR LAWS

Labor legislation in India covers all aspects of labor more than labor legislation in any other country of the world. The laws cover the aspects of industrial employment, non-employment, wages and allowances, amenities, working conditions, industrial relations and disputes, social security, social welfare etc. In India, the labor laws can be broadly classified into the following six groups -

1. Laws on Wages

- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Equal Remuneration act, 1976

2. Laws on Employment and Training

- The Employment Exchanges (Compulsory notification of Vacancies) Act, 1959
- The Apprentices Act, 1961

3. Laws on Social Security

- The Workmen Compensation Act, 1923
- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972

4. Laws on Working Conditions

- The Factories Act, 1948
- The Plantation Labour Act, 1951
- The Mines Act, 1952
- The Motor Transport Workers Act, 1961
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Shops and Establishments Acts enacted by various State Government
- The Child Labor (Prohibition and Regulation) Act, 1986

5. Laws on Industrial Relations

- The Trade Unions Act, 1926
- The Industrial Employment (Standing Orders) Act, 1946
- The Industrial Disputes Act, 1947
- The Bombay Industrial Relations Act, 1946
- The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labor Practices act, 1971

6. Laws on Labor Welfare Funds

- The Mica Mines Labor Welfare Fund Act, 1946
- The Iron Ore, Manganese Ore and Chrome Ore Mines Labor Welfare Fund Act, 1976
- The Limestone and Dolomite Labor Welfare Fund act, 1972
- The Beedi Workers Welfare Fund Act, 1976

2.7 SOCIAL SECURITY AND INDUSTRIAL ELATIONS

The concept of social security implies the protection provided by the society to its members through a series of public measures against the economic and social distress. The concept of social justice is one of the important concepts of labor laws. The principle of social security implies that the State shall provide if any one of the citizens cannot provide for their basic needs. The principle deals with providing social security to the citizens who are unable to fulfill their basic needs of living life. The concept also plays an important role in the field of industrial relations.

Industrial relations represents the relationship between the employers and employees. The study of their relationship is a subject matter of industrial relation. It refers to a study of examining the relations between employer and employee, employee and employee and employer and employer. The management represents employers and unions represent employees. The government is treated as a third party which acts in the interests of the employees by enacting various laws and legislations. It implies the relation between the employer and employee. The relationship is studied during the period of employment in an industrial organization.

According to the International Labor Organization (ILO), “Industrial relations deals with relationships between either state and employers and workers organizations or the relationship between the occupation organization themselves.”

The main objectives behind the concept of industrial relations is to establish and maintain industrial peace along with safeguarding the interests of both workers and management. It helps to avoid industrial disputes. Good industrial relations raise the production capacity. It also contributes to improving the morale and motivation of employees. With the help of good industrial relations, the labor turnover rate and absenteeism can be minimized. It also minimizes the chances of strikes, lockouts etc.

The impact of social security has a powerful presence at all levels of society. Against a few contingencies, the social security measures provide relief to the citizens. In our country, social security is a crude form of social protection.

The International Labour Organisation (ILO) defines Social Security as "the security that society furnishes through appropriate organization against certain risks to which its members are perennially exposed. These risks are essentially contingencies against which an individual of small means cannot effectively provide by his own ability or foresight alone or even in private combination with his fellows. The mechanics of social security therefore consists in counteracting the blind injustice of nature and economic activities by rational planned justice with a touch of benevolence to temper it.”

2.8 SUMMARY

- There is no unanimity on the meaning and scope of Labor Laws. Labor laws constitute the wider employment relationship and labor market framework. The five main parties actively associated with any industrial labor laws are the workers, the association of workers, the management body, the State and the Central. Labor administration in labor laws is a wide term. The term 'Labor administration' is primarily concerned with labor affairs and social policy administration.
- The Central and State Government is empowered to enact laws and regulation for the betterment of workers and employees. The Constitution of India has empowered the Central and the State Government to take care of and to protect the interest of the workers. The Ministry of Labor and Employment is responsible to protect and safeguard the interest of workers. They are also responsible for safeguarding the interest of poor, marginal and disadvantaged sections of the society.
- Under the Constitution of India, the structure of Government of India has three branches -

the Executive, the Legislature and the Judiciary.
- The Constitution of India has guaranteed some Fundamental Rights to the citizens of the country. The Constitution of India has also laid down certain Directive Principles of State Policy for the achievement of social order. For achieving the social order, the basis is on justice, equality, liberty and fraternity.
- Under the system of structure of courts, the Supreme Court of India is at the top of the hierarchy followed by High Courts of respective states with District Judges sitting in District Courts and Magistrates of Second Class and Civil Judge (Junior Division) at the bottom.
- The principles of labor laws help to formulate the rights and entitlements of the working people in a civilized society. Social justice, social equality, social security, social welfare, national economy, and international solidarity are some important principles of labor legislation in India.
- Labor legislation in India covers all aspects of labor more than labor legislation in any other country of the world. The laws cover the aspects of industrial employment, non-employment, wages and allowances, amenities, working conditions, industrial relations and disputes, social security, social welfare etc.
- The concept of social security implies the protection provided by the society to its members through a series of public measures against the economic and social distress. The concept of social justice is one of the important concepts of labor laws. Industrial relations represents

the relationship between the employers and employees. The study of their relationship is a subject matter of industrial relation. It refers to a study of examining the relations between employer and employee, employee and employee and employer and employer. The management represents employers and unions represent employees.

2.9 SELF-ASSESSMENT QUESTIONS

- 1) Trace the genesis of labor laws in India.
- 2) What are the specific objectives of labor laws in India?
- 3) Write a detailed note of Labor laws and legislation in India. Also explain the principles governing labor laws.
- 4) Classify the labor laws in various categories.
- 5) Explain the constitutional provisions by keeping in view the labor laws of our country.
- 6) Write a note on Structure of Courts and Appropriate Authorities in India
- 7) Elaborate the concept of social security and industrial relations. Explain the importance of their relationship.



INDUSTRIAL RELATIONS REGULATIONS

Unit Structure :

- 3.1 Objectives
- 3.2 Overview
- 3.3 Industrial Disputes Act, 1947
- 3.4 Trade Union act, 1926
- 3.5 MRTP & PULP Act, 1971
- 3.6 Industrial Employment (Standing Order) Act, 1946
- 3.7 Summary

3.1 OBJECTIVES

After studying this module, you should be able to :

- To understand the nature and relevance of industrial relations regulations
- Importance of industrial relations regulations
- Understand the various Labor Laws
- Overview of Industrial Disputes Act, 1947
- Understand the importance of other acts and their provisions

3.2 OVERVIEW

Tracing the genesis of labor laws in India indicates the richness and ancientness of this topic. Characterized by rapid changes, the labor laws constitute one of the most delicate and complex elements of the modern industrial society which is characterized by rapid changes, labor problems, low living standard and conflicting ideologies. The labor policy of a country is a product of the tradition, history, political culture, people orientation and conditions of the economy. The policies are highly influenced by the developmental objectives given by the government.

The history of industrial relations dates back to old times. The origin lies in the employer-employee relationships. The main essence of industrial relations is employer-employee relationships. The relation between employer and employees plays an important role in maintaining industrial peace. The employees were largely dependent on wages as they were not

having any ownership of the means of production, instruments and materials.

For maintaining peace and harmony, many acts play a vital role in regulating the industrial relations. The beginning of industrial societies consisted of small competitive businesses and industrial enterprises. In the economic system, the quantity of these establishments were large. Each unit and establishment used to employ a small number of laborers. At that time, when the awareness and system for labor was weak, the relationship between them was personal and close. The relations between them were informal.

The present area of industrial relations revolves around prohibition of strikes and lockouts, maintenance of discipline, promotion of industrial peace, courtesy and harmony, hiring right people and firing wrong people, promotion and transfer, payment of wages, bonus, overtime allowances, other benefits etc. The Acts like -

- Industrial Disputes Act, 1947
- Trade Union act, 1926
- MRTP & PULP Act, 1971
- Industrial Employment (Standing Order) Act, 1946 plays an important role in regulating the industrial relations

Over the years, labor laws have undergone a change with regard to the object and scope. The labor laws are enacted to safeguard and protect the interest of the labor and workers class. The labor laws for the purpose of regulation serve both positive and negative sides. The positive side provides the rights like right to expression, the right to minimum standard of living, health and safety, working conditions etc.

While, the negative side shows the -

- Over protection
- Over negative
- Lack of awareness about the rights
- Over reactive
- Fragmented
- Outdated
- Irrelevant aspect of this area.

3.3 INDUSTRIAL DISPUTES ACT, 1947

3.3.1 Overview

The Industrial Dispute Act came into existence on 1st April 1947. The Industrial Disputes Bill was introduced in the Central Legislative Assembly on 8th October, 1946. The Industrial Disputes Bill was passed by the Assembly in March, 1947 and it came into effect from 1st April 1947.

The Act was enacted to make provisions for the investigation and settlement of industrial disputes. For certain other purposes, the acts as passed. The Act extends to the whole of India and applies to every industrial establishment carrying on any business, trade, manufacture or distribution of goods and services irrespective of the number of workmen employed therein.

3.3.2 Objectives Of The Act

- 1) To make provision for the investigation and settlement of industrial disputes.
- 2) To secure industrial peace and harmony by providing mechanism and procedure for the investigation and settlement of industrial disputes by conciliation, arbitration and adjudication which is provided under the statute.
- 3) To promote the process of collective bargaining.
- 4) To prevent illegal strikes and lockouts.
- 5) To provide compensation to workmen in case of lay-of, retrenchment and closure.

3.3.3 Important Definitions

Industry

According to Section 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 (not being wants or wishes which are merely spiritual or religious in nature), whether or not,-

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit, and includes--

- (a) any activity of the Dock Labour Board established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);
- (b) any activity relating to the promotion of sales or business or both carried on by an establishment. but does not include--
 - (1) any agricultural operation except where such agricultural operation is carried on in an integrated manner with any other activity (being any such activity as is referred to in the foregoing provisions of this clause) and such other activity is the predominant one. Explanation.-- For the purposes of this sub- clause, " agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951); or
 - (2) hospitals or dispensaries; or
 - (3) educational, scientific, research or training institutions; or
 - (4) institutions owned or managed by organizations wholly or substantially engaged in any charitable, social or philanthropic service; or
 - (5) khadi or village industries; or
 - (6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defense research, atomic energy and space; or
 - (7) any domestic service; or
 - (8) any activity, being a profession practiced by an individual or body or individuals, if the number of persons employed by the individual or body of individuals in relation to such profession is less than ten; or
 - (9) any activity, being an activity carried on by a co- operative society or a club or any other like body of individuals, if the number of persons employed by the co- operative society, club or other like body of individuals in relation to such activity is less than ten.

Industrial Dispute

According to Section 2 (k), "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 labor, of any person.

3.3.4 Authorities Under The Act

1. Works Committee
2. Conciliation Officers
3. Board of Conciliation
4. Court of Enquiry
5. Labour Court
6. Industrial Tribunal
7. National Tribunal

1. Works Committee

- (1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the the Indian Trade Unions Act, 1926 (16 of 1926).
- (2) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavor to compose any material difference of opinion in respect of such matters.

2. Conciliation Officer

- (1) The appropriate Government may, by notification in the Official Gazette, appoint such a number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.
- (2) A conciliation officer may be appointed for a specified area or for specific industries in a specified area or for one or more specified industries and either permanently or for a limited period.

3. Board of Conciliation

- (1) The appropriate Government may as occasion arise by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.
- (2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

- (3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party: Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.
- (4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number: Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

4. Court of enquiry

- (1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.
- (2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.
- (3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number: Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

5. Labor courts

- (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.
- (2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.
- (3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless-- (a) he is, or has been, a Judge of a High Court; or (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or (c) he has held any judicial office in India for not less than seven years; or (d) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

6. Industrial Tribunal

- (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule [and for performing such other functions as may be assigned to them under this Act].
- (2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.
- (3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless-- (a) he is, or has been, a Judge of a High Court; or (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; (c) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

8. National Tribunals

- (1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.
- (2) A National Tribunal shall consist of one person only to be appointed by the Central Government.
- (3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal [unless he is, or has been, a Judge of a High Court]. The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

For better understanding, the above data without manipulation is taken from the original The Industrial Disputes Act, 1947.

3.4 THE TRADE UNION ACT, 1926

3.4.1 Overview

Trade union means an association of workers in a particular industry. In India, the expression 'Trade Union' under the trade union act 1926 includes both employers and workers organizations. The act is divided into 33 sections and contains 5 chapters. Trade unions in India governed by the trade union act 1926.

The Act was enacted to provide protection to the union leaders. The act also lays down a detailed procedure for the registration and working of trade unions. The motive is to ensure a healthy association of workers in

India. The Trade Union Act is a central legislation and it is administered and enforced by the State Government.

3.4.2 Objectives Of The Act

1. To protect the interest of the trade union activity and movements in India.
2. To provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions.
3. To prevent the exploitation of workers.

3.4.3 Scope And Applicability Of The Act

1. The Act extends to the whole of India.
2. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
3. The Act was extended to Jammu and Kashmir in 1970.
4. The act is applicable to the union of workers as well as to the association of employers.
5. The Act is a central legislation and it is administered and enforced by the State Government.

3.4.5 Important Definitions

Appropriate Government means in relation to Trade Unions whose objects are not confined to one State the Central Government, and in relation to other Trade Unions, State Government, and unless there is anything repugnant in the subject or context-

- (a) “executive” means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;
- (b) “Officer-bearer” in the case of a Trade Union includes any member of the executive thereof, but does not include an auditor;
- (c) “prescribed” means prescribed by regulations made under this Act;
- (d) “registered officer” means that office of a Trade Union, which is registered under this Act as the Head officer thereof;
- (e) “registered Trade Union” means a Trade Union registered under this Act;
- (f) “registrar” means -
 - i. a Registrar of Trade Unions appointed by the appropriate Government under section 3 and includes an, additional or Deputy Registrar or Trade Unions and

- ii. in relation to any trade Union, the Registrar appointed for the State in which the head or registered office, as the case may be, of the Trade Union is situated;

Section 2(g) states “Trade dispute” means any dispute between employers and workmen or between workmen and workmen or between employers and employers, which is connected with the employment or non-employment, or the terms of employment, or the conditions of labor, of any person, and “workmen” means all persons employed in Trade or industry whether or not in the employment of the employer with whom the trade dispute arises ;

Section 2(h) defines “Trade Union” means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employees and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes and federation of two or more trade unions :

Provided that this Act shall not affect -

- (i) Any agreement between partners as to their own business;
- (ii) Any agreement between an employer and those employed by him as to such employment ; or
- (iii) Any agreement in consideration of the sale of the goodwill of a business or instruction in any profession, trade or handicraft.

3.4.6 Important Provisions Of The Act

1. **Section 3** of the act states the provision related to the appointment of registrar. the appropriate government shall appoint a person to be the registrar of trade unions for each state.
2. The Act lays down the detailed procedure for registering a trade union. under this act the registration of trade unions is not mandatory.
3. **Section 4** of the act deals with the mode of registration of trade unions. Any 7 or more members of a trade union apply for registration by subscribing their names of trade unions.
4. **Section 5** of the act States the provision related to the application of registration of trade unions. Every application for registration of a trade union shall be made to the registrar and shall be accompanied by a copy of the rules of the trade union. It shall contain the following details -
 - (i) the names, occupations and address of members making the application;

- (ii) the name of the Trade Union and the address of its head office;
and
 - (iii) the titles, ages, addresses and occupations of the office bearers of
the Trade Union.
1. **Section 6** of the act deals with the provisions related to the rules of
trade union.
 2. **Section 7** of the act deals with the power to call for further particulars
and to require alteration of names, if needed.
 3. **Section 8** states that the Registrar, on being satisfied that the Trade
Union has complied with all the requirements of this Act in regard to
registration, shall register the Trade Union by entering in a register, to
be maintained in such form as may be prescribed, the particulars
relating to the Trade Union contained in the statement accompanying
the application for registration.
 4. **Section 9** states that the Registrar, on registering a Trade Union under
section 8, shall issue a certificate of registration in the prescribed form
which shall be conclusive evidence that the Trade Union has been
duly registered under this Act.
 5. **Section 10** of the act deals with the cancellation of trade unions on the
basis of some grounds like certificates obtained by fraud. Trade
unions have ceased to exist.

3.5 MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOR LAWS PRACTICES ACT 1971

3.5.1 Overview

Maharashtra recognition of trade unions and prevention of unfair labor laws practices act was passed in 1971 with a view to provide for the recognition of trade unions for facilitating collective bargaining for certain undertakings. The act also covers the provisions related to their rights and obligations.

The Government of Maharashtra in February 1968 set up a tripartite committee. The Committee called “the Committee on Unfair Labor Practices” in their report defined certain activities on the part of employers and trade unions as unfair labor practices and listed them in three separate lists. The committee worked under the chairmanship of justice V.A. Naik.

3.5.2 Objectives Of The Act

The Maharashtra recognition of trade unions and prevention of unfair laws practices Act was passed with a view -

1. To provide for the recognition of trade unions for facilitating collective bargaining for certain undertakings.
2. To state the rights and obligations of trade unions.
3. To confirm certain powers on unrecognized unions.
4. To define and provide for prevention of certain unfair labor practices.
5. To define the status of certain strikes and lockouts as illegal strikes and lock outs.

3.5.3 Scope And Applicability Of The Act

1. The Act extends to the whole state of Maharashtra.
2. It covers industries falling within the preview of Bombay Industrial Relations Act and industrial dispute act.
3. The act may be divided into two main parts.
4. The first part of the act deals with the recognition of union and the second part deals with the unfair labor practices.

3.5.4 Recognition Of Union

The act provides for the recognition of Union for an undertaking employing 50 or more employees on any day in the preceding Twelve Days. Section 10 to Section 18 of the trade union Act, 1926 deals with the various provisions related to the recognition of Union, De- recognition of a recognized union, Re-recognition of unions.

Section 24 of the Act deals with the obligation of a recognized union with regard to rules and regulations related to strike, vote regarding strikes, pendency of any proceedings or during the period of operation.

Similarly no employer shall resort to a lockout -

- a) Without giving prior notice.
- b) During the pendency of any proceeding.
- c) During the operation of any settlement or award.

3.5.6 Unfair Labor Practices

According to Section 26, in this Act, unless the context requires otherwise, 'unfair labor practices' mean any of the practices listed in Schedules II, III and IV. Section 27 states that no employer or union and no employees shall engage in any unfair labor practice. Section 28 deals with the procedure for dealing with complaints related to unfair labor practices.

3.6 INDUSTRIAL EMPLOYMENT (STANDING ORDER) ACT, 1946

3.6.1 Overview

The Industrial Employment (Standing Order) Act, 1946 came into force on 1st April, 1947. Before the passing of this act, there was no uniform practice governing the conditions of workers. The industrial employment standing orders Act 1946 was passed for improving Industrial Relations by standardizing the conditions of employment in private industry including the procedure for any disciplinary action.

The Act was enacted to bring uniformity in the terms of employment in industrial establishments. The clarity regarding the conditions of employment and making the same known to the workmen is a fundamental feature to minimize industrial conflict. To promote industrial peace and harmony, the act plays a vital role in promoting fair industrial practices.

3.6.2 Objectives Of The Act

1. To require employers in industrial establishments formally to define conditions of employment under them.
2. To bring about uniformity in terms and conditions of employment.
3. To have uniform standing orders in respect to workers, factories and working relationships.
4. To minimize the industrial conflict.
5. To ensure that the terms and conditions of employment are known to the employees.
6. To provide statutory identity and importance to the standing order.
7. To promote the Industrial Relations between employers and employees.

3.6.3 Scope And Application Of The Act

1. The act extends to the whole of India.
2. This Act is to require employers in industrial establishments to formally define conditions of employment under them and submit draft standing orders to the Certifying Authority for its Certification.
3. The act applies to every industrial establishment where in 100 or more workmen are employed, or were employed on any day of the preceding twelve months.
4. The Central Government is the appropriate Government in respect of establishments under the control of Central Government or a Railway Administration or in a major port, mine or oil field.

3.6.4 Important Provisions Of The Act

Section

1. According to Section 3 of the act, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment. This should be done within six months from the date on which this Act becomes applicable to an industrial establishment.
2. Section 4 of the act deals with the conditions for certification of standing orders. Standing orders shall be certifiable under this Act if—
 - (a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and
 - (b) the standing orders are otherwise in conformity with the provisions of this Act; and

It shall be the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

3. Section 5 of the Act deals with the provision regarding the certification of standing orders.
4. Section 6 of the Act states the provisions related to appeal.
5. Section 7 of the act deals with the date of operation of a standing order.
6. The section 8 of the act states the procedure to maintain the register in a prescribed form maintained for the purpose.
7. According to Section 9, the text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.
8. Section 10 of the act is the duration and modification of standing orders.
9. Section 11 of the act states the provisions related to the powers of certifying officer and appellate authority.
10. Section 13 of the Act deals with the penalties and procedures.

3.7 SUMMARY

- The labor laws constitute one of the most delicate and complex elements of the modern industrial society which is characterized by rapid changes, labor problems, low living standard and conflicting ideologies. The labor policy of a country is a product of the tradition, history, political culture, people orientation and conditions of the economy.
- The present area of industrial relations revolves around prohibition of strikes and lockouts, maintenance of discipline, promotion of industrial peace, courtesy and harmony, hiring right people and firing wrong people, promotion and transfer, payment of wages, bonus, overtime allowances, other benefits etc. The Acts like -Industrial Disputes Act, 1947, Trade Union act, 1926, MRTTP & PULP Act, 1971 and Industrial Employment (Standing Order) Act, 1946 plays an important role in regulating the industrial relations.
- The Industrial Dispute Act was enacted to make provisions for the investigation and settlement of industrial disputes. For certain other purposes, the acts as passed. The Act extends to the whole of India and applies to every industrial establishment carrying on any business, trade, manufacture or distribution of goods and services irrespective of the number of workmen employed therein.
- The Trade Union Act was enacted to provide protection to the union leaders. The act also Lays down a detailed procedure for the registration and working of trade unions. The motive is to ensure a healthy association of workers in India. The Trade Union Act is a central legislation and it is administered and enforced by the State Government.
- Maharashtra recognition of trade unions and prevention of unfair labor laws practices act was passed in 1971 with a view to provide for the recognition of trade unions for facilitating collective bargaining for certain undertakings. The act also covers the provisions related to their rights and obligations.
- The Industrial Employment (Standing Order) Act, 1946 came into force on 1st April, 1947. Before the passing of this act, there was no uniform practice governing the conditions of workers. The industrial employment standing orders Act 1946 was passed for improving Industrial Relations by standardizing the conditions of employment in private industry including the procedure for any disciplinary action.

3.8 SELF ASSESSMENT TEST

1. Why is industrial regulation required? Explain the need for legislation for industrial activities.
2. What is an Industrial Dispute? Explain the salient features of the Industrial Dispute Act.
3. Discuss the authorities under the Industrial Dispute Act.
4. Explain the main provisions of the Industrial Standing Orders Act.
5. What is the procedure to register a trade union under the Trade Union Act, 1926?
6. Discuss the important provisions of the MRTU and PULP Act.



REGULATIVE LAWS

Unit Structure :

- 4.1 Objectives
- 4.2 Overview
- 4.3 The Factories Act, 1948
- 4.4 The Bombay Shop and Establishment Act, 1948
- 4.5 Summary
- 4.6 Self-Assessment Test

4.1 OBJECTIVES

After studying this module, you should be able to :

- To understand the nature and relevance of regulative laws.
- Importance of regulative laws in labor legislation
- Understand the various regulative labor Laws
- Overview of The Factories Act, 1948
- Understand the importance of other acts and their provisions

4.2 OVERVIEW

Labor laws constitute the wider employment relationship and labor market framework. The five main parties actively associated with any industrial labor laws are the workers, the association of workers, the management body, the State and the Central. Labor administration in labor laws is a wide term. The term 'Labor administration' is primarily concerned with labor affairs and social policy administration. The labor policy is also an important element. The labor policy of a country is a product of the tradition, history, political culture, people orientation and conditions of the economy. The policies are highly influenced by the developmental objectives given by the government.

The regulative laws are derived from many sources. The main aim is to regulate the working conditions, wages and other important aspects related to the labor. There are two broad categories of labor laws in India. laws deal with the employee's rights at work, while collective labor laws govern the tripartite relationship between employers, employees, and labor unions, such as the Industrial Employment (Standing Orders) Act, 1946.

The management/employers need to consider multiple factors when assessing their statutory requirements.

The regulative laws of labor establish a legal system that facilitates productive individual and collective employment relationships and hence a productive economy. It helps to regulate the various aspects of the factory and industries. The Central and State Government is empowered to enact laws and regulation for the betterment of workers and employees. The Constitution of India has empowered the Central and the State Government to take care of and to protect the interest of the workers. The Ministry of Labor and Employment is responsible to protect and safeguard the interest of workers. They are also responsible for safeguarding the interest of poor, marginal and disadvantaged sections of the society.

After independence, there was a complete change in the approach to labor legislation in our country. The concept of social justice has evolved as a result of the labor laws in India. Indian labor laws have both positive and negative sides. The coverage of labor laws in our country is very comprehensive and broad. It covers industrial employment and industrial non-employment, wages, working conditions, social security and labor welfare.

4.3 THE FACTORIES ACT, 1948

4.3.1 Overview

The history of factory laws goes back more than a century. In the year 1881, the first Indian Factories Act was passed. In 1911, a more comprehensive law was introduced. The act passed in 1881 and 1911 was basically designed to protect children and to provide few measures for health and safety of the worker.

The Act was further amended in 1923, 1926, 1931 and 1934. Following the recommendations of the Rege Committee, The Government of India elected the factories act 1948. It is a comprehensive piece of legislation which came into effect from 1949. The Factories Act, 1948 came into force on 1st April, 1949.

4.3.2 Objectives Of The Act

1. To consolidate and amend the law regulating labor in factories.
2. To establish adequate safety measures and to enhance the health and welfare of workers employed in a factory.
3. To ensure the health, safety and welfare measures for the labor working in a factory.
4. To provide the provisions for proper working hours, leave and other benefits.

4.3.3 Scope And Applicability Of The Act

1. The act extends to the whole of India.
2. It shall come into force on the 1st day of April, 1949.
3. The act covers the provisions related to the health, welfare and safety of the workers.
4. The Act is applied and limited to factories that use power and employ 10 or more people on any working day in the preceding 12 months.
5. The Act is applied and limited to factories that do not use power and employ 20 or more people on any working day in the preceding 12 months.
6. The Act is also covered under Section 85 of the Factories Act by the state governments or Union Territories.

4.3.4 Important Definitions Under The Act

- (a) “adult” means a person who has completed his eighteenth year of age;
- (b) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year;
- (bb) “calendar year” means the period of twelve months beginning with the first day of January in any year;
- (c) “child” means a person who has not completed his fifteenth year of age;
- (ca) “competent person”, in relation to any provision of this Act, means a person or an institution recognised as such by the Chief Inspector for the purposes of carrying out tests, examinations and inspections required to be done in a factory under the provisions of this Act having regard to—
 - (i) the qualifications and experience of the person and facilities available at his disposal; or
 - (ii) the qualifications and experience of the persons employed in such institution and facilities available therein, with regard to the conduct of such tests, examinations and inspections, and more than one person or institution can be recognised as a competent person in relation to a factory;
- (cb) “hazardous process” means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would—

- (i) cause material impairment to the health of the persons engaged in or connected therewith, or
 - (ii) result in the pollution or the general environment: Provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule;
- (d) “young person” means a person who is either a child or an adolescent;
- (e) “day” means a period of twenty-four hours beginning at midnight;
- (f) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;
- (g) “power” means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;
- (h) “prime mover” means any engine, motor or other appliance which generates or otherwise provides power;
- (i) “transmission machinery” means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;
- (j) ”machinery” includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;
- (k) “manufacturing process” means any process for—
- (i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or
 - (ii) pumping oil, water, sewage or any other substance; or
 - (iii) generating, transforming or transmitting power; or
 - (iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; [or]
 - (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; [or]
 - (vi) preserving or storing any article in cold storage;
- (l) “worker” means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not], in any

manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the Union;

- (m) “factory” means any premises including the precincts thereof—
- (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or
 - (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—

but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952), or a mobile unit belonging to the armed forces of the Union, railway running shed or a hotel, restaurant or eating place.

Explanation I — For computing the number of workers for the purposes of this clause all the workers in different groups and relays in a day shall be taken into account;

Explanation II — For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof;

- (n) “Occupier” means the person, who has ultimate control over the affairs of the factory,

Provided that-

- (i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;
- (ii) in the case of a company, any one of the directors, shall be deemed to be the occupier:
- (iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,

- (1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under-
 - (a) section 6, section 7, section 7A, section 7B, section 11 or section 12;
 - (b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;
 - (c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;
- (2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to-
 - (a) the workers employed directly by him or by or through any agency; and
 - (b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person.

4.3.5 Important Provisions Under The Factories Act, 1948

The Factories Act has made provisions regarding the health, safety and welfare of the workers. The fundamental provisions cover the rules and regulations related to the health, safety and welfare of the workers. In this head, we will see the provisions in detail.

4.3.5.1 Health Measures Under The Factories Act, 1948

The Factories Act has laid down the following measures for the health of the workers -

1. Cleanliness [Section 11]

Every factory shall make arrangements for keeping the premises clean and free from effluvia arising from any drains, privy or other nuisance.

2. Disposal of Waste and Effluents [Section 12]

Every occupier shall make the necessary arrangement for the disposal of waste and effluents arising from the manufacturing processes. The state government may prescribe rules and regulations in this regard.

3. Ventilation and Temperature [Section 13]

Every factory should meet effective and sustainable provisions for securing and maintaining the adequate ventilation for the circulation of fresh air and reasonable temperature for the workers as far as their comfort and suitability is concerned.

4. Dust and Fumes [Section 14]

Every factory takes effective measures to prevent the inhalation and accumulation of dust fumes in the premises. The accumulation of dust and fumes should be avoided and necessary arrangements should be made in this regard.

5. Artificial Humidification [Section 15]

The process of artificial humidification in India is used in cotton textile means and in a few cigarette making factories. The state government shall make rules regarding the standard of the modification of factories where the humidity in the air is artificial increased. The act empowers the state government to prescribe the standards of humidification and regulating methods to be adopted.

6. Overcrowding [Section 16]

The act prohibits overcrowding in the workrooms to the extent it is injurious to the health of the worker. Every worker will have to be provided with 350 cubic feet of space if a factory is built after the commencement of this act.

7. Lighting [Section 17]

In every factory, proper measures should be taken for the maintenance of sufficient and suitable lighting, natural or artificial or both in every part of the factory where workers are working.

8. Drinking Water [Section 18]

Every factory should make effective arrangements for sufficient supply of drinking water for all workers in the factory. The water for drinking should be free from impurities. The State Government is empowered to make rules for the compliance of rules.

9. Latrines and Urinals [Section 19]

Every factory shall make provision for sufficient number of latrines and urinals in premises. All latrines and urinals shall be kept in clean and sanitary conditions at all times.

10. Spittoons [Section 20]

Every factory should have a sufficient number of spittoons situated at convenient places. The spittoons must be maintained in a clean and hygienic condition.

4.3.5.2 Safety Measures Under The Factories Act, 1948

In Chapter IV, the Factories Act lays down the standards of safety to be adopted by the factories covered under it. Section 41 to 40 of the act provides a number of provisions to secure a very high standard of safety to the worker in a factory. The main provisions for the safety of the workers are -

1. Section 21 deals with provisions related to the fencing of machinery.
2. Section 22 deals with the provisions related to the work on or near machinery in motion.
3. Section 23 of the act deals with provisions related to prohibition of Employment of young persons on dangerous machines.
4. Section 24 deals with provisions related to the Striking gear and devices for cutting off power.
5. Section 25 deals with provisions related to the Self-acting machines.
6. Section 26 deals with provisions related to the Casing of new machinery.
7. Section 27 deals with provisions related to the Prohibition of employment of women and children near cotton-openers.
8. Section 28 deals with provisions related to the Hoist and lifts.
9. Section 29 deals with provisions related to the Lifting machines, chains, ropes and lifting tackles.
10. Section 30 deals with provisions related to the Revolving machinery.
11. Section 31 deals with provisions related to the Pressure plant.
12. Section 32 deals with provisions related to the Floors, stairs and means of access.
13. Section 33 deals with provisions related to the Pits, sumps, openings in floors, etc.
14. Section 34 deals with provisions related to the Excessive weights.
15. Section 35 deals with provisions related to the Protection of eyes.
16. Section 36 deals with provisions related to the Precautions against dangerous fumes, gasses, etc.

17. Section 36A deals with provisions related to the Precautions regarding the use of portable electric light.
18. Section 37 deals with provisions related to the Explosive or inflammable dust, gas, etc.
19. Section 38 deals with provisions related to the Precautions in case of fire.
20. Section 39 deals with provisions related to the Power to require specifications of defective parts or tests of stability.
21. Section 40 deals with provisions related to the Safety of buildings and machinery.
22. Section 40A deals with provisions related to the Section 40A. Maintenance of buildings.
23. Section 40B deals with provisions related to the Safety Officers.
 - (1) In every factory-
 - (i) wherein one thousand or more workers are ordinarily employed, or
 - (ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease or any other hazard to health, to the person employed in the factory,

The occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

- (2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.
1. Section 41 deals with provisions related to the Power to make rules to supplement this Chapter

The State Government may make rules requiring the provision in any factory or in any class or description of factories of such further devices and measures for securing safety of persons employed therein as it may deem necessary.

4.3.5.3 Welfare Measures Under The Factories Act, 1948

Section 42. Washing facilities -

- (1) In every factory-
 - (a) adequate and suitable facilities for washing shall be provided and maintained for use of the workers therein;
 - (b) separate and adequately screened facilities shall be provided for the use of male and female workers;

- (c) such facilities shall be conveniently accessible and shall be kept clean.
- (2) The State Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

Section 43. Facilities for storing and drying clothing -

The State Government may, in respect of any factory or class or description of factories make rules requiring the provision therein of suitable place for keeping clothing not worn during working hours and for the drying of wet clothing.

Section 44. Facilities for sitting -

- (1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.
- (2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room, are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.
- (3) The State Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

Section 45. First-aid-appliances -

- (1) There shall, in every factory, be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed at any one time in the factory.
- (2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard.
- (3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person, who holds a certificate in first-aid treatment recognized by the State Government and who shall always be readily available during the working hours of the factory.
- (4) In every factory wherein more than five hundred workers are ordinarily employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed

equipment and in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

Section 46. Canteens -

- (1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.
- (2) Without prejudice in the generality of the foregoing power, such rules may provide for-
 - (a) the date by which such canteen shall be provided;
 - (b) the standard in respect of construction, accommodation, furniture and other equipment of the canteen;
 - (c) the foodstuffs to be served therein and the charges which may be made therefore;
 - (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;
 - (e) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer ;
 - (f) the delegation to Chief Inspector subject to such conditions as may be prescribed, of the power to make rules under clause (c).

Section 47. Shelters, rest-rooms and lunch-rooms -

- (1) In every factory wherein more than one hundred and fifty workers are ordinarily employed adequate and suitable shelters or rest-rooms and a suitable lunch-room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this subsection:

Provided further that where a lunch-room exists no worker shall eat any food in the work-room.

- (2) The shelters or rest-room or lunch-room to be provided under subsection (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.
- (3) The State Government may-

- (a) prescribe the standards, in respect of construction accommodation, furniture and other equipment of shelters, rest-rooms and lunch-rooms to be provided under this section;
- (b) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.

Section 48. Creches -

- (1) In every factory wherein more than thirty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.
- (2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.
- (3) The State Government may make rules-
 - (a) prescribing the location and the standards in respect of construction, accommodation; furniture and other equipment of rooms to be provided, under this section;
 - (b) requiring the provision in factories to which the section applies, of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;
 - (c) requiring the provision in any factory of free milk or refreshment or both for such children;
 - (d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

Section 49. Welfare Officers -

- (1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.
- (2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1). 50. Power to make rules to supplement this Chapter. -

The State Government may make rules-

- (a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter,

- (b) requiring in any factory or class or description of factories that representatives of the workers employed in the factories shall be associated with the management of the welfare arrangements of the workers.

4.4 THE BOMBAY SHOP AND ESTABLISHMENT ACT, 1948

4.4.1 Overview

Bombay shops and Establishment Act was passed in 1948. The act came into effect from 11th January 1949 with a view to regulate the conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theaters, other places of public amusement or entertainment and other establishments.

The Act was enacted to regulate the service condition, working hours leaves a weekly layout of those who work in shops, commercial establishments, residential hotels and other places of public amusement.

4.4.2 Objectives Of The Act

- (1) To regulate the conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theaters, other places of public amusement or entertainment and other establishments.
- (2) To regulate the service condition, working hours leave a weekly layout of those who work in shops, commercial establishments, residential hotels and other places of public amusement.
- (3) To consolidate and amend the law relating to the regulation of conditions of work and employment in shops.

4.4.3 Scope And Applicability Of The Act

- (1) This Act may be called the Bombay Shops and Establishments Act, 1948.
- (2) The act extends to the whole of Maharashtra.
- (3) It extends its applicability within Municipal limits and can be extended to local area having a population of more than 25000.
- (4) The act consolidates and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theaters, other places of public amusement or entertainment and other establishments.

4.4.4 Important Provisions Of The Act

- (1) Section 7 of the act deals with the provision of registration of establishments, shop or establishment is to be registered under this act with the local authorities.
- (2) Section 13 of the act deals with the working hours of shops. No commercial establishment shall be opened earlier than 8:30 a.m. and close by 8:30 p.m.
- (3) Section 14 of the act deals with the daily and weekly hours of work in shops and commercial establishments. No employee in a commercial establishment or shop can work more than 9 hours in a day and 48 hours in a week.
- (4) Section 19 deals with the working hours of restaurants in eating houses. The restaurants or eating houses cannot be opened earlier than 5 a.m. and closed later than 12 midnight for service.
- (5) 26 deals with the working hours of every theater or other places of public amusement or entertainment that cannot remain open after 12 midnight.
- (6) Section 63 of the act deals with the provisions related to overtime wages. If an employee works for more than 9 hours in a day and 48 hours in a week, overtime wages shall be payable under this act in respect of any establishment is twice the ordinary rate of wages.
- (7) Section 35 to Section 38 deals with the leave provision with wages. Every employee who has been employed for not less than 3 months in a year is to be given 5 days leave for every 60 days of work done by him. If an employee has worked for more than 240 days during a year, then he is entitled to 21 days leave.
- (8) Section 39 to 40 section 42 of the act deals with the health and safety provisions. Every establishment must take appropriate measures to keep the premises clean, ventilated and sufficiently lighted. The measures for protecting the premises against fire should be well implemented. There must be a facility for the first aid box.
- (9) Section 49 of the act states the powers and duties of an inspector. Subject to any rules made by the state government In this half, the Inspector acts within the local limits for which he is appointed exercise sum powers as may be necessary for carrying out the purposes of this act.

4.5 SUMMARY

- Labor laws constitute the wider employment relationship and labor market framework. The five main parties actively associated with any industrial labor laws are the workers, the association of workers, the management body, the State and the Central. Labor administration in labor laws is a wide term.
- The regulative laws of labor establish a legal system that facilitates productive individual and collective employment relationships and hence a productive economy. It helps to regulate the various aspects of the factory and industries.
- The Factories Act, 1948 was passed with a view to ensure the health, safety and welfare measures for the labor working in a factory.
- The act passed in 1881 and 1911 was basically designed to protect children and to provide few measures for health and safety of the worker. The Act was further amended in 1923, 1926, 1931 and 1934. Following the recommendations of the Rege Committee, The Government of India elected the factories act 1948. It is a comprehensive piece of legislation which came into effect from 1949. The Factories Act, 1948 came into force on 1st April, 1949.
- Bombay shops and Establishment Act was enacted to regulate the service condition, working hours leaves a weekly layout of those who work in shops, commercial establishments, residential hotels and other places of public amusement.
- An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theaters, other places of public amusement or entertainment and other establishments.

4.6 SELF-ASSESSMENT TEST

1. State the health provisions relating to workers under the Factories Act 1948.
2. State the safety provision under the Factories Act 1948 relating to workers.
3. State the Welfare provisions relating to workers under the Factories Act 1948.
4. Discuss the important provisions under Bombay Shops and Establishment Act 1948
5. Explain the scope and applicability of the Bombay Shops and Establishment Act 1948
6. What are the important provisions under the Factories Act 1948.



SOCIAL SECURITY LEGISLATIONS

Unit Structure :

- 5.1 Objectives
- 5.2 Overview
- 5.3 Workmen's Compensation Act 1923
- 5.4 Employee State Insurance Act, 1948
- 5.5 Gratuity Act, 1972
- 5.6 Provident Fund Act and Miscellaneous Provisions Act, 1952
- 5.7 Summary
- 5.8 Self Assessment Test

5.1 OBJECTIVES

After studying this module, you should be able to :

- Understand the nature and relevance of social security legislations.
- Importance of social security legislations in India.
- Understand the important provisions of the Workmen's Compensation Act 1923.
- Understand the important provisions of these employees State Insurance Act 1948.
- Know the relevance of Gratuity Act 1972.
- Assess the objectives of Provident Fund Act and Miscellaneous Provisions Act.

5.2 OVERVIEW

The regulative laws of labor establish a legal system that facilitates productive individual and collective employment relationships and hence a productive economy. It helps to regulate the various aspects of the factory and industries. The Central and State Government is empowered to enact laws and regulation for the betterment of workers and employees. The Constitution of India has empowered the Central and the State Government to take care of and to protect the interest of the workers. The Ministry of Labor and Employment is responsible to protect and safeguard the interest of workers. They are also responsible for safeguarding the interest of poor, marginal and disadvantaged sections of the society.

Social security legislations are essential because it is the security that society furnishes, through appropriate organization, against certain risks to which its members are exposed. The concept of social security is essentially related to the higher ideals of human dignity and social justice. The term social security came into general use after the year 1935. In the same year, the US passed the social security act introducing the old age pension scheme. The scheme was administered by the Federal Government and paid for by employers and employees.

The International Labor Organization plays an important role in social security legislation. In 1919, the formation of the International Labour Organisation to promote the concept of Social Justice through International standards, by providing information, technical assistance and guidance and most important through cooperation with other international organizations was promoted to ensure this concept for laborers.

India was a founder member of the ILO. The Social Security (Minimum Standards) Convention No. 102, adopted by the International Labour Conference on 28th June, 1952, defines the nine branches of social security benefit. The benefits for the laborers are -

1. Medical Care
2. Sickness benefit
3. Unemployment Benefit
4. Old-age Benefit
5. Employment Injury Benefit
6. Family Benefit
7. Maternity Benefit
8. Invalidity Benefit
9. Survivors Benefit

The evolution of social security provisions, acts and measures in India had been rather slow. The state bears the primary responsibility for developing the correct system for providing protection and assistance to its workforce. In India, the schemes are designed to guarantee the long-term substance to families when the earning member retires and dies and suffers a disability. The social security system act as a facilitator and helps the workers to plan their own future through insurance and assistance.

According to the International Labour Organisation, “ social security is the security that society furnishes, through appropriate organization, against certain risks to which its members are exposed. These risks are essentially contingencies against which the individual of a small means cannot effectively provide by his own ability of foresight alone or even in private combination with his fellows.”

Social security legislation in India in the industrial sector consists of the following important enactments:

01. The Workmen's Compensation Act 1923
02. The Employees State Insurance Act, 1948
03. The Gratuity Act, 1972
04. The Provident Fund Act and Miscellaneous Provisions Act, 1952
05. The Maternity Benefit Act, 1961

In a country like India the problem of poverty is commonly seen. Illiteracy and unemployment is another problem our country is facing. The problem of unemployment is in practice and the population is ever increasing. As of today, social security seems to be the need of the hour because the only resource that is available in ample in India is labor. The above acts important provisions to provide the social security in terms of compensation, insurance, gratuity provident fund and maternity benefits to the labor.

The main objective of social security legislations are to protect the poor and the vulnerable and to ensure that they have an acceptable standard of living. The aim of the social security legislation is three fold. To provide compensation, to restore the sick and to prevent the loss of a labor.

5.3 THE WORKMEN'S COMPENSATION ACT

5.3.1 OVERVIEW :

The work man compensation act is an important act of social security in India. The beginning of social security in India was made with the passing of this act 1923. Before the passing of this act, the government formulated some proposals for the grant of compensation. These proposals were circulated for opinion among them. the proposals for the grant of compensation received general support. Subsequently, the workmen's compensation Act was passed in March 1923. The act came into force on July 1st 1924.

The Workmen's Compensation Act is administered by the government. The extent of the act is very comprehensive as it covers the various types of disablement, employers liability for compensation, amount of compensation, compensation to be paid when due and penalty for default and appointment of Commissioner by the government. It helps the parties to get relief from a necessary litigation bring about the relations between employers and workmen.

5.3.2 OBJECTIVES OF THE ACT

01. To provide employment injury compensation to industrial workers.
02. To provide for the payment of certain classes of employers to their workmen compensation for injury by accident at the workplace.
03. To provide a simple and economical mechanism for the recovery of compensation in case of personal injury.
04. To provide a quick mechanism for the recovery of compensation in case of occupational diseases.
05. To protect workmen from uncertainty and emergency in the course of employment.
06. To impose an obligation upon employers to pay compensation to employees for accidents rising out of and in the course of employment.

5.3.3 SCOPE AND APPLICABILITY OF THE ACT

1. The act extends to the whole of India.
2. The act is applicable to workmen employed in factories, mines, plantations, mechanically propelled vehicles, construction works and certain other hazardous occupations in any such a capacity as is specified in schedule II.
3. Under sub-section (3) of section 2 of the act, the state governments are empowered to extend the scope of the act to any class of persons whose occupations are considered hazardous after giving three months notice in the Official Gazette.
4. The act, however, does not apply to members serving in the armed forces of the Indian Union.
5. The compensation is related to the extent of the injury or death rising out of and in the course of employment.
6. The employer is not responsible if a workman sustains his injuries under the influence of drugs, drinks etc.

5.3.4 IMPORTANT PROVISIONS OF THE ACT :

Employer's Liability for Compensation [Section 3]

Under this section, the act imposes the liability to pay compensation to workmen if a personal injury is caused to him arising out of and in the course of employment. Workmen are entitled to receive compensation from the employer if the personal injury is caused to him or her by accident at the workplace or arising out of or in the course of his employment.

AMOUNT OF COMPENSATION [Section 4]

The Section 4 of the workmen's compensation act deals with the provisions relating to the amount of compensation to be paid to workmen if the personal injury is caused by accident or arising out of and in the course of his employment. Subject to the provisions of this Act, the amount of compensation shall be as follows, namely -

(a) where death results in from the injury : an amount equal to fifty per cent. of the monthly wages of the deceased employee multiplied by the relevant factor; or an amount of one lakh and twenty thousand rupees, whichever is more;

(b) where permanent total disablement results from the injury : an amount equal to sixty per cent. of the monthly wages of the injured employee multiplied by the relevant factor; one lakh and twenty thousand rupees, whichever is more;

COMPENSATION TO BE PAID WHEN DUE AND PENALTY FOR DEFAULT [Section 4A]

Under this act, if the employer is under fault in paying the compensation due within one month from the date it fell due, The Commissioner shall direct that the employer in addition to the amount of areas pay simple interest of 12% per annum or on such higher rates. The Commissioner has the power to impose the penalty and the interest on the cleared amount it

APPOINTMENT OF COMMISSIONER [Section 20]

The State Government may, by notification in the Official Gadget, appoint any person to be a Commissioner for workmen compensation for such areas as may be specified in the notification.

5.4 EMPLOYEES' STATE INSURANCE ACT, 1948

5.4.1 OVERVIEW

The Employees State Insurance act 1948 is an important act which falls under the section of social security legislation. It came into force from 19th April 1948. The act provides for certain cash benefits to employees in the event of sickness, Maternity, employment injury and medical facilities in kind. They contain the provisions for certain other matters having their own.

It also aims to provide benefits to the dependents of the employees. The act serves as a social security and social insurance measure for employees in event of sickness injury, accident disablement and maternity. The act also deals with the provisions of providing benefits to the eligible dependents of an insured person who dies as a result of an accident or an occupational disease arising out of and in the course of employment.

5.4.2 AIMS AND OBJECTIVES OF THE ACT

01. To provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.
02. To provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.
03. To create a sense of loyalty among the employees.
04. To serve as a social security and social insurance measure for employees.
05. To provide the benefits to the dependents of an insured person who dies as a result of an accident or an occupational disease arising out of and in the course of employment.
06. To enable financial backing and support to the working class in times of medical distress.

5.4.3 SCOPE AND APPLICABILITY OF THE ACT

01. The Employees' State Insurance act extends to the whole of India.
02. The act shall apply to all factories including those belonging to the government other than seasonal factories.
03. The act is applicable to all the factories and establishments where there are 20 or more employees.
04. Every factory or establishment to which this Act applies shall be registered within such time and in such manner as may be specified in the regulations made in this behalf.
05. The six kinds of benefits which are provided under the act are sickness benefit, maternity Benefit, disability benefit, dependents benefit, medical benefit and funeral expenses.

5.4.4 IMPORTANT PROVISIONS UNDER THE ACT

ESTABLISHMENT OF EMPLOYEES' STATE INSURANCE CORPORATION [Section 3]

The Central Government may, by notification in the Official Gazette, appoint on this behalf, there shall be established for the administration of the scheme of employees' state insurance in accordance with the provisions of this Act a Corporation to be known as the Employees' State Insurance Corporation. The Corporation shall be a body corporate by the name of Employees' State Insurance Corporation having perpetual succession and a common seal and shall by the said name sue and be sued.

CONSTITUTION OF THE CORPORATION [Section 4]

The Employees State Insurance Corporation shall consist of the following members, namely:

- The Director-General of the Corporation
- A Chairman, appointed by the Central Government
- A Vice-Chairman appointed by the Central Government.
- Not more than 5 persons nominated by the Central Government.
- 1 person to represent each state.
- 1 person representing the Union Territories.
- 10 persons representing employers.
- 10 persons representing employees.
- 2 persons representing the medical profession.
- 3 members of parliament (2: Lok Sabha and 1: Rajya Sabha).

TERM OF OFFICE OF MEMBERS OF THE CORPORATION [Section 5]

The Director-General of the Corporation, the Chairman, the Vice-Chairman, the five people nominated by the Central Government, the members representing each State and the members representing each Union Territory shall hold the office for up to four years.

BENEFITS [Chapter V]

The Chapter V of the act provides for all the benefits under the scheme that are to be paid in cash except medical benefit which is given in kind. The benefits are -

01. SICKNESS BENEFIT

An insured person is entitled to receive the sickness cash benefits at the standard benefit rate for a period of 91 days in any two consecutive benefit periods. This benefit is payable to an end short person in cash, in the event of sickness resulting in absence from work or his sickness should be duly certified by an authorized insurable medical officer or a medical practitioner.

02. MATERNITY BENEFIT

Women are entitled to get medical benefits at double the standard benefit rate. In case of sickness arising out of pregnancy, miscarriage or premature birth of a child, and additional benefit is given for some period. The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and

period thereof shall be such as may be prescribed by the Central Government.

03. DISABLEMENT BENEFIT

This benefit is payable to insured employees suffering from physical disability due to employment injury or occupational diseases arising out of and in the course of employment. a person who sustains temporary disablement for not less than three days excluding the day of accident shall be entitled to periodical payment at such rates and for such period and subject to such conditions as may be prescribed by the Central Government. A person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment at such rates and for such period and subject to such conditions as may be prescribed by the Central Government.

04. MEDICAL BENEFIT

An insured person or a member of his family whose condition requires medical treatment and attendants is entitled to receive medical benefit.

05. DEPENDANTS' BENEFIT

This benefit is payable to dependents of a deceased insured person. The benefit arises where death occurs due to employment or occupational diseases. under this act, this benefit has been divided into three parts - restricted medical care, expanded medical care and full medical care

06. FUNERAL EXPENSES

This benefit to this act was added in 1968. Under this benefit, a fixed amount is payable to the eldest surviving member of the family or in his absence to the person who actually incurred the expenditure on the funeral.

5.5 THE PAYMENT OF GRATUITY ACT, 1972

5.5.1 OVERVIEW

Gratuity is an amount which is paid by the employer to the employee for the services rendered by him or her towards the organization. It refers to the additional retirement benefit to be secured to the laborers for the contribution of their services towards the organization. The amount is paid by the employer is in lump sum in consideration of the past service of the laborer. The amount is given as a token of appreciation towards the years contributed by the laborer to the organization.

In India, this benefit is governed by the Payment of Gratuity Act, 1972. The Payment of Gratuity Act, 1972 came into force from 16th September 1972. The act provides for rewarding employees who have served a long career in the organization.

5.5.2 OBJECTIVES OF THE ACT

01. To provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.
02. To provide a reward to employees who have served a long career in the organization.
03. To provide the benefits to the employees as a token of appreciation for his/her services.

5.5.3 SCOPE AND APPLICABILITY OF THE ACT

01. The act extends to the whole of India.
02. The act is applicable to every shop or establishment in which 10 or more persons are employed or were employed on any day of the preceding 12 months.
03. It shall apply to-
 - (a) every factory, mine, oilfield, plantation, port and railway company;
 - (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
 - (c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.
04. It shall come into force on such date as the Central Government may, by notification, appoint.

5.5.4 IMPORTANT PROVISIONS OF THE ACT

CONTROLLING AUTHORITY [Section 3]

The appropriate Government may, by notification, appoint any officer to be a controlling authority. The officer shall be responsible for the administration of this act. The appropriate government may appoint different controlling authority for different areas.

PAYMENT OF GRATUITY [Section 4]

Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, -

- (a) on his superannuation, or
- (b) on his retirement or resignation, or
- (c) on his death or disablement due to accident or disease:

POWERS TO EXEMPT [Section 5]

The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, in receipt of gratuity or pensionary benefits not less favorable than the benefits conferred under this Act.

NOMINATION [Section 6]

Section 6 of the act deals with the provisions relating to the nomination. An employee may in his nomination, distribute the amount of gratuity payable to him or may nominate one or more members of the family.

DETERMINATION OF THE AMOUNT OF GRATUITY [Section 7]

Section 7 of the act, lays down the rules for the determination of amount of gratuity. The person who is entitled to receive the gratuity is required to apply to an employer by writing an application. The employer shall calculate the amount of gratuity to be paid. He shall provide notice to the concerned employee and the controlling authority after calculating the amount to be payable. The payment of gratuity should be made within 30 days from the date it is due.

INSPECTORS [Section 7A]

The appropriate Government may, by notification, appoint as many inspectors, as it deems fit, for the purposes of this act. While Section 7B deals with the Powers of Inspectors under this act.

RECOVERY OF GRATUITY [Section 8]

If the amount of gratuity is not paid by the employer, the controlling authority should give the employer a reasonable opportunity to show the cause of such an Act. The amount of interest to be paid should not exceed the amount of gratuity under this Act

PENALTIES [Section 9]

- (1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.
- (2) An employer who contravenes, or makes default in complying with, any of the provisions of this Act or any rule or order made there under shall be punishable with imprisonment for a term which shall not be

less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both:

Provided that where the offense relates to non-payment of any gratuity payable under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than Six months but which may extend to two years unless the court trying the offense, for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition; a fine would meet the ends of justice.

5.6 THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

5.6.1 OVERVIEW

Employees provident fund is a welfare scheme for the benefits of employees. In this scheme, the contribution is made by employer and employee. Later on, the whole of the amount is contributed by the employer. The statutory rate of contribution is prescribed by the act. The employee share is deducted from the salary of the employee and it is deducted by the employer. The interest on this provident fund account is credited to the account of the employee.

If the certain conditions are satisfied, at the time of retirement the accumulated amount of provident fund is given to the employee. In India, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 came into effect from 1st March, 1971. The act was further amended in 1976. The Act was passed with a view to introducing the Employees Deposit Linked Insurance Scheme. The Employees Deposit Linked Insurance Scheme is a measure to provide an insurance cover to the members of the provident fund.

Further, the Act was enacted to provide a kind of social security to the industrial workers. This act is an important labor legislation which came into existence in 1952 to ensure compulsory provision of Provident Fund, Family Pension Fund and Deposit Linked Insurance in factories and other establishments for the benefits of employees.

5.6.2 OBJECTIVES OF THE ACT

01. To provide a kind of social security to the industrial workers.
02. To provide provident fund to the employees after their service.
03. To introduce the Employees Deposit Linked Insurance Scheme.
04. To cultivate the spirit of saving something for the future among employees.
05. To make provision for the future of the work man after his retirement or for his dependents in case of early death.

5.6.3 SCOPE AND APPLICABILITY OF THE ACT

The act is applicable -

01. to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed, and
02. to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:
03. the Central Government may, after giving not less than two months' notice of its intention to do so, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such a number of persons less than twenty as may be specified in the notification.

5.6.4 IMPORTANT PROVISIONS OF THE ACT

01. **Section 2A** lays down the provisions related to an establishment to include all departments and branches under this scheme.
02. **Section 3** lays down the provisions related to the Power to apply Act to an establishment which has a common provident fund with another establishment.
03. **Section 4** empowers the Central Government to add any industry in Schedule I. The Central Government may, by notification in the Official Gazette, add to Schedule-I any other industry in respect of the employees whereof it is of opinion that a Provident Fund Scheme should be framed under this Act, and thereupon the industry so added shall be deemed to be an industry specified in Schedule-I for the purposes of this Act.
04. **Section 5** of the act lays down provisions related to Employees' Provident Fund scheme. The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the establishments or class of establishments to which the said scheme shall apply 4[and there shall be established, as soon as may be after the framing of the scheme, a fund in accordance with the provisions of this Act and the Scheme.
05. **Section 6** lays down the provisions related to the Contribution and matters which may be provided for in Schemes. The statutory rate of provident fund by the employee and the employer as prescribed in the act is 10% of the pay/ wages of the employees.
06. **Section 7** lays down the provisions related to the modification of scheme. The Central Government may, by notification in the Official Gazette, add to amend or vary, either prospectively or retrospectively,

the Scheme, the Pension Scheme, or the Insurance Scheme as the case may be. Some 7 of the act is very comprehensive and covers many provisions.

07. **Section 8** of the act lays down the provisions related to the mode of recovery of money due from employers.

Apart from these provisions, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 covers many other provisions related to withdrawals, offenses, obligations of employers etc.

5.7 SUMMARY

- Social security legislations are essential because it is the security that society furnishes, through appropriate organization, against certain risks to which its members are exposed. The concept of social security is essentially related to the higher ideals of human dignity and social justice. The term social security came into general use after the year 1935. In the same year, the US passed the social security act introducing the old age pension scheme. The scheme was administered by the Federal Government and paid for by employers and employees.
- The Workmen's Compensation Act is administered by the government. The extent of the act is very comprehensive as it covers the various types of disablement, employers liability for compensation, amount of compensation, compensation to be paid when due and penalty for default and appointment of Commissioner by the government.
- The Employees State Insurance Act, 1948 is an important act which falls under the section of social security legislation. It came into force from 19th April 1948. The act provides for certain cash benefits to employees in the event of sickness, Maternity, employment injury and medical facilities in kind. The act contains the provisions for certain other matters having their own.
- In India, this benefit is governed by the Payment of Gratuity Act, 1972. The Payment of Gratuity Act, 1972 came into force from 16th September 1972. The act provides for rewarding employees who have served a long career in the organization.
- In India, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 came into effect from 1st March, 1971. The act was further amended in 1976. The Act was passed with a view to introducing the Employees Deposit Linked Insurance Scheme. The Employees Deposit Linked Insurance Scheme is a measure to provide an insurance cover to the members of the provident fund.

5.8 SELF ASSESSMENT TEST

01. Discuss the important provisions of the Workmen's Compensation Act, 1923.
02. Discuss the important provisions of the Payment of Gratuity Act.
03. What are the applications of the employer under Payment of Gratuity Act?
04. What are the important provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.
05. Explain the concept of provident fund. How are the contributions drawn from the employer and employee?
06. Explain the objectives and scope of the Employees State Insurance act.
07. Important provisions of the Employees' State Insurance Act.
08. Explain the scope and applicability of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.



WAGE LEGISLATION'S

Unit Structure :

- 6.1 Objectives
- 6.2 Payment of Wages Act, 1936
- 6.3 Minimum Wages Act, 1948
- 6.4 Summary
- 6.5 Self-Assessment Test

6.1 OBJECTIVES

01. Understand the nature and relevance of few acts
02. Importance of this laws to society and people in general
03. Changing dynamics of these laws
04. Concept of these Acts in detail
05. Relevance of Payment of Wages Act, 1936
06. Understanding of Minimum Wages Act, 1948

6.2 PAYMENT OF WAGES ACT, 1936

6.2.1 OVERVIEW

The Payment of Wages Act is a central government act. The act was passed to regulate the payment of wages of certain classes of [employed persons]. Whereas it is expedient to regulate the payment of wages to certain classes of [employed persons]. This act regulates the issues related to the time limit within which wages shall be paid/distributed to employees. This act also states that no deductions other than those authorized by the law are made by the employers. The payment of wages is ensured through this act in a particular and at regular intervals without any unauthorized deductions.

6.2.2 Objectives

01. To regulate the payment of wages to certain classes of persons employed in industry in a particular form.
02. To regulate the payment at regular intervals.
03. To prevent unauthorized deductions from the wages.

04. To regulate the issues related to the time limit within which wages shall be paid to employees.

6.2.3 Scope and Applicability of the Act

01. This Act may be called the Payment of Wages Act, 1936.
02. It extends to the whole of India 3[***].Omitted by the Act]
03. It shall come into force on such date 4as the Central Government may, by notification in the Official Gazette, appoint.
04. It applies in the first instance to the payment of wages to persons employed in any [factory, to persons] employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a subcontractor, by a person fulfilling a contract with a railway administration, [and to persons employed in an industrial or other establishment specified in subclauses (a) to (g) of clause (ii) of Section 2].
05. The [Appropriate Government] may, after giving three months' notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of [this Act or any of them to the payment of wages to any class of persons employed in [any establishment or class of establishments specified by the Central Government or a State Government under sub-clause (h) of clause (ii) of section 2.] [Provided that in relation to any such establishment owned by the Central Government, no such notification shall be issued except with the concurrence of that Government.]
06. This Act applies to wages payable to an employed person in respect of a wages period is such wages for that wage period do not exceed [ten thousand rupees per month] or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify.]

6.2.4 Important Provisions of the Act

- 01. Section 3** deals with the responsibility for the payment of wages. Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,—
- a. in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948);
 - b. in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishment;

- c. upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;
- d. in the case of contractor, a person designated by such contractor who is directly under his charge; and
- e. in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act; the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment.]

02. Section 4 of the Act deals with the fixation of wage period. It is obligatory under Section 4, on every person responsible for the payment of wages under Section 3, to fix periods in respect of which such wages shall be payable. No wage period shall exceed one month.

03. Section 5 of the Act deals with the Time of Payment of Wages. The wages of every person employed upon or in -

- (a) any railway, factory or [industrial or other establishment] upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day.
- (b) any other railway, factory or 1[industrial or other establishment, shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable:

04. Section 6 deals with the provisions of Medium of Payment of Wages. Wages to be paid in current coin or currency notes.- All wages shall be paid in current coin or currency notes or in both: Provided that the employer may, after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.

05. Section 7 to Section 13 deals with the provisions related to the Deductions part. Deductions from the wages of an employed person shall be made in accordance with the provisions of this Act.

06. Section 8 deals with the provisions related to Fines.

- (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer with the previous approval of 1[the appropriate Government] or of the prescribed authority, may have specified by notice under sub-section (2).

- (2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.
- (3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.
- (4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to 2[three per cent] of the wages payable to him in respect of that wage-period.
- (5) No fine shall be imposed on any employed person who is under the age of fifteen years.
- (6) No fine imposed on any employed person shall be recovered from him by installments or after the expiry of 3[ninety days] from the day on which it was imposed.
- (7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.
- (8) All fines and all realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under Section 3 in such form as may be prescribed; and all such realizations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as approved by the prescribed authority.

Explanation.- When the persons employed upon or in any railway, factory or [industrial or other establishment] are part only of a staff employed under the same management, all such realizations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

07. Section 9 deals with the provisions related to the Deductions for absence from duty. Where any employed person remains absent from duty, deductions from wages on account of such absence are authorized. The amount of deduction shall be proportionate to the period of absence.

08. Section 10 deals with the provisions of deductions for damage or loss.

- (1) A deduction under clause (c) or clause (o) of sub-section (2) of Section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person. (1-A) A deduction shall not be made under clause (c) or clause (m) or clause (n) or clause (o) of sub-section

(2) of Section 7 until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.] (2) All such deductions and all realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under Section 3 in such form as may be prescribed.

09. Section 11 of the Act deals with the deductions for the services rendered. A deduction under clause (d) or clause (e) of sub-section (2) of Section 7 shall not be made from the wages of an employed person, unless the house-accommodation amenity of service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of a deduction under the said clause (e) shall be subject to such conditions as 3[****] [the appropriate Government] may impose.

10. Section 12 deals with the provisions related to deductions for recovery of advances. Section 12A deals with the provisions related to deductions for recovery of loans.

11. Section 13 deals with the provisions related to deductions for payments to co-operative societies and insurance schemes.

12. Section 14 deals with the provisions related to Maintenance of Registers and Records.

13. Section 15 provides for the appointment of a person to be the authority to hear and decide, for any specified area, claims arising out of deductions from wages or delay in payment of wages.

6.3 MINIMUM WAGES ACT, 1948

6.3.1 OVERVIEW

The Minimum Wages Act was passed in 1948. The act enables the Central and the State Government to fix minimum wages paid to the workers. Exploitation of labor by giving them minimum wages was a common problem of that time. The wages paid to the workers were inadequate in the light of the general level of wages. The reasons were unorganized form of labor, lack of trade unions and the absence of machinery for the regulation of wages.

The act was passed with a view to provide for fixing minimum rates of wages in certain occupations. Whereas it is expedient to provide for fixing minimum rates of wages in certain employments; The act extends the concept of social justice The workmen employed in certain scheduled employment. Further, the advocates statutorily provide the minimum rates of wages for workers.

6.3.2 OBJECTIVES OF THE ACT

01. To provide the minimum wages to the workers working in the organized sector.
02. To protect the workers from exploitation.
03. To provide for fixing minimum rates of wages in certain occupations.
04. To provide for the appointment of an advisory committee and advisory board.
05. To empower the government to take steps for fixing minimum wages and to revise these wages within a period of five years.

6.3.3 SCOPE AND APPLICABILITY OF THE ACT

01. This Act may be called the Minimum Wages Act, 1948.
02. The act extends to the whole of India.
03. The act is administered by both the Central Government and the State Government.

6.3.4 IMPORTANT DEFINITIONS

In this Act, unless there is anything repugnant in the subject or context,-

- (a) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;
- (aa) "adult" means a person who has completed his eighteenth year of age
- (b) "appropriate Government" means,-
 - (i) in relation to any scheduled employment carried on by or under the authority of the [3] [Central Government, or a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by [4] [a Central Act], the Central Government, and
 - (ii) in relation to any other scheduled employment, the State Government;
- (bb) "child" means a person who has not completed his fourteenth year of age;
- (c) "competent authority" means the authority appointed by the appropriate Government by notification in its Official Gazette to ascertain from time to time the cost of living index number applicable to the employees employed in the scheduled employments specified in such notification;
- (d) "cost of living index number", in relation to employees in any scheduled employment in respect of which minimum rates of wages have been fixed, means the index number ascertained and declared by

the competent authority by notification in the Official Gazette to be the cost of living index number applicable to employees in such employment;

- (e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in subsection (3) of section 26,-
 - (i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under [6] [clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948)], as manager of the factory;
 - (ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;
 - (iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;
 - (iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "scheduled employment" means an employment specified in the schedule, or any process or branch of work forming part of such employment;
- (h) "wages" means all remuneration, capable of being expressed in terms of money which would if the terms of the contract of employment express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment 2[and includes house rent allowance] but does not include-
 - (i) the value of -
 - (a) any house-accommodation, supply of light, water, medical attendance; or
 - (b) any other amenity or any service excluded by;

(ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;

(iii) any traveling allowance or the value of any traveling concession;

(iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

(vi) "employee" means any person who is employed for hire or reward to do any work skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out worker to whom any articles or materials are given out by another person, to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the [Union].

6.3.5 IMPORTANT PROVISIONS OF THE ACT

Fixing of Minimum Rates of Wages [Section 3]

The section 3 of the act empowers appropriate governments to fix the minimum rate of wages payable to the employees employed in an employment specified in part I or part II of the schedule. The appropriate government May review and revise the minimum rates at an interval not exceeding five years.

The appropriate government may fix:

1. The minimum rate of wages for time work,
2. the minimum rate of wage for piece work,
3. a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis,
4. a minimum rate of wage to substitute the for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees.

In fixing or revising minimum wages under Section 3 of the Act:

1. Different minimum rates of wages may be fixed for; different classes of work, different scheduled employment, different localities, different age groups, etc.

2. Minimum wages may be fixed by the wage period such as; by the hour, by the day, etc.

Minimum Rate of Wages [Section 4]

Section 4 of the act states that the Appropriate Government while fixing the minimum wages must consider -

01. A basic rate of wages and a special allowance must be adjusted at necessary intervals by the appropriate government to match the cost of living of the employees.
02. Basic rate of wages with or without cost of living allowances and the cash value of the concessions in respect of suppliers of essential commodities at concession rates, where so authorized; or
03. An all inclusive rate allowing for the basic rate the cost of living allowance and the cash value of the concessions, if any

Procedure for Fixing Minimum Wages [Section 5]

In respect of any scheduled employment for the first time under this act revising minimum rates of wages, the Appropriate Government may establish as many committees and subcommittees necessary to hold enquiries in matters regarding fixing and revision of minimum wage.

By notification in the Official gadget, the appropriate government publishes proposals for the information of the individual who are likely to be affected by such information and thereby specify the date which must not be less than two months from the date of notification of the proposals that will be taken into consideration.

Advisory Board [Section 7]

Appropriate government shall appoint an advisory board for coordinating the work of the committees and subcommittees mentioned in Section 5 and also for advising the appropriate government generally in the matter of fixing and revising minimum rates of wages.

Central Advisory Committee [Section 8]

The Central Government shall appoint a Central Advisory Board on the matters of fixation and revision of minimum rates of wages of the employees. The Central Advisory Board may advise the Central and State government in the matters of the fixation and revision of minimum rates of wages and other matters under this act. The committee also works to coordinate the work of the advisory board.

Wages in Kind [Section 11]

The wages will be payable to the employees.

1. Minimum wages under this Act shall be paid in cash.

2. The appropriate government under necessary circumstances by notification to the Official Gazette authorizes the payment of the minimum wages either wholly or partly in kind.
3. The appropriate government by notification to the Official Gazette authorized a provision for the supply of essential commodities at concession rates.
4. The cash value of wages and the concession rates shall be authorized in the prescribed manner stated under the Act.

Payment of Minimum Rate of Wages [Section 12]

Without any authorized deduction, the employer shall pay every wage at a rate not less than the minimum rates of wages fixed by the authority.

Fixing Hours for Normal Working Days [Section 13]

Section 13 of the act covers the provisions for fixing hours for normal working days. The appropriate government may -

1. Fix the working hours of a normal day including one or more specified intervals.
2. Provide a day of rest in every period of seven days to all the employees or a class of employees, and adequate remuneration must be provided to the employees during the day of rest.
3. Provide payment to the employees on the day rest which shall not be less than the overtime rate.

Overtime [Section 14]

When an employee works more than the specified number of hours constituting a normal working day, the employer shall be liable to pay him for every hour or part of the hour at the overtime rate fixed under this Act or under any law of the appropriate government for the time being in force.

Apart from the above important provisions of the act, Section 22 states the penalties for certain offenses. an employer who fails to provide minimum rates of wages to the employees or contravenes any rule or order made under Section 13 of the Act shall be punished with imprisonment for a term which may extend to six months or fine not less than five hundred rupees or both.

6.4 SUMMARY

- The Payment of Wages Act is a central government act. The act was passed to regulate the payment of wages of certain classes of [employed persons]. Whereas it is expedient to regulate the payment of wages to certain classes of [employed persons]. This act regulates the issues related to the time limit within which wages shall be

paid/distributed to employees. This act also states that no deductions other than those authorized by the law are made by the employers.

- This act also states that no deductions other than those authorized by the law are made by the employers. The payment of wages is ensured through this act in a particular and at regular intervals without any unauthorized deductions.
- The Minimum Wages Act was passed in 1948. The act enables the Central and the State Government to fix minimum wages paid to the workers. Exploitation of labor by giving them minimum wages was a common problem of that time. The wages paid to the workers were inadequate in the light of the general level of wages. The reasons were unorganized form of labor, lack of trade unions and the absence of machinery for the regulation of wages.
- The act was passed with a view to provide for fixing minimum rates of wages in certain occupations. Whereas it is expedient to provide for fixing minimum rates of wages in certain employments; The act extends the concept of social justice The workmen employed in certain scheduled employment. Further, the advocates statutorily provide the minimum rates of wages for workers.

6.5 SELF-ASSESSMENT TEST

01. Explain the important features of payment of wages act
02. Give a brief account of important provisions of payment of wages act
03. What is the object of payment of wages act? What are the applications of an employer under Payment of wages act
04. What is the object of the Minimum Wages Act?
05. Discuss the important provisions under the Minimum Wages Act.



OVERVIEW OF FEW LAWS

Unit Structure :

- 7.1 Objectives
- 7.2 Maternity Benefit Act, 1961
- 7.3 The Apprentice Act, 1961
- 7.4 Employment Exchange Act, 1951
- 7.5 Payment of Bonus Act, 1965
- 7.6 Summary
- 7.7 Self Assessment Test

7.1 OBJECTIVES

After studying this module, you should be able to :

- 01. Understand the nature and relevance of few acts
- 02. Importance of this laws to society and people in general
- 03. Changing dynamics of these laws
- 04. Concept of these Acts in detail
- 05. Importance of these acts in management
- 06. Understand the various Labor Laws

7.2 MATERNITY BENEFIT ACT, 1961

7.2.1 Overview

The Act regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. The Act applies to mines, factories, circus, industry, plantation and shops and establishments employing ten or more persons, except employees covered under the Employees State Insurance act, 1947. It can be extended to other establishments by the state governments. There is no wage limit for coverage under the Act. The Central Government is an Appropriate Government in respect of the Circus Industry and Mines.

The motive is to facilitate the women with a benefit to take care of her and her child. Along with leave from employment, there are other benefits which this act facilitates to women before, during and after the birth of her child.

7.2.2 Objectives of the Act

The object of the act is -

01. To provide maternity benefits to women workers in certain establishments.
02. To regulate the employment of women workers in such establishments for certain periods before and after childbirth.
03. To regulate women employment during maternity or childbirth.
04. To provide maternity leave and benefits to working women.
05. To protect the dignity of motherhood.

7.2.3 Applicability and Scope of the Act

Under the scope of Section 2(1)(a), the Act applies to all establishments including:

- factories,
- plantations,
- mines,
- shops or establishments covered under the ambit of law having 10 or more than 10 employees. (As provided by the 2017 amendment) This includes the private sector as well.

7.2.4 Important Provisions of the Act

Section 4: Prohibition of employment of women during certain periods – No employer shall allow the women to work during 6 weeks after the delivery or miscarriage, the work given to the pregnant women should not be ardent or requiring long standing hours.

Section 5: Right to payment of maternity benefit – Every woman is entitled to claim and every employer is liable to pay maternity benefit at the rate of average daily wages for the period of her actual absence (provided the woman has worked for more than 160 days in the 12 months preceding the expected delivery date). The maximum period of 12 weeks leave is provided to the women entitled to maternity benefit. (6 weeks before delivery and 6 weeks after delivery)

Section 6: Notice of claim of maternity benefit – For claiming the maternity benefit, the woman shall give it in writing to the employer at a date 6 months prior to her expected delivery. The employer shall permit her leave on this ground.

Section 7: Payment of maternity benefit in case of death of a woman – On the woman's death, the employer shall be liable to pay the maternity benefit amount to the nominee or her legal representative.

Section 8: Payment of Medical Bonus – Every woman is entitled to receive from her employer a medical bonus.

Section 9: Leave for Miscarriage – The employer shall provide a leave with wages at a rate of maternity benefit for a period of 6 weeks immediately after her miscarriage.

Section 10: Leave for illness arising out of pregnancy, delivery, premature childbirth or miscarriage – In such a case, the woman may be allowed an additional leave of 1 month with wages on presenting proofs.

Section 11: Nursing Breaks – The employer shall allow 2 nursing leave and required rest periods after such delivery upto the time the child attains 15 months of age.

Section 12: Dismissal during Absence or pregnancy – It shall be unlawful if the employer dismisses or discharges her from work on account of absence according to the provisions of this act.

Section 13 - No deduction of wages in certain cases - No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made by reason only of—

(a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3) of section 4; or

(b) breaks for nursing the child allowed to her under the provisions of section 11.

Section 14: Appointment of Inspectors – The Central government has the power to appoint the inspectors by notification to the Official Gazette and define their limits of work.

Section 15: Powers and Duties of Inspectors – Inspectors can enter into the premises of the industries where women are employed, ask for copies of registers , notices, etc, inspect them, and investigate the persons involved in the work.

7.3 THE APPRENTICES ACT, 1961

7.3.1 Overview

The Apprentices Act, 1961 was enacted with the objective of utilizing the facilities available in industries to impart practical training among employees. In institutions, the training and development skills are not sufficient. To acknowledge the needs of training at the workplace, this act was passed in 1961.

With addition to this, Apprenticeship Rules were enacted in 1962 to provide more scope to this act. In starting, the act covered apprenticeship training for the trade Apprentices. But, amendments were incorporated in 1973, 1986 and 2014 to bring the Graduates, Technician, Technician

(Vocational) and Optional Trade Apprentices respectively under its purview and Apprenticeship Rules, 1992 were revised in the year 2015.

7.3.2 Objectives of the Act

The objectives of the Act are -

01. To regulate and promote the programme of training of apprentices in the industry; and
02. To utilize the facilities available in industry for imparting practical training with a view to meeting the requirements of skilled manpower for industry.
03. To provide training to qualified workforce in various trades and promote new skilled manpower.
04. To act as a connector between potential employees and the employer.
05. To provide for the regulation and control of training of apprentices and for matters connected therewith

7.3.3 Scope and Applicability of the Act

01. This Act may be called The Apprentices Act, 1961.
02. It extends to the whole of India [* * *].
03. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States.
04. The provisions of this Act shall not apply to-
 - (a) any area or to any industry in any area unless the Central Government by notification in the Official Gazette specifies that area or industry as an area or industry to which the said provisions shall apply with effect from such date as may be mentioned in the notification;[* * *] clause
 - (b) is omitted by Section 27 of 1973.
 - (c) any such special apprenticeship scheme for imparting training to apprentices as may be notified by the Central Government in the Official Gazette.]

7.3.4 Important Provisions of the Act

Section 3 Qualifications for being engaged as an apprentice. [3-A.Reservation of training places for the Scheduled Castes and the Scheduled Tribes in designated trades. [3-B.Reservation of training places for Other Backward Classes in designated trades].

Section 4 deals with the contract of Apprenticeship.

Section 5 deals with novation of contracts of apprenticeship. Section 5A deals with regulation of optional trade and Section 5B deals with engagement of apprentices from other States.

Section 6 deals with the Period of apprenticeship training.

Section 7 deals with the Termination of apprenticeship contract.

Section 8 Number of apprentices for a designated trade and optional trade.

Section 9 deals with the practical and basic training of apprentices.

Section 10 deals with the related instruction of apprentices.

Section 11 deals with the obligation of employers.

Section 12 deals with the obligations of apprentices

Section 13 deals with the payment to apprentices.

Section 14 deals with the health, safety and welfare of apprentices.

Section 15 deals with the hours of work, overtime, leave and holidays.

Section 16 deals with the Employer's liability for compensation for injury in case of any accident or injury.

Section 17 deals with conduct and discipline.

Section 18 deals with the matter of whether apprentices are trainees and not workers.

Section 19 deals with the records and returns maintained by the employer,

Section 20 deals with the settlement of disputes under this act.

Section 21 deals with the holding of test and grant of certificate and conclusion of training

7.4 THE EMPLOYMENT EXCHANGE ACT, 1959

7.4.1 Overview

The Act was enacted in 1959. It came into force from 1st May, 1960. The main aim of the act is to provide for compulsory notification of vacancies to the employment exchanges. The Employment Exchange Act, 1959 was passed with a view to collect and furnish information on the prospective employers, available vacancies and job seekers, thereby facilitating job seekers to find a suitable job and for industry to find the suitable manpower.

7.4.2 Objectives of the Act

The following are the objectives of the act -

01. To provide for compulsory notification of vacancies to the employment exchanges.
02. To collect and furnish information on the prospective employers, available vacancies to the job seekers.
03. To facilitate the process of registration of job seekers.

7.4.3 Scope and Applicability of the Act

- (1) The Act may be called the Employment Exchanges (Compulsory Notification of Vacancies) Act of 1959.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) This Act is applicable to the establishments in the Public Sector.
- (4) Such establishments in the private Sector excluding Agriculture, where ordinarily 25 or more persons are employed come within the purview of the Act.

7.4.4 Important Provisions of this Act (From Bare Act Live)

- (1) Vacancies required to be notified to the local Employment Exchange, shall be notified at least [fifteen days] before the date on which applicants will be interviewed or tested where interviews or tests are held, or the date on which vacancies are intended to be filled, if no interviews or tests are held.
- (2) Vacancies required to be notified to the Central Employment Exchange shall be notified, giving at least 60 days, time to the Central Employment Exchange from the date of receipt of the notification to the date of despatch of particulars or applications of the prospective candidates for purpose of appointment or taking interview or test against the vacancies notified.]
- (3) An employer shall furnish to the concerned Employment Exchange the results of selection within 15 days from the date of selection.]
- (4) An Employer shall furnish to the Local Employment Exchange [quarterly returns in Form ERI and biennial returns in Form ER II]. Quarterly returns shall be furnished within thirty days of the due dates, namely, 31st March, 30th June, 30th September and 31st December. Biennial returns shall be furnished within thirty days of the due date as notified in the Official Gazette.

- (5) The Director is hereby prescribed as the officer who shall exercise the rights referred to in section 6, or authorize any person in writing to exercise those rights.
- (6) [The Director of Employment of the State in which the establishment is located is hereby prescribed as the officer who may institute or sanction the institution of prosecution for an offense under the Act, or authorize any person in writing to institute or sanction the institution of such prosecution.]

7.5 PAYMENT OF BONUS ACT, 1965

7.5.1 Overview

The Payment of Bonus Act was passed in 1965. The act was passed to regulate the amount of bonus to be paid to the persons employed in establishments. The amount of bonus is calculated on the basis of employee's salary and profit of the establishments. The productivity of the employees largely depends on this factor. The term 'Bonus' means something given in addition to salary. The Payment of Bonus (Amendment) Bill, 2015 was introduced in Lok Sabha on December 7, 2015. The bill seeks to amend the Payment of Bonus Act, 1965.

7.5.2 Objectives of the Act

01. To provide for the payment of bonus to the person employed in certain establishments on the basis of profit or productivity.
02. To regulate the amount of bonus to be paid,
03. To prescribe the minimum and maximum percentage of calculating bonus.
04. To share the prosperity of the establishment in terms of profit.

7.5.3 Scope and Applicability of the Act

01. This act extends to the whole of India.
02. This act is applicable to every factory and every establishment in which twenty or more persons are employed on any day during an accounting period.
03. The act has laid down a detailed procedure for calculating the amount of bonus payable to employees.

7.5.4 Important Provisions of this Act

01. **Section 4** deals with the computation of Gross profit derived by an employer from an establishment **in respect of any accounting year**.
02. **Section 5** deals with the provisions related to computation of available surplus in respect of any accounting year.
03. **Section 6** deals with the deduction part from the gross profit. Any amount by way of depreciation, development rebate, investment allowance and development allowance admissible in accordance with the Income Tax Act.

04. Subject to the provisions of **Section 7** and direct tax, the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year.
05. **Section 8** deals with the provisions related to eligibility of bonus. A person is entitled to get the bonus if he/she has worked in the establishment for less than thirty working days in that year.
06. **Section 9** deals with the provisions related to disqualification of an employee for bonus. If a person due to fraud, riotous or violent behavior, theft, misappropriation or sabotage of any property is dismissed from service is disqualified to receive bonus.
07. **Section 10** deals with the minimum amount of bonus to be paid to the eligible person.
08. **Section 11** deals with the maximum amount of bonus to be paid to the eligible person.
09. **Section 15** deals with the set-on and set-off of allocable surplus.
10. **Section 19** deals with the provisions of time limit for the payment of bonus. The bonus shall be paid within a period of 8 months from the close of the accounting year.

7.6 SUMMARY

- The Maternity Benefit Act, 1961 Act regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. The Act applies to mines, factories, circus, industry, plantation and shops and establishments employing ten or more persons, except employees covered under the Employees State Insurance act, 1947.
- The Apprentices Act, 1961 was enacted with the objective of utilizing the facilities available in industries to impart practical training among employees. In institutions, the training and development skills are not sufficient. To acknowledge the needs of training at the workplace, this act was passed in 1961.
- The Employment Exchange Act, 1959 was passed with a view to collect and furnish information on the prospective employers, available vacancies and job seekers, thereby facilitating job seekers to find a suitable job and for industry to find the suitable manpower.
- The Payment of Bonus Act was passed in 1965. The act was passed to regulate the amount of bonus to be paid to the persons employed in establishments. The amount of bonus is calculated on the basis of employee's salary and profit of the establishments. The productivity of the employees largely depends on this factor.

7.7 SELF ASSESSMENT TEST

01. Explain the important objectives of the Maternity Benefit Act, 1961.
02. Give a brief account of important provisions of the Apprenticeship Act.
03. What are the important provisions under the Payment of Bonus Act, 1965.
04. Who is eligible to get a bonus?
05. Discuss the important provisions of the Employment Exchange Act.



INTERNAL ASSESSMENT OF ALTERNATE DISPUTE RESOLUTION

Unit Structure :

- 8.1 Objectives
- 8.2 Overview
- 8.3 Alternate Dispute Resolution
- 8.4 Types of Alternate Dispute Resolution
- 8.5 Summary
- 8.6 Self Assessment Questions

8.1 OBJECTIVES

After studying this module, you should be able to :

- Understand the types of Alternative Dispute Resolution.
- Know the process of Alternate Dispute Resolution.
- Relevance of Alternate Dispute Resolution.
- Mechanism and how it works in solving industrial disputes.

8.2 OVERVIEW

The history of industrial relations dates back to old times. The origin lies in the employer-employee relationships. The main essence of industrial relations is employer-employee relationships. The relation between employer and employees plays an important role in maintaining industrial peace. The employees were largely dependent on wages as they were not having any ownership of the means of production, instruments and materials. Those who had means of production instruments and materials became the employers and the rest became employees.

The main objectives behind the concept of industrial relations is to establish and maintain industrial peace along with safeguarding the interests of both workers and management. It helps to avoid industrial disputes. Good industrial relations raise the production capacity. It also contributes to improving the morale and motivation of employees. With the help of good industrial relations, the labor turnover rate and absenteeism can be minimized. It also minimizes the chances of strikes, lockouts etc.

The conflict between labor and management is bound to arise in a developing economy like India because of their diverse portfolios and interests. To maintain the Industrial Relations, it is important that the industrial conflict should be managed at the early stages. The industrial dispute or conflict may take various forms. It is considered dangerous if it is not resolved or managed at the early stages.

Industrial unrest arises from frustration and discontent with workers and Management. Strike is one of the dramatic manifestations of the employee unrest while Lockout is considered as the weapon of employer used against employees. The expression of the unrest is determined by a complex mechanism of economic, social, political and psychological factors. Industrial disputes constitute one of the most delicate and complex problems of modern Industrial society. The modern Industrial society is characterized by Rapid change, personal conflicts and different ideologies.

There are a number of reasons which contribute to industrial unrest. The issues like -

- Bonus
- Wage demands
- Existence of multiple unions
- Political interference
- Over and outdated laws
- Lack of central legislation
- Sickness
- Lack of communication between employers and employees
- Unfair labor practices

The major cause of industrial unrest is monetary in nature. Filing everything at the court and solving every dispute through the intervention of court is not a solution to the problems of industrial dispute. There are various mechanisms to solve the industrial disputes to maintain industrial peace and harmony.

The alternate methods through which the disputes can be resolved are known alternate dispute resolution. In the next section, we will understand the concept and types of alternative dispute resolution.

8.3 ALTERNATE DISPUTE RESOLUTION

8.3.1 INTRODUCTION

The prompt and equitable settlement of industrial disputes is an important basis for sound industrial relations. It is essential that the appropriate dispute settlement machinery exist to facilitate such settlement. It has been widely recognised that the best way of preventing and resolving industrial disputes is through strengthening the relation between syllabus and Management.

However, lack of communication can bring the unavoidable situation in any industry. The absence of effective dispute settlement mechanisms can result in widespread industrial disputes with adverse effects on labor management relations. The industrial conflict can also affect the process of collective bargaining. India is already facing a problem of a large backlog of industrial disputes before labor courts and tribunals.

There are a large number of pending cases which are creating a challenge for maintaining industrial peace and Social Justice. It is important to stress out the need to identify the ways and means to increase the effectiveness and efficiency of adjudication. In order to be meaningful, the settlement of these disputes should be on time. This thing can be achieved with the help of alternative dispute resolution.

8.3.2 MEANING

Alternative dispute resolution is a method of resolving disputes. The alternative dispute resolution method refers to the methods through which the disputes are resolved without taking the matter to the court. In other words, it refers to a range of dispute settlement methods which help the parties in the dispute to come to a settlement without going to court, or without litigating the said matter.

The alternative dispute resolution method usually involves a third party, who helps them in settling the disputes. The process of alternative dispute resolution is inexpensive and time saving. The process is free from technicalities. The parties are free to differ in their opinion and can discuss their opinions with each other. The processes involved in alternative dispute resolution are decision making processes.

The system of alternative dispute resolution involves the cooperation of both the parties - employers and employees. The alternative dispute resolution often results in -

- Dispute resolution
- Creative solutions
- Sustainable Outcomes
- Improved relationships
- Greater satisfaction

In our country, there are mainly two types of machinery. The first machinery deals with the direct settlement of industrial disputes and the second machinery deals with the involvement of third parties.

8.4 METHODS OF RESOLVING INDUSTRIAL DISPUTES THROUGH ALTERNATE DISPUTE RESOLUTION

There are various methods to resolve industrial disputes through alternative dispute resolution mechanisms.

- Mediation
- Arbitration
- Conciliation
- Negotiation
- Collective Bargaining

In India, the Post in the field of Industrial Relation cannot be solved within the limits of a single discipline. It is important to adopt an interdisciplinary approach to solve the disputes at industrial places. As mentioned in previous chapters, The main objectives of the labor laws enumerate the role of the government in protecting and safeguarding the interest of the labor class in India. Labor laws in India cover all aspects of labor. The distinguishing feature of labor laws in our country is it covers all aspects more than labor legislation in any other country.

The Central and State Government is empowered to enact laws and regulation for the betterment of workers and employees. The Constitution of India has empowered the Central and the State Government to take care of and to protect the interest of the workers. The Ministry of Labor and Employment is responsible to protect and safeguard the interest of workers. They are also responsible for safeguarding the interest of poor, marginal and disadvantaged sections of the society.

With the help of alternative dispute resolution machinery, the disputes out of the court or without the help of the court can be solved. We will see the details of each and every machinery in the following part of this chapter.

8.4.1 MEDIATION

In the process of mediation, the ‘Mediator’ is a person who is considered as a third party. In mediation, an impartial person assists the parties in the negotiation of their differences. The procedure of mediation is non-binding. Mediation leaves the decision power strictly with the parties as the decisions are non-binding.

The process of mediation is confidential in nature. The parties cannot be compelled to disclose information. Mediation is a process available to the parties involved in contract negotiations by which the third party is called

in to help them reach a settlement. The third party tries to move the parties towards agreement by maintaining communication and suggesting alternative solutions to issues.

The mediation process generates significant advantages to the parties as the procedure is confidential in nature and the decision given by the third party is non-binding. Mediator is a person who is brought in by the union and management to resolve the disputes between them without the intervention of the court.

The mediator must possess some qualities to solve the problems of the parties. A mediator will act as a third party and must have thorough knowledge about the dispute between the parties. He/she must be an effective communicator. He/she must have gained the confidence of both the parties. The following attributes are expected from a mediator -

- Integrity
- Honesty
- Impartialness
- Fairness
- Good communication skills
- Positive attitude

Mediation begins with the joint sessions between the parties. The issues are discussed and an agenda is set to ascertain the position of the parties. The parties are engaged in a dialogue to solve the dispute to come to an agreement. Mediation often results in a settlement that creates more value than would have been created if the underlying dispute had not occurred.

8.4.2 ARBITRATION

The term ‘Alternative Dispute Resolution’ any out of court processes adopted to solve disputes. Arbitration, mediation, conciliation, and negotiation are usually the most common methods of alternative dispute resolution. Arbitration is one of the most famous methods of alternative dispute resolution.

According to **Section 2(1)(a)** of the **Arbitration and Conciliation Act, 1996** “Arbitration means any arbitration whether or not administered by a permanent arbitrary institution”. Arbitration and mediation both promote the same idea but the difference is mediation decision is non-binding while the decision passed by the Arbitrator is binding on the parties.

Arbitration is a process which comes under alternative dispute resolution. It is a process through which the parties to a dispute come under the procedure of solving disputes among them. The award passed by the arbitrator is binding on the parties just like a court decree or order. According to the Section 2 (a) of the Arbitration Act, 1940, “arbitration

agreement" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not; According to Section 2 (b), "award" means an arbitration award;

Outside the court system, the disputes are resolved between the parties. Arbitration can only take place if both parties have agreed to it. In the process of arbitration, the parties agree to have their dispute heard by one or more arbitrators and agree to be bound by their decision. The following are the important features of the arbitration process -

- Arbitration is consensual in nature.
- The parties in the process choose the Arbitrator/Arbitrators.
- It is neutral in nature.
- Arbitration is confidential in nature.
- The decision/award passed by the process of arbitration is final.
- Arbitration may be cheaper and quicker than litigating a dispute in court.
- arbitration decisions are unlikely to be overturned.
- In the case of future disputes arising under a contract, the parties can insert an arbitration **clause** in the relevant contract.

8.4.3 CONCILIATION

Conciliation is an informal process of alternate dispute resolution. In the process of conciliation, the disputing parties resolve their disputes with the aid of one or more conciliators who act in an impartial manner and aid the parties in reaching an amicable settlement. Part III of the Arbitration and Conciliation Act, 1996 governs the law of conciliation in India. Subject to Part III of the Arbitration and Conciliation Act, 1996, the procedural rules are mutually decided by the parties.

The outcomes are usually non-binding, unless a court order directs to the contrary. The conciliator is more proactive compared to a mediator. The conciliator proposes solutions that are acceptable to both parties. Section 4 of the Industrial Dispute Act lays down the provisions related to the Conciliation Officers.

Conciliation Officer

- (1) The appropriate Government may, by notification in the Official Gazette, appoint such a number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.
- (2) A conciliation officer may be appointed for a specified area or for specific industries in a specified area or for one or more specified industries and either permanently or for a limited period.

The Section 5 of the Industrial Dispute Act lays down the provisions related to the Conciliation Officers.

- (1) The appropriate Government may as occasion arise by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.
- (3) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.
- (4) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party: Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.
- (5) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number: Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

8.4.4 NEGOTIATION

The history of industrial relations dates back to old times. The origin lies in the employer-employee relationships. The main essence of industrial relations is employer-employee relationships. The relation between employer and employees plays an important role in maintaining industrial peace. The employees were largely dependent on wages as they were not having any ownership of the means of production, instruments and materials.

Still, the disputes arise between parties. For maintaining peace and harmony, many acts play a vital role in regulating the industrial relations. The beginning of industrial societies consisted of small competitive businesses and industrial enterprises. In the economic system, the quantity of these establishments were large. Each unit and establishment used to employ a small number of laborers. At that time, when the awareness and system for labor was weak, the relationship between them was personal and close. The relations between them were informal.

Negotiation is a term which helps to solve the disputes between the parties without taking the help of the court. It is a kind of win-win situation for both the parties. Negotiation is a strategic discussion that resolves an issue in a way that both parties find acceptable. It is a process by which parties settle their differences. It is a process by which compromise or agreement is reached while avoiding argument and dispute.

There are counter proposals. Negotiations involve two or more parties who come together to reach some end goal through compromise or resolution that is agreeable to all those involved. Specific forms of negotiation are used in many situations. The following stages are involved in the process of negotiation.

Stage I - The stage I deals with the preparation stage.

Stage II - This stage involves the discussion between the parties.

Stage III - In this stage, the goals are clarified.

Stage IV - In this stage, both the parties tries to achieve the win-win situation.

Stage V - In the final stage, the parties come to an agreement by keeping their interest.

8.4.5 COLLECTIVE BARGAINING

In the writings of Sidney and Beatrice Webb, the term “Collective Bargaining” originated. Collective bargaining is a process through which the representatives of both the management and employees participate. The process of collective bargaining aims to establish stable relationships between the parties involved. It helps in achieving discipline in the industry.

Collective means united

Bargaining means negotiation

Together, its group or united negotiation.

According to the Encyclopedia of Social Sciences “Collective bargaining is a process of discussion and negotiation between two parties, one or both of whom a group of persons is acting in consent. The resulting bargain is an understanding as to the terms and conditions under which a continuing service is to be performed..... More specifically, collective bargaining is a procedure by which employers and a group of employees agree upon the conditions of work.”

Collective bargaining is a process through which the management and employees resolve their differences. As the name suggests, there is no intervention from a third party. Mutually and collectively, the management and employees discuss and negotiate. Acting in a manner that is beneficial for both parties is the essence of collective bargaining.

To set the terms and conditions of work, to resolve disputes, the technique of collective bargaining is used by the members of management and labor. The process of collective bargaining takes place at different levels. The levels vary from region to region and area to area. Healthcare services, pensions, bonus, working conditions can be discussed through the techniques of collective bargaining. There are various types of bargaining.

Cooperative bargaining is one of the methods which is found suitable for the Indian business environment.

The following are the important features of collective bargaining -

- It is a group process.
- Collective bargaining is a process through which the representatives of both the management and employees participate.
- Negotiation forms an important aspect of collective bargaining.
- The process of collective bargaining involves a number of steps.
- It is a continuous process.
- In collective bargaining, each party needs something that the other party has;

8.5 SUMMARY

- The major cause of industrial unrest is monetary in nature. Filing everything at the court and solving every dispute through the intervention of court is not a solution to the problems of industrial dispute. There are various mechanisms to solve the industrial disputes to maintain industrial peace and harmony. The alternate methods through which the disputes can be resolved are known alternate dispute resolution. In the next section, we will understand the concept and types of alternative dispute resolution.
- Alternative dispute resolution is a method of resolving disputes. The alternative dispute resolution method refers to the methods through which the disputes are resolved without taking the matter to the court. In other words, it refers to a range of dispute settlement methods which help the parties in the dispute to come to a settlement without going to court, or without litigating the said matter.
- Mediation, Arbitration, Conciliation, Negotiation and Collective Bargaining are the important methods of Alternate Dispute Resolution.
- In the process of mediation, the 'Mediator' is a person who is considered as a third party. In mediation, an impartial person assists the parties in the negotiation of their differences. The procedure of mediation is non-binding. Mediation leaves the decision power strictly with the parties as the decisions are non-binding.
- Arbitration is a process which comes under alternative dispute resolution. It is a process through which the parties to a dispute come under the procedure of solving disputes among them. The award passed by the arbitrator is binding on the parties just like a court decree or order.

- Conciliation is an informal process of alternate dispute resolution. In the process of conciliation, the disputing parties resolve their disputes with the aid of one or more conciliators who act in an impartial manner and aid the parties in reaching an amicable settlement. Part III of the Arbitration and Conciliation Act, 1996 governs the law of conciliation in India. Subject to Part III of the Arbitration and Conciliation Act, 1996, the procedural rules are mutually decided by the parties.
- Negotiation is a term which helps to solve the disputes between the parties without taking the help of the court. It is a kind of win-win situation for both the parties. Negotiation is a strategic discussion that resolves an issue in a way that both parties find acceptable. It is a process by which parties settle their differences. It is a process by which compromise or agreement is reached while avoiding argument and dispute.
- Collective bargaining is a process through which the representatives of both the management and employees participate. The process of collective bargaining aims to establish stable relationships between the parties involved. It helps in achieving discipline in the industry.

8.6 SELF ASSESSMENT QUESTIONS

- Write a detailed note on ADR.
- What is alternate dispute resolution? Explain the importance of ADR.
- What do you mean by ADR? Discuss the salient features of alternate dispute resolution.
- What is Arbitration? Explain the salient features of Arbitration with reference to the Act.
- What is the process of collective bargaining? Highlights the important features of collective bargaining.
- Explain the types of alternate dispute resolution in detail.
- Discuss the importance of negotiation. How does it help to solve the industrial dispute?
- Explain the working of the Board of Conciliation.

