

INDUSTRIAL DISPUTE

ACT, 1947

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Introduction

The object of Industrial Dispute act, 1947 is to make provision for investigation and settlement of industrial disputes. The purpose is to bring the conflict between the employer and the employees to an amicable settlement. The act also provides machinery for settlement of disputes, if dispute cannot be resolved through collective bargaining. In addition to above, the act also make other provision in respect of lay off, retrenchment, strikes, lock-out etc.

Section 1- Short title, extent and commencement

- (1) This Act may be called the Industrial Disputes Act, 1947.
- (2) It extends to the whole of India
- (3) It shall come into force on the first day of April, 1947.

Meaning of Industry

According to **section 2(j)** of Industrial Dispute act, 1947 "industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or a vocation of workmen;

Section 2(s) – Workman

means any person (including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute,

However, this act does not include any such person-

- (i) who is subject to the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957 or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity and drawing wages exceeding Rs. 10000/- p.m. or exercising functions mainly of managerial nature.

Case Law- *Bangalore Water Supply and Sewage Board v. A. Rajappa and others*

In Bangalore Water Supply and Sewage Board v. A. Rajappa and others, a very wide interpretation of the term industry was given. It was held profit motive or desire to generate income is not necessary for any undertaking to be covered under the concept of industry. Any systematic activity organized by cooperation between employers and employees for the production and/or distribution of goods and services calculated to satisfy human wants and wishes in an industry.

Thus, many hospitals, educational institution, universities, charitable institution, welfare organization, clubs, cooperatives, research institution etc. are also industries within the meaning of Industrial Disputes Act, 1947.

Mention should be made that a legal consultancy firm has been included in the definition of the term “Industry” by the Industrial Disputes (Amendment) Act, 1982 in view of the decision of the supreme court in Bangalore Water Supply v. Rajappa. But this definition has not come into force till now.



Industrial Disputes Act, 1947

According to **sec 2(k)** of Industrial Dispute Act, 1947," industrial dispute" means any dispute or difference:

- between employers and employers or;
- between employers and workmen or ;
- between workmen and workmen,

which is connected with the employment or non- employment or the terms of employment or with the conditions of labour, of any person;

Who Can Raise Dispute?

- Industrial Disputes Act provides that a dispute between an employer and a single workman does not fall within the definition of Industrial Dispute,
- but if the workman as a body or a considerable section of them make a common cause with the individual workman, then such a dispute will be an Industrial Dispute.

Thus, an Industrial Dispute is a **collective dispute** supported by either a trade union or a substantial number of fellow workers.

- However, in respect of certain disputes relating to dismissal, discharge, retrenchment or termination of services, even a single workman can raise dispute.



Section 2K - Collective Dispute

Means any dispute or difference:

- ❖ between employers and employers,
- ❖ or between employers and workmen,
- ❖ or between workmen and workmen,

which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.



Section 2(ka) - Industrial Establishment

Means an establishment or undertaking in which any industry is carried on:

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or industries, then,--

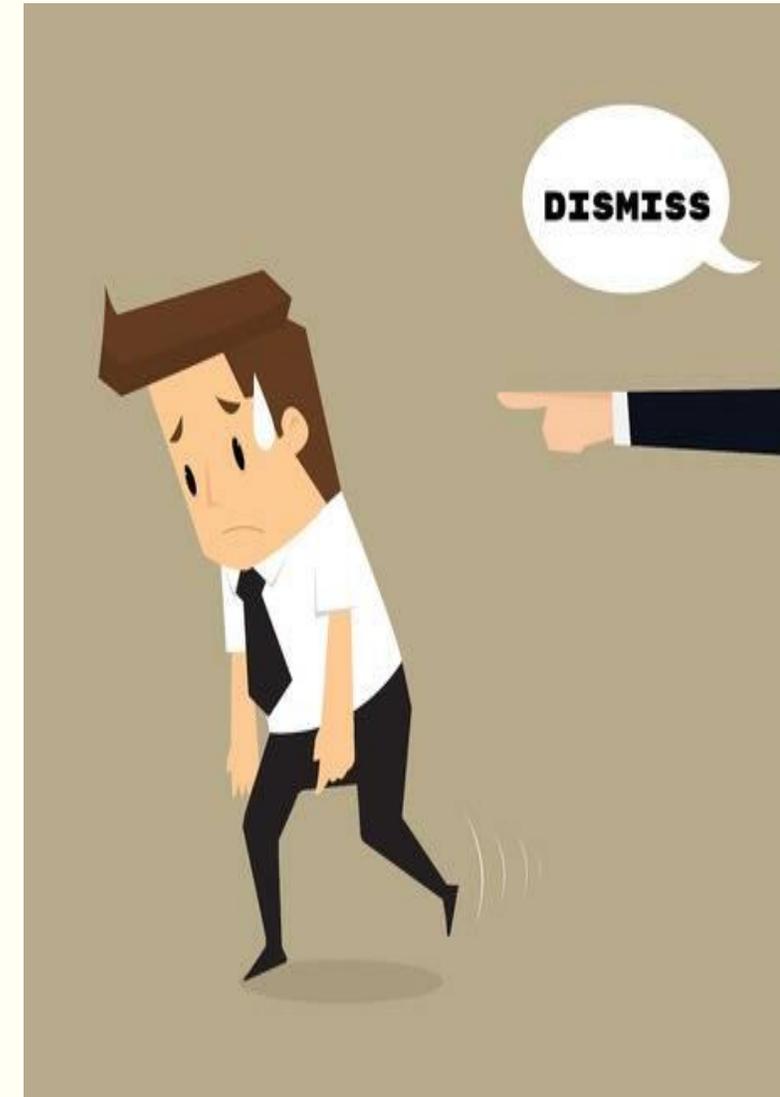
(a) if any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking, such unit shall be deemed to be a separate industrial establishment or undertaking: as

(b) if the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or aiding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking.

Section 2A – Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.

Means where any employer

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



Adjudication of Disputes

The act provides for constitution of Works Committee in Industrial establishment employing 100 or more workers.

- First, of all, the Works Committee will try to settle the disputes.
- If the dispute is not settled, it will be referred to the Conciliation Officer. The Conciliation Officer will try to arrive at fair and amicable settlement acceptable to both the parties.
- If he is unable to do so, he will send the report to the Central Government.
- The Government may then refer the industrial dispute to the Board of Conciliation.

(Here the employer and employees can voluntarily refer the matter to arbitration.)

- If no settlement is arrived at then there is arrived that three-tier system of adjudication i.e., Labour court, Industrial Tribunal and National Tribunal. The order made by them is called Award.

Section 3 - 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 employer**. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 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 endeavour to compose any material difference of opinion in respect of such



Section 4 - Conciliation officers

(1) The appropriate Government may, by notification in the Official Gazette, appoint such 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 specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Section 5 - Boards of Conciliation

(1) The appropriate Government may as occasion arises 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.

Section 6 - Courts of Inquiry

(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.

Section 7 - Labour 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**.



Section 7A - Tribunals

As per **Section 7A** of the industrial dispute act, 1947 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 Schedule⁵ 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
 - (aa) he has, for a period of not less than three years, been a District Judge or an Additional District Judge.
- (4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

Matters Within The Jurisdiction of Industrial Tribunals

The Third Schedule of Industrial Dispute Act, 1947 deals with matters within the jurisdiction of Industrial Tribunals. These are as follows:

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

Section 7B - 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 Tribunal³ unless he is, or has been, a Judge of a High Court.

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

Section 7C - Disqualifications

Means disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals

No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if-

(a) he is not an independent person: or

