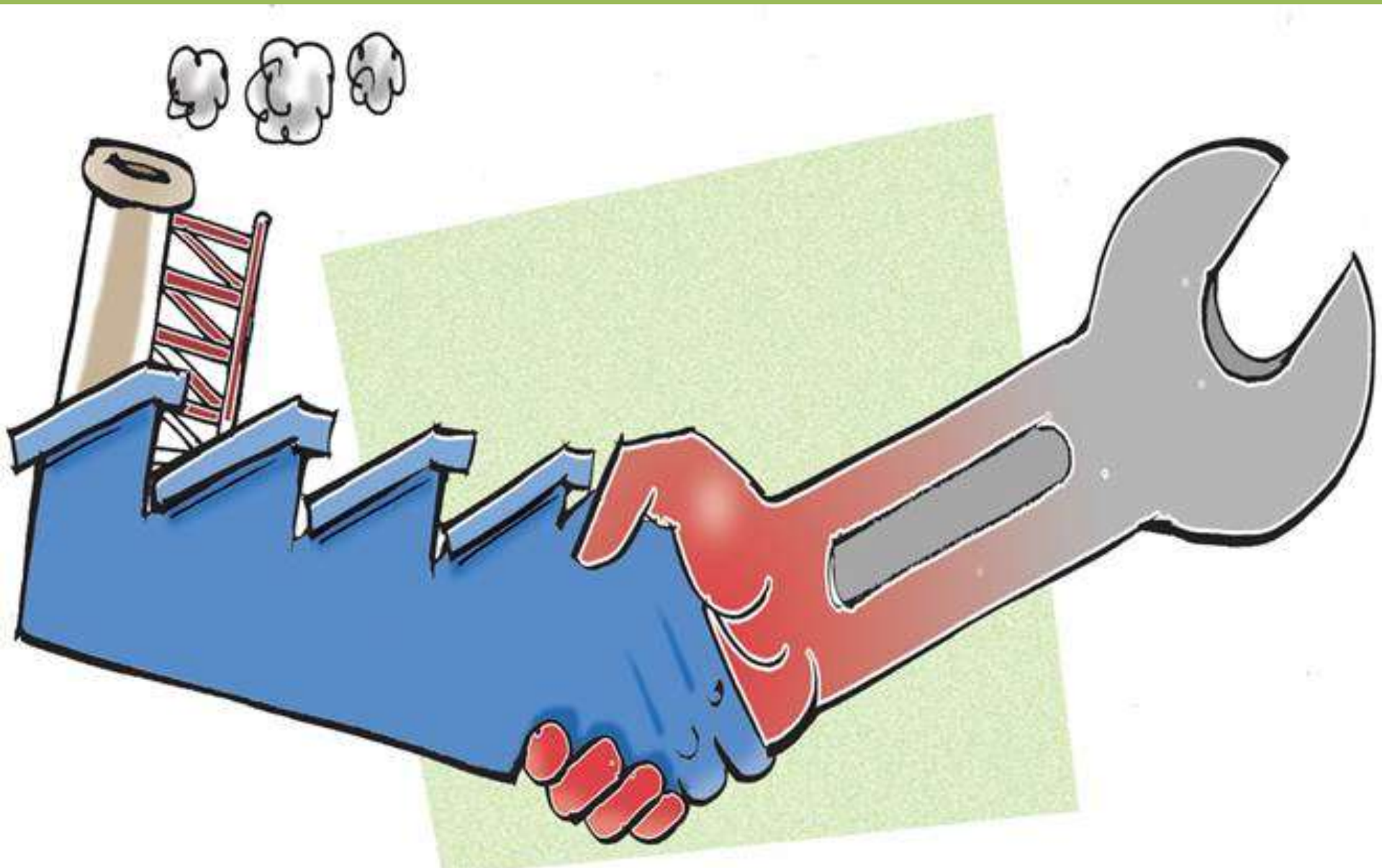
INDUSTRIAL DISPUTE ACT 1947



INDUSTRIAL DISPUTE ACT 1947

OBJECT & SCOPE OF ACT

- The first enactment dealing with the settlement of industrial disputes was the Employers' and Workmen's Disputes Act, 1860.
- This Act weighed much against the workers and was therefore replaced by the Trade Disputes Act, 1929.
- The Whitely Commission made in this regard the perceptive observation that the attempt to deal with unrest must begin rather with the creation of an atmosphere unfavourable to disputes than with machinery for their settlement.
- Then followed the Industrial Disputes Act, 1947.
- The Industrial Disputes Act, 1947 makes provision for the investigation and settlement of industrial disputes and for certain other purposes.
- It ensures progress of industry by bringing about harmony and cordial relationship between the employers and employees.
- This Act extends to whole of India.

- The Act was designed to provide a self-contained code to compel the parties to resort to industrial arbitration for the resolution of existing or apprehended disputes without prescribing statutory norms for varied and variegated industrial relating norms so that the forums created for resolution of disputes may remain unhampered by any statutory control and devise rational norms keeping pace with improved industrial relations reflecting and imbibing socio-economic justice.
- The Act applies to an existing and not to a dead industry.
- It is to ensure fair wages and to prevent disputes so that production might not be adversely affected.

Dimakuchi Tea Estate v. Dimakuchi Tea Estate

- The Supreme Court laid down following objectives of the Act:
- Promotion of measures of securing and preserving amity and good relations between the employer and workmen.
- Investigation and settlement of industrial disputes between employers and employers, employers and workmen, or workmen and workmen with a right of representation by registered trade union or federation of trade unions or an association of employers or a federation of associations of employers.
- Prevention of illegal strikes and lock-outs.
- Relief to workmen in the matter of lay-off and retrenchment.
- Promotion of collective bargaining.

Industry [Section 2(j)]

❖ Means

- Any business, trade, undertaking, manufacture or calling of employers and includes
- Any calling service, employment, handicraft, or industrial occupation or avocation of workmen.

Bangalore Water Supply and Sewerage Board v. A Rajiappa

- After discussing the definition from various angles, in the above case, the Supreme Court, laid down the following tests to determine whether an activity is covered by the definition of "industry" or not. It is also referred to as the triple test.

I

- Where there is systematic activity,
- organized by co-operation between employer and employee,
- for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g., making, on a large scale, prasad or food) prima facie, there is an "industry" in that enterprise.
- Absence of profit motive or gainful objective is irrelevant wherever the undertaking is whether in the public, joint, private or other sector.
- The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
- If the organization is a trade or business, it does not cease to be one because of philanthropy animating the undertaking.

II

- All organised activity possessing the triple elements in (i) although not trade or business, may still be "industry", provided the nature of the activity, viz., the employer - employee basis, bears resemblance to what we find in trade or business. This takes into the fold of "industry", undertaking, callings and services, adventures analogous to the carrying on of trade or business. All features, other than the methodology of carrying on the activity, viz., in organising the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms, there is analogy.

III

- Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations.
- The ideology of the Act being industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition, nothing less, nothing more.
- Hence, the Supreme Court observed that professions, clubs, educational institutions. co-operatives, research institutes, charitable projects and other kindred adventures, if they fulfill the triple tests listed in (1), cannot be exempted from the scope of Section 2(j).

The Supreme Court, in Bangalore Water Supply case laid down the following guidelines for deciding the dominant nature of an undertaking:

- Where a complex of activities, some of which qualify for exemption, others not, involves the employees on the total undertaking. Some of whom are not "workmen" or some departments are not productive of goods and services if isolated, nature of the department will be the true test. The whole undertaking will be "industry" although those who are not "workmen" definition may not be benefit by the status.
- Notwithstanding with previous clause, sovereign functions strictly understood alone qualify for exemption and not the welfare activities or economic adventures undertaken by Government or statutory bodies.
- Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within Section 2(j).
- Constitutional and competently enacted legislative provisions may well remove an undertaking from the scope of the Act.

Whether the following activities would fall under industry or not?

1. Sovereign functions:

Case:- Bangalore Water Supply Sovereign functions strictly understood alone qualify for exemption, not the welfare activities or economic adventures undertaken by Government or statutory bodies. Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable then they can be considered to come within Section 2(j).

Corpn. of City of Nagpur v. Employees

If a department of a municipality discharged many functions, some pertaining to "industry" and other non-industrial activities, the predominant function of the department shall be the criterion for the purposes of the Act.

2. Municipalities

- Following Departments of the municipality were held, to be “industry”
- Tax
- Public Conveyance
- Fire Brigade
- Lighting
- Water Works
- City Engineers
- Enforcement (Encroachment)
- Sewerage
- Health
- Market
- Public Gardens
- Education
- Printing Press
- Building and
- General administration.
- If a department of a municipality discharges many functions some pertaining to industry and others non-industrial, the predominant function of the department shall be the criterion for the purpose of the Act.

3. Hospitals and Charitable Institutions:

FICCI v. Workmen

- Exemptions to charitable institutions under Section 32(5) of Payment of Bonus Act is not relevant to the construction of Section 2(j), there is an industry in the enterprise, provided the nature of the activity, namely the employer-employee basis bears resemblance to what is found in trade or business. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

The following institutions are held to be “industry”:

- Case:- State of Bombay v. Hospital Mazdoor Sabha; State Hospital
- Case:- Lalit Hari Ayurvedic College Pharmacy v.Workers Union Ayurvedic Pharmacy and Hospital
- Case: - Bombay Panjrapole v. Workmen Activities of Panjrapole
- Case: - Bangalore Water Supply Clubs, Larger clubs are “industry”
- Universities, Research Institutions etc.: However Physical Research Laboratory, Ahmedabad was held not to be an Industry by the Supreme Court. Since it is carrying on research not for the benefit of others and moreover, it is not engaged in commercial or industrial activity

- Case:- Bangalore Water Supply Professional Firms: A solicitors establishment can be an “industry”. Regarding liberal professions like lawyers, doctors, etc., the test of direct cooperation between capital and labour in the production of goods or in the rendering of service or that cooperation between employer and employee is essential for carrying out the work of the enterprise.
- Case:- .C.K. Union v. Rajkumar College Management of a private educational institution
- Voluntary services, Co-operative Societies, Federation of Indian Chamber of Commerce, Company carrying on agricultural operations, Bihar Khadi Gramodyog Sangh, Indian Navy Sailors Home, Panchayat Samiti, Public Health Department of the State Government, Forest Department of Govt., Zoo; Primary Health Centres, and Indian Institute of Petroleum. Some other instances of ‘Industry are: Rajasthan Co-operative Credit Institutions Cadre Authority, A trust for promoting religious, social and educational life but also undertaking commercial activities, M.P. Khadi and Village Industries Board, Housing Board, Dock Labour Board,

But the following are held to be not "Industry":

- Case:- Union of India v. Labour Court Posts and Telegraphs Department
- Case:- Bombay Telephones Canteen Employees Association v. Union of India Telecom Deptt.
- Case:- P. Bose v. Director, C.I.F. Central Institute of Fisherie
- Case:- State of Punjab v. Kuldip Singh and another Construction and maintenance of National and State Highways
- Case:- RMS v. K.B. Wagh Trade Unions

Industrial Dispute [Section 2(k)]

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 related to an industry as defined in Section 2(j)
- Ordinarily a dispute or difference exists when workmen make demand and the same is rejected by the employer.
- However, the demand should be such which the employer is in a position to fulfill.
- The dispute or difference should be fairly defined and of real substance and not a mere personal quarrel or a grumbling or an agitation.

Sindhu Resettlement Corporation Ltd. v. Industrial Tribunal

An industrial dispute exists only when the same has been raised by the workmen with the employer. A mere demand to the appropriate Government without a dispute being raised by the workmen with their employer regarding such demand, cannot become an industrial dispute.

Bombay Union of Journalists v. The Hindu

- The Supreme Court observed that for making reference under Section 10 PANKAJ KUMAR, FCS, Chartered S I (CISI - London), MBA (Finance) 10, it is enough if industrial dispute exists or is apprehended on the date of reference. Therefore, even when no formal demands have been made by the employer, industrial dispute exists if the demands were raised during the conciliation proceedings.

Workmen v. Hindustan Lever Ltd.

- When an industrial dispute is referred for adjudication the presumption is that, there is an industrial dispute.

W.S. Insulators of India Ltd. v. Industrial Tribunal, Madras

- Unless there is a demand by the workmen and that demand is not complied with by the management, there cannot be any industrial dispute within the meaning of Section 2(k). Mere participation by the employer in the conciliation proceedings will not be sufficient

Workman [Section 2(s)]

- 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 expressed 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 any person whose dismissal, discharge or retrenchment has led to that dispute,
- but does not include any such person:
- who is subject to the Army Act, 1950, or the Air Force Act, 1950 or the Navy Act, 1957; or
- who is employed in the police service or as an officer or other employee of a prison; or
- who is employed mainly in a managerial or administrative capacity; or
- who is employed in a supervisory capacity drawing more than Rs. 1,600 per month as wages;
- or who is exercising either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

J.K. Cotton Spinning and Weaving Mills Co. Ltd. v. L.A.T.

- The Supreme Court held that 'malis' looking after the garden attached to bungalows provided by the company to its officers and directors, are engaged in operations incidentally connected with the main industry carried on by the employer. It observed that in this connection it is hardly necessary to emphasize that in the modern world, industrial operations have become complex and complicated and for the efficient and successful functioning of any industry, several incidental operations are called in aid and it is the totality of all these operations that ultimately constitutes the industry as a whole. Wherever it is shown that the industry has employed an employee to assist one or the other operation incidental to the main industrial operation, it would be unreasonable to deny such an employee the status of a workman on the ground that his work is not directly concerned with the main work or operation of the industry

Dharangadhara Chemical Works Ltd. v. State of Saurashtra

- The employee agrees to work under the supervision and control of his employer. Here one must distinguish between contract for employment or service and contract of employment or service. In the former, the employer can require what is to be done but in the latter, he can not only order what is to be done, but also how it shall be done. In the case of contract for employment, the person will not be held as a 'workman' but only an 'independent contractor'. There should be due control and supervision by the employer for a master and servant relationship. Payment on piece rate by itself does not disprove the relationship of master and servant

G.Yeddi Reddi v. Brooke Bond India Ltd.

- Since he is under an obligation to work for fixed hours every day, jural relationship of master and servant would exist. A casual worker is nonetheless a workman.
- Only those persons who are engaged in the following types of work are covered by the definition of "workman":
- Skilled or unskilled manual work;
- Supervisory work;
- Technical work;
- Clerical work.

Strike [Section 2(q)]

- Means
- Cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.
- Strike is a weapon of collective bargaining in the armour of workers.
- Strike can take place only when there is a cessation of work or refusal to work by the workmen acting in combination or in a concerted manner. Time factor or duration of the strike is immaterial. The purpose behind the cessation of work is irrelevant in determining whether there is a strike or not. It is enough if the cessation of work is in defiance of the employer's authority.
- Proof of formal consultations is not required. However, mere presence in the striking crowd would not amount to strike unless it can be shown that there was cessation of work.
- A concerted refusal or a refusal under a common understanding of any number of persons to continue to work or to accept employment will amount to a strike. A general strike is one when there is a concert of combination of workers stopping or refusing to resume work. Going on mass casual leave under a common understanding amounts to a strike.

Northbrooke Jute Co. Ltd. v. Their Workmen

- However, the refusal by workmen should be in respect of normal lawful work which the workmen are under an obligation to do. But refusal to do work which the employer has no right to ask for performance, such a refusal does not constitute a strike.

National Textile Workers' Union v. Shree Meenakshi Mills

- If on the sudden death of a fellow-worker, the workmen acting in concert refuse to resume work, it amounts to a strike The striking workman must be employed in an "industry" which has not been closed down. Even when workmen cease to work, the relationship of employer and employee is deemed to continue albeit in a state of belligerent suspension.

Types of Strike

❖(a) Stay-in, sit-down, pen-down or tool-down strike

- In all such cases, the workmen after taking their seats, refuse to do work. Even when asked to leave the premises, they refuse to do so. All such acts on the part of the workmen acting in combination, amount to a strike. Since such strikes are directed against the employer, they are also called primary strikes.

Punjab National Bank Ltd. v. All India Punjab National Bank Employees' Federation

- The Supreme Court observed that on a plain and grammatical construction of this definition it would be difficult to exclude a strike where workmen enter the premises of their employment and refuse to take their tools in hand and start their usual work. Refusal under common understanding not to work is a strike. If in pursuance of such common understanding the employees enter the premises of the Bank and refuse to take their pens in their hands that would no doubt be a strike under Section 2(q)

- (b) Go-slow
- Go-slow does not amount to strike, but it is a serious case of misconduct.
- Bharat Sugar Mills Ltd. v. Jai Singh
- The Supreme Court explained the legality of go-slow in the following words: "Go-slow which is a picturesque description of deliberate delaying of production by workmen pretending to be engaged in the factory is one of the most prenicious practices that discontented and disgruntled workmen sometimes resort to. Thus, while delaying production and thereby reducing the output, the workmen claim to have remained employed and entitled to full wages. Apart from this, 'go-slow' is likely to be much more harmful than total cessation of work by strike. During a go-slow much of the machinery is kept going on at a reduced speed which is often extremely damaging to the machinery parts. For all these reasons, 'go-slow' has always been considered a serious type of misconduct."

- (c) Sympathetic strike
- Cessation of work in the support of the demands of workmen belonging to other employer is called a sympathetic strike. This is an unjustifiable invasion of the right of employer who is not at all involved in the dispute. The management can take disciplinary action for the absence of workmen.
- Ramalingam v. Indian Metallurgical Corporation, Madras It was held that such cessation of work will not amount to a strike since there is no intention to use the strike against the management.

- (d) Hunger strike
- Some workers may resort to fast on or near the place of work or residence of the employer.
- Case:- Pepariach Sugar Mills Ltd. v. Their Workmen
- If it is peaceful and does not result in cessation of work, it will not constitute a strike. But if due to such an act, even those present for work, could not be given work, it will amount to strike.
- (e) Work-to-rule Since there is no cessation of work, it does not constitute a strike.

Legality of Strike

- The legality of strike is determined with reference to the legal provisions enumerated in the Act and the purpose for which the strike was declared is not relevant in directing the legality. Section 10(3), 10A(4A), 22 and 23 of the Act deals with strike. Sections 22 and 23 impose restrictions on the commencement of strike while Sections 10(3) and 10A(4A) prohibit its continuance.
- The justifiability of strike has no direct relation to the question of its legality and illegality.

Matchwell Electricals of **India** v. Chief Commissioner

- The Punjab & Haryana High Court held that the justification of strike is entirely unrelated to its legality or illegality. The justification of strikes has to be viewed from the stand point of fairness and reasonableness of demands made by workmen and not merely from stand point of their exhausting all other legitimate means open to them for getting their demands fulfilled

Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Majdoor Sabha

- The Supreme Court held that justifiability of a strike is purely a question of fact. Therefore, if the strike was resorted to by the workers in support of their reasonable, fair and bona fide demands in peaceful manner, then the strike will be justified. Where it was resorted to by using violence or acts of sabotage or for any ulterior purpose, then the strike will be unjustified.

Lock-out [Section 2(l)]

- Means
- The temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.
- Lock out is an antithesis to strike.
- In lock out, the employer refuses to continue to employ the workman employed by him even though there is no intention to close down the unit.
- The essence of lock out is the refusal of the employer to continue to employ workman.
- Even if suspension of work is ordered, it would constitute lock out.
- But mere suspension of work, unless it is accompanied by an intention on the part of employer as a retaliation, will not amount to lock out.
- Locking out workmen does not contemplate severance of the relationship of employer and the workmen.

Express Newspapers (P) Ltd v. Their Workers

- Just as “strike” is a weapon available to the employees for enforcing their industrial demands, a “lock out” is a weapon available to the employer to persuade by a coercive process the employees to see his point of view and to accept his demands.

Lord Krishna Sugar Mills Ltd. v. State of U.P.

- A closure of a place of business for a short duration of 30 days in retaliation to certain acts of workmen (i.e. to teach them a lesson) was held to be a lock out. But closure is not a lock out.

Lay-off

- Means
- The failure, refusal or inability of an employer to give employment due to following reasons, to a workman whose name appears on the muster-rolls of his industrial establishment and who has not been retrenched:
- shortage of coal, power or raw materials, or
- accumulation of stocks, or break-down of machinery, or
- natural calamity, or
- for any other connected reason.
- Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause.
- If the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during this second half of the shift for the day and is given employment, then, he shall be deemed to have been laid-off only for one-half of that day.
- If he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day.
- Lay-off is a temporary stoppage and within a reasonable period of time, the employer expects that his business would continue and his employees who have been laid-off, the contract of employment is not broken but is suspended for the time being.
- There cannot be lay-off in an industrial undertaking which has been closed down. Lay-off and closure cannot stand together.

M.A. Veirya v. C.P. Fernandez

It was observed that it is not open to the employer, under the cloak of "lay-off", to keep his employees in a state of suspended animation and not to make up his mind whether the industry or business would ultimately continue or there would be a permanent stoppage and there by deprive his employees of full wages.

Tatanagar Foundry v. Their Workmen

- The lay-off should not be mala fide in which case it will not be lay-off. Tribunal can adjudicate upon it and find out whether the employer has deliberately and maliciously brought about a situation where lay-off becomes necessary. But, apart from the question of mala fide, the Tribunal cannot sit in judgments over the acts of management and investigate whether a more prudent management could have avoided the situation which led to lay-off

- In lay-off, the employer refuses to give employment due to certain specified reasons, but in lock-out, there is deliberate closure of the business and employer locks out the workers not due to any such reasons. In lay-off, the business continues, but in lock-out, the place of business is closed down for the time being. In a lock-out, there is no question of any wages or compensation being paid unless the lock-out is held to be unjustified. Lay-off is the result of trade reasons but lock-out is a weapon of collective bargaining. Lock-out is subject to certain restrictions and penalties but it is not so in case of lay-off.

Difference between lay-off and lock-out

In lay-off, the employer refuses to give employment due to certain specified reasons	but in lock-out, there is deliberate closure of the business and employer locks out the workers not due to any such reasons
. In lay-off, the business continues,	but in lock-out, the place of business is closed down for the time being
Lay-off is the result of trade reasons	lock-out is a weapon of collective bargaining

Retrenchment [Section 2(oo)]

- Means
- The termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action,
- but does not include:
- voluntary retirement of the workman; or retirement of the workman or
- reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- Termination of the service of the workman as a result of the nonrenewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein.
- Termination of the service of workman on the ground of continued ill-health.

Requirements for retrenchment

- There should be termination of the service of the workman.
- The termination should be by the employer.
- The termination is not the result of punishment inflicted by way of disciplinary action.
- The definition excludes termination of service on the specified grounds or instances mentioned in it.

Santosh Gupta v. State Bank of Patiala

- It was held that if the definition of retrenchment is looked at unaided and unhampered by precedent, one is at once struck by the remarkably wide language employed and particularly the use of the word 'termination for any reason whatsoever'. If due weight is given to these words, i.e. they are to be understood as to mean what they plainly say, it is difficult to escape the conclusion that retrenchment must include every termination of service of a workman by an act of the employer.

Hariprasad Shivshankar Shukla v. A.D.Divakar

- The Hariprasad case and some other decisions, lead to the unintended meaning of the term "retrenchment"that it operates only when there is surplus of workman in the industry which should be an existing one. Thus, in effect either on account of transfer of undertaking or an account of the closure of the undertaking, there can be no question of retrenchment within the meaning of the definition contained in Section 2(oo).

Award [Section 2(b)]

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

Cox & Kings (Agents) Ltd. v. Their Workmen

- This definition was analysed in this case as follows:
- The definition of “award” is in two parts.
- The first part covers a determination, final or interim, of any industrial dispute.
- The second part takes in a determination of any question relating to an industrial dispute.
- However, basic thing to both the parts is the existence of an industrial dispute, actual or apprehended.
- The ‘determination contemplated is of the industrial dispute or a question relating thereto on merits.
- The word ‘determination’ implies that the Labour Court or the Tribunal should adjudicate the dispute upon relevant materials and exercise its own judgment.

Settlement [Section 2(p)]

- Means
- A settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer.
- Two categories of settlements
- a settlement arrived at in the course of conciliation proceedings, and
- a written agreement between employer arrived at otherwise in the course of conciliation proceedings.

Tata Engineering and Locomotive Co. Ltd. v. Workmen

- A settlement cannot be weighed in any golden scale and the question whether it is just and fair has to be answered on the basis of principles different from those which came into play where an industrial dispute is under adjudication. If the settlement has been arrived at by a vast majority of workmen with their eyes open and was also accepted by them in its totality, it must be presumed to be fair and just and not liable to be ignored merely because a small number of workers were not parties to it or refused to accept it.

Authorities under the Act and their duties

Authorities for Investigation and settlement of industrial disputes:

i. Works Committee.

ii. Conciliation Officers.

iii. Boards of Conciliation.

iv. Court of Inquiry.

v. Labour Tribunals.

vi. Industrial Tribunals.

vii. National Tribunal.

Works Committee { Section 3}

- The appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee in industrial establishments, where 100 or more workmen are employed or have been employed on any working day in the preceding 12 months.
- The Works Committee will be comprised of the representatives of employers and workmen engaged in the establishment.
- 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 matters [Section 3(2)

Boards of Conciliation (Section 5)

- For promoting the settlement of an industrial dispute, the appropriate Government may, as occasion arises, constitute by a notification in the Official Gazette, a Board of Conciliation.
- A Board shall consist of a Chairman and two or four other members as the appropriate Government thinks fit.
- It shall be the duty of Board to endeavour to bring about a settlement of the dispute and for such purpose it shall, without delay, investigate into the dispute and all matters affecting the merits and the right settlement.
- The Board may also do all such things which may be considered fit by it, for including the parties to come for a fair and amicable settlement of the dispute.
- In case of settlement of the dispute, the Board shall send a report thereof to the appropriate Government together with a memorandum of settlement signed by all the parties to the dispute.
- In case no settlement is arrived at, the Board shall forward a report to appropriate Government enlisting therein the steps taken by the Board for ascertaining the facts and circumstances related to the dispute and for bringing about a settlement thereof.
- The Board will also enlist the reasons on account of which in its opinion a settlement could not be arrived at and its recommendations for determining the disputes.

(iv) Courts of Inquiry { Section 6}

- The Appropriate Government may as occasion arises, by notification in the Official Gazette constitute a Court of Inquiry into any matter appearing to be connected with or relevant to an industrial dispute.
- A Court may consist of one independent person or of such number of independent persons as the appropriate Goverment may think fit and where a Court consists of two or more members, one of them shall be appointed as the Chairman.
- It is the duty of such a Court to inquire into matters referred to it and submit its report to the appropriate Government ordinarily within a period of 6 months from the commencement of the inquiry. The period within which the report is to be submitted is not mandatory and the report may be submitted even beyond the period of six months without affecting the legality of the inquiry

(ii) Conciliation Officers (Section 4)

- With the duty of mediating in and promoting the settlement of industrial disputes, the appropriate Government may, by notification in the Official Gazette, appoint such number of Conciliation Officers as it thinks fit.
- The 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.
- The main objective of appointing the Conciliation Officers, by the appropriate Government, is to create congenial atmosphere within the establishment where workers and employers can reconcile on their disputes through the mediation of the Conciliation Officers.
- Thus, they help in promoting the settlement of the disputes.

(v) Labour Courts { Section 7}

- The Appropriate Goverment is empowered to constitute one or more Labour Courts for 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 the Act.
- A Labour Court shall consist of one person only to be appointed by the appropriate Government.
- A person shall not be qualified for appointment as the presiding officer of a Labour Court unless –
- he is, or has been, a judge of a High Court: or
- he has, for a period not less than three years, been a district Judge or an Additional District Judge; or
- he has held any judicial office in India for not less than seven years;
- or he has been the presiding officer of a Labour Court constituted under any provincial Act or State Act for not less than five years.

- When an industrial dispute has been referred to a Labour Court for adjudication, it is the duty of the Labour Court to
- hold its proceedings expeditiously, and
- submit its award to the appropriate Government soon after the conclusion of the proceedings.
- No time period has been laid down for the completion of proceedings but it is expected that such Courts will hold their proceedings without going into the technicalities of a Civil Court.
- Labour Court has no power to permit suo motu the management to avail the opportunity of adducing fresh evidence in support of charges).
- Provisions of Article 137 of the Limitation Act do not apply to reference of dispute to the Labour Court.
- In case of delays, Court can mould relief by refusing back wages or directing payment of past wages.

(vi) Tribunals (Section 7-A)

- 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.
- A Tribunal shall consist of one person only to be appointed by the appropriate Government.
- A person shall not be qualified for appointment as the presiding officer of a Tribunal unless:
- he is, or has been, a Judge of High Court; or
- he has, for a period of not less than three years, been a District Judges or an Additional District Judge.
- The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceedings before it.
- The person appointed as a Presiding Officer should be an independent person and must not have attained the age of 65 years.
- The Industrial Tribunal gets its jurisdiction on a reference by the appropriate Government under Section 10.
- The Government can nominate a person to constitute a Tribunal for adjudication of industrial disputes as and when they arise and refer them to it.
- The Tribunal may be constituted for any limited or for a particular case or area.

(vii) National Tribunals { Section 7-B}

- The Central Government alone has been empowered to constitute one or more National Tribunals for the adjudication of industrial disputes which
- 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.
- A National Tribunal shall consist of one person only to be appointed by the Central Government.
- 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; or
- 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 7-C further provides that such a presiding officer should be an independent person and must not have attained the age of 65 years.