

Course Name: Labour Welfare and Industrial Relations

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Lec 14: Statutory and Non-Statutory measures of Settlement

Hello learners, welcome back to the course on Labour Welfare and Industrial Relations. Today we move to the fourth lecture of the third module where we were discussing specifically on the Industrial Disputes Act 1947. Today we will delve into greater details with respect to the measures of settlement and it would be two, mainly the statutory and the non-statutory measures of settlement.

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So when we look into Industrial Disputes Act over the last couple of lectures at least we have seen that the background of the act was pretty much required because conflict emerged as a norm and more and more people wanted to have a say or get done something in their perspective that actually elicited the entire requirement of such an act.

When we look into the measures of settlement of disputes, we understand that there are two main measures of settlement of dispute. One being statutory measure, another being non-statutory measure. Let's look into this in detail. When we look into statutory measure, for example, We come across three different types on a general platform, I am telling.

There could be other variations of this. Again, this would not be an exhaustive list. But mainly, when we look into statutory measures, we can club the entire set of measures into

three baskets. And the first one is conciliation and mediation. When you look into conciliation and mediation specifically, we have already seen what conciliation is.

Conciliation is a process where a third party helps parties in dispute negotiation and leading to a particular settlement. But when we actually understand the conciliation and mediation as a statutory measure, Section 4 of the Industrial Dispute Act 1947 lays down the function of a conciliation officer. So you have a conciliation officer... The possibility of that being laid down in Section 4 of the Act, where the particular officer is to create kindred atmosphere within the industry, which will help the parties to settle the disputes between them. So, specifically if we look into the entire conciliation and mediation, it happens through either by the conciliation officer, who works in the Department of Labour generally, or the conciliation board, which is a body of several members consisting of chairman, two to four members as a representative of the employers and the employees. So these members are to be appointed by the authority, maybe the government or on certain parties who are affected or the stakeholders recommendation. So when a conciliation officer is required to hold proceedings, he is also or she is also required to carry out investigations regarding the dispute in a very fair manner to help the parties arrive at a particular settlement. And when you look into the certain aspects of appointing an office and what happens, When the report or when the positive outcome is not obtained or the report is not in favor, we have seen that extensively in the previous lecture.

Similarly, after the government agrees that there is a failure in the report, in this case also, he or she, whoever is the conciliation officer, can send the matter to the board of conciliation or any other adjudicating body to look after the same. So if such a step is actually not preferred, then the government directly communicates the matter to the parties involved in the dispute. So basically the usage of conciliation as a settlement dispute mechanism is indeed effective as have been revealed by different studies pertaining to labour welfare and industrial relations. So when we look into the statutory measures, this happens to be the most important measure in actually resolving dispute. We also have now voluntary arbitration.

Voluntary arbitration involves parties agreeing to a decision by an arbitrator. So when you are looking into voluntary arbitration, before understanding the concept itself as a whole, it is preferred that we refer to them separately for a better understanding. Arbitration means a procedure. Arbitration means a procedure which actually involves a third party in the form of a single arbitrator or maybe a board of arbitrators who are assigned with the duty to resolve the dispute between the parties and voluntary here symbolizes, say, self-willingness, the consent given.

So, voluntary arbitration actually means that the parties who are involved in the dispute willfully agree to the decision taken by the arbitrator or the board of arbitrators without any specific outside compulsion. So, this is a classic understanding of what do you mean by voluntary arbitration. Now, section 10A of the industrial disputes act 1947 actually provides for the provision of voluntary arbitration which in the real world scenario is completely carried out by adjudication so arbitration and adjudication specifically have a very thin line of difference between them while in the former let's say the judge is decided by the parties involved in the dispute whereas in the latter the judge is appointed by the state so this is what makes Adjudication, a little more authentic if I can use the word.

When we look into specifically voluntary arbitration, we have different cases, especially the case of Ahmedabad Textile Mills, which we will look into in the coming slides. When you look into adjudication, adjudication is nothing but the compulsory settlement of disputes by courts or tribunals. So basically we may think of it as a replacement, but it is not that adjudication replaces conciliation totally. But rather if you look into the whole concept, the matter is like if conciliation fails to settle the dispute between the parties and industry, adjudication takes charge in carrying out the job which the conciliation mechanism was assigned to do.

So it is just another legal remedy that can be adopted if actual necessity arises. So the ultimate remedy for resolving an industrial dispute is by adjudication. Adjudication can also be understood as a compulsory settlement of the industrial dispute in concern by labor courts, let's say industrial tribunals, national tribunal as provided by the Industrial Disputes Act 1947. So basically in nutshell, the terms adjudication and arbitration have

minute differences if placed in our country specifically. So when you look into specific aspect of conciliation and mediation specifically, we have seen that the entire scheme of things work either with the help of a conciliation officer or a conciliation board.

Or finally, we may refer to the adjudicating body. Conciliation officers work in the Department of Labor to help parties settle disputes. We have seen that. Conciliation board is a body of members representing employers and employees. So that will be also acting as a fulcrum towards conciliation and mediation.

And finally, if still the entire case is not solved, there would be a referral to the adjudicating body in case of the failure of the conciliation process. When you look into the voluntary arbitration deeply, we have seen that there are different aspects like arbitration, voluntary and origin. A third party, an arbitrator resolves the dispute. resolves the dispute between the parties, which is more significant when it comes to arbitration. Again, I have classically defined why voluntary.

Parties are willingly agreed to share or agreed to the arbitrator's decision without any external compulsion. And if you look into the voluntary arbitration, it originated in India with the issue of plague bonus in Ahmedabad textile mills specifically. So when we look into the Ahmedabad textile mills, it was under the leadership of the father of nation, Mahatma Gandhi. So this was something which has paved way for the voluntary arbitration specifically. When you come to adjudication, when we come to adjudication, we have seen that the labor court is constituted by the government to resolve disputes in an industry.

We have seen different tribunals like the industrial tribunal, the national tribunal, the industrial tribunal being having jurisdiction over Wider than the labor court and handles generally a wider range of issues and the national tribunal is formed by central government to specifically adjudicate issues related to national importance specifically. Now something which is more interesting is what we understand as non-statutory measures. Now, when we have seen the statutory measures, we have to also acknowledge that sometimes the force of law or coercion coming from the side of law might not be

able to actually solve a particular issue. Rather, let's personalize this entire scheme of things and understand.

Sometimes you get an order from your boss. appointing authority or any authority, reporting authority for example, you might not be in a favor of that particular decision. Maybe it is coerced in a coerced manner or he or she is forcing you to do something. But when it is coming from the same person in a more polite or maybe a diplomatic way, if I can use the word, in a more polished way whereby you are actually shown the cause that this is for the department, for the organization, you may have to do it. Which will add value to the organization.

So all these rationales actually bring you into the entire game. There is some sense of ownership that is instilled in you. And you tend to take up the matter voluntarily. I repeat, something which is forced might not yield the same result as something which is given in a more cordial way or cordial environment. So this is the specific difference.

When there is a dispute... When there is a conflict, sometimes the law might not be that effective. Sometimes law might be the only effective solution. But there are times when a certain level of non-statutory measure could be important.

So this invokes us or this elicits, you know, a certain discussion or warrants certain discussion on non-statutory measures like code of discipline, like collective bargaining or even to a certain extent workers' participation in management. In the second module, we have actually looked into certain schemes where workers are participating or the involvement of workers are pretty much there. We tried to understand this in that background with respect to non-statutory measures. Let's look into that in detail. The first one is code of discipline.

When you look into code of discipline, it's nothing but a set of guidelines agreed upon by the employers, workers and the representative to maintain a very harmonious relations specifically. So if you look into the specific contents of this code of discipline specifically, you have respect for law. The code specifically would emphasize compliance with laws like labor laws, regulations, agreements, governing the employment

relationship, etc. There are elements of non-discrimination that will come into picture. The code promotes actually equal treatment and prohibits discrimination.

Anything based on, let's say, race, gender, religion, disability, age, or any other protected characteristics. There are aspects of workplace behavior. The court sets standards for acceptable workplace behavior, including maintaining discipline, professionalism, punctuality, etc. It may include guidelines on appropriate conduct. And there might be situations of grievance handling.

So we'll look into that specifically when you look into the code of discipline. When you look into the grievance handling mechanism for addressing employee grievances specifically, it outlines the procedures for raising the complaints, the steps involved in resolving disputes. And specifically the roles and responsibilities of the parties involved such as management, even the employee representatives and even some mediators. So these are some of the aspects when you look into the code of discipline. We also have some of the critical other aspects.

Let's say when you look into the code of discipline, we have the dispute resolution. The code may include provisions for resolving conflicts and disputes through negotiation, mediation or arbitration. It certainly encourages the parties to engage in a dialogue and seek actual amicable solutions before actually resorting to legal actions. There could be training and awareness campaigns. The court may emphasize the importance actually of providing training and awareness programs to employees and managers to promote the basic understanding of the court's provisions and policies.

to certainly encourage the compliance. So these are some of the aspects which come under the code of discipline when we look into the non-statutory measures. When we look into the collective bargaining aspect, we have, let's say, three important considerations. When we look into the collective bargaining, we have generally some four important aspects. One would be the stable relationship, then the presence of the trade union representative, negotiation that may happen and finally the agreement. So if we look into collective bargaining, we have introduced the entire concept of labour welfare and industrial relations if you recollect from the module 1 by the definition of

Beatrice Webb. The term collective bargaining was also first used in 1891 by Beatrice Webb who was an economic scientist and one of the founders of the industrial relations field in UK. So she and her partner Sydney Webb actually described the collective bargaining as a process through which workers come together and send representatives to negotiate over the terms and conditions of the employee employment.

So it was seen as a collective alternative to let's say something called as individual bargaining. So it was something that was proposed against individual bargaining where more of the collectivist say would be coming and it would yield better results. So collective bargaining, if you look closely, promotes a very stable relationship amongst the stakeholders where conflict and cooperation are mixed in varying proportions. A representative of trade union, specifically is appointed by the employee who acts on behalf of other workers in an organization the trade union representative specifically considers the workers responsibility as the bargaining agent where he or she has a right to bargain with the employer and bring an amicable settlement that is you know clearly acceptable to both the employers and the workers so however beneficial.

Please understand that the collective bargaining agreement might be, it will, it not will be adopted in an industrial establishment. So it is pertinent to mention here that there might be certain other aspects like political parties back the trade union movement. Their ideology will come into picture. Ideological differences makes it difficult to a smooth collective bargaining agreements.

So the goal is specifically to reach an agreement that is acceptable to both employers and workers. We have a greater detailed discussion we'll have in the next module, where we'll look into the collective bargaining aspects more closely. But when you understand the collective bargaining, you should understand that we are eyeing for a stable relationship with the collective bargaining, where there are inclusions of trade union representatives, there are negotiations going on to achieve a final agreement. When you look into another significant measure, specifically non-statutory measure, would be workers' participation

in management. Again, workers' participation, if you see, it has certain historical reference associated to it.

Mahatma Gandhi introduced the concept of workers' participation in management in India in 1920. Specifically, if you look into the scenario, In Ahmedabad, textile workers and employees agreed to resolve the dispute through joint participation. So this joint participation. was the first initiative that came up as part of the concept of workers' participation management.

Even in 1958, TISCO had set up committees for workers to participate in various matters related to organization. But again, if we delve back, we go back into our Constitution, Article 43A, of the Constitution of India deals with the workers' participation in the management, and this specifically comes under the DPSP, if you remember, Directive Principles of State Policy. So workers' participation in management is one of the most important elements of industrial democracy. So it's a system typically where the employees have a say in the decision of management, worker participation management actually refers to the participation of workers in the decision making process.

So anything other than or anything lesser than decision making process, it generally does not make any sense whatever be the level of participation is. The moment the worker is involved or included in a decision making process he or she will feel empowered and this is beyond doubt so this can have an incredibly positive impact on the mental and psychological health of the worker and they are associated with the particular organization in a greater way there is a greater sense of ownership there is greater sense of belongingness that comes into picture so the concept of workers participation management is based on The human relations approach to management, which brought about a very new set of values to labour and management. So workers' participation in management focuses specifically on sharing power and there is a building up of a greater sense of ownership.

So when you look into workers' participation specifically, We have the definition by ILO. Workers' participation covers all terms of association of workers with the decision-making process. And the main implications of the entire scheme of things is that

workers may have valuable ideas and opinions and they will work more intelligently and with loyalty if they are informed about the decisions. So this is specifically what I wanted to underscore through the entire set of lectures.

See, there might be disputes, there might be conflicts. There are different ways to resolve these disputes and this is what we have actually looked into. The first one, statutory, very critical. There is a law for everything. You have to just follow the due process.

That's it. But when you look into the entire scheme of things, there is a possibility that most of the aspects generally would not come under the ambit of law. There are some shades of grey associated with some conflicts and it could be resolved easily and effectively if we employ a certain level of non-statutory measures. All this conciliation, all these aspects of mediation are actually coming under that ambit. So please note, when you look into people from the human relations angle, when you are trying to involve them in the daily decision-making process, you not only are recognizing their importance in the organization, you are also empowering them.

You are also giving them a chance to feel the sense of ownership, the sense of belongingness. That's all from today's class. We'll see a greater detail about the Industrial Disputes Act where we conclude with the last lecture of the Module 3 where we look into greater details on industrial disputes. Till then, take care. Bye-bye.

Thank you.