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Industrial Disputes in India and Settlement Mechanism

RIJUL GOEL[1]

ABSTRACT

The problem of industrial disputes is pervasive in the majority of industrialized and developing countries around the globe. The absence of employee involvement in the equipment and processes of production has led to a growing gulf amongst management and workers as industrialization has advanced. This split has caused conflict and friction in the manufacturing industry, which has finally culminated in industrial conflicts. An effective industrial relations system and labour market depend on the resolution of disputes. The focus of this essay is on the practical and legal issues of settling labour disputes in India. Positive workplace relations are promoted by having a strong collective bargaining system and efficient communication between labour unions and management. These factors also help to lower the number of complaints.

Keywords*: Industrial Disputes, Workers, Economy, Grievances, Settlement Mechanism.*

I. INTRODUCTION

As most of India's industries rely largely on labour, we have become well aware of the country's heavy reliance on manual labour. Historically, wealthy and powerful people have taken advantage of their labour force by making them work long hours for little or no pay while ignoring their basic requirements for food, water, and sanitary conditions. Because of these harsh conditions, the labourers occasionally had to put in days on end of work in gloomy, uncomfortable settings. The workers had no choice but to take lesser pay because of their dire conditions.

Discord and many kinds of protests can result from tensions between the management and the workers. Employee protests could take the form of sit-ins, demonstrations, work slowdowns, strikes, and more. In the meanwhile, management frequently uses actions like shutdowns, job cuts, and terminations to address internal disputes. Particularly common forms of protest and retaliation include lockouts and strikes. One could think of a lockout as the antithesis of a strike. In democratic nations, the right to organise a strike or shutdown is recognised in terms of basic principles.

[1] Author is a Student at Law College Dehradun, Uttaranchal University, Uttarakhand, India.

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The development of positive working relationships between management and employees is essential to the industrial sector's growth. Many investigations have been carried out to investigate various facets of workplace relations in diverse locations and across varying time periods with this in mind. Remarkably, no thorough investigation has been conducted into the nature and extent of labour disputes and lockouts, as well as their causes, consequences, and methods of settlement, particularly in the years preceding and following India's reforms.

II. INDUSTRIAL DISPUTES: MEANING & CONCEPT

Any country's industrialization process has historically had two outcomes. On the one hand, it has resulted in more employment openings, greater income per capita, more national income contributions, increased exports, and general economic growth. However, it has also resulted in disputes and conflicts within the workplace. Industrialization is characterised by this dualism, which makes it a mixed blessing because these conflicts stem from the competing interests of labour and management.

While there are many different kinds of conflicts in society, "Industrial Disputes" are simply disputes involving both employers and employees that have a direct bearing on the industrial sphere. According to Section 2 (k) of the Industrial Disputes Act of 1947, an "industrial dispute" is any disagreement or difference of opinion regarding any individual's employment status, terms of employment, or working conditions that occurs between employers and workers, between employers and employers, or between workers and workers.

The Act provides a number of dispute resolution procedures in an effort to address or settle this matter amicably. Conciliation, adjudication, and arbitration are some of these techniques. The organisations that only use conciliation to resolve conflicts include the Board of Conciliation, Conciliation Officer, and Work Committee. However, the National Tribunal, Labour Courts, and Tribunals are among the agencies that use the adjudication procedure to settle disputes. Provisions have also been established for the creation of a Board of Investigation, whose principal function will be to look into any issues pertaining to labour conflicts.

Clarifying the function adjudicating bodies play in the settlement of labour disputes is the main goal of this work. In his ruling in the *Workmen of Hindustan Lever Ltd v. Hindustan Lever Ltd* case, Justice D.A. Desai articulately outlined the essence and rationale of compulsory adjudication. "In order to create a forum and compel the parties to choose arbitration in order to avoid disputes and disturbances in the industrial sector, mandatory adjudication was implemented through legislation. The legislature decided it would be wise to provide the government the right to require arbitration in order to prevent conflicts or struggles for power,

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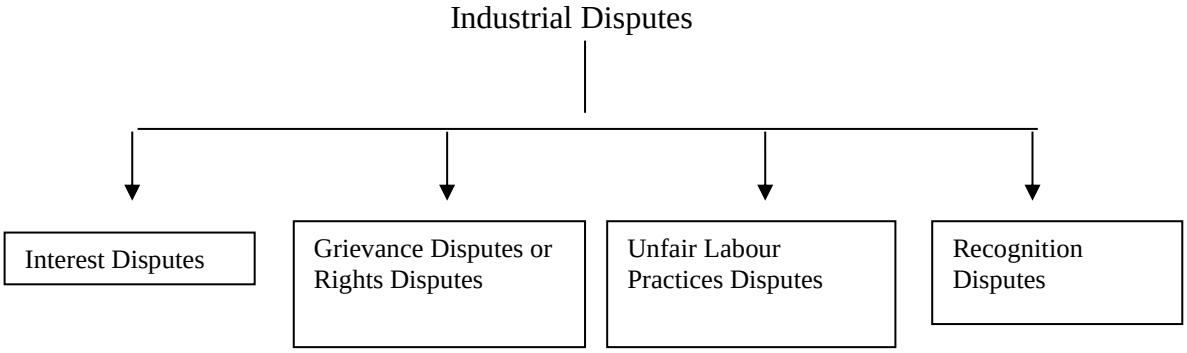
which are seen negatively from the standpoint of the public and national interests. Keeping positive work relationships is essential to ensuring continuous output as well as fostering peace and harmony."

III. KINDS OF INDUSTRIAL DISPUTES

Industrial conflicts can be classified into four main categories: disputes pertaining to recognition, disputes pertaining to unfair labour practises, disputes involving interest, and disputes involving grievances.



Interest disputes, also known as disputes concerning conflicts of interest or economical disagreements, usually result from demands or recommendations for improvements related to pay, benefits, job security, or terms and circumstances of employment. Interest disputes must be successfully negotiated, bargained, or settled by compromise; whenever possible, dependence on the display of economic might should be avoided. Conciliation should be the preferred method of resolving these disputes.

Grievance disputes, also referred to as conflicts of rights or legal disputes—occur during ordinary business dealings in an organisation. They stand for employees' complaints against management decisions that violate their rights. Issues including compensation settlements, fringe advantages, hours of work, extra hours, advancements, reductions in rank, rank, safety, and health-related concerns are frequently at the centre of these conflicts. Grievance issues often cause a rift in the professional relationship among management and employees if they aren't settled through a mutually accepted mechanism. The government additionally advocates for the use of voluntary arbitration in order to settle disputes of this nature.

Labour disputes pertaining to unfair practises in work relations are the most common kind. Management frequently uses a worker's participation in union-related activities and trade union membership as justification for discriminatory treatment. A few examples of unfair labour practises include coercing workers into using their rights to form a union or take part in union

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events, refusing to negotiate, recruiting new employees during a lawful strike, creating a hostile work environment, using physical violence or force, or obstructing communication. The conciliation process or the regular processes set forth by the Industrial conflicts Act of 1947 may be used to settle these conflicts.

Recognition Disputes occur when management of an organisation refuses to recognise a labour organisation for the purpose of negotiating collectively or defending its members in disputes or conflicts. A trade union may be victimised when management shows its displeasure of a particular union by refusing to recognise it for bargaining or negotiation. This also occurs when there is already a trade union in existence or when many trade unions submit conflicting requests for recognition. Disputes over recognition can be settled by abiding by the government's voluntarily Code of Discipline or by using the criteria for labour recognition that are supplied by the government.

IV. CAUSES OF INDUSTRIAL DISPUTES IN INDIA

Whether they run on a mixed, capitalist, or communist economic system, industrial disputes are a common feature of all industrialised countries. Industry and labour issues are intrinsically linked, like two sides of a single coin, which is a fundamental reality. Workers who commit their time and expertise to the sector hope to be compensated more, have better working conditions, and have a voice in decision-making. Employers, on the opposite hand, are more focused on making money, increasing production, upholding standards of quality, and keeping expenses under control. Conflicts are frequently highly likely as a result of these competing pressures, which makes industrial disputes a key aspect of the process of industrialization. Some specific disputes can be classified as follows:

a) Economic Causes

Economic factors include a range of compensation-related issues, including pay rates, bonuses, and extra allowances. They also include employer-related layoffs of employees, automation and rationalisation of processes, faulty cuts processes, leave policies, and other related issues. Other economic issues that have led to multiple strikes in India include the continuation of low wages despite rising living expenses, the call for a hike in dearness payments (D.A.), unsatisfactory living and working conditions, and disagreements over working hours.

b) Managerial Causes

A wide range of events can lead to the emergence of industrial conflicts. Any request made by employees, regardless of its nature, may lead to such arguments if the management doesn't agree

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with it. Because they are inextricably related to job conditions and circumstances, even union demands that appear unrealistic, such as the demand that "all workers receive cars," might end themselves at the centre of an industrial dispute. It is important to remember that union demands made before a long-term contract is negotiated frequently act as a common trigger for major labour disputes.

c) Recognition of Unions

The recognition of labour unions is a major contributing factor to labour disputes. Within the nation of India, there is no law provision stating that just one negotiating unit is permitted in any particular unit or establishment, nor is there a legal prerequisite for union recognition. Because of this, there may be more than one union in just one factory, and labour disputes may arise from a lack of regulations pertaining to union recognition. Although there isn't a formal legislation governing union recognition, criteria for recognition are provided by a code of discipline that employers' and employees' representatives developed in 1956. This law states that in order for a union to be recognised, it must have been in existence for at least a year and have membership that accounts for at least 15% of the unit's entire workforce. Following a year of establishment, a membership verification procedure is carried out. The code requires the employer to formally recognise the union in the event that it is determined that the union satisfies the membership requirements. The union is limited to discussing specific concerns that impact its members with management until it receives formally acknowledged as a bargaining representative.

d) Contractual Causes

Unions frequently claim that specific procedures set forth at the time a contract is signed cannot be changed without advance notice and debate during the term of the agreement. Any change that doesn't expressly provide management the right to adjust procedures, timetables, and the like might be the main cause of an industrial conflict. These policies may cover a range of topics, including when and how wages are paid, allowances, leave policies, shift and work schedule adjustments, grade-based job classifications, the removal of traditional concessions or privileges, adjustments to current traditions or benefits, the enactment or relaxation of discipline policies, improvements to plant or technology that may have an impact on employee job cuts, as well as increases or decreases in the amount of workers for any particular shift. Employers often hold the position that, subject to an employee's right to file a grievance, these matters essentially come under the jurisdiction of the management's rights and obligations. However, these issues usually result in labour disputes. Conflicts may also emerge when labour rules are

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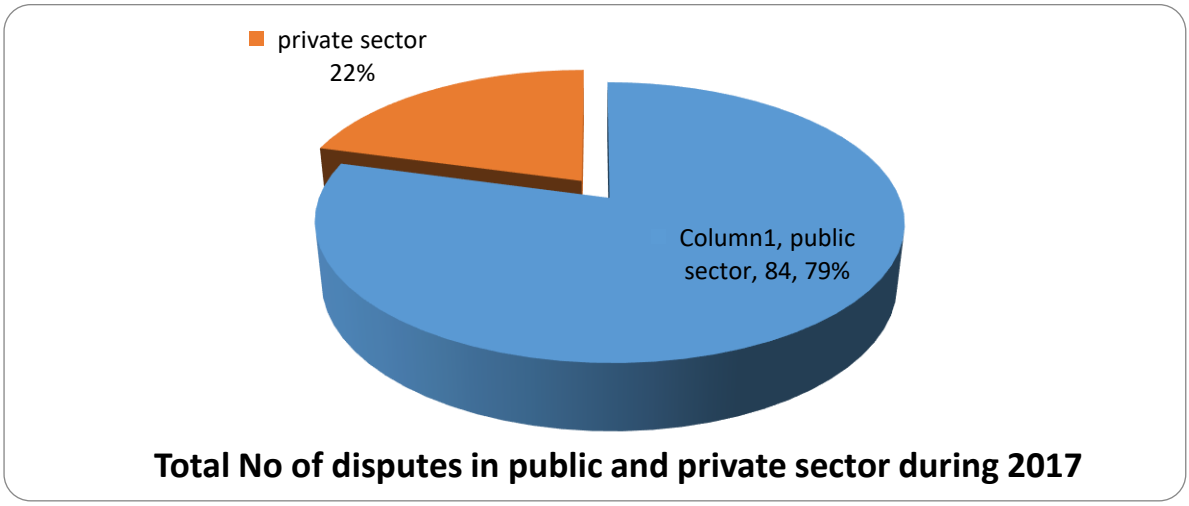
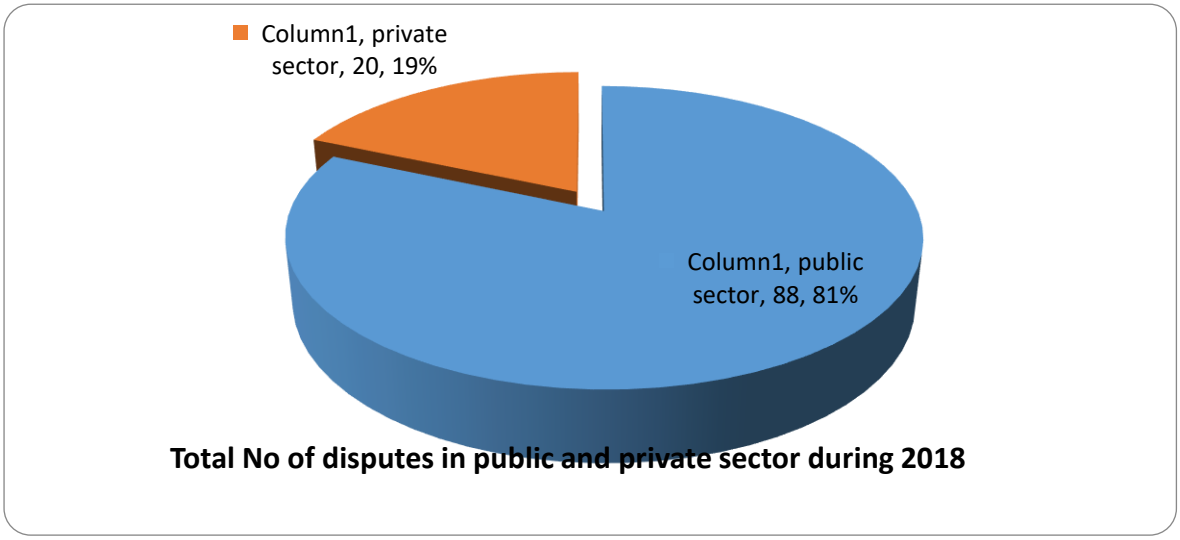
changed and both the employer and the employees do not agree to or carry out the new legislation's requirements. Since employers routinely submit appeal against the law, many recent labour law amendments have favoured labour, and they typically choose to wait for the outcome of their appeal before adhering to the new requirements. Contrarily, trade unions want prompt adoption, which may serve as another catalyst for a labour dispute.

e) Political Causes

Political factors can sometimes play a role in industrial disputes. Notable examples of industrial workers' organising political strikes have occurred in India. The first major strikes happened in Mumbai even before the country gained independence. They were in response to things like jail sentences for taking part in protests or the prosecution of political leaders. In addition, after attaining independence, political parties' demonstrations and actions over issues like state reorganisation and national language selection have led to strikes.

Total no of disputes in Public and Private Sector in years 2017 & 2018





Source: Ministry of Labour & Employment (Labour Bureau)

Coal India Strike of 2020 & 2022

Coal miners embarked on a three-day walkout in 2020 to protest the government's plan to allow commercial mining. Three days of coal production problems were attributed to the walkout, according to a labour union spokesperson. "A notable accomplishment was the coal industry's three-day strike... "Production stopped completely in most sites during those three days, and coal transportation was completely blocked," said Nathu Pandey, the head of the HMS-affiliated Hind Khadan Mazdoor Federation, in a statement to the media at the time. Two years later, India's coal scarcity has resulted in an even more dire power crisis, made worse by the ongoing increase in demand brought on by the post-pandemic rush.

India's monthly power consumption increased from 106.6 billion units in 2019 to 124.2 billion units in 2021, according to many news sources. Demand increased over 132 billion units in 2022 as a result of protracted heatwaves that affected several regions of the nation. This higher demand makes it clear why there is still a shortage of coal even when record-high coal production has been recorded. India produced 777.26 million tonnes of coal in the fiscal year of 2022, a significant increase of 8.54% over the previous fiscal year's 716.08 million tonnes. The Central Electricity Authority's (CEA) statistics from the previous year, which showed that Sixteen heat power plants in India had used up all of their coal supplies, is troubling.

India has a new dilemma as the monsoon season approaches. Reduction in pre-monsoon coal supply at thermal power plants in July and August might lead to another power crisis.

Additionally, 214 gigawatts of peak power consumption are anticipated in August by the CEA. In addition, mines flood during the rainy season, which makes it harder to extract coal and, as a result, reduces the supply, which would have an additional effect on electricity distribution.

In light of this, if Coal India employees went on strike, it may make matters worse and lead to more interruptions in the coal supply, aggravating the crisis of power supply.

V. LEGAL FRAMEWORK BEHIND INDUSTRIAL DISPUTES IN INDIA

India's labour relations have been significantly shaped by three important legislative acts: The Industrial Employment "Standing Orders" Act of 1946, the Trade Unions Act of 1926, the Industrial Disputes Act of 1947, and so on.

The main focus of the Trade Unions Act of 1926 is on the formation and licencing of trade unions; it does not, however, address the issue of employers acknowledging unions for the purposes of collective bargaining. Guidelines and regulations governing the fundamental terms and conditions of work among the employer and the employee are established by the Industrial

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Employment "Standing Orders" Act of 1946. To determine the parameters of the employer-employee contract, employers and workers must agree on a set of rules and regulations. This Act's main goal is to ensure that certain minimum employment standards are maintained, avoiding the need for a weaker labour movement to fight for these requirements. The 1947 Industrial Disputes Act delineates the protocols for settling industrial disputes. Prior to India's independence, the "Standing Orders" Act and the Industrial Disputes Act were both enacted. These rules are a carryover from British wartime legislation intended to control labour conflicts and boost output. They have their roots in British rule. These laws are designed to supplement the efforts of a less powerful labour movement in its dealings with employers. The basic premise of these acts is that labour unions are, and will stay, relatively weak. The British legislation on the same issue have influenced the Industrial Disputes Act in a major way.

Although the Act's main goal is to facilitate the "inquiry and settlement of industrial disputes," despite the Act's detailed language, there has been significant disagreement over what exactly constitutes an industrial dispute. One particular question concerned whether a person might file a labour dispute because the Act refers to "workmen." A later revision to the Act made it clear that workers may only file a labour dispute if it concerned a specific worker's termination, dismissal, or retrenchment. This implies that a grievance brought up by an individual that has nothing to do with being fired or dismissed would not be considered an industrial dispute. For instance, a worker's complaint that they were passed over for a promotion but not fired would not be classified as an industrial dispute and may be resolved through the company's grievance system. Select individual conflicts are protected from victimisation and the possibility of losing their job by being included as industrial disputes, especially if they are not members of a labour union.

The introduction of non-union businesses may not have an effect on the mediation, arbitration, and adjudication framework used in the Indian setting when conflicts are handled in accordance with the Industrial conflicts Act (ID Act) in some particular cases. Any disagreement or conflict relating to or resulting from a worker's release, termination, retrenchment, or termination with their employer is deemed an industrial dispute under section 2A of the ID Act, even in cases where no other workers or workers' union are involved.

The three aspects of organisational justice—procedural, interactional, and distributive—are actually related to perceptions of fairness. Distributive justice assesses the equitable nature of outcome distributions; procedural justice considers the fairness of the processes controlling outcome distribution; and interactional justice addresses the equality of relationships and communications.

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Moreover, even in the face of multiple commercial laws, grievance procedures are often overlooked because of the complexities that result from imprecise handling and a lack of thorough comprehension of matters concerning negotiation, cooperative advice, and complaint resolution among all parties involved in the employment relations system.

Three tier Dispute Settlement Process in India

According to Section 10 of the Industrial Disputes Act, the competent government may do the following in the case that an industrial dispute occurs or is predicted:

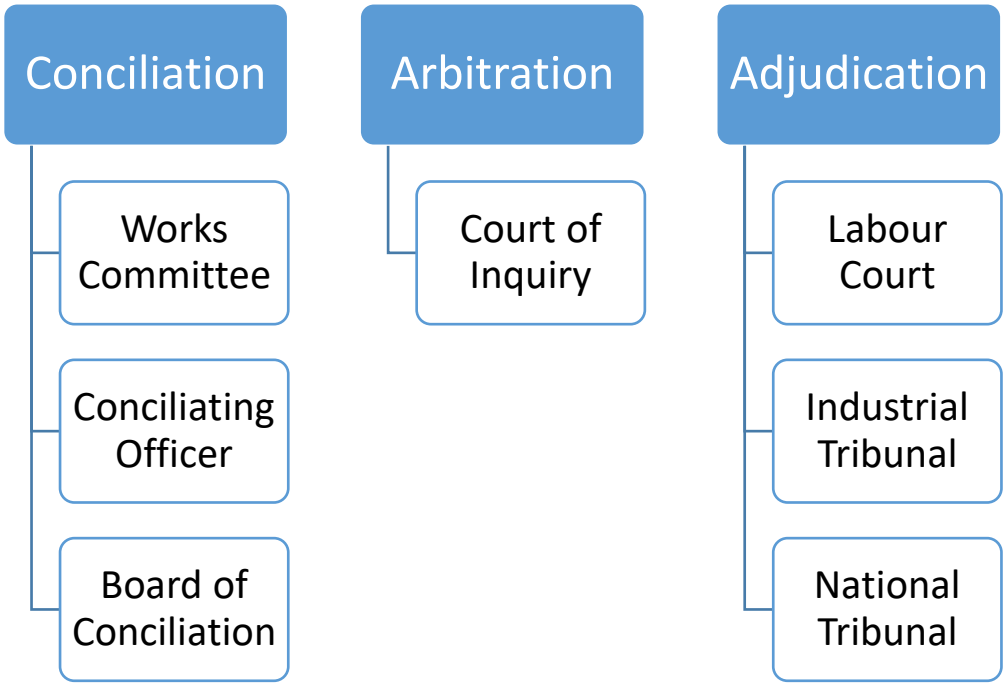
1. In order to assist in reaching a resolution, it may refer the case to a panel of conciliation officers or a conciliation officer.

2. A court of enquiry may be commenced by it.

3. It has the option to take the disagreement to a labour court for resolution.

4. It has the option to send the case to an industry tribunal for resolution.

VI. INDUSTRIAL DISPUTE MACHINERY



In theory, any employer or employee must legally report the presence of a labour dispute to the appropriate authorities by using the prescribed form. The relevant government may then decide to send the disagreement to industrial tribunals for review, labour courts for adjudication, or conciliation. The relevant government is usually the state's secretary of labour. It's crucial to remember that, as the procedures listed below show, this method might not always be carried out precisely in reality.

(A) Conciliation

While the appropriate government is ultimately responsible for referring cases for conciliation, each party may also start the process by filing an application in writing to the district conciliation officer. At the local, regional, and state levels, the governing body employs an organisation of conciliation officials who serve as conciliators. Usually, a public service test is used to recruit these mediation officers into the state government. In addition to a bachelor's degree, applicants may additionally have a certificate in social work or industrial relations.In order to help the parties reach an agreement, the conciliation officer's duties include looking into the disagreement and making suggestions for possible solutions. In essence, the officer mediates disputes; in the private sphere, suggested resolutions are optional and subject to acceptance or rejection by the parties concerned.

In this method of resolving conflicts, both the business and the union representing the workers turn to an outside party for support, frequently a government organisation. The government agency's job is to help the unions in their talks by facilitating interaction among managers and the unions. Conciliation between the two opposing factions in the industry is the main goal in order to avoid problems that might arise in the form of production disruptions, decreased excitement, or strained industrial relationships.

When the parties concerned are unable to settle their issues on their own but still want to avoid the hassles that come with open confrontations, they choose this technique of industrial dispute resolution. A neutral third party is involved in conciliation in order to help the disputing parties reach a mutually accepted resolution. A conciliator provides supervision during the conciliation procedure. A board of conciliation and a conciliation officer make up the conciliation system.

The Industrial Dispute Act of 1947 states in section 12(2) that the conciliation officer's job is to assist in reaching a resolution for the dispute. In addition to serving as a leader, counsellor, mediator, and conduit for interaction among the two parties concerned, the conciliation officer also takes on a variety of roles. A failure report, which indicates that a compromise cannot be reached, is sent by the conciliation officer to the appropriate government if the conciliation procedure is unsuccessful during the proceedings. The National Commission on Labour has suggested that the Industrial Relations Commission should include the conciliation mechanism as a way to improve the efficacy of the conciliation process. This would protect it from outside influences and help to boost confidence, which would encourage better collaboration between the parties in dispute.

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(B) Arbitration

After conciliation and mediation efforts have failed, the word "arbitration" signifies the process of resolving labour issues involving multiple parties by impartial decision-making. Whereas conciliation is mostly an advice procedure, arbitration is a legal one. According to Section 10A of the Industrial Disputes Act, 1947, disputing parties may voluntarily pursue arbitration in cases when discussion and reconciliation have failed to resolve their disagreements. When the government enforces mandatory arbitration or adjudication, the opposing parties are required to present their case to an arbitration panel. The tribunal then reviews the facts and arguments put forth and renders a judgement. Voluntary arbitration may not follow judicial processes in some situations. The desire of the parties to submit their disagreement to an arbitrator willingly is one of the main components of voluntary arbitration, and as there is no coercion involved, the decision made may not be legally binding or mandatory.

In India, arbitration is perhaps the quickest way to resolve labour issues. Still, it is not often applied, mainly because there is rarely agreement over the choice of an arbiter. The unions' fear that management would sway the arbitrator's selection is the primary reason for the difficulties in coming to an agreement. These misgivings are a reflection of the widespread mistrust unions have for private sector management. The use of arbitration is further hindered by the small number of professionally qualified arbitrators who adhere to a clear code of ethics. Lastly, the actual use of arbitration is limited by the dearth of government entities that are willing to function as arbitrators, such as labour courts and industrial tribunals.

(C) Adjudication

A three-tiered adjudication system is established under the Industrial Disputes Act of 1947:

1. Courts of Labour:

The relevant government is permitted to refer issues to a labour court for settlement in line with Section 10(c) of the Act. The Second Schedule of the Industrial Disputes Act, which covers a range of issues including worker or employer disciplinary actions, illegal lockouts and strikes, and standing order interpretation, is the list of topics that labour courts are specifically assigned to handle. A labour court is usually composed of one person with specific qualifications and has all the powers of a civil court. A labour court may be asked to handle disputes on behalf of the competent government pursuant to Section 10(c) of the Act. These labour courts are specifically charged with handling the matters listed in the Second Schedule of the Industrial Disputes Act. These matters cover a wide range of subjects, such as unlawful lockouts and strikes, standing order interpretation, and disciplinary actions involving employees or

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employers. A labour court usually consists of one person with specific qualifications who has all the powers of a court of law.

2. Industrial Tribunals:

The Industrial Tribunal possesses each and every essential component of a court. In order to advance worker peace, protect trade union rights, and put an end to unfair labour practises and victimisation, it has the authority to draught new contracts or amend existing ones. Compared to labour courts, industrial tribunals have greater jurisdiction. All of the fundamental elements of a judicial court are present in the Industrial Tribunal. It can create new contracts or modify old ones in the sake of promoting worker peace, defending trade union rights, and stopping unfair labour practises and victimisation. Industrial Tribunals have more jurisdiction than Labour Courts do.

3. National Tribunals:

The Industrial Disputes Act of 1947 established a tri-level adjudication structure, with the National Tribunal as the third tier. In order to settle labour disputes that it deems to involve matters of national importance or concerns that affect industrial establishments throughout several states, the Central Government may, by official Gazette notification, determine one or more National Tribunals. No labour court or Industrial Tribunal is permitted to take up a case that was previously referred to a National Tribunal.

Section 17 states that an award made by an industrial tribunal or labour court is final and binding, and no court may examine it in any manner. However, in some situations, it is possible to get special authorization to bring an instance to the Supreme Court. This might happen if the parties' circumstances change once the conflict has been settled or if one of them claims the award is not covered by the Act. As a result, parties frequently choose to contest tribunal rulings; yet, they must first make the award effective.

VII. CONCLUSION

As an intermediary and decision-maker, the State plays a critical role in monitoring and promoting industrial relations in the Indian context. Though management and labour are theoretically free to design their own relationships, throughout their 76 years of independence, the easy access to state-based mechanisms for conciliation and adjudication has impeded the growth of a meaningful and well-organized negotiated relationship. One of the most common methods for resolving labour disputes is still compulsory adjudication.

Political and ideological reasons have been the main causes of the lack of advancement in the

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area of industrial relations, aside from historical circumstances. Even the authorities is reluctant to make big policy changes since doing so would mean giving up part of its authority to regulate and control. As a result, efforts to put new policies into place have produced less outcomes.

The piece also draws attention to the glaring flaws in Indian labour legislation. First of all, because these regulations allow for the formation of many unions, there is increased rivalry and a significant rise in labour conflicts. Moreover, the conflict resolution process has increasingly shown itself to be ineffectual in promoting timely settlements and lowering the quantity of workdays missed as a result of strikes. Finally, encouraging the utilisation of collective bargaining between parties is necessary in place of relying on outside dispute settlement.

As such, it is essential that all pertinent parties create circumstances that reduce the possibility of labour conflicts. Conflicts in the workplace might arise as a result of the ensuing limitations on employment, pay, bonuses, and perks since they can make people feel powerless. When disparities occur, businesses, customers, and the workforce are all impacted. Employees forfeit their pay, businesses see a decline in earnings and market share, especially in global marketplaces, and customers end up lacking the services they need. When conflicts arise, it is critical to pinpoint their root reasons and work quickly to find a workable solution.

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