

International Journal of Scientific Research and Reviews

Industrial Relation and Unfair Labour Practice-its Impact on Industrial Peace in India

Chand Dinesh* and Gurjar Sunita

Research scholar, Sunrise University, Alwar
Email-shuklachdinesh@gmail.com. Mob.09460524366

ABSTRACT

Industrial peace broadly implies the absence of industrial unrest or the existence of a harmonious relationship or cooperation between labour and capital in industry. The condition of the industrial relation between employers and workers has been not a well with the beginning stage of the industrialisation in India. The factors responsible for this problem are different in every country. But the very important factor concerning Indian environment is “unfair labour practice”. Hence, an effort has been made in this paper to study and analyse the relation between employer and worker’s and it has also been explored that how the unfair labour practices has an impact on the industrial relation and peace in the Indian scenario. Unfair labour practices whether it is from the side of the employer or from the side of the workmen effect the industrial relation and consequently industrial harmony .And finely it has long term impact on the overall industrial development.

KEYWORDS: unfair labour practice; industrial relation

Corresponding Author:-

Dinesh Chand

Research scholar,
Sunrise University, Alwar
Email-shuklachdinesh@gmail.com.
Mob.09460524366

INTRODUCTION

In any democratic country, the peaceful and fair industrial relations are the pre requisite for the economic development which will ensure the economic justice to the people.

For this to happen, an environment need to be created which will enable both the employer and the workmen to come together to save the interests of both through the practices of effective collective bargaining on occasions of disputes. Such an environment can only be created when the relations are based on the fair labour practices which demand responsibility from both the sides.

Unfair labour practices have been identified as the key factor to adversely affect the process of collective bargaining which hampers further the industrial peace and harmony.

The support this legally, there are no very strong legislations though, the Vth schedule of the Industrial dispute act, 1947 lays down the lists of unfair labour practices.

In Indian scenario, where there is such a big industrial sector and democratic consciousness among masses is still a far reaching goal, the environment is highly politicised and hence the problem of unfair labour practices persists in big way.

In the rest part of this paper, I will try to explore the situation in detail and how it plays the key role in establishing the peaceful and harmonious industrial relations which is the backbone of the economic development in a democratic country in context of India.

INDUSTRIAL RELATION AND UNFAIR LABOUR PRACTICES

The employer and worker's both are two important pillar of the industry. Generally, the term 'industrial relation' used to relation between employer and workers with the working condition at the workplace. Literally, 'industrial relations' means the relationship that prevails between the organised labour and the management in an industrial enterprise. Through proper attitudes of the management and that of labour, harmonious industrial relations could be developed in an organisation.¹

There for, good and healthy industrial relation are pre condition of the progress in the industry .other hand unfair labour practice are different terminology in the industrial world which is relate to create tension and unrest full atmosphere and also affect the relation between worker and

employer. In Indian scenario where is such a no strong labour policy the problem of unfair labour practice itself, a biggest barrier for industrial peace.

However, the beginning stage of the labour laws there was no independent relationship developed between employer and workers in India. The Industrial relations in India were shaped by the labour policies of the colonial Government, the ideology of political leadership and the dynamics of struggle for political independence.² Prior to the passing of the Indian Trade Unions Act, 1926 and the Trade Disputes Act, 1929, there was no uniform policy for the settlement of industrial disputes in India³

Post Independence, government of India, had effectively intervened in the field of labour relation and assumed powers for settlement of labour disputes between parties. With a view to promoting industrial peace the Government of India had evolved a regulatory system by passing various labour legislations and by framing industrial relations policies and adopting various strategies.⁴

According to this the former concept of industrial relationship was changed and the new worker employer relationship took place of the former master servant relationship through the legislative mechanism in India. The labour laws have not only modified the traditional master and servant relationship in favour of the workers but had also subordinated the employers' rights to that of the Government.⁵ Apart from it , many efforts have been made to develop faithful relationship between workers and employer by the government of India through legislative control. But it was not sufficient because the unfair labour practice have been used to play biggest role in our industrial system.

The expression unfair labour practices have been mostly used for any act to related with Indiscipline between employer and workman. it is very difficult to define the unfair labour practices, however it may include any act which disturbs peace full atmosphere and destroyed industrial relation between employer and the workers. first time in India a few activities were listed down as unfair labour practices in the fifth schedule of industrial dispute act 1947, through an amendment in 1982. following are the example of unfair labour practices mentioned in the act. on the part of workmen any act which of the worker or its trade union to picketing in such a manner that non-striking workers are physically debarred from entering the work places; to indulge in act of force or violence or hold out threats of intimidation in connection with a strike against non striking workmen or against managerial staff and on the part of employer, threateing workmen with discharge or dismissal, if they join a trade union; threatening a lock-out or closure, if a union is organised etc.

UNFAIR LABOUR PRACTICE AND ITS IMPACT ON INDUSTRIAL RELATION AND PEACE

The industrial relations system in India is itself inefficient and unfair labour practices have further deteriorated the situation to a certain extent in some aspects.

Unfair Labour Practices from both parts weakens the trade unionism and thus weakens the industrial relations. From the part of employers a number of unfair labour practices are adopted to weaken the trade unionism. When in an industry workers take the resort of strike or other democratic ways to oppose for their rights the employer use unfair ways of lock-outs or closures or blacklist to pressurize the workers. It actually weakens the strength of trade union, employers uses the money power and try to break up the union. In such way employer try to weaken trade union so that they can keep on the exploitation of workers. Therefore industrial relations are disturbed and ultimately industrial harmony is disturbed. In the weakening of trade unionism the part of workers is also responsible. In some situations the honest workers are misguided and mis-led for the interests of some clever people. When a trade union is led by corrupt people they deceive the honest work force of the industry and the management or employers are always interested in such things. In some situations these corrupt people call strike for their personal interests and when interests are fulfilled they take it back. Such unfair labour practices on the part of workers or trade union weakens the trade unionism and ultimately unrest increases and industrial relations are disturbed and resultantly industrial harmony is disturbed.

Now, it is to see how unfair labour practices decides economic growth of the country. Disturbed industrial relations and industrial harmony ultimately effects the industrial growth of an industry. It not only concerns the employers and employees but the community as a whole. And as a result the total economic growth of a country is effected.

In that connection the following case of Bombay High Court between **Metal Box India Ltd. v. The Association of Engineering Workers Union and others**⁶, can be considered. In the fact of the case there was a settlement which had been entered into on 1st November, 1991 with the then recognized Union, MBDU. The settlement was inter alia in relation to the question of wages reduction for a certain stipulated period having regard to the fact that the company was a sick industrial company. The strike which was resorted to by the workmen was during the subsistence of the settlement of 1991 in respect of a matter which was covered by the settlement. The strike came to be resorted to on 4th February, 1994

following the notice which was put up on 3rd February, 1994 enclosing a copy of the Company's communication dated 27th January, 1994. The strike was in these circumstances, illegal in view of the provisions of clause (c) of Section 23 of the Industrial Disputes Act, 1947, and submitted-Section (1) of the Section 24 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. On behalf of the Union, it was sought to be submitted that even assuming that there was a strike on 4th February, 1994 the strike was illegal because of a non-compliance with the requirement of furnishing a notice of 14 days under the provisions of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. Section 24(3) of the Industrial Disputes Act, 1947 provides that a lock-out declared as a consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal. It was sought to be submitted that since the illegality related not to the provisions of the Industrial Disputes Act, 1947 but the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 the employer was not entitled to the benefit of the provisions of submitted-Section (3) of Section 24. Even if it were to be held that the illegality in the strike related only to a failure to furnish the requisite notice under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, it cannot be said that the employer was precluded from taking recourse to the provisions of submitted-Section (4) of Section 23 of the Industrial Disputes Act, 1947. Besides as already noticed earlier, the strike was illegal with reference to the provisions of Section 23(c) of the Industrial Disputes Act, 1947 as well. That being the position, there is no merit in the submission that the lock-out which was declared in consequence of the illegal strike is not protected by the provisions of submitted-Section 3 of Section 24 of the Industrial Disputes Act, 1947. The demand for an undertaking on the part of the employer was illegal and unjustified. The employer by demanding the undertaking has effectively prevented the workmen from reporting for work. This is, therefore, clearly a case wherein a lock-out which was imposed by the employer on 8th February, 1994 initially in response to the illegal strike cannot be justified in view of the undertaking which was required from the workmen as a condition precedent to their reporting for work. In view of the illegal strike which was resorted to by the workmen, the lock-out at its inception was not illegal in view of the provisions of submitted-Section (4) of Section 23 of the Industrial Disputes Act, 1947. The lock-out however, ceased to be lawful and justified after the employer by his own conduct created a situation whereby the workmen were unable to present themselves for work. There is no justification on the part of the employer in demanding an undertaking in the terms in which it was sought the unlawful demand for the undertaking in the terms in which it was

sought. The unlawful demand for the undertaking has prevented the workmen from reporting to work. In that connection the learned Judge held as follows :

“Assuming however that the employer has succeeded in providing that there were acts of violence, in-discipline and damages to the property, the question that still falls for consideration is whether insistence on such an undertaking from all the workmen, whether they were parties to the said acts or not, is justified. Such attitude has to be discouraged in any egalitarian society and much more so in a society like ours which has pledged itself to establish a Socialist Republic. Article 43-A of the Constitution, specifically directs the State to take steps to secure participation of workers in the management of the industry.

Therefore, we are of the view that to insist upon such undertakings from all workmen, irrespective of their conduct, is to subject them to indignity. The dignity of an individual is the bed-rock of all human rights. It is and should be the basis of all human relationship including his contract of employment. To insist upon such undertaking therefore, is to affect the terms of his employment”.

CONCLUSION

At last according to the above discussion, we come to the conclusion that every kind of unfair labour practice disturbs and leaves impact on the industrial relation which, in turn, disturbs the industrial peace and ultimately industrial productivity is effected. It is not only connected with the employer and employees but the community as a whole. Therefore for the sake of the community unfair labour practices must be stopped.

REFERENCES

1. N.U.K.Sherwani, *Industrial Relations in India*, Anmol Publishing Pvt. Ltd., New Delhi, 2000; 2.
2. Sudha Deshpande and Lalit K. Deshpande, “Impact of Liberalisation on Labour Market and Industrial Relations in India”, *Indian Journal of Labour Economics*, July -september, 1996; 39, (3):553.
3. Kesar Singh Bhangoo, *Dynamics of Industrial Relations*, Deep and Deep Publications, New Delhi, 1995;.2.
4. S.R. Mohan Das, *Industrial Relations – The Coming Decades*” *Indian Journal of Industrial Relations*. July 1990; 26(1): 80.
5. C.K. Johri, “Industrial Relations as regulated by Law: Suggestions for Change”, *Indian Journal of Industrial Relations*, April 1996; 31(4) 440.
6. *Factory Law Reporter*, 2001; 91: 469.

