

# STUDY NOTE

# Industrial Relations and Labour Legislation



## Why labour related concepts?

- Labour welfare occupies a place of significance in industrial development and the economy.
- With the growth of industrialization and mechanization, it has acquired added importance. A happy and contented workforce is an asset for the industrial prosperity of any nation.

### Industrial relations

- The industrial relations system plays a crucial role in establishing and maintaining industrial democracy.
- In India, the industrial relations system has passed through several stages. A number of factors-social, economic, legal, cultural and political-have influenced industrial relations in India.

To understand the Industrial relations and social security in India better let us consider a brief historical evolution of both in the context for pre-independence and post-independence era, thereafter in the liberalized economy.

### Pre-independence

- In the pre-independence days, workers were 'hired and fired, as the principle of demand and supply governed industrial relations.
- Until the end of the First World War, the trade union movement had not emerged. There were hardly any laws to protect the interests of workers except the Employers and Workmen (Disputes) Act, 1860, which was used to settle wage disputes.
- Most of the labour laws enacted during the period such as the Workmen's Breach of Contract Act, 1859, Employers and Workers (Disputes) Act, 1860, Assam Labour Emigration Acts (1863- 1901) were primarily intended to serve the interests of British employers.
- After the First World War, the concept of the industrial relation assumed a new dimension in the sense that workers now resorted to violence and employers to lockouts. There were numerous strikes and disturbances during 1928-29. Many Acts were enacted which were pro-employer.
- In 1938, in order to meet the acute industrial unrest prevailing then, the Bombay government enacted the Bombay Industrial Relations (BIR) Act. For the first time permanent machinery, called the Industrial Court, was established for settling disputes.

### Post-independence

- After India attained independence, one of the significant steps taken in the field of industrial relations was the enactment of the Industrial Disputes Act, 1947, which not only provides for the establishment of permanent machinery for the settlement of industrial disputes but also makes these awards binding and legally enforceable.
- Another development in the immediate post-Independence period was the setting up of the Indian Labour Conference (ILC), a tripartite body to look into IR problems in India. It was constituted with the objective of establishing co-operation between the government, the employers and the trade unions.

### Industrial Relations System after Economic Reforms Era (Since July 1991)

- The new economy resulting from globalization policies the concern for protectionism stands reduced to the minimum and industry is increasingly exposed to the rationality of global competitive forces.
- Employers constantly face pressure to achieve higher standards of performance to survive in an environment that is competitive at the global level. Capital, labour, raw materials, management, information, technology and markets are organized on a global scale, either directly or through a network of linkages between economic agents.



- The factors influencing changes in IR in the era of globalisation; the nature of change taking place in the resultant IR agenda; the structural framework of IR laws in India and its compatibility with the new realities; and the dynamics involved in balancing the needs of efficiency and social justice in the emergent scenario.
- The **UPSC EPFO** emphasises the **topics and concepts** around the **evolution of these Acts** and their **implementation**.

Labour legislation has been instrumental in shaping the course of industrial relations in India. The **objectives of labour legislation** are to:

1. Protect workers from exploitation.
  2. strengthen industrial relations
- Provide machinery for settling industrial disputes and the welfare of workers.

**Labour legislation in India** has a history of over **125 years**. Beginning with the **Apprentice Act, passed in 1850**, to enable children brought up in orphanages to find employment when they come of age, **several labour laws** covering all aspects of industrial employment have been passed recently.

### Labour welfare

- Under the Constitution, labour is a concurrent subject, i.e., both the Central and State governments can enact labour legislation, with the clause that the State legislature cannot enact a law that is repugnant to the Central law.
- Labour welfare, though it has been proved to contribute to efficiency in production, is expensive.
- Each employer depending on his priorities gives varying degrees of importance to labour welfare. The primary emphasis in the employee service programme has been on maintaining an employee's favourable attitude towards his work and work environment.
- The welfare services in an industry are to improve the living and working conditions of workers and their families because the worker's well-being cannot be achieved in isolation from his family.

## What is Social Security?

- Social Security is both a concept as well as a system. It represents basically a system of protection of individuals who are in need of such protection by the State as an agent of the society.
- Such protection is relevant in contingencies such as retirement, resignation, retrenchment, death, disablement which are beyond the control of the individual members of the Society.
- The Committee on Labour Welfare (CLW), formed in 1969 to review the labour welfare scheme, described it as social security measures that contribute to improving the conditions under which workers are employed in India.

Labour welfare is, thus, one of the major determinants of industrial relations.

### ILO and Social Security

- The ILO concept of social security is based on the recognition of the fundamental social right guaranteed by law to all human beings who live from their own labour and who find themselves unable to work temporarily or permanently for reasons beyond their control.
- The International Labour Organization was founded in 1919 for the primary purpose of promoting social justice and improving the living and working conditions of workers throughout the world.

To implement the measures, the ILO took certain steps:

1. It tried to create international standards by way of recommendations regarding the definitions of social security



2. It collected and spread information about social security schemes in various countries
3. It provided technical assistance and guidance so that social security schemes may be properly formulated by means of co-operation with other social organizations, Twentynine conventions and twenty-seven resolutions passed by ILO refer to social security.

The ILO researches, publications, studies and reports have all underlined the importance of social security.

### Social Security in India

- This category includes acts such as the Employees' State Insurance Act, 1948, Employees' Provident Fund Act, 1952 and the Payment of Gratuity Act, 1952.
- These social security measures are meant to protect workers against risks of undue hardship and privation.
- The social security legislation in India derives its strength and spirit from the Directive Principles of the State Policy as contained in the Constitution of India.

Although the Constitution of India is yet to recognise Social Security as a fundamental right it does require that the State should strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice social, economic and political shall inform all the institutions of national life.

### **Additional background information (factual):**

- Planning Commission had set up a Working Group to prepare the Xth Five Year Plan on Social Security under the Chairmanship of Shri Vinod Vaish, Secretary, Ministry of Labour, Govt. of India.
- The terms of reference assigned to the Working Group were dealt with by constituting three sub-working groups dealing with the organised sector, the unorganised sector and a review of the implementation of some of the important Acts in the area of social security.

### Acts implemented by Govt of India (GoI)

- The following legislative measures have been adopted by the government of India by way of social security schemes for industrial workers.

#### 1. Workmen 's Compensation Act 1923

- Under the Act, compensation is payable by the employer to workmen for all personal injuries caused to him by accident arising out of and in the course of his employment which disable him for more than three days.
- If the workman dies, the compensation is to be paid to his dependents.

#### II. Employee State Insurance Act 1948

- Under the Act, an insured person is entitled to receive benefits such as medical benefit, sickness benefit, maternity benefit, disablement benefit, dependents benefit, funeral benefit etc.
- The Employees Provident Funds and Miscellaneous Provision Act 1952. The Act has made schemes for three types of benefits viz, provident fund, family person and deposit linked insurance.

#### III. Payment Gratuity Act 1962

- Under the Act, gratuity is payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years.
- The completion of continuous service of five years is, however, not necessarily where the termination of the employment is due to death or disablement.



#### IV. Industrial Dispute Act 1947

- Under the Act, a retrenched worker is entitled to compensation at the rate of 15 days average earning for every completed year of service or part thereof. When the closure of the undertaking is due to circumstances beyond the control of the employer, compensation is limited to the maximum of three months average earnings.

#### V. Maternity Benefits Act, 1961

- The Act applies to women in factories, mines and other establishments. This Act replaced the Mines Act, and it was adopted by most of the states. It does not apply to those covered by the ESI schemes.

#### VI. Coal Mines Provident Fund Bonus Scheme Act 1948

- It applies to workers employed in the coal mines (including the National Coal Development Corporation) earning less than Rs.300 per month.
- The Bonus scheme applies to all those earning less than Rs.7301- per month in coal mines other than the NCDC and is paid entirely by the employers.

#### VII. The Seaman's Provident Fund Act, 1966

- Under this workers contribution of 8 per cent with an equal contribution from the employers and are entitled to a full refund on retirement or after 15 years of membership.

#### VIII. The Plantation Labour Act, 1951

- The benefits statutorily provided under this Act include the provision of drinking water and its conservancy, medical facilities, canteen in the case of 150 or more workers, creches in case of 50 or more women workers, recreational facilities, umbrellas, blankets and raincoats.
- Cash benefits in the case of sickness and maternity are also available to the workers as per rules prescribed by the state governments which also lay down qualifying conditions.

#### IX. Employees Family Pension Scheme, 1971

- The family pension seeks to provide some monetary relief to the family members of employees, who die in service, that is, before superannuation.
- In the event of an employee's death, his family gets a pension on a graded scale depending on the employee's last salary grade.

Social Security is increasingly seen as an integral part of the development process. It helps to create a more positive attitude not just to structural and technological change but also the challenge of globalization and to its potential benefits in terms of greater efficiency and higher productivity.





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