

Industrial conflicts



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INDUSTRIAL CONFLICTS

Any Organization is made of management and labor work forces. To run any organization, both parties i. e. management (employer) and labor work forces (employee) have to work together for the success survival of the organization. But sometimes due to some conflicts and different issues, this could result a rival between these two components of the organization.

Definition of disputes/conflicts:

According to the Industrial Disputes Act, 1947, Section 2(k), “ Industrial dispute means any dispute or difference between employers & employees, or between employers & workmen or between workmen & workmen, which is connected with the employment or non employment or term of employment or with the conditions of labor of any person.”

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Causes of Industrial Conflicts:

To identify a single factor as a cause of industrial conflicts isn't easy as many causes can be the ingredient in creating industrial disputes. Deep seated & more basic causes of disputes can be identified through in Depth probe in can be underpinned the main causes of industrial disputes, though surface manifestations appear to be responsible for conflicts. The relative importance of these causes, when more than presents, is often very difficult to gauge.

Causes of industrial conflicts may be divided into four heads,

Industrial factors,

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Management's attitude towards workers,

Government machinery

Matters of discipline &

Other factors.

Type of Industrial Conflicts:

Industrial conflicts can be strikes, lock-out, gherao, picketing & boycott;

Strikes:

is a stoppage of work by common agreement on the part of a body of work-people for the purpose of obtaining or resisting a change in the terms of employment. The body of work-people may be large or small, and the cessation of work may be simultaneous or gradual; e. g. if the notices to cease work happen to expire at different dates, the cessation may nevertheless be a strike, provided it takes place as the result of a common agreement.

It can be seen from the above definition that a strike, though the immediate result of an agreement, formal or tacit, on the part of work-people to withhold their labor, may result in a demand on the part of the employer as well as on the behalf of the employees. In the former case the stoppage is often (though loosely) termed a “ lock-out.”

It is obvious, however, that to differentiate stoppages as strikes or lock-outs according to the source of the original demand for a change of conditions would lead to a very arbitrary and misleading classification.

It is not easy comment which side contributed to the dispute; however stoppage is the consequence of a break-down of negotiations in the course of which demands have been made by both sides.

After reviewing different definitions of strike, following terms shall be made for strikes:

- Cessation of work must be preceded by an industrial dispute;

Where cessation of work is abandonment, stoppage, omission of performance of duties of their posts, hampering or reducing normal work, should be concerted or under common understanding, must be temporary and can be voluntary

- Object must be connected to employment
- Breakdown of machinery, shortage of power, shortage of raw material, etc. do not amount to strike

Strikes are of several types such as sympathetic strike, general strike, unofficial strike, sectional strike, bumper strike, and sit down strike, slow-down strike, lightning strike and hunger strike

Strikes can be placed; (a) strike with notice and (b) strike without notice. In latter case, a situation arises where an individual withdraws his labor and denies to work. As such, work-force leader is in breach of contract by refusing to work while in former case it is complicated and many times court cases have tries to determine whether a strike with notice is in fact breach of contract or resignation of contract. Miles v Wakefield Metropolitan District

Council (1987) House of Lords where it was declared that all industrial action is a repudiatory breach of contract since there is an intention to harm the employers business which goes fundamentally against the duty of loyalty and cooperation which the employee owes to the employer. (Rowell 2007)

If we go back to the history, The Civil War & Reconstruction years saw few famous strikes. The Gilded Age (refers to substantial growth in population of USA), witnessed the eruption of sometimes violent labor disputes between a new class of industrial workers and large corporations. Most of these disputes were ended peacefully, due to defeat of one side or in compromise. Situations became fierce when employers refused to negotiate, hired strike-breakers, or called in state or federal troops. It is important to discuss one of the first great industrial battles which began on 16 July 1877 when railroad workers in Martinsburg, West Virginia, struck to protest a cut in wages. The strike quickly spread as railroad workers around the nation walked out in sympathy. Series of violence erupted when then governor of Maryland ordered the state militia to restore order in Baltimore, where crowds of strike sympathizers occupied the streets. At the end of this clash, nine workers were dead, most of the railway station was destroyed, and the strike had been dealt a fatal blow.

Strikes occurred at relatively high levels during the first two decades of the twentieth century. In May 1902, the United Mine Workers of America demanded unions' recognition and better working conditions. As the coal production fell, and then President of the USA Theodore Roosevelt asked the employers to negotiate an agreement meeting many of the union's demands.

The relation of law in the UK, it was illegal to call up for strikes. But then the legality of the strikes and lock-out defined on grounds which have discussed above.

In the UK, coal mining is the sector which has always been compressed by labor disputes than any other, belike owing to oscillation of prices and wages and ever changing conditions under which work is carried out. While agriculture sector witnessed least trade disputes.

As far as current scenario is concern, it is important to take account into the Royal Mail and CWU (communication working union) matters. Disputes between these two parties caused nationwide strike in the UK in 2007 which caused chaos to businesses and general public. Since then recently (CWU) is in the biggest dispute with Royal Mail since the national strike of 2007. Local strikes have taken place across the UK since June and two days of national strike action took place in October 2009. The main issues relating to strikes are the scale of change planned by Royal mail is frightening and unprecedented according to CWU. The relation of managers with the postal workers is not in good shape and there is increasing numbers of bullying and harassment claims by the postal workers. It had been a strike due to modernization of the company, job security and other reasons. But CWU has offered a three-month no-strike deal in return for negotiations and suspension of the current changes where are forcing postal workers into industrial action. CWU demand includes new job security agreement i. e. sustainable full time jobs, no compulsory redundancies etc, benefit from change i. e. modern and enhanced terms and conditions, higher pay, shorter working week etc and a better local working environment.

Lock-outs:

As discussed above, stoppage in the negotiation process can be by employer or by the employees (work-force). Lock-outs are a weapon which can be used by employer to shut down the factory until workers resume work on the conditions formulated by the employer. Alberta Labour Relations Code defines the term as follows:

“ Lockout includes the closing of a place of employment by an employer, the suspension of work by an employer, or a refusal by an employer to continue to employ employees, for the purpose of compelling the employer’s employees, or to aid another employer in compelling the employees of that employer, to accept terms or conditions of employment.”

Normally, it occurs when the economic activities are slowed down. It is used to put psychological pressure on the work-force to make them agree to the conditions led by employer or face closure of the work premises.

Moreover, it should be temporary closing of place of employment, the element of demand must be present, and the intention to re-open or call the workers back if they accept the demands and the employer and employees must be engaged in an industrial process carried on in an institution within the definition of section 2(J) of Amended Industrial Act 1947.

During Thursday 7th – Sunday 10th May 2009, 240 flight attendants spent locked out from work across New Zealand. The flight attendants are contracted to Zeal 320, a shell company owned by Air New Zealand, and operate on trans-Tasman and Pacific routes for the airline. Despite doing the same job, there were getting less pay as compared to the employee

contracted directly to Air NZ, the representative of workers, had been negotiating with Air NZ for months, but Air NZ have been unwilling to move towards pay parity for the Zeal staff. Due to that they engaged in low level industrial action including breaking the uniform policy and refusing to do paperwork. Air NZ responded to the strike action by announcing the workers would be locked out for the same period. While the Zeal staff are back at work, their fight for better wages and conditions continues. According to the Zeal representative group if Air NZ doesn't come to the table with a better offer soon, further industrial action is a possibility. In the meantime, negotiations between Air NZ and Zeal representative. (Source: <http://libcom.org/news/flight-attendants-stand-strong-against-lock-out-across-new-zealand-14052009>)

It can be concluded from above example, employer used lock-out tool to pressure employee (labor-force). Meanwhile, negotiation at right time decrease the situation worsens.

Gherao:

Gherao means to surround. In this process, a group of workers start collective action to prevent members of the management from leaving the premises

Picketing & Boycott:

In picketing, workers display signs, banners & placard in order to demonstrate the dispute and try to prevent others from entering the place of work and persuade others to join the strike. However, boycott is the disruption of normal functioning of an enterprise.

Prevention of Industrial Conflicts:

The role of HR in these issues is crucial and have utmost importance. Human resources personnel must try to maintain harmony and peace between employer and employee. Certainly they can bridge the gap and provide significant guidance to do that. Following preventive measures can be taken to maintain industrial conflicts and problems.

1. Appointment of Labor Welfare Officer:

As mentioned above, employment working conditions are the main reason of the conflicts. To check and monitor this condition, appointment of labor welfare office is must. According to the Factories Act, 1948, every factory wherein 500 or more workers are ordinarily employed, at least 1 officer must be nominated, where the numbers of workers are more than 2, 500, the extra guidance and/ or additional welfare officers are mandatory to nominate to provide assistance to the welfare office.

2. Sound personnel policies:

Policies should be formulated in consultation with the workers and their representative if they effective implementation. It should not be ambiguous. It should be uniform across the company to ensure fair treatment of each worker.

3. Effective grievance procedure:

Efficient procedure to logged grievance is another preventive measure. As grievances normally arise in day to day working relations. HR managers can stop the emergence of industrial disputes by solving the individual problems.

4. Stable trade unions and collective bargaining:

There should be recognition of right of collective bargaining of the trade unions. In any organization, great emphasis must be on mutual accommodation than conflict or unreasonable behavior. Conflicting attitude does not lead to labor relations; it might ignite the union volatile movement as they reacts by engaging in power tactics. The “ give and take” approach should be adopted rather than “ take or leave”. On the other hand, management should not blackmail the workers.

5. Labor’s partnership in management:

Involvement of workers in the management should be encouraged by making effective use of works committees, joint sessions and other procedures. It leads to effective and efficient communication between managers and workers thus improve productivity and increase effectiveness.

Settlement of conflicts:

After the conflict arises, both parties should be settled that conflicts.

Conflicts can be settled by following methods:

1. Investigation:

Investigation is conducted by the board or committee or court nominated by the government. Basically, it is a legally based process that has a significant role to play in a number of situations. Industrial tribunals take many forms; in Germany the labor courts make legally binding judgment; in the UK tribunal decisions do not set a precedent in law and cannot establish criminal behaviors (Price 2007). Any party can submit an application at one time or both the parties at the same time to the dispute, such process called voluntary investigation. If the government constitute a tribunal without the

consent of the parties to the matter then it would be called compulsory. In such case, the strikes and lock-outs are required to be ceased and employers aren't allowed to alter any term in the employment.

2. Mediation:

It is an intermediate between arbitration and conciliations. In the UK, the Advisory, Conciliation, and Arbitration Service (ACAS) play a role in relation to collective disputes. Mediators make advisory recommendations that are highly aimed at preventing disputes from degenerating into industrial action (Price 2007). Recommendations made by ACAS mediators are not binding on the parties involved.

3. Conciliation:

Conciliation is just a platform which gathered both parties to their differences and gives opportunity to develop their own proposed solutions. It is a process by which representatives of the workers and employers are brought together before a third person (ACAS conciliator) or group of persons (board of conciliators) with a aim to convince them to end deadlock by mutual discussion. Conciliators offer advice and make recommendations to the disputes.

4. Arbitration:

If the two parties involving in the issues fail to come to the solution by themselves or with the help of ACAS conciliators or mediator, who willing to submit the dispute to an impartial authority, whose judgment, they are ready to accept is called voluntary arbitration. There are essential elements in voluntary arbitration which are; (a) the voluntary submission of dispute to

arbitration; (b) the subsequent attendance of witness & investigations and (c) the enforcement of an award may not be necessary.

While if parties are required to accept arbitration without any willingness are called compulsory arbitration. This situation arises when one party feels aggrieved by an act of the other. It can also be arises when the country is passing through a bad economic crisis and general public is greatly dissatisfied with the existing industrial relations and when public vast interest and the working condition have to be safeguarded and regulated by the state.

Reference:

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