CHAPTER-I
INTRODUCTION

Modern age is the age of science, technology and industrial revolution. These have brought major social and economic changes throughout whole of the world. What happens in one part of the globe has its effect on the another part of the globe. A new type of society and new type of social relations have come into existence with the passage of time. During the 20th century, a new branch of jurisprudence known as industrial jurisprudence has come into existence. Industrial jurisprudence is mainly development of post-independence period. Although its birth may be traced back to the industrial revolution. Before independence it existed in a rudimentary form in our country. The growth of industrial jurisprudence has resulted into a larger number of industrial legislations. These industrial legislations along with judicial decisions have affected a considerable population of our country consisting of industrialists and the workmen and their families directly. Those who are affected indirectly also constitute a still larger bulk of the country's population. This branch of law has modified the traditional law of master and servant and has cut down the old theory of laissez faire based upon the 'freedom of contract' in the larger interest of the society. This theory was not serving the proper interest and the relationship of the employers and the employees had not remained harmonious and amicable. What has happened in our country at a late stage had happened in Western world, a bit earlier. The industrial revolution in the late 19th Century

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brought about revolutionary and sweeping changes in the Western World. Notable inventions and breakthrough in the production methods, transportation, navigation and developments in shipping industries introduced corresponding changes in the social set up as well. These scientific and technological changes culminates in the emergence of two classes:

(i) Entrepreneur Class; and
(ii) Wage Earning Class,

It is from the frequent clashes and conflicts of these classes of the society many labour and welfare laws began to spring up. Those who have control over the industries have a natural tendency to multiply their wealth and if this tendency is not checked the rich grows richer and the poor becomes poorer day by day. The gap between the rich and the poor ultimately grows on to such extent that it results in frequent clashes between the 'haves' and 'have-nots'.

I. Background of Industrial Law in the Western World

Even though the industrial revolution resulted in the maximization of production and the national per capita Income also went high, but the fate of the vast multitude, namely the wage earning class did not improve. Their conditions became more worst both out side and inside the factories. Since, new industrial system was mostly concentrated in urban areas, many people from the interior places moved to the urban area in search of job. This resulted in the release of control over the junior members hitherto exerted by the family heads. The independent status thus assumed by the junior members of the families was reflected in their style of
living and there was a kind of social disorganization. The inordinate flow of people from the rural areas to the urban area created the problem of over crowding in the cities. Since, the men folk alone by and large migrated to the urban areas obviously sex disparity became so glaring in urban areas which resulted in the vices of immoral traffic. Apart from these, the problems which cropped up inside the factories were not negligible. Question of wages, sufficient atleast to make both ends meet, miserable working conditions in the factories assumed vital importance. The ‘freedom of contract’ theory gave a free hand to the entrepreneur class. The laws then prevailing were not only reflecting the ‘laissez faire’ ideal indirectly but strengthening the position of the employers at the cost of working class. The ‘freedom of contract theory’ was fully exploited by the entrepreneur class and the courts and legal systems only accelerated the state of affairs. Under the ‘freedom of contract theory’ the employer was the dominating party to the contract of employment. He was in a position to dictate the terms of the contract. Wages and working hours were fixed according to his will. Working conditions were at the mercy of the employers. It was a clear cut case of “take this or go out”. There was no security of job. The right “to hire and fire” was literally practiced in those days. The child labour was quite normal. There were no proper safety arrangement for the workers and the workers were compelled to do risky jobs. The policy of laissez faire even though paved way to industrial revolution, it produced many repercussions also. The worker’s lot did not improve, rather it became more deplorable in their working and living conditions. Some changes in the state of
affairs became inevitable. A sense of union conscience became widespread. It was realized by the workers that they had to remain united and muster bargaining strength to improve their working conditions. This gradually culminated in the factory movements and formation of many trade union organizations. The ill famous reactionary legislations titled as the Combination Acts of 1799, 1800 and 1813 were fully taken advantage by the employers in England. These retrograde laws declared that any agreement between the workmen and others for the purpose of increasing wages, reducing hours of working or for controlling in any way affecting any person or persons carrying on any trade, manufacture or business in the conduct or management thereof to be illegal, null and void to all intent whatever. Any person who took any action in pursuit of such ends was made liable to three months imprisonment. Striking or even being an active member of the trade union was also punishable. To eradicate these maladies the people continued their organised move and they looked to the State for protection. Finding the situation so explosive, the Parliament in England was constrained to evolve a number of legislations designed to curb the progress of 'freedom of contract theory'. The state began to assume much responsibility in the welfare of the workers. The trade unionism was finally recognized under the law. Privileges and immunities in the trade union movement were also statutorily assured. This marked the beginning of collective bargaining as an effective mean and weapon among the working class to muster

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3 Ibid. P.3.
strength and thus equalize with that of the employer which enabled to reach at just settlements in industrial disputes. Parliament was constrained to deviate from the laissez faire principles in legislations keeping in view the changed public opinion regarding the positive role of the government. The government had to take effective steps to ameliorate the conditions of the working class. This change in the attitude of the government was manifested glaringly in most of the legislations passed by the Parliament since the late 19th century in England. These laws embedded the principle of collectivism and totally departed from individualism ideal. The main thrust was to introduce welfare measures in the society and in that process the individual interest may have to be sacrificed for the social benefit. A larger number of social welfare legislations or collectivist legislations began to emerge out since then in England. The 'freedom of contract' theory had to give way to the social welfare principle. Factory laws were modified and the factory owners had to provide hygienic conditions, necessary amenities and safety arrangements. The host of welfare measures introduced sweeping changes to the working conditions in the factories. The minimum wages law and the payment of wages law substantially eroded the employers right to dictate wages. The Compensation Laws were projected to cover security risk and employment injuries. Legislative measures like fixing maximum hours of work, prohibiting child labour, providing for retirement benefits gave added protection to the weaker sections. The elaborate machineries for their proper and effective implementation were also provided. Hence, a positive duty was assumed by the State to eradicate the ill consequences of the industrial revolution.
The tendency to exploit the legal setup on the part of the entrepreneur class had only a short life. New industrial laws have come into existence in England since the late 19th Century. Similar developments took place in USA and other western countries also. These developments have its bearing in India also.

II. Industrial Revolution in India

Industrialisation in India took place at a very slow speed. During the period of British administration no serious effort was made to set up big industries. However, when the industries were set-up these were set-up in big cities. Thus, the production became concentrated in a few selected places. The village workers migrated to the industrial towns because there were no sources of livelihood in the native places. The small scale industries and the village handicraft system began to disappear because they could not compete with the machine made goods. The labour population increased to great extent in big cities. The goods which were produced with machines on mass scale became cheaper, rather than the goods produced by handicraft method. But with the development of industrial system in India, craftsmen had to migrate from villages to industrial cities in search of employment. This mass migration of workers from the villages to the big cities resulted in a number of evils. The evils of industrialization are of magnitude dimensions. These evils include economic evils and social evils also. With the increase of population in the cities the problems of acute housing shortage, growth of unsanitary slums become more prominent. Workers in the factories had very long duty hours and no rest and no facility for recreation. Safety and welfare measures of
the workers were not taken care of.* The workers were exposed to serious accidents because machines were not properly screened. Wages paid to the workers were very low. The workers were also not secure in their employment. Any worker could be discharged by his employer at any time without assigning any reason for the same. In these circumstances, it was very difficult for the workers to adjust with these conditions. With the growth of trade union movement they became to raise their voices against bad conditions of work and unfair terms of the employment. Thus evils of industrialization, lack of adjustment, poor conditions of work, the growth of trade union lack of adjustment and harmonious relationship between the employer and labours erected problems in the industry. Thus, with the growth of industrialization in India, Labour problems also became very serious and acute and needed solution to ensure peace and progress in the society.

III. Trade Union Movement in India and its Impact

Originally there were no organized trade unions. They developed gradually by the growth of industrialization. Initially there were only unorganized group of workers who were making demands for better conditions of work. Protests against low wages and bad conditions of employment were raised, but the government was not responding to the demands of the workers. The first strike took place in Express mills at Nagpur in 1877. Agitation, demonstrations and its petitions became frequent. For the first time in 1890, the Bombay Mill Hands Association was formed. However it was more Labour welfare organization than the modern trade union. During the first world war the prices went up, but the wages and the
conditions of the workers remained the same. A number of trade unions came into existence. Thereafter, labour movement and independence movement were joined together under the leadership of Gandhi Ji. In 1920, A.I.T.U.C. was formed by the fusion of 107 trade unions. This became the most powerful labour federation and occupied a dominant position. The union demanded the government to enact legislations for the betterment of the workers. Hence, the new Factories Act, 1922, Indian Mines Act, 1923 and the Workmen's compensation Act, 1923 were enacted. Lastly, the Trade Union Act was passed in 1926. This act recognized the legality of unions and conferred various immunities and privileges. However, the trade union movement split because there was a split in A.I.T.U.C. By the second world war, the prices of commodities grows up but the wages of the workers were not enhanced. The leadership of the workers suffered because some of the leaders were having association and collaboration with the British. After Independence also, organization remained unchanged and various trade unions have come into existence upon the basis of different political ideologies. Different political parties have their own respective wings of trade unions.

(A) Reasons for weakness of trade union movement

There are numerous reasons for the weakness of trade union movements in India.

(i) Outside Leadership

The first reason is out side leadership. Out side leadership of trade union is the one of the main reason for its failure in India. Such outsiders who were holding the positions in the union used to
give priority to their political approaches and gave only secondary importance to the workers socio economic conditions. The advocates for outside leadership rely on factors like, that a union led by a well known political stalwart will ensure to the benefit of the union in the bargaining processes and that workers by and large being illiterate with less leadership quality and organizing ability the outside leadership becomes inevitable. These arguments lose their force in view of the endeavour to educate the workers through workers education centers and thereby carve out a new efficient cadre of workers with leadership ability. 

(ii) Multiplicity of Trade Unions

Emergence of a number of trade union is also another reason for the weakness of the healthy trade union movement in India. The National Commission on labour has also recognized its one of the important factor, as the number of persons required to form a trade union is very low. A number of trade unions come into existence in single industry and some of them can easily be influenced by the employer. They are unable to play an effective role because of their differences and petty interests. The National Commission on Labour give an exhaustive discussion on this as follows:

The splitting up of unions and formation of New Unions having sympathies with political parties have permeated unions operating at different levels. In many important industrial units union whether affiliated to central organization or not operate independently, each claiming to speak on behalf of all workers. This rivalry

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is taken advantage of by the employers by playing one union against another. The code of conduct evolved in 1958 provides some solution to dilute and reduce inter-union rivalry. However, the parties of the code themselves do not feel compelled to respond to those terms and so it remains a no effective part in the code. Intra-union rivaling generated mainly by personal consideration adds to the confusion.

(iii) Compulsory Adjudication in the Industrial Disputes Act

The industrial Disputes Act is an important piece of legislation which regulates the labour management relations in India. This act is compulsory adjudication oriented. This indirectly narrows down the scope of bipartite process. Weak unions and strong unions are given equal importance. Need of strong union is dispensed with in such situations. If the collective bargaining method could have been given primary focus. It would have been given an impetus for strong union to gain more bargaining strength. Responsible trade unionism is the need of the day in our country. The State should impose social control in order to achieve social progress. The unions should also undertake social responsibilities such as promotion of national integration. Influencing the socio-economic policies of the community through active participation for the formulation of these policies and instilling in their members a sense of responsibility towards industry and the community. If the trade unions are able to play these roles in an effective manner, the problem of industrial and labour disputes will be minimized. The workers and the employers will be able to
establish cordial relationship. The various social and economic problems which are arising because of the industrial disputes, will be avoided.

IV. Labour Problems and Labour Legislation

The modern age is the age of Science and technology. With the new inventions and scientific development, a number of industries have come into existence. As already indicated, with industrial revolution in India a number of Labour problems have also come into existence. Labour problems constitute a serious menace to the society and needs immediate solution. If any Labour problem is not eradicated the problem may take a serious turn. Industrial peace and industrial harmony are must for peace and progress of the society. Concept of industrial harmony is positive and comprehensive and it postulates existence of understanding, cooperation and sense of partnership between the employers and the employees. Economic progress is possible only when there is industrial harmony and industrial peace. Industrial harmony leads to more cooperation between the employers and the employees which results in more productivity. To regulate industrial relations in a proper manner a number of labour welfare legislations have been enacted. Different categories of human elements are involved in an industry. The relations between different persons, sometimes may becomes strained and conflicts between the employer and the employees are bound to arise. The economic activity is the central field of industrial relations. The economic system of any nation affects the industrial relations which in terms affects the social order. Economic progress is also bound up with industrial peace. Industrial
relations are not only a matter between employers and the employees alone, but a vital concern of the community which may expressed in measures for the protection of its larger interest. State intervention is also justified to prevent exploitation of the weaker section of the society by the stronger section of the society. Industry owners are not the only party to be blamed for industrial disputes, but the state whose duty is to establish the just social order is equally to be blamed. Social justice requires that the state for its own existence own an obligation to the community to bridge the gap between two classes and evolve a healthy society order. It is from this fountain of social justice that the necessity of legal regulations of industrial relations has flown. The scope of governmental legal relations of the industrial relations depends upon social economic objective that the state seeks to attain and this would be reflected in the socio economic planning and national labour policy. It is further conditioned by the degree of the existing social imbalance which needs social re-adjustment and the conceived picture of ideals which feed the programme of social justice in the given socio economic situation.

V. Basic Principles of Labour Welfare Recognized in Developed Countries

With the passage of time, some of the basic Labour welfare principles which have been recognized in almost all developed countries of the world are:

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6 First five year plan P-572.
7 G.M. Kothari – Study of Industrial Law, Page 3.
8 Ibid page 4.
(i) The workers have a right to combine and form union. This right has been recognized because it is very impossible for an individual to take up his own case with the employer. The union can plead the individual or collective pleas in a better manner.

(ii) The right of workers to bargain collectively for the betterment of their conditions of service/work. In the present time, it is very difficult for an individual worker to take up his grievances with the employer. The trade union movement has led to formation of various trade unions throughout whole of the world. These trade unions play a very effective role to take up the case of an individual or the collective demands of the workers with the employers because they are in strong position as far as collective bargain is concerned.

(iii) The providing of better conditions of work is also a very important welfare principle. Unless and until, the workers are provided congenial atmosphere and good conditions of work, they are unable to give better results. The bad working conditions affect their health and ultimately their families and society also.

(iv) There is a shift from established doctrine of liaises faire to a welfare state. In the modern democratic set up the welfare of the people is the paramount consideration. Under the old doctrine of liaises faire, the employer was all in all and employer was the dominating party to the contract of employment. The employer could dictate his own terms of employment, but now the welfare of the workers is also to be given the same importance in a welfare state. In a welfare state the interests of one class can't be ignored for the benefit of other class.
(v) The solution of the industrial dispute or labour dispute is also given utmost important. Previously, the industrial dispute was considered as a dispute between the workers and the employer. The government was least interested for the settlement of these disputes. But with the passage of time, it has been realized by the governments that if there is no industrial peace there can't be prosperity and industrial progress in any country. So, now to settle the industrial disputes tripartite consultations are adopted, where participation of workers, employers and the government is ensured.

(vi) The State can no more be neutral on looker, but must interfere as the protector of the social good. It is the responsibility of the State that the social security, social justice and social equity be given due consideration. The labour legislations in any country should be based on the principles of social justice, natural uniformity and national economy. It is being reflected in various social-welfare Legislations enacted by the states.

(vii) The State Govt. through its legislations also ensures that minimum standard must be maintained. These minimum standards can be maintained if the workers are paid at least minimum wages and their working hours and other living standards are also properly maintained. The various labour legislations have been passed by various countries in this regard. Any social legislation to be effective should not only be broad-based and pervasive but should also be simple and direct so that it could be understood and respected and, therefore, be accepted, by the masses it seeks to govern. Its implementation should be easy so that benefits could flow speedily. The access to law should also be inexpensive so that, the person
denied his rights, the Law is a reality as well as true instrument of relief.

VI. History of Industrial Disputes Act

Labour adjudication is one of the means for settlement of the dispute between the employer and his employees. It involves determination of question of fact or law arising out of labour disputes judicially by trial through a Court or a Tribunal having the attributes of a court. Under the existing system ultimate legal remedy for resolution of a labour dispute lies in its reference to a court or Tribunal for adjudication if conciliation and other modes fail. The mechanism and procedure for the reference and resolution of the dispute are laid down in the industrial Disputes Act, 1947 and the rules framed thereunder. The Industrial Dispute Act has a very old history. Its genesis is traced back to the enactment of the Employers and the Workmen Dispute Act, 1860. It provides for speedy and summary disposal by magistrates of disputes concerning wages of workers employed in railway, canals and other public works. One of the provisions was that any person voluntarily engaged himself to work for a stipulated period or to execute any specific work and refused to perform, would be liable to a fine or simple imprisonment. In other words, it made breach of contract on the part of workers a criminal offence. The Act was repealed in 1932 on the recommendations of the Royal Commission on Labour.⁹ Prior to the First World War, 1914 and 1918 the strike was a rare phenomenon in Indian industry and the area of industrial disputes was practically unknown in India. Strikes appeared in violent forms after the war in

1920. The first Indian Trade Disputes Act was enacted in 1929. The object of the Act was to provide conciliation machinery to bring out peaceful settlement of industrial disputes. The Act authorized the central and provincial Governments to establish a board of conciliation or the court of enquiry to investigate into and settle a dispute when it arose or was apprehended. The Act contained provisions rendering punishable by fine or imprisonment instigating strikes and lockouts without 14 days' notice in public utility. It aimed at prevention of periodical and general strikes on the lines of the British Act, 1927. The Act was meant to be an experimental measure and it was to be in force for five years. It was made permanent by the Trade Dispute (Extending) Act, 1934. The defect of the Act was the lack of adequate provision for protecting those who served on the courts of enquiry or boards of conciliation regarding the disclosure of confidential information relating to trade unions or industrial undertakings. They were liable to prosecution by aggrieved persons and to trial by any magistrate in respect of disclosures willful or accidental. The Royal Commission on Labour recommended amendment of the Act to remedy the defect. Accordingly the Government enacted the Indian Trade Disputes Act, 1938. The Act provided that:

(a) persons desiring information to be kept confidential should make a request to that effect;
(b) the provisions of the Act would apply only to willful disclosures; and
(c) in case of any prosecution, the trial should be only by a Presidency or a first class magistrate; and
(d) that the sanction of the authority appointing the court or the board would be a condition precedent to the institution of a suit of a prosecution.

The Royal Commission on Labour (1930) had also recommended a complete revision of the Act. The Commission was of the opinion that some statutory machinery was required to deal with trade disputes and it was necessary to consider the form such machinery should take before the expiry of the Trade Disputes Act in 1934. The Commission recommended, inter-alia that:

(a) the question of providing means for the impartial examination of disputes in public utility services should be considered;
(b) the possibility of establishing permanent courts in place of ad-hoc tribunal should be examined; and
(c) every provincial government should have an officer or officers whose duty it would be to undertake the work of conciliation and to bring the parties privately to agreement¹⁰.

The Government of India accepted the recommendations and introduced a Bill in the Legislative Assembly in 1936 to give effect to them. The Bill was passed in 1938. It was called Trade Disputes (Amendment) Act, 1938. The main provisions of the Act were as follows:

(a) The definition of public utility service was enlarged to include power plants and water transport services carrying passengers as well as tramway services.

(b) The government, both central and provincial, was granted power to appoint conciliation officers charged with the duty of mediating in or promoting the settlement of trade disputes in any business, industry or undertakings and invested with the necessary powers to carry out their duties as public servants within the meaning of the Indian Penal Code.

(c) The Act was extended to include disputes between employers and employees, or between workmen and workmen.

(d) A court or board having the prescribed quorum was enabled to act notwithstanding the absence of the chairman or any of its members or any vacancy in its number.

In addition, the provision for the control of illegal lockouts was made more precise and provisions were also made for keeping any information communicated to conciliation officers as confidential if any written request was made for it.\(^{11}\)

The Central Govt. had to adopt several emergency measures during the Second World War. In January, 1942, the Govt. added Rule 81-A to the Defence of India Rules by a notification to restrain strikes and lockouts. The new rule gave the government power:

1. to prohibit, by general or special order, strikes or lockouts in connection with any trade dispute unless reasonable notice was given;
2. to refer any dispute to conciliation or adjudication;

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\(^{11}\) Rajanikantha Dass, History of Indian Labour Legislation 258 (University of Calcutta 1941).
(3) to require employers to observe such terms and conditions as might be specified; and
(4) to enforce the decisions of adjudication.\textsuperscript{12}

The Indian Law Commission has described this rule as follows:
Rule 81-A of the Defence of India Rules, the persecutor of the Industrial Disputes Act, 1947, empowered the appropriate government to intervene in industrial disputes by compelling the parties to go for compulsory adjudication by prohibiting strikes or lock-outs during the pendency of adjudication proceedings and for a period of two months thereafter. A blanket ban was imposed on strikes which did not arise out of genuine trade disputes\textsuperscript{13}. A process of conciliation, with arbitration in the background, is substituted for the rude and barbarous process of strike and lockout. Reason is to displace force; the might of the State is to enforce peace between industrial combatants as well as between other combatants; and all in the interest of the public.\textsuperscript{14}

Though the rule was promulgated under the stress of the emergency caused by the war, it proved to be an important step forward in the development of the industrial law in the country and a large volume of decisional grist grew in the field of industrial adjudication as the tribunals created under this rule, laid down some important principles while adjudicating upon a large variety of industrial disputes, pertaining to a vast variety of subjects. With the end of the war, this rule was due to lapse on 1 October 1946. But it

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\item \textsuperscript{12} S.N. Bose, Indian Labour Code 1350 (Eastern Law House Ltd. 1957).
\item \textsuperscript{13} 122\textsuperscript{nd} Report of the Indian Law Commission, Para 2.3 (1987).
\item \textsuperscript{14} H.B. Higgins, A New Province for Law and Order, quoted in the 122\textsuperscript{nd} Report of the Indian Law Commission (1987).
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was kept in operation by the Emergency Powers (Continuance) Ordinance 1946. At about the same time, the Government of India placed on the statute book, the Industrial Employment (Standing Orders) Act 1946, which made provisions for framing and certifying Standing Orders, covering various aspects of service conditions, including the classification of employees, procedures for disciplinary actions etc, because it was thought expedient, to require employers in industrial establishments, to define with sufficient precision, the conditions of employment under them and to make the said conditions known to the workmen employed by them. The Industrial Disputes Bill was introduced in the central legislative assembly, on 8 October 1946. This bill embodied the essential principles of r 81(A) of the Defence of India rules as well as certain provisions of the Trade Disputes Act 1929, concerning the investigation and settlement of industrial disputes. The bill was passed by the assembly in March 1947 and it became a law with effect from 1 April 1947.

A) Objects of the Act

In the language of Krishna Iyer J:

The Industrial Disputes Act is a benign measure, which seeks to pre-empt industrial tensions, provide the mechanics of dispute-

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15 This was the first legislative measure undertaken by the Government of India after independence, under the five year labour programme.
16 The Industrial Disputes Act 1947, is modeled on the lines of two statutes of UK viz, (i) Conciliation Act 1896 (59 & 60 Vict C 30) which provides for conciliation boards, and (ii) Industrial Courts Act 1919 (9 & 10 Geo 5 C 69) which provides for industrial courts to inquire and decide 'trade disputes'. But unlike these statutes, the Indian statute provides for a compulsory adjudication. For a statement of the objects and reasons of the Act, Gazette of India, 1946, Pt V, pp 239-40, and for a report of the select committee, Gazette of India, Pt V, pp 33-35.
resolutions and set up the necessary infrastructure, so that the energies of the partners in production may not be dissipated in counter-productive battles and the assurance of industrial justice may create a climate of goodwill.\(^{18}\)

The Act was enacted, as its preamble and the long title show, to provide a machinery and forum for the investigation of industrial disputes and for the settlement thereof and for purposes analogous and incidental thereto.

The emergence of the concept of a welfare state implied an end to the exploitation of workmen and as a corollary to that, collective bargaining came into its own and lest the conflicting interests of the workmen and the employer, disturb the industrial peace and harmony, a machinery for an adjustment of such conflicting interests became the felt need of the time. The Act, therefore, was enacted to provide a machinery and forum for the adjustment of such conflicting and seemingly irreconcilable interests, without disturbing the peace and harmony in the industry, and assuring industrial growth, which was the prerequisite for a welfare state. The need for state intervention permeates the Act in its broad lines, 'a welfare state cannot afford to look askance at industrial unrest and industrial disputes'.\(^{19}\) The Act enables the state to compel the parties to resort to industrial arbitration and for that purpose, different forums have been set up for the resolution of such

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\(^{18}\) *Life Insurance Corpn of India v. DJ Bahadur* 1980 Lab IC 1218 (SC), per Krishna Iyer J.

\(^{19}\) *Dahyabhai Ranchhoddas Shah v. Jayantilal Mohanlal* 1973 Lab IC 967, 968 (Guj) (DB), per DA Desai J; *Inder Mohan v. Union of India* CWP No. 2646 of 1982, decided by the Delhi High Court (DB) on 8 May 1984, per Rajinder Sachar J.
disputes. The Act is intended to be a self-contained one and it seeks to achieve social justice on the basis of collective bargaining, conciliation, arbitration and failing that, on compulsory adjudication. In the words of Rajannar CJ:

The essential object of all recent labour legislation has been not so much to lay down categorically, the mutual rights and liabilities of employers and employees, as to provide a recourse to a given form of procedure for the settlement of disputes, in the interests of the maintenance of peaceful relations between the parties, without apparent conflicts, such as are likely to interrupt production and entail other dangers.

The Act is a piece of legislation calculated to ensure social justice to both the employers and the employees and to advance the progress of industry by bringing about harmony and a cordial relationship between the parties. Krishna Iyer J says:

The personality of the whole statute, ...has a welfare basis, it being a beneficial legislation which protects labour, promotes their contentment and regulates situations of crisis and tension where production may be imperiled by untenable strikes and blackmail lockouts. The mechanism of the Act is geared to conferment of regulated benefits to workmen and resolution, according to a sympathetic rule of law, of the conflicts, actual or potential, between

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20 Hindustan Hosiery Industries v. FH Lala (1974) 1 LLJ 340, 348 (SC), per Goswami J.
21 Sree Meenakshi Mills Ltd v. State of Madras (1951) 2 LLJ 194 (Mad) (DB), per Rajamannar CJ.
22 Dindigal Skin Merchants Association, Madurai v. Industrial Tribunal, Madurai AIR 1953 Mad 102, per Subba Rao J; GC Bezbaru v. State of Assam AIR 1954 Assam 161 (DB), per Sarjoo Prasad CJ.
23 Life Insurance Corpn of India v. DJ Bahadur 1980 Lab IC 1218, 1226 (SC), per Krishna Iyer J.
managements and workmen. Its goal is amelioration of the conditions of workers, tempered by a practical sense of peaceful co-existence, to the benefit of both—not as in a neutral position, but with restraints on *laissez faire* and concern for the welfare of the weaker lot.

The Act deals with industrial disputes, provides for conciliation, adjudication and settlements, and regulates the rights of the parties and the enforcement of the awards and settlements. Thus, by empowering the adjudicator authorities under the Act, to give reliefs such as a reinstatement of wrongfully dismissed or discharged workmen, which may not be permissible in common law or justified under the terms of the contract between the employer and such workmen, the legislature has attempted to frustrate the unfair labour practices and secure the policy of collective bargaining as a road to industrial peace. In other words, the purpose of this Act is to settle disputes between workers and employers which, if not settled, would result in strikes or lockouts and entail a dislocation of work, essential to the life of the community. Another judge observed:

The scheme of the Act shows that it aims at the settlement of all industrial disputes arising between the capital and labour by peaceful methods and through the machinery of conciliation,

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25 *Bhakthavatsalu Khakthavatsalu Naydu v. Chrome Leather Co. Ltd.* (1949) 1 LLJ 1, 3 (Mad) (DB), per Horwill J.
arbitration and if necessary, by approaching the tribunals constituted under the Act.26

B) Meaning of Industrial Dispute

As the Industrial Disputes Act is meant to settle Industrial disputes, the meaning of Industrial Dispute must be clear. The meaning of industrial dispute is given in Section 2(k) of the Industrial Dispute Act, 1947. The definition of industrial dispute contains two limitations; firstly, the adjective ‘industrial’ relates to dispute to an industry as defined in the Act; and secondly, the definition expressly states that not disputes and differences of all sorts but only those which bear upon the relationship of employers and workmen and the terms of employment and conditions of labour are contemplated. As such disputes may arise between different parties, the Act equally contemplates disputes between employers and the employers or between employers and workmen or between workmen and workmen. Any dispute or difference must be between the employers and employers or between the employers and workmen and between workmen and workmen provided such dispute is concerned with employment or non-employment, terms of employment or with conditions of labour of any person. Thus, an individual grievance against employer cannot be industrial dispute unless community of interest is established27. The Hon’ble Supreme Court had held that a dispute between an individual workman and an employer is not an industrial dispute as defined in the industrial Disputes Act unless it is

26 Janardan Shridhar v. Management Hukamchand Mills Ltd AIR 1956 MB 199, 202 (DB), per Samvastar J (Though these observations were with respect to the Bombay Industrial Relations Act 1946, they equally apply to the Industrial Disputes Act 1947).

taken up by a union or workmen or by a considerable number of workmen. Hence, section 2-A was, therefore, inserted in the Act by an amendment carried out through Act No. 35 of 1965 whereby it is provided that a dispute arising out of the discharge, dismissal, retrenchment or termination of service of a workman will be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

A dispute regarding legality of agreement between employer and workman after judgment in favour of workman, such dispute would come within the purview of I. D. Act. Where the demand of the workmen was to confirm the employee employed in an acting capacity in a grade would unquestionably be an industrial dispute, without being anything more.

Withdrawal of the duty relief given to office-bearer of a Trade Union is not a term of service condition, hence withdrawal cannot be a subject matter of industrial dispute. When once the dispute between employer and the employee is settled, there cannot be any industrial dispute. A dispute raised by union of workmen in regard to provide appointment on compassionate grounds to a dependent of a workman who died in a harness is an industrial dispute.

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28 Indian Iron and Streel Co. Ltd. V. Tarak Nath Sen Gupta, 1999(2) LLJ 291 (Cal HC) (DB).
29 Workmen Vs. Hindustan Lever Ltd., 1984(2) LLJ 391 (SC).
30 Workmen of Indian Bank Vs. Management of Indian Bank, 1985 (1) LLJ 6 (Mad HC).
dispute between an employer and his workmen which is connected with non-employment of 'any person' can be an industrial dispute.  

In a case it was observed that the respondent No. 3 is branch Manager. Duties of respondent No. 3 are on record. It is evident from the same that functions of the Branch Manager are purely administrative or managerial. Respondent No. 3 is thus not a 'workman' under the Act. The dispute cannot thus be said to be an industrial dispute. The dispute being not between employer and workman, it could not have been referred to Labour Court and Labour Court does not get jurisdiction to decide the same.

In one case, even if about 25 per cent of the working journalists of the company become the members of the Delhi Union of Journalists, it gave a representative character to the Union. Therefore, in accordance with the decision in the Workmen Vs. Dharampal Premchand, the Union can be said to have a 'representative character qua the working journalists employed in the respondent-company. Hence the dispute was transformed into an industrial dispute as it was sponsored by a union which possessed a representative character vis-à-vis the working journalists in the employ of the respondent-company.

The expression “Industrial dispute” covers a dispute connected with non-employment of any person. Appropriate Government can be approached for reference in such matters.

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32 Delhi Municipal Workers' Union Vs. Management of M.C.D. 1999(2) CLR 570 (Del HC)
34 1975(3) SCR 394
only.\textsuperscript{36} The Supreme Court has observed that the definition of section 2(k) in the Industrial Disputes Act has been the subject-matter of several decisions of this Court and the law is well settled. The locus classicus is the decision in Workmen of M/s Dharampal Premchand (Saughandhi) Vs. Dharampal Premchand (Saughandhi),\textsuperscript{37} where it was held that for the purposes of section 2(k) it must be shown that:

1. the dispute is connected with the employment or non-employment of workman;
2. the dispute between a single workman and his employer was sponsored or espoused by the Union of Workmen or by a number of the employee belongs even though it may be a Union of a minority of the workmen;
3. the establishment had no Union on its own and some of the employees had joined the Union of another establishment belonging to the same industry. In such a case it would be open to that Union to take up the cause of the workmen if it is sufficiently representative of those workmen, despite the fact that such union was not exclusively of the workmen working in the establishment concerned.

An illustration of what had been anticipated in Dharampal's case is to be found in the workman of Indian Express Newspaper Pvt. Ltd. Vs. Management of Indian Express Newspaper Pvt. Ltd.,\textsuperscript{38} where an "outside" Union was held to be sufficiently representative to espouse the cause. In the present case, it was not questioned that the appellant was a member of the Gokak Mills Staff Union. Nor

\textsuperscript{36} Workmen of Meenakshi Mills Ltd. Vs. Meenakshi Mills Ltd., 1992 (65) FLR 1.
\textsuperscript{37} 1965(11) FLR 53 (Supreme Court).
\textsuperscript{38} 1970(2) FLR 157 (SC).
was any issue raised that the Union was not of the respondent-establishment. The objection, as noted in the issues framed by the Industrial Tribunal, was that the Union was not the majority Union. Given the decision in Dharampal's case, the objection was rightly rejected by the Tribunal and wrongly accepted by the High Court.

The facts of the case were that the appellant was employed by the respondent. He claimed promotion as a clerk. When this was not granted, the appellant raised an industrial dispute. The question whether the appellant was justified in his prayer for promotion with effect from the date that his juniors were promoted was referred to the Industrial Tribunal by the State Government. In the written statement before the Tribunal, the respondent denied the appellant's claim for promotion on merits. In addition, it was contended by the respondent that the individual dispute raised by the appellant was not an industrial dispute within the meaning of section 2(k) of the Industrial disputes Act, 1947 as the workman was neither supported by a substantial number of workmen nor by a majority Union. The appellant claimed that his cause was espoused by the Gokak Mills Staff Union.

Before the Tribunal, apart from examining himself, the General Secretary of the Union was examined as a witness in support of the appellant's claim. The General Secretary affirmed that the appellant was a member of the Union and that his cause has been espoused by the Union. Documents including letters written by the Union to the Deputy Labour Commissioner, as well as the objection filed by the Union before the Conciliation Officer were adduced in evidence. The tribunal came to the conclusion that in view of the evidence
given by the General Secretary and the documents produced, it was clear that the appellant's cause had been espoused by the Union which was one of the Unions of the respondent-employer. On the merits, the Tribunal accepted the appellant's contentions that the employees who are junior to him have been promoted as clerks. It noted that no record had been produced by the respondent to show that the Management had taken into account the appellant's production records, efficiency, attendance or behaviour while denying him promotion. The Tribunal concluded that the act of the respondent in denying promotion to the appellant amounted to unfair labour practice. An award was passed in favour of the appellant and the respondent was directed to promote the appellant as a clerk from the date his juniors were promoted and to give him all consequential benefits.

The award of the Industrial Tribunal was challenged by the respondent by way of a writ petition. A Single Judge dismissed the writ petition. The respondent being aggrieved filed a writ appeal before the Appellate Court. The Appellate Court construed section 2(k) of the Industrial Disputes Act, 1947 and came to the conclusion that an individual dispute is not an industrial dispute unless it directly and substantially affects the interest of other workmen. Secondly, it was held that an individual dispute should be taken up by a Union which had representative character or by a substantial number of employees before it would be converted into an industrial dispute neither of which according to the Appellate Court, had a happened in the present case. It was held that there was nothing on record to show that the appellant was a member of the Union or that the
dispute has been espoused by the Union by passing any resolution in that regard, hence an appeal was filed.

The Apex Court clarified that as far as espousal is concerned, there is no particular form prescribed to effect such espousal. Doubtless, the union must normally express itself in the form of a resolution which should be proved if it is in issue. However, proof of support by the Union may also be available aliened. It would depend upon the facts of each case. In the above case, the Tribunal had addressed its mind to the question, appreciated the evidence both oral and documentary and found that the Union had espoused the appellant’s cause. The Division Bench misapplied the principles of judicial review under Article 226 in interfering with the decision. It was not a question of there being no evidence of espousal before the Industrial Tribunal. There was evidence which was considered by the Tribunal in coming to the conclusion that the appellant’s cause had been espoused by the Union. The High Court should not have upset this finding without holding that the conclusion was irrational or perverse. The conclusion reached by the High Court was therefore, held to be unsustainable. As such for all these reasons, the decision of the High Court could not stand and was set aside.  

C) Who can raise an Industrial Dispute

A minority union can validly raise an industrial dispute with the meaning of section 2(k). Petitioner, a federation of trade unions but not a registered body under the Trade Unions Act cannot raise

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40 Indian Aluminium Company Ltd. Vs. Industrial Tribunal, 1995 (3) LLJ (Suppl.) 130 (Ker HC).
an industrial dispute. The direct workmen of principal employer can also espouse an industrial dispute for absorption of the contractor's workmen and the industrial adjudicator will have jurisdiction to entertain such dispute and grant the necessary relief.

D) Jurisdiction of the Civil Courts to decide an Industrial Dispute is barred

Some workmen of respondent-corporation, who were dismissed/removed from service, challenged orders by filling civil suits. These matters reached the Supreme Court on the issue whether Civil Court's jurisdiction was barred in view of the provisions of the Industrial Disputes Act. The Supreme Court, following its earlier judgment in Rajasthan State Road Transport Corporation Vs. Krishna Kant. Held that having regard to the reliefs sought in the civil suits, the jurisdiction of the Civil Court must be held to have been impliedly barred and appropriate forum for resolution of such dispute is the forum constituted under the Industrial Disputes Act. The challenging of legality of an order of termination passed by the employer will be an industrial dispute and it is in the interest of the workmen that their disputes, including dispute as to illegal termination, are adjudicated upon by an industrial forum. Besides this in a large number of cases it has been held that the Civil Courts have no jurisdiction in the matter where the remedy has been provided under the Industrial Dispute Act, 1947. The ratio of

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41 National Organisation of Bank Workers' Federation of Trade Unions Vs. Union of India. 1993(2) LLJ 537 (Bom HC) (DB).
42 Gujarat Electricity Board. Thermal Power Station, Gujarat Vs. Hind Mazdoor Sabha. 1995 (2) LLJ 790 (SC).
43 1995(2) CLR 180 (SC).
principles as laid down by the Supreme Court in Premier Automobiles Ltd. Vs. Kamlakar Shantaram,\(^{45}\) has been relied upon the Supreme Court and the High Courts in Indian Oxygen Ltd. (Electro Factory) Industrial Estate, Madras Vs. Ganga Prasad,\(^{46}\) Southern Roadways Ltd., Madurai vs., G. Palnikumar,\(^{47}\) V. Mookan Major Vs. Branch Manager, Sour Roadways Ltd., Bangalore,\(^{48}\) and other cases.\(^{49}\)

**VII. Techniques of Dispute Resolution**

In all societies that are basically democratic the techniques of dispute resolution are the same. These techniques may be classified, in terms of the number of parties involved in the process of dispute resolution, into: (1) bipartite technique, and (2) the tripartite techniques. Whenever a difference between labour and management arises they try to revolve their difference bilaterally

\(^{45}\) AIR 1975 SC 2238.
\(^{46}\) 1990 LLR 132 (Mad. HC).
\(^{47}\) 1990 LLR 140 (Mad. HC).
\(^{48}\) 1990 LLR 150 (Karn HC).
across the table. When such negotiations fail or a deadlock or an impasse is reached in direct negotiations, two courses of action are open to them. One is to invite a mutually acceptable third party to assist them to continue their negotiations and reach an agreement or to give them an award. Usually the later course is resorted to, for a strike/lock-out is very costly to both parties. In other words, a failure to resolve the conflict through bipartite technique of collective bargaining leads to the utilisation of the tripartite techniques.

The tripartite techniques take different forms based upon the voluntary or statutory but with no compulsion to accept the solution offered by the thirty party (conciliation), or for a formal inquiry into the matters of the dispute and to recommend a solution (fast-finding), or the voluntary or statutory compulsion to submit the dispute to a decision by the third party (arbitration/adjudication). In other words, the bipartite and tripartite techniques of disputes settlement include the collective bargaining, conciliation, fact-finding, arbitration, and adjudication.

The forms of third party intervention may operate, as Ralf Dahrendorf puts it, as “successive stage of conflict regulation or be applied individually in given situation”. When they operate in successive stages arbitration and adjudication, and in certain cases conciliation, are compulsory. Conciliation, however, remains recommendatory in nature as for the acceptance of the solution is concerned. Conciliation, arbitration and adjudication “and their normative and structural prerequisites are the outstanding mechanisms for reducing the violence of class conflict. Where these
routines of relationship are established, group conflict loses its string and becomes an institutionalized pattern of social life" (1950:230).

A) Collective Bargaining

Collective bargaining is the most effective and widely adopted technique of disputes settlement. It is the most democratic method as well. It is highly institutionalized in all the industrialized democratic societies, where more than 90 per cent of the disputes are settled through direct negotiations. Collective bargaining provides ample opportunities to labour and management for adjusting their differences and accommodating each other. Its scope is both wide and limited, defined by the negotiators themselves (Kennedy: 1966:132). The labour and management are free to take up any matter related to workmen and industry for negotiations and agreement. But it is rough and tough process.

Traditionally collective bargaining has been a method of laying down the wage rates and other conditions and terms of employment, and of regulating the relations between the management and the organized labour. "Its overriding purpose is the negotiation of an agreed set of rules to govern the substantive and procedural terms of employment relationship, as well as the relationship between the bargaining parties themselves" (I.L.O.; 1973:7). Since the last 25 to 30 years it has been accepted as a process of decision making and a mechanism for balancing the power between the two parties in the industrial government on a case by case basis and under the circumstances prevailing at the time of bargaining. In most of the industrially developed democratic countries it has been because a "pre-eminent method of industrial rule making. This is the case even
where the proportion of workers covered by the terms of collective agreements falls short of a majority of the total number of wage and salary earners" (I.L.O.: 10). It has also been a method of containing industrial conflict and ensuring industrial peace.

Collective bargaining presupposes the existence of an agent of the workmen for the purpose of bargaining, and a strong and independent trade union movement, for bargaining is always between two equally strong parties. Hence, whenever the statutory provisions to create a bargaining agent of the workmen are absent, the trade unionism would be found in its infancy, there would be intense inter-union rivalry, and the collective bargaining a weak institution failing to make any impact on the industrial relations. But the technique essentially includes the right to strike/lock-out go hand-in-hand, and the timely use of the weapon of strike/lock-out that brings in a mediator in a dispute situation before a strike/lock-out is resorted to.

The process of collective bargaining, though in a nebulous and limited form, has been introduced in the year 1956, by amending the definition of 'settlement' in s 2(p) of the Industrial Disputes Act 1947.50 The pertinent purpose of collective bargaining is that the workers must be involved in it. As pointed out by Jagannatha Shetty J, in *Karnal Leather Karamchari Sanghathan v. Liberty Footwear Co*:51

This is the need for collective bargaining and there cannot be a collective bargaining without involving the workers. The union only

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50 By s 3 of the Act 36 of 1956, the present cl (p) was substituted for the previous one.
51 1990 Lab IC 301, 307 (SC), per Jagannatha Shetty J.
helps the workers in resolving their dispute with the management, but ultimately, it would be for the workers to take the decision and suggest remedies.

In the present definition of a 'settlement', a written agreement 'between the employer and the workmen, arrived at otherwise than in the course of conciliation proceedings' has been included. Rule 58 of the Industrial Disputes (Central) Rules 1957, prescribes the memorandum of settlement in Form H and also lays down the procedure for signing the settlement. Section 18(I) makes such a settlement binding on the parties to the agreement of settlement. Section 19 prescribes the periods of operation inter alia, of such a settlement, while s 29 prescribes the penalty for the breach of such a settlement. It would thus appear that the process of collective bargaining yet, rests on statutory crutches. Likewise, in the provisions in the state legislations also, the system of collective bargaining is hedged by statutory safeguards. Thus, though in principle, collective bargaining has been recognised, the emphasis is mainly on adjudication. In practice, with the aid of these statutory provisions, the government has retained the ultimate control over the settlement of industrial disputes, by resorting to compulsory adjudication. All the same, Kennedy observes:

There is significantly more bargaining now than there was twenty-five years ago and in the most advanced situations, it has become a solid fact of industrial life, having built up an impressive range of subject-matter and a considerable structure of rules.52

In *Virudhachalam v. Management of Lotus Mills*, the Supreme Court observed that collective bargaining for resolving industrial disputes, while maintaining industrial peace, is the bedrock of the Act. Therefore, the employer or the class of employers on the one hand, and accredited representatives of the workmen on the other, are expected to resolve the disputes amicably, either by direct negotiations or through the conciliatory machinery of the Act. In collective bargaining, the individual workman necessarily recedes in the background and the reigns of bargaining on his behalf are handed over to the union representing such workman. The unions espouse the common cause, on behalf of all their members. Hence, a settlement arrived at by them, with the employer, would bind at least their members and if such settlement is arrived at during the conciliation proceedings, it would bind even the non-members. Settlements, therefore, are the 'live wires' of the Act, for ensuring industrial peace and prosperity.

B) Conciliation

Since 1950s the terms conciliation and mediation have come to be sued interchangeably and synonymously. Conciliation is a process in which the third party endeavours to help the labour and management to arrive at their own settlement of the dispute. The conciliator or mediator tries to reconcile the hostile attitude of the disputants by way of offering suggestions and making every alternate proposals and recommendations, but not by imposing his decision on the parties. The parties have the same right and

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53 Civil appeal No 4853 of 1989, decided by the Supreme Court on 9 December 1997.
freedom to arrive at an agreement which they have under collective bargaining. In other words, conciliation or mediation is purely recommendatory in nature and procedure. It is regarded as an extension of collective bargaining and is described as 'an assisted bargaining process'. It is not a substitute for collective bargaining. Whenever collective bargaining is a strong and potent institution and is the usual technique of disputes settlement, conciliation is a purely voluntary process. The conciliator enters a dispute situation only upon a voluntary invitation from either or both parties. But in some countries, where collective bargaining is a weak institution and adjudication is compulsory, the disputants are under a statutory compulsion to invite the Government appointed conciliators. In other words, conciliation is both a voluntary and compulsory procedure with reference to the entry of the conciliators but recommendatory with reference to the acceptance of the solutions. Conciliation is one of the modes for disputes settlement under the Industrial Act, 1947.

i) Conciliation under the Industrial Disputes Act

Section 4 of the Act authorizes the 'appropriate Government' to appoint conciliation officer, charged with the duty of mediation in and promoting the settlement of Industrial Disputes. Though it is discretionary for the government to appoint conciliation officers, their appointment has become a normal feature in view of important role of conciliation in the settlement of industrial disputes. Section 5 authorises the appropriate Government to constitute Board of conciliation for promoting the settlement of Disputes. The Board has to be appointed ad hoc for a particular dispute. Conciliation is a somewhat diplomatic procedure, which endeavour to settle a
controversy by assisting the parties in reaching a voluntary agreement and the ultimate decision is made by the parties themselves. Though conciliation in our country has not made much progress, in many other countries, the technique has worked well. For instance, in Sweden, the contending parties meet in a spirit of determination to agree, and they consider a failure to agree almost a disgrace.54

C) Investigation or Fact-Finding

Quite often the disputes are of such proportion that the permanent conciliation machinery is totally ineffective to mediate, and a distinguished outsider is not available, and it is not practical, from the view point of the industry and the national economy, to let the strike / lockout takes place. In such situations, the Government decides to appoint an ad hoc committee or board for investigation of the matters under dispute and to make a public report. In United States of America, where such investigations are frequently, the Federal Mediation and Conciliation Service reports to the President about such disputes. The President constitutes the fact-finding board. Such boards are also appointed by the Governors and the Mayors in case of the intra-state disputes. This technique was, for the first time, used in 1949 in the United State when President Truman appointed an investigation committee for the steel industry. In England such Boards are established to advise whether important bargaining agreements will have an inflationary impact. And in Canada the technique is employed on a routine basis in every dispute. In other words, the technique of fact-finding is used

54 Foenander, Industrial Arbitration in Austria, 1959 edn. P. 95.
occasionally in many counties and regularly in some, both under the provisions of law and otherwise.

The report of the inquiry or fact-finding committee may contain recommended terms for the settlement of the dispute, or it may seek to explain the facts of the dispute and state the arguments of both the parties. The commendations of the committee are not binding on the parties. Yet they are intended to serve as the focus of public opinion and/or pressure from the Government and thereby paying the way to an agreement.

i) Investigation or fact finding under the Industrial Disputes Act

Section empowers the appropriate government to constitute a court of enquiry, for inquiring into any matter appearing to be connected with or relevant to an Industrial dispute. The procedure of the court of Enquiry has been prescribed by Section 11 Section 14 requires the court to inquire into matters referred to it and report thereon to the appropriate Government, ordinarily within a period of six months from the commencement of enquiry. This function of the court is in the nature of an investigation. Investigation or fact finding is a kind of half-way house between mediation and adjudication.

D) Arbitration

Arbitration is a technique of disputes settlement available to the disputants as an alternative to conciliation or as a consequential procedure. It is an alternative technique when both conciliation and arbitration are voluntary. In this situation the disputants are free to take an advance decision whether to invite a conciliator or an arbitrator. They are also free to decide to invite a conciliator first and then an arbitrator or the arbitrator after the direct negotiations fail.
On the other hand, when the parties are under a statutory compulsion to submit their dispute for a decision by a third party in the event of failure of conciliation, the arbitration is a compulsory procedure of disputes settlement. In other words, when the process is instituted at the instance of the disputants themselves it is voluntary arbitration, and it is compulsory arbitration rests on the force of law and is less effective unlike voluntary arbitration.

Whether it is voluntary arbitration or compulsory arbitration the arbitration has the task of deciding the dispute for the parties to the dispute. His decision is binding and final. He hears both the parties, studies the dispute and the views of both the parties before issuing the award. The award of an arbitrator is nothing but a realistic compromise worked our by the arbitrator for the parties. An arbitrator thus plays a more active role than the parties to the dispute. According to Lockwood, this type of arbitration is the 'political' conception of arbitration.

i) Arbitration under the Industrial Disputes Act

Section 10A of the Act incorporates provision for Arbitration. Voluntary arbitration, as envisaged by s 10A is arbitration in name only. In reality, it is more an adjudication than an arbitration. The parties may make a reference of an industrial dispute, by a written agreement, to the presiding officer of a labour court or a tribunal or a national tribunal, as an arbitrator. The parties also have the liberty to choose any other person or persons as arbitrator, by specifying it in the arbitration agreement. Such arbitration, after the reference is made, partakes the character of an adjudication. Section 11 makes the procedure to be followed by the arbitrator, in the arbitration
proceedings, the same as is to be followed by the adjudicatory authorities, viz., the labour court, a tribunal or a national tribunal, in connection with adjudication proceedings. This provision also vests the arbitrator with similar powers as those of the adjudicatory authorities. The duties of the arbitrator are also the same as those of an adjudicatory authority, under s 15 of the Act. The award of the arbitrator is to be communicated to the 'appropriate government' and has to be published under s 17. The commencement of such award is subject to the provisions of s 17A, like the award of an adjudicator under s 10.

E) Adjudication

Arbitration has a second conception, namely the 'judicial' conception (Dahrendorf: 229), which is more commonly known as the adjudication. In other words, adjudication is a judicial process ascribing to the adjudicator "the task of judging the merits of conflicting issues in terms of fixed standards of 'right' and 'wrong'." It prejudices "the case of one or the other party, for if one side or claim is declared right in an ultimate legal and moral sense, conflict itself is not recognized and the other party is likely to feel so frustrated as to resort to violence" (Dahrendorf: 229). In case the aggrieved party does not resort to violence, or feels that resorting to violence is not feasible or advisable, it certainly resorts to litigation since the decision of the adjudicator is not final though binding. Therefore, unlike other forms of the third party intervention adjudication frequently opens the floodgates of litigation or court battle, and hence is preferred by the legal-minded employers. In countries like India adjudication is compulsory. The appropriate
Government refers almost every dispute remaining unresolved at the conciliation level for adjudication. Therefore, adjudication of industrial disputes in India in the last 35 years has created a wide range of case laws, which are at times more important than the original provisions of labour laws.

i) Adjudication under the Industries Dispute Act

Thus, Adjudication is mandatory settlement of Industrial Disputes by Labour courts, Industrial Tribunals or National tribunals or by any other corresponding authorities under the analogous state statutes with specified jurisdiction. Sections 7, 7A and 7B deals with the constitution of adjudicatory authorities. Section 10 with the reference of a dispute to Labour Courts, tribunals or National tribunals by 'appropriate government' section 12(5) also lays down that the appropriate may make reference for adjudication, upon consideration of the failure report of the conciliation under Section 12(4). Section 11 prescribes the procedure, Power, inter alia, of the Labour Courts, Tribunals & National Tribunals. The Act does not make any provision for appeals or revision against the award of adjudicatory authorities. Hence aggrieved parties can seek only the constitutional remedy viz., writs under Articles 226 and 227 of the constitution, to the high courts having jurisdiction or by a appeals by special leave to the Supreme Court under Article 136 of the constitution.

Howsoever severe one may be in the criticism of industrial adjudication, it cannot be gainsaid that the contribution of the industrial adjudication, to the development of industrial jurisprudence in this country, over the past half century, has been remarkable. In
the opinion of the NCL, "it has played a major role since, in giving a more concrete shape to our progress towards the goal set by the Constitution'.\textsuperscript{55} No doubt, quite often industrial disputes have been dominated purely by the political motives of the political parties controlling the trade unions. There have been disputes between employers and unions, pertaining to terms and conditions of the employment of the workers, including wages, dearness allowance, bonus, working conditions and hours of work and also matters like the recognition of unions. Industrial adjudication through the labour courts, tribunals and national tribunals, has laid down principles on these subjects, to which the labour appellate tribunal provided definite and clear contours and the Supreme Court provided the polish and finish. Industrial adjudication has endeavoured to resolve the disputes with a pragmatic approach, keeping in view the sub-economic requirements of the society, avoiding a syllogistic and mechanical approach, steering clear of a doctrinaire and dogmatic approach and without yielding to the sub-conscious political pressures or the pressure of preconceived notions. It has also borne in mind, the social welfare philosophy in industrial relations as enshrined in the Directive principles in Pt IV of the Constitution, which 'has afforded broad and clear guidelines of the development of our industrial jurisprudence and has thus taken India one step forward in her quest for industrial harmony'.\textsuperscript{56} Bearing in mind these


\textsuperscript{56} Ibid.
principles, the courts, by an interpretative process, have striven to reduce the field of conflict and expand the area of agreement.\textsuperscript{57}

Though the rule was promulgated under the stress of the emergency caused by the war, it proved to be an important step forward in the development of the industrial law in the country and a large volume of decisional grist grew in the field of industrial adjudication as the tribunals created under this rule, laid down some important principles while adjudicating upon a large variety of industrial disputes, pertaining to a vast variety of subjects. With the end of the war, this rule was due to lapse on 1 October 1946. But it was kept in operation by the Emergency Powers (Continuance) Ordinance 1946. At about the same time, the Government of India placed on the statute book, the Industrial Employment (Standing Orders) Act 1946, which made provisions for framing and certifying Standing Orders, covering various aspects of service conditions, including the classification of employees, procedures for disciplinary actions etc, because it was thought expedient, to require employers in industrial establishments, to define with sufficient precision, the conditions of employment under them and to make the said conditions known to the workmen employed by them. The Industrial Disputes Bill was introduced in the central legislative assembly, on 8 October 1946.\textsuperscript{58} This bill embodied the essential principles of r 81(A) of the Defence of India rules as well as certain provisions of the Trade Disputes Act 1929, concerning the investigation and

\textsuperscript{57} Workmen of Hindustan Lever Ltd v. Hindustan Lever Ltd. 1984 Lab IC 276, 286 (SC), per Desai J.

\textsuperscript{58} This was the first legislative measure undertaken by the Government of India after independence, under the five year labour programme.
settlement of industrial disputes. The bill was passed by the assembly in March 1947 and it became a law with effect from 1 April 1947.\textsuperscript{59}

\begin{enumerate}
\item \textbf{ii) Industrial Adjudication and its Principles}

Labour legislation in India grew with the growth of Industries. In 18\textsuperscript{th} century, India was not only a great agricultural country, but a great manufacturing country also. To regulate the industrial relations a number of legislations had to be enacted. These labour legislations have been enacted to promote good conditions of the labour keeping in view the development of industries and national economic. One such important piece of legislation for settling the industrial dispute was the Industrial Disputes Act, 1947. This is the important piece of legislation meant for settlement industrial dispute as social and economic justice is the ultimate goal of industrial settlement/adjudication and the basis lies in the guiding principles of social welfare, common good and the Directive principle of state policy enshrined in the Constitution. The essential function of industrial adjudication is to assist the state by helping a solution of industrial disputes if the dispute can't be settled through conciliation etc. The following are some of the guiding principle of industrial adjudication :-

\begin{enumerate}
\item \textbf{(i) Public Interest} :- Industrial adjudication aims at promoting social and economic justice and social and economic justice rests on serving the interest of the society as a whole. Thus, industrial adjudication aims at promoting social and economic justice and social and economic justice rests on serving the interest of the society as a whole.

\textsuperscript{59} The Industrial Disputes Act 1947, is modeled on the lines of two statutes of UK viz, (i) Conciliation Act 1896 (59 & 60 Vict C 30) which provides for conciliation boards, and (ii) Industrial Courts Act 1919 (9 & 10 Geo 5 C 69) which provides for industrial courts to inquire and decide 'trade disputes'. But unlike these statutes, the Indian statute provides for a compulsory adjudication.
adjudication serves the public interest. We cannot expect progress in a society where there are dis-satisfied workers. If a worker is dis-satisfied with the working conditions the homely atmosphere will also not remain congenial.

(ii) **Industrial harmony and goodwill** :- For industrial harmony and goodwill, it is necessary that the relationship between the employers and the employees must remain cordial. We cannot expect productivity to full extent if there is no industrial harmony and industrial harmony serves the greater interest and brings mutual understanding and co-operation between several interests which take part in the process of production. Industrial adjudication plays a very important role to serve this particular purpose. The worker must feel that he/she is also an important organ in the field of production. Such feeling can be created only if there is harmony and industrial good-will.

(iii) **Development of industrial justice** :- Peace in any industry is possible only when an attempt is made to eliminate the real causes of conflict. The social and economic justice are essential for obtaining whole hearted co-operation of labour in the task of production. The principles of equity should also be taken into consideration. Social justice requires equal work and equal pay for men and women and equality of opportunity etc. Justice also lies in adjustment of rival claims in a fair and just manner. In the case of industrial adjudication the claims for the employers based upon the freedom of contract have to be adjusted with the claims of industrial
employees for social justice. In *State of Mysore Vs. Workers of Gold Mines* \(^{60}\) the Supreme Court has observed that:

"In its attempt to do social justice industrial adjudication has to adjust rival claims of the employer and his workmen in a fair and just manner and this object can best be achieved by dealing with each problem as it arises on its own facts and circumstances." In the matter of adjudication the interests of the Labour class are to be properly protected.

(iv) **Expert Assistance** :- Whenever a tribunal or a court is required to decide a matter which requires expert assistance in collecting and assessing the appropriate material, it is the duty of the court/tribunal to take such expert assistance. The expert Assistance will be helpful in narrowing-down the scope of conflict. It will also be helpful in the understanding the nature and the complexity of the problem.

(v) **Socio-economic effects** :- When an industrial dispute is to be settled, the socio-economic effects of the adjudication are also to be taken into account. If any decision is given without taking into consideration its socio-economic effects, it may have upon industry or community, it may loose much of its validity. The term of settlement should not be unfair to any party to dispute. If one party has been completed to accept unfair terms, it may not generate good will and proper atmosphere.

(vi) **Reference to facts and circumstances of each case** :- In industrial adjudication the general rules to be followed must not be reason. If the rules are too strict it is very difficult to face each and

\(^{60}\) *AIR 1958 SC 923.*
every circumstance. The different disputes and circumstances require different types of proper approaches. If the rules are not flexible, the problem in adjudication are bound to occur. The rigidity of these rules may hamper the whole process.  

(vii) Impartiality of the tribunal: The tribunal or a court must act in a judicious manner. It must ensure that the all material evidence is brought to its notice and every opportunity is given to test that evidence by effective cross-examination. The principles of national justice are to be followed and the opportunity of being heard should be given to the effected parties before giving the judgment. If the principles of natural justice are not followed, there will be unnecessary criticism in a case of labour adjudication. It will be very difficult to enforce such awards/decisions which have been given without providing an opportunity of being heard. The General Principles of Adjudication with relevant case law have been discussed in detail in subsequent chapter.

F) Role of Adjudication in Development of Industrial Jurisprudence

The Supreme Court, and its predecessor the Federal Court are said to have given a shape to industrial jurisprudence in the course of their judgements on several cases which were taken to it under article 136 of the Constitution and the corresponding provision existing previously.

In Western India Automobile Association Vs. Industrial tribunal Bombay\textsuperscript{62}, the Federal Court enunciated the powers of industrial

\textsuperscript{61} See S.N. Mishra, 'Labour and Industrial Law' 2003 P. 15.
\textsuperscript{62} 1949 FCR 321.
adjudication and ruled: Adjudication does not, in our opinion, mean
adjudication according to the strict law of master and servant. The
award of the tribunal may contain provisions for settlement of a
dispute which no law could order if it was bound by ordinary law, but
the tribunal is not fettered in any way by these limitations. This
judgment quoted with approval the observation of Ludwig Teller that
industrial arbitration may involve the extension of an existing
agreement or making of new one.63

In the Bharat Bank Vs. Employees of Bharat Bank,64 it was
held that the awards of industrial tribunals were subject to appeal to
Supreme Court. As a result of this decision, the Supreme Court
subsequently entered the arena of industrial adjudication and
evolved the guidelines of industrial jurisprudence.

In Bijay Cotton Mills Ltd. Vs. State of Ajmer,65 the Supreme
Court while conceding that certain provisions of the Minimum Wages
Act, 1948 curtailed the freedom guaranteed under article 19 of the
Constitution rejected plea to declare them ultra vires on the ground
that the restrictions imposed on the freedom of contract of the
employer were reasonable and had been imposed in the interest of
the general public and were protected under clause (6) of article 10.
This decision has led to subsequent decisions by industrial tribunals
and the Supreme Court that the employer is bound to pay a
minimum wage, the question about his capacity to pay is totally
irrelevant.

64 1950 SCR 459.
65 AIR 1955 Supreme Court 33.
In *Rai Bahadur Dewan Badri Das Vs. Industrial Tribunal*, the Supreme Court ruled: The doctrine of the absolute freedom of contract has to yield to the higher claims of social justice. In the case of industrial adjudication, the claims of the employer based on the freedom of contract have to be adjusted with the claims of industrial employees for social justice. (However) in order that industrial adjudication should be completely freed from the tyranny of dogmas or the subconscious pressure of preconceived notions, it is of utmost importance that the temptation to lay does broad principles should be avoided.

In *J.K. Cotton Spinning & Weaving Mills Co. Ltd. vs. Labour Appellate Tribunal*, the Supreme Court observed:

“The ultimate object of industrial adjudication is to help the growth and progress of national economy and it is with the ultimate object in view that industrial disputes are settled by industrial adjudication on principles of fair play and justice.

Commenting on these judgments, the National Commission on Labour has said: It is on these lines that adjudication has attempted to assist the process of evolving new concepts and ideas which should regulate industrial relations and help the establishment of industrial harmony in the economic life of India, important in a Welfare State. It is on these lines that industrial jurisprudence has developed during the last two decades in India.

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66 1962 II LLJ 366.
67 1963 II LLJ 436.
Continuing on the same vein the Commission has observed: industrial jurisprudence seeks to evolve a rational synthesis between the conflicting claims of the employers and the employees. Leaving aside the case of minimum wages which the employer must pay, in the matter of other wages higher than the category of minimum wages, and in regard to other matters which come under the category of industrial disputes, industrial jurisprudence does and should always try to examine the merits of the rival contentions and seek to resolve the conflict by the employees' legitimate claims. In finding out solutions to industrial disputes great care is always taken, as it ought to be, to see that the settlement of industrial disputes does not go against the interests of the community as a whole.

In the decision on major industrial disputes, three facts are thus, involved: the interests of the employees which have received constitutional guarantees under the Directive Principles, the interests of the employers which have received a guarantee under Article 19 and other articles of Part III and the interest of the community at large which are so important in a welfare state. It is on these lines that industrial jurisprudence has developed during the last two decades in India.

Thus, there are various techniques of settlement of Industrial Disputes under the Industrial Disputes Act, 1947. each technique has its own principles and important role to play. The usefulness and the success of technique depend on various factors.

VIII. Indian Labour Policy and Five-Year Plans

The Government of India has also shown serious concern for concern to solve Labour problems in 1950, India became a
Sovereign Democratic Republic and a Constitution was adopted which became the supreme law of the land. In the Constitution of India subject of labour legislation falls under Concurrent list, soon after India became Republic the concept of economic development through planning was accepted and a Planning Commission was set up in March, 1950. The Commission was required to make an assessment of the material capital and human resources of the country and formulate plans for the most effective and balanced utilization of the country’s resources, thus started an era of economic planning with rearrangement of resources and allocation of priorities in such a manner as to ensure a balanced development of both economic and social sectors.

The first plan laid considerable emphasise on the maintenance of industrial peace for economic prosperity of the nation. Though the Planners preserved the power of the state to intervene in labour disputes yet it encouraged the mutual settlement, collective bargaining and voluntary arbitration as a mode of settlement of disputes. The Indian Labour Conference while endorsing the recommendations of the Planners favoured the retention of the Government’s power to refer the dispute to Industrial Tribunal for adjudication rather the sole reliance is on collective bargaining. In the sphere of machinery and procedure for compulsory adjudication of disputes, the Planning Commission recommended that the machinery and procedure relating to compulsory arbitration and adjudications of disputes should be so designed as to secure the essence of a fair settlement based on the
principles of natural and social justice with the minimum expenditure of time and money.

The policy was reshaped in 1954 when India adopted the Socialistic pattern of Society as an objective of state policy. To meet this changed situation, the Industrial relations policy had also undergone a change during the second five year plan. The Labour Appellate Tribunal which was set up under the Industrial Disputes (Appellate Tribunal) Act, 1950 and which received a sharp criticism in the first five year plan and of the labour representatives was abolished by an amendment. Ultimately, the three tier system, viz. Labour Courts, Industrial Tribunals and National Tribunals was introduced. The third and fourth five year plans reiterated and elaborated the concept and objective of "socialism". During the third five year plan, great stress was laid on collective bargaining and mutual settlement of Industrial Disputes. During the third plan period, the Industrial Disputes Act witnesses another amendment in 1965 which allowed an individual worker the right to raise a dispute concerned with the discharge, dismissal or termination.

From the plans, it is evident that good deal of attention has been paid for the prevention and settlement of industrial disputes.

The evils of the system of Industrial relations and the defects of the Labour Laws continue to engage public attention. In 1966, the Government of India appointed the National Commission on labour:
i) to report on changed and existing conditions of labour;
ii) to review the provisions intended to protect the interest of labour, and advise how for they serve to implement the directive principles of state policy in the constitutions on labour
matters and the national objectives of establishing a socialist society and achieving planned economic development.

iii) To make reports on :-

a) wage levels, the need for fixation of minimum wages and for production incentives;

b) the standard of living, health, safety, welfare, housing, training;

c) social security;

d) labour management relations, trade unions and employer's organization;

e) voluntary arrangements and the machinery at the centre and in the states for their enforcement;

f) measures for improving conditions of rural labour and other categories of unorganized labour; and

g) labour research; and

iv) to make recommendations on the above matters.

After a thorough investigation of the industrial situation and Industrial Law, the Commission submitted its recommendations in 1969. As regards Conciliation the commission recommended:

a) Conciliations can be more effective if it is freed outside influence and the conciliation machinery is adequately staffed. The independent character of the machinery will alone inspire greater confidence and will be able to evoke more co-operation from the parties. The conciliation machinery should, therefore, be a part of the proposed Industrial Relations Commission. This transfer will introduce important
structural, functional and procedural changes in the working in the machinery as it exists today.

b) There is need for certain other measures to enable the officials of the machinery to function effectively. Among these are:

i) proper selection of personnel,

ii) adequate pre-job training and

iii) periodic in service training.

However, no effective action either legislative or otherwise was taken by the Government to implement the recommendations of the Commission in general and the aforesaid recommendations in particular.

Conciliation is the mildest form of the third party intervention. It is not a substitute for collective bargaining, but an extension of it. The parties of the dispute retain their right in tact to determine the dispute. Therefore, it is aptly described as 'an assisted bargaining process'. Under conciliation both the parties have maximum opportunities to reconcile themselves and avoid the industrial warfare. "It involves the presence of a third party whose fresh point of view, suggestions, proposals, broad knowledge, and dignity of office are intended to facilitate agreement between the disputants. He has no Power of diplomacy and of mental acuteness as contrasted with the judicial and decision making aspects of" adjudication and arbitration. (Randle: 1951: 502-03).

Thus, conciliation through conciliation officer or by conciliation board is an important mode for settlement of Industrial Disputes. However, the effectiveness of conciliation machinery, conciliation techniques, procedure and the different roles of conciliator are to be
discussed in detail for arriving at some conclusions. A humble attempt has been made by me to discuss the related aspects in my study.

**IX. Scheme of Study**

The whole of the study has been divided into eight chapters.

**CHAPTER-I**

This Chapter relates to introduction. The background of industrial laws in the Western word and its impact in India has been analysed. The impact of trade union movement in India and the reasons for weakness of trade union movement in India have been discussed in detail in this chapter. Labour problems and the basic principles of labour welfare recognised in developed countries have also been elaborated. The History of The Industrial Disputes Act 1947, object of the Act, the meaning of 'Industrial Dispute' under the Act and the various techniques of dispute resolution available under the Act have been discussed in detail in this chapter. The principles of industrial adjudication and the role of adjudication in the development of industrial jurisprudence has also been elaborated. The scheme of the study is also briefly given.

**CHAPTER-II**

This chapter relates to Anatomy of Conciliation. The role of 'conciliation' in the settlement of industrial disputes and in the maintenance of industrial peace has been discussed. The meaning and the definitions of 'Conciliation' given by various scholars and Jurists have been explained. The nature of conciliation, types of conciliation, conciliation by Board or by individual have also been fully explained in this chapter. The advantages of conciliation,
problems faced by the conciliator during conciliation and various principles of conciliation have been critically analysed. The position of conciliation in different countries such as England, New Zealand, United States of America, Sweden, Japan etc. has also been elaborately discussed. How conciliation differs from Arbitration, Mediation and collective bargaining has been mentioned. The sequel pattern of conciliation and the different types of attitude adopted by the parties during the course of conciliation proceedings have been explained in this chapter.

CHAPTER-III

This chapter relates to various conciliation authorities under the Industrial Disputes, 1947. The composition, roles and the powers of various authorities such as Works Committee, Conciliation Officers, Board of Conciliation, Courts of Inquiry, Labour Court and the Tribunals, have been fully discussed in this chapter. The relevant legislative provisions of the Industrial Disputes Act, 1947 which deals with these authorities, have also been explained in this chapter. The nature, the functions and other related aspects of various authorities have been given in detail in this chapter.

CHAPTER-IV

This particular chapter relates to conciliators' qualification, roles and problems faced by the conciliator. Conciliator plays a very important role in the settlement of industrial disputes. The conciliator has to adopt different types of techniques and has to perform various types of roles. The conciliator can discharge his duties in an effective manner if he possesses certain personal qualities along with professional qualifications. The conciliator has to play different
type of roles and conciliation is an Art. The conciliator has to play active role to persuade the parties for amicable settlement. The parties will accept the proposals of conciliator only when the disputing parties have full faith in his impartiality and honesty. All these relevant aspects have been discussed in detail in this chapter.

CHAPTER-V

This chapter relates to the conciliation procedure and the conciliation proceedings. The conciliation officer and the Board of conciliation are the main authorities for settlement of the dispute through conciliation. Section 12 of the Industrial Dispute Act, deals with the duties of the conciliation officers and the procedure to be followed by the conciliation officers. The conciliation under the Industrial Dispute Act is of two types (1) Dispute Conciliation (2) Preventive Conciliation. Sub section (1) of Section 12 requires a conciliation officer to hold the conciliation proceeding in the prescribed manner, where a dispute exists or is apprehended. In case of non-public utility service concern conciliation officer has discretion to initiate conciliation proceedings or not, whereas if dispute relating to public utility service concerns and notice under Section 22 has been given, conciliation is mandatory. If the conciliation officer fails in his efforts he has to submit the ‘failure report’ to the “appropriate government” for consideration. The “appropriate government” after the consideration of the failure report may make the reference of the dispute to the adjudicatory authority. However, if the appropriate government refuses to make a reference, it has to record the reasons for the same. Whether the orders of the government not to make a reference are subject to judicial review or not have been elaborately discussed in this chapter with relevant case law. The procedure followed by the conciliation
CHAPTER-VI

This chapter relates to adjudication of industrial disputes. The scope of Reference under Section 10 of the Act and the principles generally applied by the government in making the reference of the disputes have been elaborately discussed. The Constitutional validity of Section 10, General principles of adjudication, industrial adjudication and social justice have also been elaborately explained with relevant case law. Section 10(A) provides that when an industrial dispute exists or is apprehended, the employer and the workmen may by mutual agreement refer the dispute to arbitration. The critical appraisal of this provision has been fully discussed in this chapter. The procedure, powers and the Duties of the authorities given under Section 11 of the Industrial Disputes Act have also been critically analysed. Powers of the Labour Court, Tribunal and National Tribunal to provide a relief in case of discharge or dismissal or workmen and the scope of section 11-A has been elaborately explained with relevant case law. The critical review of the present labour adjudication system and the recommendations of various committees and commission have been given in this chapter. The necessary suggestions to improve the existing system of labour adjudication have also been given in this chapter.

CHAPTER-VII

This chapter relates to the performance of conciliation machinery in Haryana. For critical evaluation of the working of the Conciliation machinery in Haryana, the relevant data relating to the disputes filed, disputes settled and disputes withdrawn have been
collected from various Districts of Haryana. The critical analysis of the data from various Districts indicates that the conciliation has been satisfactory in Gurgaon, Faridabad and Rewari Districts. The conciliation has been unsatisfactory in other districts of Haryana. The data indicate that the conciliation has been satisfactory in those districts where there are strong trade unions and the employers have positive attitude towards the genuine demands of the workers. But in those districts, where the workers are less organized, ignorant about their rights and labour laws, the efforts of conciliation have been unsatisfactory. The other reasons for poor performance of the conciliation machinery in have been elaborately explained.

CHAPTER-VIII

This chapter relates to conclusions and suggestions. The conclusions upon the basis of the study of various chapters have been given in this chapter. Necessary suggestions for the improvement of present conciliation machinery have been given in this chapter.