CHAPTER – I

INTRODUCTION

1.1. General

The most popular and spectacular word is heard in the industrial sector is "strike" and it is as old as the industry itself but continues to be one of the highly popularized and the least studied social phenomenon of the present age. A strike is not merely reported but highly dramatized so as to arouse public resentment. It is of deep concern for the reaction which it creates in the minds of the public who is little aware of the nature of the problem and its background and its consequent effect on those who are seriously connected with and affected by it.

The industry plays a vital role in building the economic system of any society. Industrialization led to the inevitable things namely, the investment of large capital and massive employment together with intense form of employee and employer relationship this in turn led to the type of confluents.

The doctrine of supply and demand governed the employment relations. The employer was in a dominating position freely exercised his authority and
virtually dictate wages and other conditions of services resulting industrial and social ills to develop.

The first 'strike' took place in a Textile Mill in Bombay on the question of wages in the year 1877 and it would appear that at this point of time workmen in India gradually had some realization of the strength which lies in unity, and here after strikes took place increasing numbers. At this stage, trade unionism took its roots in Indian soil.

After first World War and brought a new awakening among the working class. The concept of employer-employees-relations assumed new dimensions and a feeling of class consciousness was generated. However, the first epidemic of strikes occurred from 1919 to 1921 to secure a ten-hour working day and better wages. It was only in 1920 that court injunctions restraining the union officials from influencing the workers came to be applied in India. The Trade unions Act 1926 immunized the unions from being sued for criminal conspiracy for strike, and in most cases, from being subjected to civil damages\(^1\).

About 1100 strikes, between 1921 and 1926 involving two million workers, and resulting in a loss of 37 million working days led to the enactment of the Trade Disputes Act, 1929, which restricted the scope of strikes

\(^1\) Combination Acts of 1799 and 1800.
and made illegal those brought about hardships to the community. Section 16(1) of the Act provided that 'A strike shall be illegal (a) which has any object other than or in addition to the furtherance of a trade dispute within the trade or industry' in which the strikers are engaged and (b) is designed, or calculated to inflict severe and general hardship upon the community.

In the post first World War period the main approach of the Government of India was to treat strikes as a challenge to law and order rather than as labour issues. Upon the outbreak of Second World War the Indian Government, through the Defense of India Rules, prohibited strikes and lockouts, except under very restricted conditions. The emergency provision remained in force until the passage of Industrial Disputes Act 1947.

During the emergency, workers rights were considerably curtailed. Immediately after lifting of the emergency, the country faced grave industrial unrest. The Bombay region in particular, witnessed serious labour unrest in the form of strikes, lockouts, go-slow by work-to-rule, gheraos and even violence. The entire atmosphere was charged with the feelings of discontent and revenge. The reason for this was the restoration of trade union's rights which were suspended during the emergency. This was led to the enactment of Essential
Services Maintenance Act. 1981, thereby prohibiting strikes in essential services enlisted in Section 2 (1)(a) of the Act.

1.2. SIGNIFICANCE OF THE STUDY:-

The present research study on strikes in Andhra Bank, one of the major Nationalized Banks in India has gained significance for several reasons. Chances to bargain has either to accept the terms offered or turn down the job which ordinarily the worker cannot afford to refuse employment and as such whether he accepts the terms offered to him notwithstanding he likes or dislikes. The position is different if the same workman is one of a large number of workmen who are all united among themselves and who collectively settle with their employer the conditions of employment and wages. And workers have learnt by experience that the best way of safeguarding or advancing their rights and interests and improve their conditions of employment by its collective actions. Therefore they combine and organize themselves into unions. Industrial disputes are normal features of collective relations between management and specific issues in industrial relation ranges as widely as individual aspirations and group interests resulting in controversies involving mutual give and take on the part of both employers of employees. The out-break of such disputes and conflicts is sometimes accompanied by the stoppage of work. This cessation of work by workmen is
disliked by the employer and suppressed by the state, hated by the public and least studied by the social scientists. An attempt is made in this study to bring the entire field to focus the perspectives and insights. The nature of strikes has gone through evolitional changes, taking new forms and assuring new meanings for us in India to review our assumptions on this phenomenon and take cognizance of what has been there in other parts of the world, particularly U.K, U.S.A. Initially this study was sought to be confined to India, but after realizing, that our Industrial legislation is largely based on similar legislation in foreign countries with which we are confronted. Similar problems which U.K and U.S.A. faced much earlier. It was not possible to confine oneself to the narrow nation artistic seen envisaged earlier.

The strike is normally resorted with the sole intention to bring to the notice of the management, the grievances and claims of the workmen. However in modern times a strike has ceased to be contest only between an employer and his work men. Particularly if it is an Industry-wide general strike or a strike of workers employed public utility services of the workmen strategy attained significance. Its repercussions spread and wide and affect adversely many sections of the community and this lead to make an attempt for this study.
In India no tangible headway has been made to reform the law relating to strike notwithstanding the recommendations of great importance of the national commissions on labour meta-morphisation of the whole area of labor law especially of .Industrial relations is the pertinent need of the hour to adjust the present day setup to suit, its rapid growing requirements in its national and pragmatic approach, on the part of the Government for the growth of healthy trade union movement. We follow common law system in India and our industrial legislation is largely based on the English system and more over the courts rely heavily on English and American law precedes and thus felt the need to venture on this topic.

1.3. STATEMENT OF THE RESEARCH PROBLEM:-

In view of the vital role of strikes in the Industrial relations, the researcher made an attempt to examine the different divergent strikes in industrial setting including the Banking sectors. The study concentrates on the central legislations and the response of the judiciary a critical appraisal of judicial process with special reference to some of the judgments of the Supreme Court. No strike is complete without effect on the industry, the employees, the public and the national interest and the feature development cannot be understood or evaluated without a critical study on the subject of strike. A socio-legal examination of a strike, aims to justify
the view that there is a pertinent need to reform and re-orientate the law relating to strikes in India in tune with the social needs of the workers and also the economic development of the country. It has been tried to balance the conflicting claims which has became one of the major premises of this study.

Strikes are only one manifestation of industrial unrest. For taking the basic problems faced by an industry a functional approach is needed which could strengthen trade unionism, diminish strikes and form industrial relations and establish genuine understanding among the employee or employer and the community and this study relives on their aspect. In a society when democracy not always accompanied by fair play the weapon of strike is also means of enabling the working class express its point of view or of expressions. Since the strike is a mode of expression, it will not only be used to express an attitude with regard to employers. It will also be used to express opinion or press acclaim with the state of the public anesthetics.

1.4. OBJECTIVES OF THE STUDY:-

Any mono-disciplinary doctrinaire research of this kind attempts in providing new insights into existing source material suggests new concepts and explanations, finds out the loop-holes or gaps in the similar fields or research, tests the existing theories and suggests recession of the same in the light of new studies
and inevitable helps in standardizing the theories and formulating new policies. As observed by Pendleton Herring, the obvious function of research is to add new knowledge to the existing one. Scientific research is a cumulative process. The present doctrine of research necessarily covers the above purpose of the research besides having specific objective of the study as noted here under.

1. Whether the strike is the most potent weapon possessed by labour to force its demands upon the employer or not.

2. Whether the workers are ascertaining their bargaining power and backing up their collective demands upon an unwilling employer or not.

3. Whether the right to strike is a legitimate step in a labor dispute or not.

4. What is role of the Government to prohibit the continuance of strike?

5. Whether the Government servants have right under any statute to resort to strike.

6. Whether the workmen are entitled to illegal strike or illegal lockout.

7. Whether courts can quash the order, where the very nature of the management action is in dispute.
8. Whether strike can be prohibited where one or more and not all the demands where referred for adjudication.

1.5. HYPOTHESIS:-

The present study proceeded with the following hypothesis

1. The strike is a legitimate weapon in the hands of workers.

2. The trade-union leader play a dominate role in the strike.

3. To discuss the role of Government in prohibiting the strikes.

4. To collect relevant data about the strike in Andhra Bank for the period of 2000 to 2010.

5. Is there any moral or equitable justification to go on strike?

6. The strike is a fundamental right or not.

7. The settled opinion of the Supreme court of Indian on strike.

8. The existing legal provision are sufficient to mitigate the ambit of strike.
1.6. METHODOLOGY:

Primary sources counts Doctrinaire method of research has been adopted based upon secondary source material in the nature of books periodicals reports and the like, empirical study is Andhra Bank employees strike in Guntur district this study is mainly based on informal discussions with the representatives of the employees unions, the workers and the employees strike statistics have been given to have an idea and the strike activity in recent year. The theoretical approach involves the going through of number of books, journals, periodicals enter by visiting a number of laborers.

That it would necessitate a study of the historical development of both organizations the bank and its union-and also their attitudes towards each other, particularly among the top leadership on both sides, as they had evolved over the years. This combination of the study of contemporary events with their historical undertones is almost indispensable in the study of human affairs, with reference to industrial relations. The method adopted in this study, therefore, was primarily historical.

1. Interviews with a large number of officers and clerks in the banks, the office-bearers of the union, and some customers of the bank. The top management
officials of the bank and the top office-bearers in the Andhra Bank Employees' Union and the erstwhile Andhra Bank officers, Associations were interviewed at great length. On an average most of the interviews lasted much longer from 9-11 hours. The technique of interviewing was mainly unstructured, interspersed with specific questions when needed.

2. The files of the bank, the union and the erstwhile officers' association, which consisted of correspondence as well as circulars issued by the union, the association and the management from time to time before and during the strike. The information collected from these files dates back to one 60 years. Besides Hyderabad, where the Central Office of the Bank and the head quarters of the union were situated, interviews were conducted in Vijayawada and Guntur also. Some interviews were conducted in Hyderabad and Guntur offices. As is evident from the above, most of the interviews were confined to the Andhra Region mainly, because the bank's branches to the tune of 80 per cent are in Andhra Pradesh. Considering the major issue involved in the strike, namely, whether or not officers could be represented by the clerk’s staff union and also considering the fact that large numbers of officers participated in the strike, the interviews focused more on the officers, although clerks and subordinate staff were also simultaneously interviewed. The interviews mainly extended to officer and officers-in-charge who had struck work-(a) throughout the strike period, (b) for a
part of the strike period only, and (c) those who had not struck work at all, and also, some of the officers who had been discharged from the bank during the strike period. Other persons interviewed were members of the minority union which existed in the bank, namely the Andhra Bank Employees Association, and office-bearers of the Andhra Bank Officers Staff Association which was formed during the strike period. Some union officials, managers, officers and clerks of other banks in Andhra Pradesh, and a senior official of the Regional Labour Commissioner's office in Hyderabad were also interviewed. The whole process of data collection took a period of one year beginning on the study, which focuses on the deeper feelings and emotions of the people involved in the strike, necessitates interviewing in depth rather than an opinion survey which merely scratches the surface of the problem. An extensive note was taken during the interviews. Part of the information was recorded during the interview itself, and later, a content analysis of these interviews was done in order to see the patterns of response.

The sample for this study in the beginning it was found that every new interviewee has something new to offer in terms of providing information but beyond a point no new data was forthcoming. The researcher still persisted with a few more interviews with a view to checking whether any important piece of information had been missed. However, these additional interviews showed that the entire ground had been sufficiently covered and hence further interviewing did
not appear to be necessary. At the point interviews were terminated. By this time about 100 employees, both officers and clerks, were interviewed.

SECONDARY DATA

The study of this type has to fall heavily on the secondary source such as libraries of the country, Indian Law Institute, New Delhi, V.V.Giri National Labour Institute, Noida, U.P Delhi University Delhi National Social Science Documentation Center, (Indian Council of Social Science Research), New Delhi, Sri Ram Industrial Relations and Personal Management Library, New Delhi, International Labour Organization Library, New Delhi Dr.BR Ambedkar Library, Acharya Nagarjuna University, Nagarjuna Nagar, Guntur (Dt) etc. S.V. University, Tirupathi Sri Padmavathi Mahila University, Tirupathi Andhra University, Vyzag and Osmania University, Hyderabad.

1.7. SCHEME OF CHAPTERISATION:-

In order to test the veracity of the hypothesis to meet the objectives of the study and to reaches opposite levels of useful conclusions the following chapterisation is adopted.
The First chapter deals with Introduction of the study statement of Research problem, review of the existing literature, object of the study, Hypothesis, Methodology, Secondary data and Scheme of Chapterization.

The Second chapter deals with the Historical prospectives on strike. Concept of strike Meaning of Strike ingredients of strike origin of strike, development of Strike the various forms of strike stay- Away- Strike sit down strike, pen down strike tools down strike. go- slow strike, hunger strike token strike Lighting Stirke, Sympathic Strike, Gherao It also delicates the legal history of strike, strike in united kingdom Strike in United States of America Strike in India Strike- A legitimate weapon of workers the relation between freedom of a association collective of a Bargaining to strike.

The Third Chapter deals with the causes and consequences of strikes. The Economic consequences on the workers, the employers, the economy, the public and the nation at large have been discussed, un faired labour practice Need for legislation reform. Economic, legal, sociological and political consequences have also been highlighted. A part from the causes and consequences, statistics have been provided to have and insight into the strike activity in recent years.
The Fourth chapter deals with the Right to Strike and the supreme court in India, Strike as Legal right, Strike as Statutory right International treaties, Legal Interpretation to be in conson hance with international convenats, Weapon of last Resort.

The fifth chapter deals with the concepts of legality and of strikes. In the beginning of the chapter a reference has been made relating to followed by the law relating to legal and illegal strikes in United Kingdom, United States or America & India the destination between justified and unjustified strike has and therefore the resent case law has been discussed, it is for the judiciary to differentiate between justified and unjustified strikes keeping in view the facts and circumstances of the case.

The Sixth chapter deals with the role of the strikes in industrial relation, Industrial relation, approach of industrial relations

The seventh Chapter deals with Strike in Andhra Bank Strike Unionization in Andhra Bank, the first change in the Union leadership, and the first agreement between the union and management the genesis of officers association (or) developments in the officers association, officers difference with the management, the first strike by officers, revival of the officers association unrest among the
officers the problems of strikes, the Bombay Agitation and its after month agitation programmer employees union the issue reformed to cancellation and strategies adopted by the union, the strike of workman union’s of officers associations and All Indian Bank Employees Associations. Contains the results of empirical study relating to the role of the strike industrial relation and special reference to Andhra Bank. Strikes by Andhra Bank employees’ 2009 to 2010 employees of Guntur District Zonal Office Andhra Bank and Hyderabad.

The final chapter every thesis requires a conclusion which makes new proposition derived from the findings of the study. Hence, the study conclude with findings derived. Besides certain policy measures are also suggested in this chapter.